

MATERIAL SUPPORTING THE AGENDA

VOLUME XL1b

This volume contains the Material Supporting the Agenda furnished to each member of the Board of Regents prior to the meetings held on

February 10, 1994  
February 25, 1994  
April 14, 1994  
April 22, 1994

The material is divided according to the standing committees and the meetings that were held and is color coded as follows:

White paper - for documentation of all items that were presented before the deadline date.

Blue paper - all items submitted to the Executive Session and distributed only to the Regents, Chancellor and Executive Vice Chancellors of the System.

Yellow paper - emergency items distributed at the meeting.

Material distributed at the meeting as additional documentation is not included in the bound volume, because sometimes there is an unusual amount and other times some people get copies and some do not get copies. If the Executive Secretary was furnished a copy, then that material goes into the appropriate subject file.



**Material Supporting the Agenda  
of the  
Board of Regents  
The University of Texas System**

Meeting No.: 876

Date: April 14, 1994

Location: Tyler, Texas

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BOARD OF REGENTS  
OF  
THE UNIVERSITY OF TEXAS SYSTEM

CALENDAR

Place: Auditorium (Room 119), Biomedical Research Building  
The University of Texas Health Center at Tyler  
Highway U. S. 271 North and State Highway 155  
Tyler, Texas

Host Institution: The University of Texas  
Health Center at Tyler

Thursday, April 14, 1994

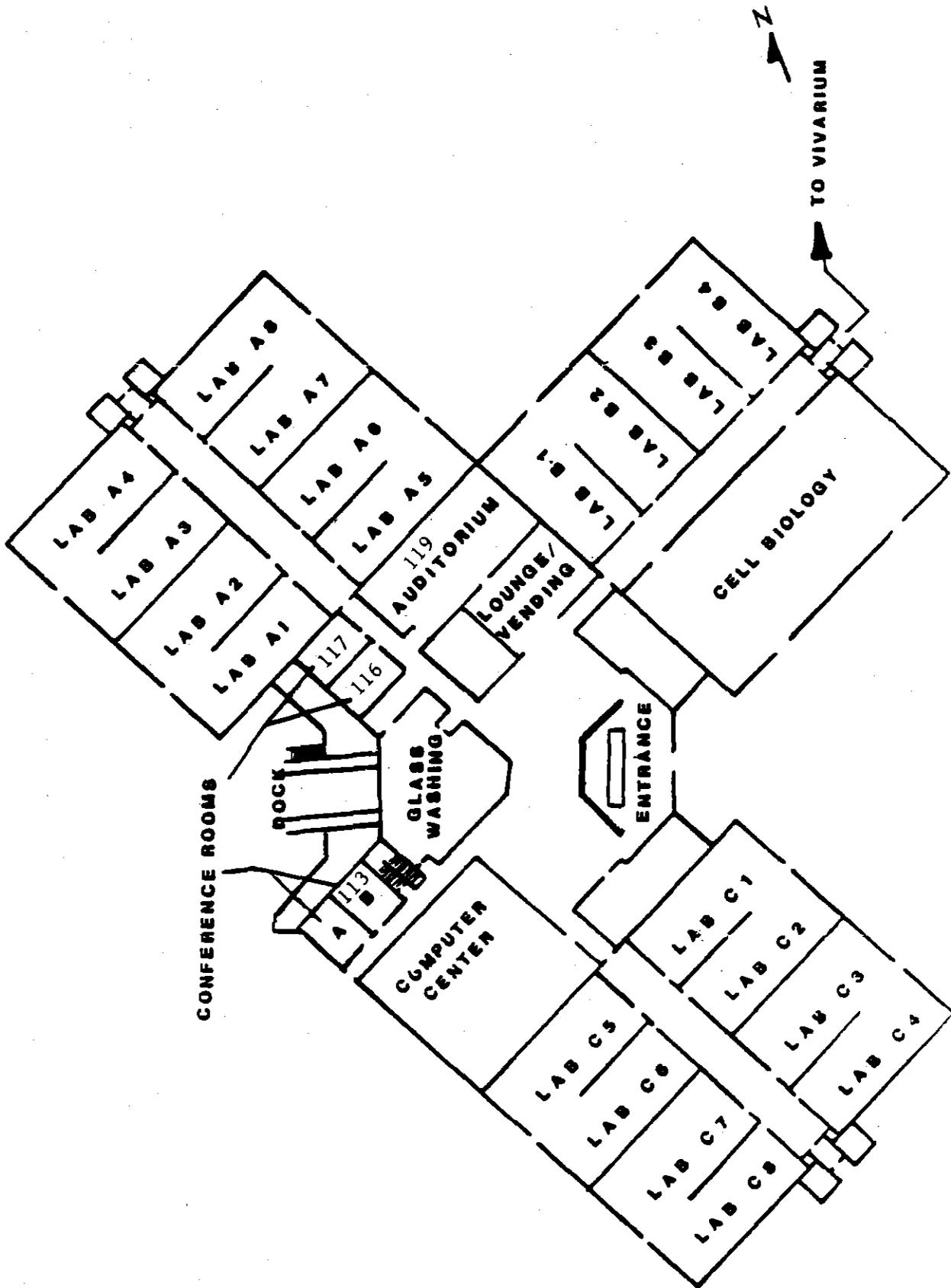
10:00 a.m.

Convene in Open Session with  
recess to Executive Session  
as per the agenda

See Pages B of R 1 - 4  
Items A - P

Telephone Numbers

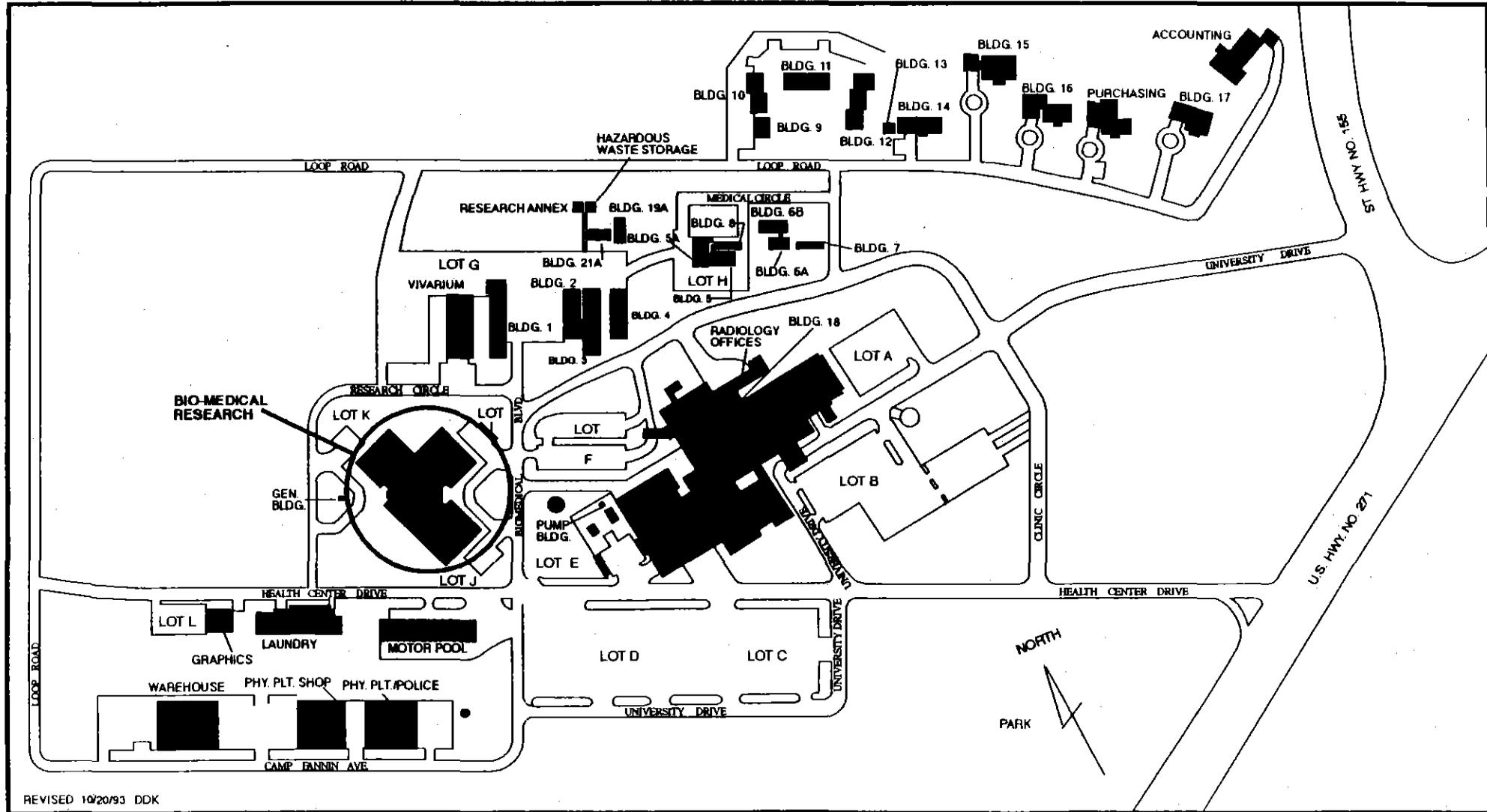
Director Hurst's Office	(903) 877-7750
Biomedical Research Building (for calls during the meeting)	(903) 877-7552
Sheraton Tyler Hotel 5701 S. Broadway	(903) 561-5800



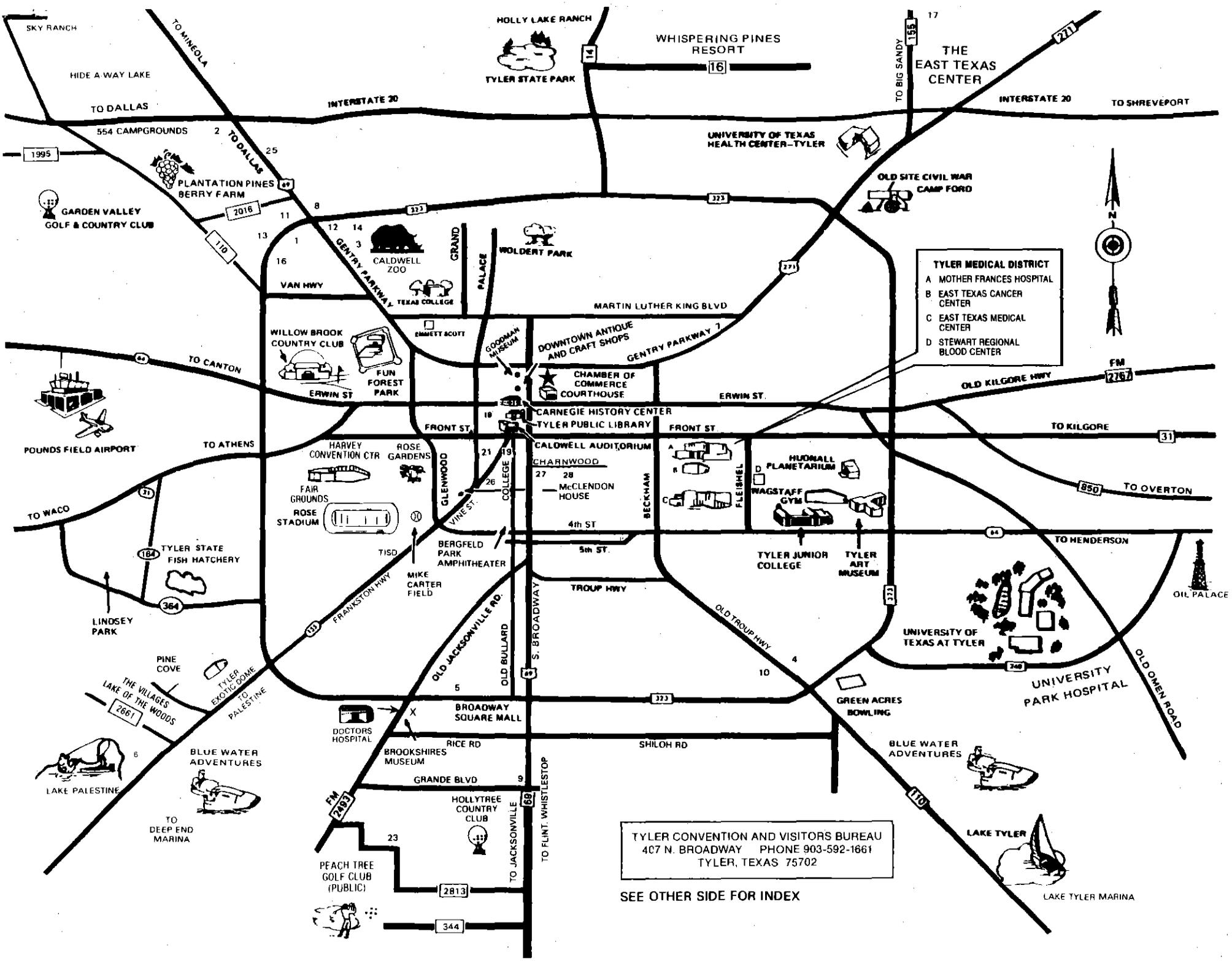
BIO MEDICAL RESEARCH FACILITY  
FLOOR PLAN

- |          |                                |
|----------|--------------------------------|
| Room 119 | Meeting Room                   |
| Room 116 | Executive Session              |
| Room 117 | Regents' Secretarial Office    |
| Room 113 | Telephones for Press and Staff |

# The University of Texas Health Center at Tyler



N.T.S.



**POINTS OF INTEREST**

<b>BROOKSHIRES' WORLD OF WILDLIFE MUSEUM &amp; COUNTRY STORE</b> 1600 WSW Loop 323	534-2169
<b>CALDWELL ZOO</b> 2203 Martin Luther King	593-0121
<b>CARNEGIE HISTORY CENTER</b> 125 College	593-7989
<b>EMMETT J. SCOTT CULTURAL &amp; EDUCATIONAL CENTER</b> 1901 N. Englewood	593-3633
<b>GOODMAN MUSEUM</b> 624 N. Broadway	531-1286
<b>HERRINGS WILDERNESS</b> County Rd. 4405 Gallatin, Tx.	800-762-5991
<b>HUDNALL PLANETARIUM</b> 1200 S. Mahon	510-2249
<b>MCCLENDON HOME</b> 806 W. Houston	581-7136
<b>ROSE GARDEN</b> 1900 W. Front	531-1212
<b>ROSE MUSEUM</b> 1900 W. Front	597-3130
<b>TYLER MUSEUM OF ART</b> 1300 S. Mahon	595-1001
<b>WHISTLESTOP RANCH RAILROAD MUSEUM</b> , Country Rd.150, Flint	894-6561

**AREA EVENTS**

East Texas Gun Show	1/22-23
Great American Arts & Crafts Boat Show	2/11-13
1994 AZALEA & SPRING FLOWER TRAIL	2/17-20
Azalea Trail 10K Run	3/25-4/10
Beauty & The Beast Bike Tour	4/9
Eisenhower Int'l Golf Classic	4/23
	5/16

**RESORTS & CAMPGROUNDS**

<b>BLUE WATER ADVENTURES</b> Hwy 155 S., Lake Palestine	825-7919
<b>DEEP END MARINA</b> FM 1892, Lake Palestine	876-3822
<b>GARDEN VALLEY RESORT</b> Otaka, Inc., FM 1995	882-6107
<b>HOLLY LAKE RANCH</b> Hawkins, Texas	769-2138
<b>LAKE O' THE WOODS</b> Hwy 155 S., Lake Palestine	825-7755
<b>LAKE TYLER MARINA &amp; RV PARK</b> 18183 Concession Rd., Lake Tyler	839-4800
<b>PINE COVE CONFERENCE CENTER</b> 15790 CR 113	561-0231
<b>SHILOH PINES</b> 2525 Shiloh Road	561-3621
<b>SKY RANCH (TEXAS #)</b> FM 448 S., Van, Tx (Group Bookings)	800-962-2267
<b>THE VILLAGES RESORT</b> 18270 Singing Wood Lane, Lake Palestine	561-1153
<b>TYLER "554" CAMPGROUNDS</b> Interstate 20	882-6481
<b>TYLER STATE PARK</b> Highway 14	597-5338
<b>WHISPERING PINES RESORT &amp; CAMPGROUND</b> Fm 16 East	858-2405

**TYLER CONVENTION & VISITORS BUREAU  
(903) 592-1661**

**- HOTELS/MOTELS -  
\*with restaurants**

1. BEST WESTERN INN & SUITES  
2828 NNW Loop 323  
595-2681 (90 Rooms)
2. COACHLIGHT INN  
1-20 & Hwy. 69 North  
882-6145 (50 Rooms)
3. ECONO LODGE  
3209 W. Gentry Parkway  
593-0103 (50 Rooms)
4. HOLIDAY INN\*  
3310 Troup Highway  
593-3600 (160 Rooms)
5. LA QUINTA MOTOR INN\*  
1601 WSW Loop 323  
561-2223 (130 Rooms)
6. LAKE PALESTINE MOTOR INN  
8362 State Hwy. 155  
874-4711
7. DIXIE MOTEL  
1812 E. Gentry  
593-2556 (28 Rooms)
8. THE RAMADA INN\*  
2701 WNW Loop 323  
593-7391 (87 Rooms)
9. SHERATON TYLER HOTEL\*  
5701 S. Broadway  
561-5800 (186 Rooms)
10. RESIDENCE INN BY MARRIOTT  
3303 Troup Highway  
595-5188 (128 Rooms)
11. DAYS INN\*  
3300 Highway 69 North  
595-2451 (187 Rooms)
12. TRAVELODGE\*  
2616 NNW Loop 323  
593-8361 (130 Rooms)
13. TYLER INN & CONFERENCE CENTER\*  
2843 WNW Loop 323  
597-1301 (139 Rooms)
14. STRATFORD HOUSE  
2600 WNW Loop 323  
597-2756 (40 Rooms)
16. TWELVE OAKS MOTOR HOTEL  
3100 WNW Loop 323  
595-1081 (40 Rooms)

**- BED & BREAKFASTS -**

17. ANNIE'S BED & BREAKFAST  
1 Annie Lane  
Big Sandy, Texas  
636-4303 (13 Rooms)
18. WOLDERT-SPENCE MANOR  
611 W. Woldert  
800-965-3378
19. MARY'S ATTIC  
417 S. College  
592-5181 (5 Rooms)
20. MUNZESHEMER MANOR  
202 N. Newsum  
Minerals, Texas  
560-6634 (4 Rooms)
21. ROSEVINE INN  
415 S. Vine Ave.  
592-2221 (5 Rooms)
23. BLUEBIRD HILL  
16459 Neighbors Road  
County Rd. 128  
581-0425 (3 Rooms)
25. BED OF ROSES COUNTRY INN  
Highway 69 North  
1-800-256-7673 (3 Rooms)
26. CHILTON GRAND  
433 S. Chilton  
595-3270 (2 Rooms)
27. CHARNWOOD HILL INN  
223 E. Charnwood  
597-3900 (7 Rooms)
28. AZALEA INN  
313 E. Charnwood  
595-3610 (3 Rooms)

**- RESTAURANTS -**

- |   |          |
|---|----------|
| A & P SEAFOOD GRILL, 6100 S. Broadway             | 561-8666 |
| AIRLINE RESTAURANT, Highway 64 W. (airport)       | 597-3182 |
| APPLEBEE'S NEIGHBORHOOD GRILL<br>5502 S. Broadway | 509-4048 |
| ARMADILLO WILLY'S, 215 WSW Loop 323               | 509-0122 |
| BARNHILL'S COUNTRY BUFFET<br>3521 S. Broadway     | 534-8200 |
| BLACK-EYED PEA, 322 ESE Loop 323                  | 581-0242 |
| BLIMP'S SUBS & SALADS, 4028 S. Broadway           | 509-3354 |
| BODACIOUS BAR-B-QUE, 1879 Troup Highway           | 592-4148 |
| BRANGUS FRED LOT, 1222 WSW Loop 323               | 534-0050 |
| CACE'S SEAFOOD, 7011 S. Broadway                  | 581-8744 |
| CATFISH KING, 1216 S. Beckham                     | 592-8065 |
| CHICK-FIL-A, Broadway Square Mall                 | 561-4273 |
| CHILP'S, 531 WSW Loop 323                         | 581-7813 |
| COFFEE LANDING, Hwy. 155 S./Lake Palestine        | 876-4923 |
| COUNTRY TAVERN, Hwy. 31 West/Kigoro               | 904-9954 |
| DAIRY QUEEN, Several Locations                    | 561-4018 |
| DENNY'S, 1600 WSW Loop 323                        | 581-5500 |
| GOLDEN CORRAL, 420 WSW Loop 323                   | 534-0281 |
| GRANDY'S, 701 WSW Loop 323                        | 561-9618 |
| GRANDY'S, 1236 S. Beckham                         | 593-8362 |
| HICKORY FARE BAR-B-QUE, 2333 ESE Loop 323         | 561-8001 |
| HICKORY FARE BAR-B-QUE, 1717 W. Gentry            | 592-6953 |
| HONEY-B-HAM, 3400-A S. Broadway                   | 581-2802 |
| J.W. FINN'S, 2324 ESE Loop 323                    | 592-2833 |
| JASON'S DELL, 4740 S. Broadway                    | 561-5300 |
| KITCHENS DELL, 109 E. Erwin                       | 533-1500 |
| LEGENDS RESTAURANT & GRILL<br>3420 88W Loop 323   | 509-9262 |
| LOGGINS RESTAURANT, 137 S. Glenwood               | 595-5022 |
| LUBY'S, 1815 Ransland                             | 597-2901 |
| LUBY'S, 200 Rice Road                             | 581-2498 |
| MCDONALD'S, 1300 S. Beckham                       | 597-8921 |
| MCDONALD'S, 3109 W. Gentry Parkway                | 593-0018 |
| MCDONALD'S, 4014 S. Broadway                      | 561-7204 |
| MCDONALD'S, 2834 ESE Loop 323                     | 597-0090 |
| MAJESTIC DINER, 113 E. Erwin                      | 533-0000 |
| OXFORD STREET REST./PUB, 3300 Troup Hwy.          | 593-2655 |
| PAULINE'S COUNTRY BUFFET, 3040 W. Gentry          | 592-1955 |
| PAULINE'S CTRY BUFFET, 2001 WSW Loop 323          | 561-7300 |
| RICK'S, 104 W. Erwin                              | 531-2415 |
| SAM'S DELL, 6011 S. Broadway                      | 534-1668 |
| SCHLOTZSKY'S, 711 S. Beckham                      | 592-8390 |
| SHONEY'S, 3701 Troup Highway                      | 534-1400 |
| SONIC DRIVE-IN, 2501 W. Gentry                    | 593-6892 |
| SONIC DRIVE-IN, 5611 S. Broadway                  | 561-9067 |
| SONIC DRIVE-IN, 3710 Troup Highway                | 561-9018 |
| SWEET SUE'S, 3350 SSW Loop 323                    | 581-5464 |
| TEXAS BURGER, 611 S. Beckham                      | 531-2457 |
| WHATABURGER, 137 WSW Loop 323                     | 561-7334 |

**ENTERTAINMENT/RESTAURANT**

- |                                      |          |
|--------------------------------------|----------|
| CLICK'S BILLIARDS, 1946 ESE Loop 323 | 593-6499 |
|--------------------------------------|----------|

**CATERERS**

- |                                       |          |
|---------------------------------------|----------|
| JOSEPH'S OF TYLER, 1721 S. Broadway   | 595-2929 |
| TYLER PETROLEUM CLUB, 100 E. Ferguson | 592-3883 |
| TYLER WOMAN'S FORUM, 911 S. Broadway  | 593-3822 |

**- RESTAURANTS -**

**BAKERIES**

- |   |          |
|---|----------|
| CHEZ BAZAN FRENCH BAKERY/CAFE<br>5930 OM Bullard Road | 561-9644 |
| THE DONUT PALACE, 2317 ESE Loop 323                   | 561-4021 |
| VILLAGE BAKERY, 111 E. Eighth                         | 592-1011 |

**ITALIAN**

- |  |          |
|--|----------|
| BRUNO'S PIZZA, 1400 S. Vine                          | 595-1676 |
| DELJO'S, 1700 SSE Loop 323, #100                     | 566-4063 |
| DOMINO'S PIZZA, 631 S. Broadway                      | 592-4432 |
| GIUSEPPE'S ITALIAN CUISINE<br>212 Grande Blvd, C-106 | 534-0265 |
| KEN'S PIZZA, 2405 E. Fifth                           | 592-0097 |
| KEN'S PIZZA, 405 W. Front                            | 595-2615 |
| KEN'S PIZZA, 4500 S. Broadway                        | 561-5920 |
| LITTLE CAESAR'S PIZZA, 1735 Troup Hwy.               | 592-7744 |
| LITTLE CAESAR'S PIZZA, 3432 Copeland Rd.             | 581-8257 |
| MARBO'S ITALIAN, 6701 S. Broadway                    | 581-2309 |
| MAZZIO'S, 2222 ESE Loop 323                          | 593-1818 |
| PIZZA HUT OF TYLER, 209 WSW Loop 323                 | 581-1094 |
| PIZZA PIPER, 2506 E. Fifth                           | 535-9500 |
| SPAGEDDIES, 4301 S. Broadway                         | 561-7399 |

**MEXICAN**

- |  |          |
|--|----------|
| CASA OLE' OF TYLER, 5105 S. Broadway   | 534-1991 |
| EL CHICO, Broadway Square Mall         | 561-3401 |
| EL CHICO, 526 ESE Loop 323             | 581-9906 |
| GILBERT'S EL CHARRO, 2604 E. Erwin St. | 592-9004 |
| GILBERT'S EL CHARRO, 2623 E. Fifth St. | 592-9223 |
| LA POSADA, 2500 E. Fifth               | 597-2573 |
| LUPE'S, 620 WSW Loop 323               | 561-8995 |
| MERCADO, 2214 WSW Loop 323             | 534-1754 |
| PAPACITA'S, 6704 S. Broadway           | 581-7433 |
| SOMBRERO'S, 5225 S. Broadway           | 509-0990 |
| TACO BELL, 1224 E. Fifth               | 592-4391 |
| TACO BELL, 2611 W. Gentry Parkway      | 597-1766 |
| TACO BELL, 121 WSW Loop 323            | 561-7408 |
| TACO BELL, 3825 Troup Highway          | 581-1436 |
| TACO BELL, 500 SSW Loop 323            | 597-9244 |

**ORIENTAL**

- |  |          |
|--|----------|
| CHINATOWN BUFFET, 3320 Troup Hwy, #170 | 597-3377 |
| GOLDEN CHINA, 2123 WSW Loop 323        | 534-5098 |
| LIANG'S, 1828 ESE Loop 323, #9         | 593-7883 |
| SHOGUN OF JAPAN, 5515 S. Broadway      | 534-1155 |
| SZECHUAN, 4421 S. Broadway             | 581-4310 |
| WONG'S, 2101 ESE Loop 323              | 561-2659 |

**TEA ROOMS & COFFEE HOUSES**

- |  |          |
|--|----------|
| ANNIE'S TEAROOM, 106 W. Grove, Big Sandy                   | 636-4303 |
| COUNTRY COFFEE HOUSE, 4200 OM Bullard Rd                   | 581-4641 |
| MY PERSONAL CHEF, Tyler Square Antiques<br>121 S. Broadway | 592-2433 |
| THE HONEYTREE, 211 Shelby Drive                            | 561-5329 |
| THE POTPOURRI HOUSE, 2301 S. Broadway                      | 592-4171 |

**- TRANSPORTATION -**

- |   |  |
|---|--|
| HERTZ CAR RENTAL<br>Tyler Pounds Field<br>593-2324                                  |  |
| ENTERPRISE RENT-A-CAR<br>3221-A SSW Loop 323<br>581-8998                            |  |
| NATIONAL CAR RENTAL<br>Tyler Pounds Field<br>597-1375                               |  |
| THRIFTY CAR RENTAL<br>Tyler Pounds Field<br>593-6404                                |  |
| LONE STAR BUS LINES, INC<br>2828 Tongue<br>561-6095                                 |  |
| MINIBUS, INC.<br>1517 W. Front, #260<br>593-7650                                    |  |
| SHUTTLE ONE<br>5118 Meador, Dallas<br>800-982-4697                                  |  |
| EXECUTIVE LIMOUSINE SERVICE<br>Tyler Pounds Field<br>593-3347                       |  |
| TAXI CAB CO. OF TYLER<br>(Shuttle to all Airports)<br>321 N. Bois d'Arc<br>592-3232 |  |
| TYLER CITY TRANSPORT<br>423 S. Ferguson<br>531-1201                                 |  |
| AMERICAN EAGLE AIRLINES<br>Tyler Pounds Field<br>800-433-7300                       |  |
| CONQUEST AIRLINES<br>Tyler Pounds Field<br>595-4949                                 |  |

# Meeting of the Board

AGENDA FOR MEETING  
OF  
BOARD OF REGENTS  
OF  
THE UNIVERSITY OF TEXAS SYSTEM

Date: Thursday, April 14, 1994

Time: 10:00 a.m. Convene in Open Session with  
recess to Executive Session  
as per the agenda

Place: Auditorium (Room 119) (Open Session)  
and Room 116 (Executive Session),  
Biomedical Research Building  
U. T. Health Center - Tyler

- A. CALL TO ORDER
- B. WELCOME BY DIRECTOR HURST
- C. APPROVAL OF MINUTES OF REGULAR MEETING HELD  
FEBRUARY 10, 1994, AND EMERGENCY SPECIAL  
MEETING HELD FEBRUARY 25, 1994
- D. SPECIAL ITEM

U. T. Board of Regents: Proposed Appointment of  
Regental Representative to the U. T. Austin Intercolle-  
giate Athletics Council for Men Effective Immediately.--

RECOMMENDATION

Chairman Rapoport, with the concurrence of Chancellor Cunningham and President Berdahl, recommends that Mr. Ben Barnes of Austin be appointed to fill an unexpired term to end on August 31, 1994, as a Regental representative on the U. T. Austin Intercollegiate Athletics Council for Men resulting from the resignation of Mr. L. R. (Bobby) French, Jr., Midland, Texas.

It is further recommended that Mr. Barnes be appointed to a full term on this Council to begin on September 1, 1994 and to expire on August 31, 1998.

BACKGROUND INFORMATION

The U. T. Austin Intercollegiate Athletics Council for Men is a nine member advisory group composed of a student, an ex-student, two Regental appointees, and five members of the University General Faculty. The Regental appointments are for four-year (4) staggered terms. Mr. Baker Montgomery of Dallas is the continuing Regental representative.

Mr. Barnes is a former Speaker of the Texas House of Representatives and a great supporter of higher education generally and U. T. Austin in particular. Following appointment to a full term, Regental appointees are not eligible for reappointment.

E. RECESS FOR MEETINGS OF THE STANDING COMMITTEES AND COMMITTEE REPORTS TO THE BOARD

The Standing Committees of the Board of Regents of The University of Texas System will meet as set forth below to consider recommendations on those matters on the agenda for each Committee listed in the Material Supporting the Agenda. At the conclusion of each Standing Committee meeting, the report of that Committee will be formally presented to the Board for consideration and action.

Executive Committee: Chairman Rapoport  
Vice-Chairman Temple, Vice-Chairman Lebermann  
MSA Page EX.C - 1

Business Affairs and Audit Committee: Chairman Loeffler, Regent Cruikshank, Regent Smiley  
MSA Page BAAC - 1

Academic Affairs Committee: Chairman Holmes  
Regent Lebermann, Regent Ramirez  
MSA Page AAC - 1

Health Affairs Committee: Chairman Ramirez  
Regent Cruikshank, Regent Hicks, Regent Temple  
MSA Page HAC - 1

Facilities Planning and Construction Committee:  
Chairman Temple, Regent Holmes, Regent Lebermann,  
Regent Smiley  
MSA Page FPCC - 1

Asset Management Committee: Chairman Cruikshank  
Regent Hicks, Regent Lebermann, Regent Loeffler,  
Regent Smiley  
MSA Page AMC - 1

F. RECONVENE AS COMMITTEE OF THE WHOLE

G. ITEMS FOR THE RECORD

1. U. T. Southwestern Medical Center - Dallas:  
Establishment of Differential Graduate Tuition  
Rates - Clarification of Effective Date.--

REPORT

At the February 1994 meeting, the U. T. Board of Regents authorized the U. T. Southwestern Medical Center - Dallas to establish differential graduate tuition rates for the Biomedical Engineering Program effective June 1994. The effective date should have been stated as "beginning with the 1994 Summer Session."

2. U. T. Health Science Center - San Antonio: Biosciences Initiative - Repayment of Pledge by the Texas Research and Technology Foundation (TRTF), San Antonio, Texas.--

REPORT

At the February 1994 meeting, the U. T. Board of Regents agreed to a deferral of a payment of \$1,000,000 due to the U. T. Health Science Center - San Antonio from the Texas Research and Technology Foundation (TRTF), San Antonio, Texas, for a period of 90 days with interest to be paid at the 90-day Treasury Bill Rate for reasons set forth in that Minute Order.

It is herewith reported for the record that the deferred payment in the amount of \$1,003,698.58 was paid on February 15, 1994. The remaining obligation on the part of the TRTF is \$3,000,000 to be paid in equal payments of \$1,500,000 by December 31 of 1994 and 1995.

This repayment is a part of the San Antonio Biosciences Initiative which resulted in the construction of the Institute of Biotechnology and the McDermott Clinical Sciences Building at the U. T. Health Science Center - San Antonio for which PUF Bond Proceeds were advanced with a commitment for repayment by the TRTF.

- H. REPORT OF BOARD FOR LEASE OF UNIVERSITY LANDS
- I. REPORT OF SPECIAL COMMITTEES
- J. OTHER MATTERS
- K. RECESS TO EXECUTIVE SESSION

The Board will convene in Executive Session pursuant to Vernon's Texas Civil Statutes, Article 6252-17, Sections 2(e), (f) and (g) to consider those matters set out on Page Ex.S - 1 of the Material Supporting the Agenda.

- L. RECONVENE IN OPEN SESSION
- M. CONSIDERATION OF ACTION ON ANY ITEMS DISCUSSED IN THE EXECUTIVE SESSION OF THE BOARD OF REGENTS PURSUANT TO V.T.C.S., ARTICLE 6252-17, SECTIONS 2(e), (f) AND (g)
  - 1. Pending and/or Contemplated Litigation - Section 2(e)
    - a. U. T. Health Science Center - Houston: Proposed Settlement of Medical Liability Litigation
    - b. U. T. Health Science Center - San Antonio: Proposed Settlement of Medical Liability Litigation
  - 2. Land Acquisition, Purchase, Exchange, Lease or Value of Real Property and Negotiated Contracts for Prospective Gifts or Donations - Section 2(f)

3. Personnel Matters [Section 2(g)] Relating to Appointment, Employment, Evaluation, Assignment, Duties, Discipline, or Dismissal of Officers or Employees

N. SCHEDULED EVENTS

1. Board of Regents' Meetings

<u>Dates</u>	<u>Locations/Hosts</u>
June 9, 1994	U. T. Permian Basin
August 11, 1994	No Host - Austin
October 7, 1994	U. T. Dallas
December 1, 1994	U. T. Pan American

2. Other Events

September 29, 1994	U. T. M.D. Anderson Cancer Center: Faculty Honors Convocation
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3. Official Commencements - 1994

May 6	U. T. Tyler
May 7	U. T. Permian Basin
May 13	U. T. El Paso
May 14	U. T. Arlington
	U. T. Brownsville
	U. T. San Antonio
May 15	U. T. Pan American
May 21	U. T. Austin
	U. T. Dallas
	U. T. Medical School - Galveston
May 28	U. T. Dental Branch - Houston
	U. T. Dental School - San Antonio
June 4	U. T. Southwestern Medical School - Dallas

O. OTHER BUSINESS

P. ADJOURNMENT

<b>JANUARY 1994</b>							<b>FEBRUARY 1994</b>								
S	M	T	W	T	F	S	S	M	T	W	T	F	S		
						1			1	2	3	4	5		
2	3	4	5	6	7	8	6	7	8	9	10	11	12		
9	10	11	12	13	14	15	13	14	15	16	17	18	19		
16	17	18	19	20	21	22	20	21	22	23	24	25	26		
23	24	25	26	27	28	29	27	28							
30	31														
<b>MARCH 1994</b>							<b>APRIL 1994</b>								
S	M	T	W	T	F	S	S	M	T	W	T	F	S		
			1	2	3	4	5						1	2	
6	7	8	9	10	11	12	3	4	5	6	7	8	9		
13	14	15	16	17	18	19	10	11	12	13	14	15	16		
20	21	22	23	24	25	26	17	18	19	20	21	22	23		
27	28	29	30	31			24	25	26	27	28	29	30		
<b>MAY 1994</b>							<b>JUNE 1994</b>								
S	M	T	W	T	F	S	S	M	T	W	T	F	S		
1	2	3	4	5	6	7				1	2	3	4		
8	9	10	11	12	13	14	5	6	7	8	9	10	11		
15	16	17	18	19	20	21	12	13	14	15	16	17	18		
22	23	24	25	26	27	28	19	20	21	22	23	24	25		
29	30	31					26	27	28	29	30				
<b>JULY 1994</b>							<b>AUGUST 1994</b>								
S	M	T	W	T	F	S	S	M	T	W	T	F	S		
						1	2			1	2	3	4	5	6
3	4	5	6	7	8	9	7	8	9	10	11	12	13		
10	11	12	13	14	15	16	14	15	16	17	18	19	20		
17	18	19	20	21	22	23	21	22	23	24	25	26	27		
24	25	26	27	28	29	30	28	29	30	31					
31															
<b>SEPTEMBER 1994</b>							<b>OCTOBER 1994</b>								
S	M	T	W	T	F	S	S	M	T	W	T	F	S		
				1	2	3							1		
4	5	6	7	8	9	10	2	3	4	5	6	7	8		
11	12	13	14	15	16	17	9	10	11	12	13	14	15		
18	19	20	21	22	23	24	16	17	18	19	20	21	22		
25	26	27	28	29	30		23	24	25	26	27	28	29		
							30	31							
<b>NOVEMBER 1994</b>							<b>DECEMBER 1994</b>								
S	M	T	W	T	F	S	S	M	T	W	T	F	S		
			1	2	3	4	5					1	2	3	
6	7	8	9	10	11	12	4	5	6	7	8	9	10		
13	14	15	16	17	18	19	11	12	13	14	15	16	17		
20	21	22	23	24	25	26	18	19	20	21	22	23	24		
27	28	29	30				25	26	27	28	29	30	31		

# Executive Committee

EXECUTIVE COMMITTEE  
Committee Chairman Rapoport

Date: April 14, 1994  
Time: Following the convening of the Board of Regents  
at 10:00 a.m.  
Place: Auditorium (Room 119), Biomedical Research  
Building, U. T. Health Center - Tyler

	<u>Page</u> <u>Ex.C</u>
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2. U. T. Austin - McDonald Observatory - Spectroscopic Survey Telescope (SST) - Enclosure and Facilities (Project No. 102-724): Recommendation for Approval to Increase Total Project Cost; Award General Construction Contract to M W Builders, Inc., Temple, Texas; Name the Telescope; and Authorize Additional Appropriations Therefor (Exec. Com. Letter 94-9)	4
3. U. T. Dallas: Recommendation for Approval of Membership in the North Texas Geographic Information System (GIS) Consortium, Richardson, Texas, and Request for Approval of Proposed Charter (Exec. Com. Letter 94-10)	10
4. U. T. El Paso: Request for Permission for Individual to Serve as a Member of the (a) National Board of the Fund for the Improvement of Postsecondary Education and (b) Board of Directors of the Commission on Educational Exchange Between Mexico and the United States [ <u>Regents' Rules and Regulations</u> , Part One, Chapter III, Section 13, Subsections 13.(10) and 13.(11)] (Exec. Com. Letter 94-7)	16
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7. U. T. Health Center - Tyler - Ambulatory Care Center Addition and Renovation (Project No. 801-789): Recommended Award of Construction Contract to Boone & Boone Construction, Inc., Tyler, Texas (Exec. Com. Letter 94-10) 21

1. U. T. Austin: Recommendation to Rename the Balcones Research Center (Regents' Rules and Regulations, Part One, Chapter VIII, Section 1, Subsection 1.2, Naming of Facilities Other Than Buildings) (Exec. Com. Letter 94-11).--

#### RECOMMENDATION

The Executive Committee concurs in the recommendation of the Chancellor, the Executive Vice Chancellor for Academic Affairs, and President Berdahl that the Balcones Research Center at U. T. Austin be renamed the J. J. Pickle Research Campus in accordance with the Regents' Rules and Regulations, Part One, Chapter VIII, Section 1, Subsection 1.2, relating to the naming of facilities other than buildings.

#### BACKGROUND INFORMATION

The proposed renaming of the Balcones Research Center is in tribute to The Honorable J. J. "Jake" Pickle, a great friend of higher education, and in particular, U. T. Austin. Congressman Pickle has ardently supported U. T. Austin's development from his early years as U. T. Austin student body president through his illustrious 30-year career as a United States Representative.

Congressman J. J. "Jake" Pickle attended U. T. Austin from 1932-38 and received his Bachelor of Arts degree on August 29, 1938. While at the University, he was President of the student body from 1937-38 and was a member of the Friar Society and Delta Theta Phi Law Fraternity. Congressman Pickle was a recipient of the Distinguished Alumnus Award in 1979 and received the "Top Hand" Award from the U. T. Ex-Students' Association. He was inducted into the Longhorn Hall of Fame in 1987. A life member of the Texas Exes, Mr. Pickle served as President of the Washington, D. C., chapter of the U. T. Ex-Students' Association from 1967-68. Congressman Pickle embodies the vibrant, compassionate spirit of government that is a model for men and women who plan to make a career in public service.

One of the most significant achievements of Congressman Pickle's career was the successful effort to bring Sematech, the semiconductor research consortium, to Austin. Congressman Pickle led the fight to secure federal funds for the first-ever partnership between government and the private sector to restore United States competitiveness in the semiconductor industry and reduce our reliance on foreign products.

This recommendation was circulated via Executive Committee Letter to allow approval prior to an event planned for March 30 to announce the renaming of the Center in honor of Congressman Pickle.

2. U. T. Austin - McDonald Observatory - Spectroscopic Survey Telescope (SST) - Enclosure and Facilities (Project No. 102-724): Recommendation for Approval to Increase Total Project Cost; Award General Construction Contract to M W Builders, Inc., Temple, Texas; Name the Telescope; and Authorize Additional Appropriations Therefor (Exec. Com. Letter 94-9).--

#### RECOMMENDATION

The Executive Committee concurs in the recommendation of the Chancellor, the Executive Vice Chancellor for Academic Affairs, and President Berdahl that the U. T. Board of Regents:

- a. Approve an increase in the total project cost for the U. T. Austin - McDonald Observatory - Spectroscopic Survey Telescope (SST) from \$12,800,000 previously approved in the FY 1994-1999 Capital Improvement Plan to \$13,500,000
- b. Award a general construction contract for U. T. Austin - McDonald Observatory - Spectroscopic Survey Telescope (SST) - Enclosure and Facilities to the lowest responsible bidder, M W Builders, Inc., Temple, Texas, for the Base Bid and Additive Alternate Bid Nos. 1, 3, and 4 in the amount of \$2,127,100
- c. Name the U. T. Austin - McDonald Observatory - Spectroscopic Survey Telescope (SST) "The William P. Hobby - Robert E. Eberly (Spectroscopic Survey) Telescope" in accordance with the Regents' Rules and Regulations, Part One, Chapter VIII, Section 1, Subsection 1.2, relating to the naming of facilities other than buildings
- d. Appropriate an additional \$3,500,000 (\$1,036,000 from Gift and Grant Funds, \$2,000,000 from Tuition Revenue Bonds, and \$464,000 from State Appropriations) along with \$10,000,000 previously appropriated for total project funding of \$13,500,000.

#### BACKGROUND INFORMATION

In accordance with authorization of the U. T. Board of Regents in April 1993, bids for the general construction of the U. T. Austin - McDonald Observatory - Spectroscopic Survey Telescope (SST) - Enclosure and Facilities were received on January 11, 1994, as shown on Pages Ex.C 8 - 9.

The U. T. Austin - McDonald Observatory serves the academic and research needs of the Astronomy Department of the College of Natural Sciences. The newest telescope currently in use at the Observatory is 26 years old and is incapable of performance sufficient to the needs of U. T. Austin. The Spectroscopic Survey Telescope (SST) project will provide the facility and instrument necessary to keep the U. T. Austin - McDonald Observatory at the forefront of competing institutions and universities in the field of astronomy.

Although the SST project began as a cooperative activity of U. T. Austin and Pennsylvania State University, Stanford University, The University of Goettingen, and The University of Munich are now participating in the project through contribution of capital funds for construction of the telescope and subsequent funding of its operation.

Construction of the SST requires integration of various purchased components, a general construction contract, and substantial U. T. Austin - McDonald Observatory engineering and labor. The technical design of the telescope instrument is being handled in-house utilizing the skills of U. T. Austin - McDonald Observatory engineers with support of outside consultants. The design and general construction of the SST Enclosure and Facilities is being managed through standard procedures by the Office of Facilities Planning and Construction with consulting architect/engineer services as required and in close coordination with U. T. Austin.

The recommended award to M W Builders, Inc., Temple, Texas, in the amount of \$2,127,100 can be made within the proposed total project cost of \$13,500,000 and within the budgeted project cost for the Enclosure and Facilities of \$2,400,944.

The proposed total project cost is composed of the following elements:

Enclosure and Facilities Managed by the Office of Facilities Planning and Construction:

General Construction Cost	\$ 2,127,100
Fees and Administrative Expenses	235,338
Miscellaneous Expenses	<u>38,506</u>
Subtotal	\$ 2,400,944

U. T. Austin Bids Received:

Purchase of the Dome and Rotator	912,800
Purchase of Telescope Structure	1,082,546
Purchase of Mirror Truss and Blanks	1,070,464
Mirror Polishing	<u>1,650,000</u>
Subtotal	\$ 4,715,810

U. T. Austin Planned Expenditures:

Facility, Enclosure, Telescope Structure	302,093
Pointing, Tracking, Metrology Systems	962,225
Electronics, Controls, Software	930,649
First Light Instruments	487,746
Management, Reporting	233,050
Assembly, Integration, System Engineering	840,819
Other Primary Mirror Work	<u>1,230,946</u>
Subtotal	\$ 4,987,528

U. T. Austin Expenditures to Date	\$ 1,117,000
U. T. Austin Reserve for Contingency	\$ 278,718
Proposed Total Project Cost	<u>\$13,500,000</u>

The U. T. Austin Administration wishes to name the Spectroscopic Survey Telescope (SST) "The William P. Hobby - Robert E. Eberly (Spectroscopic Survey) Telescope." Based upon an agreement approved by the U. T. Board of Regents, the two founding partners for the SST, U. T. Austin and Pennsylvania State University, each reserved the right to honor an individual important to the partner university and the SST project by including that individual's name on the SST. U. T. Austin wishes to honor William P. Hobby, Jr. in naming the SST. Pennsylvania State University chose to honor Robert E. Eberly and its Board of Trustees granted approval on May 14, 1993.

William P. Hobby served as Lieutenant Governor of the State of Texas from 1973-1990. Widely respected for his integrity, fairness, and proven legislative ability, Governor Hobby provided unwavering support for higher education and the U. T. System. Continuing his commitment to higher education and U. T. Austin, Governor Hobby now holds the Sid Richardson Chair in Public Affairs at the U. T. Austin Lyndon Baines Johnson School of Public Affairs and is the Radoslav Tsanoff Professor at Rice University. He also is chairman of the board of a broadcasting company, H & C Communications. After graduating from Rice University in 1953 with a Bachelor of Arts in American History, Governor Hobby served in the United States Navy until 1957. He subsequently joined the family-owned Houston Post, becoming president in 1965. Throughout his distinguished career, Governor Hobby has served on numerous appointed state and national advisory groups as well as being involved in civic and community leadership activities. Through efforts of Governor Hobby and his colleagues and friends, substantial resources have been committed to make the SST project a reality, thus enhancing excellence in higher education and keeping U. T. Austin and its partner universities at the forefront of astronomical research.

Robert E. Eberly is Chairman of the Board of Eberly and Meade, Inc., an oil and natural gas production and exploration firm based in Uniontown, Pennsylvania, and Oklahoma City, Oklahoma. He also serves as Treasurer of the National Development Council, Pennsylvania State University's highest fund-raising advisory group. Mr. Eberly graduated from Pennsylvania State University in 1939 with a bachelor's degree in chemistry. Before entering banking in the 1950s, he served as a field geologist, general manager, president, and chairman of the board of his family-owned oil and natural gas business. He returned to the oil and gas business after retiring in 1990 as Chairman of Gallatin National Bank, which now is part of Pittsburgh-based Integra Bank. Mr. Eberly has provided significant financial and personal support to Pennsylvania State University, particularly its science programs, for several decades. In 1964, Mr. Eberly and his father, Orville Eberly, were instrumental in founding a new Pennsylvania State University campus in Fayette County, Pennsylvania. In 1990, Mr. Eberly and other family members were recognized for their contributions to Pennsylvania State University when the University's Board of Trustees named the Eberly College of Science in their honor.

Approval of this request will amend the FY 1994-1999 Capital Improvement Plan and the FY 1994 Capital Budget. The proposed total project cost is \$13,500,000. The funding sources identified in this recommendation are:

The University of Texas at Austin	
Gift Funds	\$2,525,000
Available University Fund	1,500,000
Tuition Revenue Bonds and Notes	2,000,000
State Appropriations	1,014,000
 Total, The University of Texas at Austin	 \$7,039,000
 Pennsylvania State University	 2,660,000
Stanford University	1,267,000
The University of Goettingen	1,267,000
The University of Munich	1,267,000
 Total Project Cost	 \$13,500,000

This project was approved by the Texas Higher Education Coordinating Board in July 1993.

MCDONALD OBSERVATORY  
SPECTROSCOPIC SURVEY TELESCOPE (SST)  
THE UNIVERSITY OF TEXAS AT AUSTIN  
GENERAL CONSTRUCTION  
ENCLOSURE AND FACILITIES  
Bids Received January 11, 1994

<u>BIDDER</u>	<u>M W Builders, Inc.</u> <u>Temple, Texas</u>	<u>N.C. Sturgeon, Inc.</u> <u>Midland, Texas</u>	<u>Cooper Construction</u> <u>Co., Inc.</u> <u>Odessa, Texas</u>
BASE BID	\$1,994,000	\$2,047,700	\$2,156,000
Alternate Bid No. 1: Add Finishes, Mechanical, Electrical and Plumbing in the Support Building	86,000	120,000	83,500
Alternate Bid No. 2: Add Mechanical Equipment to Serve the Spectrometer Room	46,200	55,000	54,000
Alternate Bid No. 3: Add Elevator and Related Equipment and Finishes	43,800	55,000	36,000
Alternate Bid No. 4: Add Kynar Paint on the Metal Roof and Siding in Lieu of Specified Coating	<u>3,300</u>	<u>7,000</u>	<u>5,000</u>
Recommended Contract Award - Base Bid Plus Alternates 1, 3, and 4 only	\$2,127,100	\$2,229,700	\$2,280,500

EX. C  
-  
8

MCDONALD OBSERVATORY  
 SPECTROSCOPIC SURVEY TELESCOPE (SST)  
 THE UNIVERSITY OF TEXAS AT AUSTIN  
 GENERAL CONSTRUCTION  
 ENCLOSURE AND FACILITIES  
 Bids Received January 11, 1994

<u>BIDDER</u>	<u>Arrow Building Corporation El Paso, Texas</u>	<u>Coats Construction, Inc. Midland, Texas</u>
BASE BID	\$2,245,000	\$2,667,000
Alternate Bid No. 1: Add Finishes, Mechanical, Electrical and Plumbing in the Support Building	90,000	114,500
Alternate Bid No. 2: Add Mechanical Equipment to Serve the Spectrometer Room	44,000	109,000
Alternate Bid No. 3: Add Elevator and Related Equipment and Finishes	39,000	35,400
Alternate Bid No. 4: Add Kynar Paint on the Metal Roof and Siding in Lieu of Specified Coating	<u>8,500</u>	<u>5,000</u>
Recommended Contract Award - Base Bid Plus Alternates 1, 3, and 4 only	\$2,382,500	\$2,821,900

3. U. T. Dallas: Recommendation for Approval of Membership in the North Texas Geographic Information System (GIS) Consortium, Richardson, Texas, and Request for Approval of Proposed Charter (Exec. Com. Letter 94-10).--

#### RECOMMENDATION

The Executive Committee concurs in the recommendation of the Chancellor, the Executive Vice Chancellor for Academic Affairs, and President Rutford that approval be given for U. T. Dallas to become a member of the North Texas Geographic Information System (GIS) Consortium, Richardson, Texas.

It is further recommended that approval be given to the proposed charter set out on Pages Ex.C 11 - 15 with the understanding that any and all specific agreements arising from the charter are to be submitted for prior administrative review and approval as required by the Regents' Rules and Regulations.

#### BACKGROUND INFORMATION

U. T. Dallas, governmental entities, and utilities in the Dallas-Fort Worth Consolidated Metropolitan Statistical Area desire to form the North Texas GIS Consortium to acquire data for and create a region-wide digital database to support geographic land base development covering approximately 2,122 square miles in Dallas and Tarrant Counties. The consortium will be sponsored by the Bruton Center for Development Studies at U. T. Dallas, and U. T. Dallas' designee will be the permanent chairperson of the consortium's Executive Committee.

The goals of the consortium are to:

- a. Facilitate regional development and sharing of a parcel level land base
- b. Reduce member costs of geographic information system development through cost savings on hardware, software, services, training, and data
- c. Facilitate data sharing among members through telecommunications links, regional data standards, distributed maintenance, and a central library database
- d. Provide education and training opportunities for members in geographic information system techniques and related topics.

The charter has been reviewed and approved by the Office of General Counsel.

Charter of the  
North Texas GIS Consortium

ARTICLE I. Name, Boundaries, and Sponsorship

Section 1. The name of the organization shall be: "North Texas GIS Consortium", referred to in these bylaws as "the Consortium"

Section 2. The territory included within the boundaries of this Consortium shall be considered the 9 Texas Counties in the Dallas-Fort Worth Consolidated Metropolitan Statistical Area: Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Rockwall, Parker, and Tarrant.

Section 3. The Consortium is sponsored by the Bruton Center for Development Studies at the University of Texas at Dallas

ARTICLE II. Purpose

Section 1. The purpose of the Consortium is to facilitate regional development and sharing of a parcel level land base.

Section 2. Further, the purpose of the Consortium is to reduce member costs of GIS development through cost savings on hardware, software, services, training, and data.

Section 3. Further, the purpose of the Consortium is to facilitate data sharing between members through telecommunications links, regional data standards, distributed maintenance, and a central library database.

Section 4. Further, the purpose of the Consortium is to provide education and training opportunities for members in GIS techniques and related topics.

ARTICLE III. Membership

Section 1. Any municipality, county, appraisal district, school district, special district, utility, university, or other local, regional, state, or federal agency with jurisdiction in the Dallas-Fort Worth Consolidated Metropolitan Statistical Area is eligible to join the Consortium.

Section 2. Any organization choosing to become a member shall agree to share any non-proprietary, non-confidential data that is of general interest to the Consortium.

Section 3. Any university joining the Consortium would agree to support telecommunications links from Consortium members for which the university is the nearest internet node, and would sponsor the internet membership for these members.

Section 4. Any organization choosing to become a member shall agree to meet regional data standards adopted by the Consortium.

Section 5. Any organization choosing to become a member shall be allowed to obtain discounts negotiated by the Consortium for GIS hardware, software, services, training, and data.

Section 6. Any organization choosing to become a member shall take necessary steps to provide an telecommunications linkage to the Consortium database library repository at the University of Texas at Dallas, enabling the member to use a microcomputer or workstation as a node on the Consortium network. Depending on the volume of expected data transfer, the options would range from 56KB dialup modems using SLIP protocol to dedicated T1 lines and peripheral equipment. The connection should be established within six months of becoming a Consortium member.

Section 7. Each member organization shall designate one individual as a contact point for the organization, and as the single voting representative of the member organization.

Section 8. Individuals within member organizations other than the designated contact and voting representative may serve on committees and hold office.

Section 9. Any organization choosing to become a member shall agree not to redistribute or market data obtained through the Consortium, unless approved in writing by the organization from which the data originated.

Section 10. Member organizations are in no way obligated by this Charter to participate in any Consortium initiative that involves individual purchase of goods or services.

#### ARTICLE IV. Executive Committee

Section 1. The governing body of the Consortium shall be the Executive Committee, with seven members.

Section 2. The membership of the Executive Committee shall consist of the Consortium Officers, consisting of a Chairman, Vice-Chairman, Secretary, Treasurer, as well as three at large members.

Section 3. A designee of the University of Texas at Dallas shall be named as permanent Chairman of the Executive Committee.

Section 4. A designee of the North Central Texas Council of Governments shall be named as permanent Executive Committee Member.

Section 5. The term of service for each office of the Executive Committee other than the two permanent seats shall be one year, or until their elected successors take office.

Section 6. In the event of a vacancy on the Executive Committee the remaining members of the Committee shall have the power to elect a member to fill the unexpired term of office.

## ARTICLE V Election of Officers

Section 1. The Chairman shall appoint, not less than thirty days prior to the date fixed by the Executive Committee for its report, a nominating committee of three members, who shall report the names of candidates for each position to be voted on at the annual election.

Section 2. The Executive Committee shall prescribe the form of ballot, the schedule of dates of the details of the election procedure. The Executive Committee shall determine if the annual election shall be held at the time and place of the annual meeting or by means of a mail ballot. If the election is held at the annual meeting, additional nominations for any office may be made by members of the Consortium who are present. If the election is held by means of a mail ballot, printed ballots shall be mailed to members not less than forty days before the date set for the announcements of the results and shall be returned for counting within thirty days of their mailing. Ballots shall be counted by three tellers appointed by the Chairman, who shall certify their findings to the Executive Committee. Ballots shall contain the names of nominees recommended by the nominating committee and shall have blank spaces under each office for the use of members who desire to vote for eligible candidates other than those named in the printed ballot.

Section 3. Newly elected officers shall assume their office on January 1 following the annual election.

## ARTICLE VI. Duties of Officers and Executive Committee

Section 1. The Chairman shall be designated by the University of Texas at Dallas in its capacity as the institutional sponsor of the Consortium. The Chairman shall be the Chief Executive Officer of the Consortium and shall preside at all meetings. The Chairman shall issue the call for regular or special Executive Committee meetings, shall appoint all special and standing Committees, subject to approval by the Executive Committee, and act as an ex-officio member of each Committee. The Chairman shall see that these Committees function and shall cooperate with each Committee Chairman to that end. At the conclusion of each year, the Chairman shall prepare a report to the Consortium that will include, but is not limited to, a membership report, accomplishments of the past year, and recommendations concerning Consortium goals and objectives over the coming year. The Chairman shall perform such other duties as may from time to time be assigned by the Executive Committee.

Section 2. The Vice-Chairman shall be a member of the Consortium who is elected by the membership. The Vice-Chairman shall occupy the position of Chairman and perform all the Chairman's responsibilities if for any reason the Chairman is absent and shall perform such other duties as may from time to time be assigned by the Executive Committee.

Section 3. The Secretary shall be a member of the Consortium who is elected by the membership. The Secretary shall keep all records and conduct all correspondence of the Consortium. The Secretary shall prepare and submit to the Consortium such reports as may be required.

Section 4. The Treasurer shall be a member of the Consortium who is elected by the membership. The Treasurer shall oversee financial transactions undertaken by the Consortium through a fund established and administered at the University of Texas at Dallas, to be used solely for the purposes of supporting Consortium activities. The Treasurer shall also be responsible for developing any agreements between the Consortium and its members that may be required for joint purchase transactions.

Section 5. The two At-large Members of the Executive Committee shall be members of the Consortium who are elected by the membership. At-large members shall undertake special projects as directed by the Executive Committee, and may be asked to chair any special or standing committee, or to work with a committee to ensure the successful completion of the committee assignment.

Section 6. The permanent NCTCOG Executive Committee member shall provide coordination between the activities of the Consortium and those of NCTCOG, and may be asked to chair any special or standing committee, or to work with a committee to ensure the successful completion of the committee assignment.

#### ARTICLE VII. Committees

Section 1. There shall be standing and Ad Hoc Committees comprised of Consortium members to serve the purposes of the Consortium as prescribed by these bylaws and as determined by the Executive Committee.

Section 2. Standing Committees. The function and structure of Standing Committees shall be governed by the following:

- (a) Standing committees perform continuing tasks of the Consortium.
- (b) Standing committees shall report at least annually to the Executive Committee and more frequently if desired.
- (c) Standing committees may be added, modified or disbanded at the direction of the Executive Committee without a change in the bylaws unless otherwise provided for in the bylaws.

Section 3. Ad Hoc Committees. The function and structure of Ad Hoc Committees shall be governed by the following:

- (a) Creation and dissolution of ad hoc committees must be approved by the Executive Committee.
- (b) Ad hoc committees perform specific tasks.
- (c) Ad hoc committees shall report on a timely basis to the Executive Committee.
- (d) Ad hoc committees shall cease to exist when a final report is submitted, or at such time as designated by the Executive Committee.

#### ARTICLE VIII. Meetings

Section 1. Meetings of the Consortium shall be held one or more times a year, the dates and places to be determined by the Executive Committee. The Consortium membership shall be notified at least two weeks in advance of the date and place of the annual meeting.

Section 2. Special meetings of the Executive Committee shall be held on the call of the Chairman or on the request in writing of any three members of the Executive Committee.

#### ARTICLE IX. Voting

Section 1. A majority of voting members shall constitute a quorum at an Executive Committee meeting

#### ARTICLE X. Dues

Section 1. There shall be no annual membership dues for membership in the Consortium.

#### ARTICLE XI. Amendments

Section 1. Amendments to these bylaws may be proposed by initiatory petition submitted to the Executive Committee in writing and signed by not fewer than eight Consortium members or by resolution of the Executive Committee. Proposed amendments shall be presented to the membership within one year after the date of their submission at a meeting of the Consortium or by letter ballot as may be determined by the Executive Committee. The Executive Committee may, within sixty days after receipt of any amendment proposed by initiatory petition, return same to the petitioners with a letter of explanation requesting the proposed amendment be modified before it is presented to the membership. If the proposed amendment is resubmitted in writing and signed by not fewer than eight of the original petitioners, it shall be presented to the membership with or without the approval of the Executive Committee. An affirmative vote of two thirds of the qualified votes cast shall be necessary for the adoption of the proposed amendment.

Section 2. Such amendments to these bylaws as may be made from time to time shall become effective upon adoption by the Consortium.

#### ARTICLE XII. Initiation

Section 1. The Chairman shall appoint the first Executive Committee and Officers, with elections of new officers to be held before the end of the calendar year.

Section 2. These bylaws shall be in effect upon adoption by the Executive Committee.

Section 3. Any municipality, county, tax appraisal district, school district, special district, utility, university, or local, regional, state, or federal agency with jurisdiction in the 9-County Dallas-Fort Worth Consolidated Metropolitan Statistical Area may initiate a membership request by sending a letter of agreement, signed by an authorized representative of the organization, to the Consortium Chairman indicating that the agency wishes to participate in the Consortium, and has read these bylaws and agrees to the terms identified herein. The letter must clearly indicate the name, title, address, phone and fax number of the designated contact person within the organization applying for membership. The membership would become active upon written response by the Chairman.

4. U. T. El Paso: Request for Permission for Individual to Serve as a Member of the (a) National Board of the Fund for the Improvement of Postsecondary Education and (b) Board of Directors of the Commission on Educational Exchange Between Mexico and the United States [Regents' Rules and Regulations, Part One, Chapter III, Section 13, Subsections 13.(10) and 13.(11)] (Exec. Com. Letter 94-7).--

#### RECOMMENDATION

The Executive Committee concurs in the recommendation of the Chancellor and the Executive Vice Chancellor for Academic Affairs that approval be given for Dr. Diana S. Natalicio, President of U. T. El Paso, to serve as a member of the (a) National Board of the Fund for the Improvement of Postsecondary Education and (b) Board of Directors of the Commission on Educational Exchange between Mexico and the United States.

It is further recommended that the U. T. Board of Regents find that: (1) the holding of these positions by President Natalicio is of benefit to the State of Texas and (2) there is no conflict between President Natalicio's position at U. T. El Paso and her membership on these Boards.

#### BACKGROUND INFORMATION

President Natalicio has been invited by the U. S. Department of Education to serve as a member of the National Board of the Fund for the Improvement of Postsecondary Education (FIPSE) for a term commencing upon approval and ending in June 1997. The FIPSE Board meets three times a year in Washington, D. C., and advises the Secretary of Education and the Assistant Secretary for Postsecondary Education on priorities for the improvement of postsecondary education, the operation of FIPSE, the selection of projects under the Innovative Projects for Community Service program, and policy issues raised by grant proposals submitted for funding under the Comprehensive Services Program. President Natalicio will serve without compensation except for reimbursement of related travel expenses.

President Natalicio has been invited by the U. S. Ambassador's Office to serve as a member of the Board of Directors of the Commission on Educational Exchange between Mexico and the United States for a term commencing upon approval and ending in December 1996. The Commission on Educational Exchange between Mexico and the United States was established in 1990 by the governments of the two countries to administer the Fulbright-García Robles Program. The Board meets three times a year in Mexico or in the United States and consists of ten members, five from each country, appointed by the United States Ambassador in Mexico. President Natalicio will serve without compensation.

These recommendations are in accordance with approval requirements for positions of honor, trust, or profit provided in Chapter 574 of the Texas Government Code (formerly Article 6252-9a of Vernon's Texas Civil Statutes) and Part One, Chapter III, Section 13, Subsections 13.(10) and 13.(11) of the Regents' Rules and Regulations.

5. U. T. El Paso - Energy Conservation Program - Education Building and Engineering Building (Project No. 201-780): Recommended Award of Construction Contract for the Institutional Conservation Program - Renovation of the Engineering Building No. 101 and Renovation of the Education Building No. 47 to B & H Mechanical, Inc., Las Cruces, New Mexico (Exec. Com. Letter 94-7).--

#### RECOMMENDATION

The Executive Committee concurs in the recommendation of the Chancellor, the Executive Vice Chancellor for Academic Affairs, and President Natalicio that the U. T. Board of Regents award a construction contract for the Institutional Conservation Program - Renovation of the Engineering Building No. 101 and Renovation of the Education Building No. 47 at U. T. El Paso to the lowest responsible bidder, B & H Mechanical, Inc., Las Cruces, New Mexico, for the Base Bids 1B and 2B in the amount of \$787,000.

#### BACKGROUND INFORMATION

In accordance with authorization of the U. T. Board of Regents in December 1991, bids for the construction of the Engineering Building Renovation and the Education Building Renovation were received on December 8, 1993, as shown on Pages Ex.C 18 - 19.

The Governor's Energy Management Center, through the Institutional Conservation Program, awarded U. T. El Paso a 50/50 matching funds Energy Conservation Measures Grant in the amount of \$508,596. With Permanent University Fund Bond Proceeds matching funds of \$508,596, the estimated total project cost is \$1,017,192. The grant is for energy conservation retrofit work in the Engineering Building and the Education Building.

The recommended award to B & H Mechanical, Inc., Las Cruces, New Mexico, for the Base Bids 1B and 2B can be made within the authorized total project cost of \$1,017,192.

The total project cost is composed of the following elements:

Energy Renovation Construction	\$ 787,000
Fees and Administrative Expenses	91,158
Miscellaneous Expenses	35,000
Project Contingency	<u>104,034</u>
Total Project Cost	\$1,017,192

This project is included in the FY 1994-1999 Capital Improvement Plan and the FY 1994 Capital Budget for a total project cost of \$1,017,192 with \$508,596 from Permanent University Fund Bond Proceeds and \$508,596 from grants.

This project was approved by the Texas Higher Education Coordinating Board.

ENERGY CONSERVATION PROGRAM  
 EDUCATION BUILDING AND ENGINEERING BUILDING  
 THE UNIVERSITY OF TEXAS AT EL PASO  
 Bids Received December 8, 1993

<u>BIDDER</u>	<u>B &amp; H Mechanical, Inc.</u> <u>Las Cruces, New Mexico</u>	<u>John R. Lavis</u> <u>General Contractor, Inc.</u> <u>El Paso, Texas</u>	<u>D. W. Graham</u> <u>Construction Co.</u> <u>El Paso, Texas</u>
Base Bid 1A Engineering Building Pneumatic Control	\$334,400	\$372,000	\$ 439,829
Base Bid 1B Engineering Building DDC Control	340,000	428,000	458,138
Base Bid 2A Education Building Pneumatic Control	445,300	474,000	575,207
Base Bid 2B Education Building DDC Control	447,000	542,000	606,479
Add Alt. #1.1 Light "A,B" Retrofit 100%	66,300	59,000	59,564
Add Alt. #1.2 Light "A,B" Retrofit 50%	33,100	30,000	29,781
Add Alt. #1.3 Light "A,B" Retrofit 25%	16,000	15,000	14,891
Add Alt. #1.4 Light "E,F" Retrofit 100%	24,600	23,000	22,799
Add Alt. #2.1 Light "A-D" Retrofit 100%	67,700	50,000	50,524
Add Alt. #2.2 Light "A-D" Retrofit 50%	33,500	25,000	25,262
Add Alt. #2.3 Light "A-D" Retrofit 25%	19,600	14,000	13,174
Add Alt. #2.4 VSD on Exhaust Fan - 1	3,400	3,000	4,468
Add Alt. #2.5 High Efficiency Motors for Pumps P-2 and P-3	<u>1,400</u>	<u>1,200</u>	<u>5,069</u>
Recommended Contract Award - Base Bids 1B and 2B Only	\$787,000	\$970,000	\$1,064,617

ENERGY CONSERVATION PROGRAM  
 EDUCATION BUILDING AND ENGINEERING BUILDING  
 THE UNIVERSITY OF TEXAS AT EL PASO  
 Bids Received December 8, 1993

EX.C - 19

<u>BIDDER</u>	<u>Thermodyn Contractors, Inc. El Paso, Texas</u>	<u>R. D. Lowman General Contractor, Inc. El Paso, Texas</u>
Base Bid 1A Engineering Building Pneumatic Control	\$ 442,000	\$ 411,000
Base Bid 1B Engineering Building DDC Control	519,000	477,000
Base Bid 2A Education Building Pneumatic Control	427,000	553,000
Base Bid 2B Education Building DDC Control	547,000	629,000
Add Alt. #1.1 Light "A,B" Retrofit 100%	60,000	59,500
Add Alt. #1.2 Light "A,B" Retrofit 50%	30,000	29,700
Add Alt. #1.3 Light "A,B" Retrofit 25%	15,000	14,800
Add Alt. #1.4 Light "E,F" Retrofit 100%	23,000	22,700
Add Alt. #2.1 Light "A-D" Retrofit 100%	51,000	50,500
Add Alt. #2.2 Light "A-D" Retrofit 50%	25,000	22,000
Add Alt. #2.3 Light "A-D" Retrofit 25%	13,000	13,100
Add Alt. #2.4 VSD on Exhaust Fan - 1	3,900	3,900
Add Alt. #2.5 High Efficiency Motors for Pumps P-2 and P-3	<u>3,000</u>	<u>4,400</u>
Recommended Contract Award - Base Bids 1B and 2B Only	\$1,066,000	\$1,106,000

6. U. T. Pan American: Recommendation to Establish the Lloyd M. Bentsen Endowed Chair in Engineering and the Lloyd M. Bentsen Endowed Engineering Scholarship Fund (Exec. Com. Letter 94-8).--

#### RECOMMENDATION

The Executive Committee concurs in the recommendation of the Chancellor, the Executive Vice Chancellor for Academic Affairs, and President Nevarez to establish two endowments on behalf of U. T. Pan American, as indicated below, with a \$1,000,000 commitment from Houston Endowment Inc., Houston, Texas:

- a. Lloyd M. Bentsen Endowed Chair in Engineering with \$500,000 of the total commitment
- b. Lloyd M. Bentsen Endowed Engineering Scholarship Fund with \$500,000 of the total commitment.

Income earned from the endowments when funded will be used, respectively, to support the Chair and to provide scholarships to students in the engineering program at U. T. Pan American.

This Houston Endowment Inc. gift results from the Engineering Fund Campaign approved at the December 1990 meeting of the U. T. Board of Regents. A full report on the results of that campaign will be included for the record at a future meeting of the U. T. Board of Regents. Formal institutional implementation of these endowments will be effected only upon receipt of these funds, payable after December 31, 1994.

#### BACKGROUND INFORMATION

Houston Endowment Inc., Houston, Texas, has committed these funds in honor of The Honorable Lloyd M. Bentsen, United States Secretary of the Treasury. A native of the Texas Rio Grande Valley, Secretary Bentsen, his father, and his family have done much to benefit the Valley region around U. T. Pan American and have been strong supporters of the U. T. System component institutions. In March 1994, Secretary Bentsen was named the 1994 Border Texan of the Year.

This recommendation was circulated for approval via Executive Committee Letter and in advance of receipt of the gift to accommodate a ceremonial event honoring Secretary Bentsen on March 4, 1994.

7. U. T. Health Center - Tyler - Ambulatory Care Center Addition and Renovation (Project No. 801-789): Recommended Award of Construction Contract to Boone & Boone Construction, Inc., Tyler, Texas (Exec. Com. Letter 94-10).--

#### RECOMMENDATION

The Executive Committee concurs in the recommendation of the Chancellor, the Executive Vice Chancellor for Health Affairs, and Director Hurst that the U. T. Board of Regents award a construction contract for the Ambulatory Care Center Addition and Renovation at U. T. Health Center - Tyler to the lowest responsible bidder, Boone & Boone Construction, Inc., Tyler, Texas, for the Base Bid and Alternates 1, 2, 3, 4, and 10 in the amount of \$9,505,700.

#### BACKGROUND INFORMATION

In accordance with authorization of the U. T. Board of Regents in December 1993, bids for the general construction of the Ambulatory Care Center Addition and Renovation at U. T. Health Center - Tyler were received on February 17, 1994, as shown on Pages Ex.C 23 - 24.

In 1971, the U. T. Health Center - Tyler built an outpatient clinic designed primarily for pulmonary patients with a projected outpatient capacity of 10,000 visits. A six-story hospital inpatient tower was completed a decade later. Although hospital admissions have remained relatively steady, outpatient volume has doubled since 1985 to more than 57,000 visits annually.

During the 1980s, the U. T. Health Center - Tyler added new medical services for heart patients, family practice, and occupational medicine, all of which require additional outpatient clinic space. Today there are eight outpatient clinics dispersed throughout the hospital complex. Most have developed in areas that are not conducive to efficient and convenient patient care.

Without expansion of approximately 80,000 gross square feet for outpatient facilities, it is projected that outpatient services, already booked in some clinics with as much as a three-month waiting period for an appointment, will be stifled and unable to grow.

The recommended award to Boone & Boone Construction, Inc., Tyler, Texas, for the Base Bid and Alternates 1, 2, 3, 4, and 10 can be made within the authorized total project cost of \$11,300,000. Boone & Boone Construction, Inc. is a woman-owned enterprise, therefore this project will have 100% HUB participation.

The proposed total project cost is composed of the following elements:

General Construction Cost @ \$119/GSF	\$ 9,505,700
Fees and Administrative Expenses	922,549
Furniture, Furnishings and Equipment	450,000
Miscellaneous Expenses	221,250
Project Contingency	<u>200,501</u>
Total Project Cost	\$11,300,000

This project is included in the FY 1994-1999 Capital Improvement Plan and FY 1994 Capital Budget for a total project cost of \$11,300,000 with \$5,000,000 from Permanent University Fund Bond Proceeds, \$4,800,000 from Educational and General Fund Balances, and \$1,500,000 from Private Gifts and Grants.

Under a Memorandum of Understanding dated December 3, 1992, the U. T. Board of Regents accepted the proposal of the U. T. Health Center - Tyler to provide an amount of funds equal to the debt service on Permanent University Fund (PUF) Bond Proceeds issued to provide the allocated PUF support of the project. Payment of these funds is contingent upon the annual income results of the Permanent University Fund. This project was approved by the Texas Higher Education Coordinating Board in October 1993.

AMBULATORY CARE CENTER ADDITION AND RENOVATION  
 THE UNIVERSITY OF TEXAS HEALTH CENTER AT TYLER  
 Bids Received February 17, 1994

<u>BIDDER</u>	<u>Boone &amp; Boone Construction, Inc. Tyler, Texas</u>	<u>C Construction Co., Inc. Tyler, Texas</u>	<u>Denson Construction Company, Inc. Tyler, Texas</u>
BASE BID	\$8,750,000	\$9,037,000	\$9,045,000
Add Alt. #1 - Porte Cochere and Porch	81,000	86,000	76,000
Add Alt. #2 - Breast Diagnostic Clinic	90,700	106,000	105,000
Add Alt. #3 - Occupational Clinic	185,000	197,000	209,000
Add Alt. #4 - Ambulatory Physical Therapy Clinic	157,000	161,000	162,000
Add Alt. #5 - Surgery/Receiving Renovation	346,000	167,000	206,000
Add Alt. #6 - Radiology Renovation	127,000	113,000	140,000
Add Alt. #7 - Pharmacy Renovation	145,000	130,000	139,000
Add Alt. #8 - Office/Library/Education Renovation	255,000	276,000	300,000
Add Alt. #9 - New 750 KW Generator System	235,000	237,000	258,000
Add Alt. #10 - Electric Equipment No. 1	242,000	254,000	272,000
Add Alt. #11 - Electric Equipment No. 2	<u>75,000</u>	<u>66,000</u>	<u>52,000</u>
Recommended Contract Award - Base Bid Plus Alternate Bid Nos. 1, 2, 3, 4, and 10 only	\$9,505,700	\$9,841,000	\$9,869,000

AMBULATORY CARE CENTER ADDITION AND RENOVATION  
 THE UNIVERSITY OF TEXAS HEALTH CENTER AT TYLER  
 Bids Received February 17, 1994

<u>BIDDER</u>	<u>White Construction Company</u> <u>Austin, Texas</u>
BASE BID	\$10,050,000
Add Alt. #1 - Porte Cochere and Porch	80,539
Add Alt. #2 - Breast Diagnostic Clinic	114,308
Add Alt. #3 - Occupational Clinic	226,028
Add Alt. #4 - Ambulatory Physical Therapy Clinic	188,777
Add Alt. #5 - Surgery/Receiving Renovation	376,911
Add Alt. #6 - Radiology Renovation	120,386
Add Alt. #7 - Pharmacy Renovation	165,023
Add Alt. #8 - Office/Library/Education Renovation	288,078
Add Alt. #9 - New 750 KW Generator System	272,073
Add Alt. #10 - Electric Equipment No. 1	262,814
Add Alt. #11 - Electric Equipment No. 2	<u>66,805</u>
Recommended Contract Award - Base Bid Plus Alternate Bid Nos. 1, 2, 3, 4, and 10 only	\$10,922,466

# Business Aff. And Audit Com.

BUSINESS AFFAIRS AND AUDIT COMMITTEE  
Committee Chairman Loeffler

Date: April 14, 1994  
Time: Following the meeting of the Executive Committee  
Place: Auditorium (Room 119), Biomedical Research  
Building, U. T. Health Center - Tyler

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1. U. T. System: Recommendation to Approve Chancellor's Docket No. 75.--

#### RECOMMENDATION

It is recommended that Chancellor's Docket No. 75 be approved.

It is requested that the committee confirm that authority to execute contracts, documents, or instruments approved therein has been delegated to the officer or official executing same.

2. U. T. Board of Regents: Recommendation to Amend the Regents' Rules and Regulations, Part One, Chapter III, Section 33, Subsection 33.1 (Retirement and Modified Service).--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs that the Regents' Rules and Regulations, Part One, Chapter III, Section 33, Subsection 33.1 regarding retirement and modified service be amended as set forth below in congressional style:

#### Sec. 33. Retirement and Modified Service.

- 33.1 No person employed by the U. T. System or any component institution shall be required to retire because of age except as permitted by law. [~~A-law-enforcement-officer-shall-not-be-employed-beyond-the-end-of-the-fiscal-year-that-includes-the-officer's-seventieth-birthday.~~] A pilot shall not be employed beyond the end of the fiscal year that includes the pilot's sixty-fifth birthday.

#### BACKGROUND INFORMATION

On December 31, 1993, Congress repealed 29 U.S.C. Section 623 that provided authority for mandatory retirement ages for law enforcement officers pursuant to the Age Discrimination in Employment Act. This proposed amendment to the Regents' Rules and Regulations will reflect the change in federal law.

The age limitation on airplane pilots is based upon the Federal Aviation Administration restriction placed on commercial airlines and has been upheld by the federal courts as a bona fide occupational requirement for pilots employed by state agencies.

3. U. T. Board of Regents: Request to Adopt an Amended and Restated Resolution for the Permanent University Fund Variable Rate Notes Interim Financing Program; Approve a Liquidity Agreement with the State Treasurer; Appoint Bankers Trust Company, New York, New York, as Paying Agent/Registrar; Appoint Vinson and Elkins, Austin, Texas, as Bond Counsel; and Authorize Appropriate U. T. System Officials to Execute Documents Relating Thereto.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs that the U. T. Board of Regents:

- a. Adopt an Amended and Restated Resolution substantially in the form set out on Pages BAAC 5 - 99 amending the Permanent University Fund Variable Rate Notes Interim Financing Program to allow
  - (1) the State Treasurer to provide liquidity for the Notes
  - (2) for conversion from physical form to book entry form for the Notes
  - (3) for entry into interest rate swaps, cap or floor arrangements, currency swap agreements, or similar agreements
- b. Approve a Liquidity Agreement in the amount of \$100,000,000 with the State Treasurer of the State of Texas
- c. Appoint Bankers Trust Company, New York, New York, as Paying Agent/Registrar for the Notes
- d. Appoint Vinson and Elkins, Austin, Texas, as Bond Counsel
- e. Authorize the appropriate U. T. System officials to execute documents relating thereto.

## BACKGROUND INFORMATION

In December 1985, the U. T. Board of Regents adopted a resolution establishing an interim financing program to pay project costs for projects authorized to receive Permanent University Fund (PUF) bond proceeds. The aggregate amount of obligations to be issued and outstanding at any one time was not to exceed \$100,000,000. In December 1989, the Board increased the aggregate amount to \$250,000,000. In May 1991, all of the outstanding Variable Rate Notes were retired. Subsequently, \$16,000,000 of Notes were issued and later retired in April 1992. New variable rate note proceeds will be needed in Fiscal Year 1995 for projects under construction, equipment, and library materials as authorized in the FY 1994-1999 Capital Improvement Plan and the 1994 Capital Budget.

To maintain the highest short-term credit rating, the rating agencies require the PUF Variable Rate Notes to be supported by a form of internal or external liquidity. The U. T. System has previously used Morgan Guaranty Bank as the Liquidity Provider; however, this arrangement was terminated by the U. T. System in December 1992. The State Treasurer is now offering, on a limited basis, liquidity support to state issuers at a very low cost (.04%). By using the State Treasurer rather than a commercial bank, the U. T. System will save approximately \$58,000 the first year.

Currently, Variable Rate Notes must be issued in physical form. It is anticipated that within the next 18 months the market will accept book entry securities. This form of delivery is more efficient and less costly than physical securities.

Based on market conditions, opportunities may be offered to reduce interest costs through the use of interest rate swap contracts. The revised resolution provides this authority. Specific master swap contracts with banks will require U. T. Board of Regents approval at a future date.

**A RESOLUTION amending and restating prior resolutions adopted by the Board of Regents of The University of Texas System establishing an interim financing program; approving and authorizing the issuance of obligations in an aggregate principal amount at any one time outstanding of not to exceed \$250,000,000 to provide interim financing to pay Project Costs for Eligible Projects; authorizing such obligations to be issued, sold and delivered as variable rate notes, and prescribing the terms, features and characteristics of such notes; approving and authorizing certain authorized officers and employees to act on behalf of the Board of Regents of The University of Texas System in the selling and delivery of such notes, within the limitations and procedures specified herein; making certain covenants and agreements in connection therewith; resolving other matters incident and related to the issuance, sale, security and delivery of such notes, including the approval of a Credit Agreement, an Official Statement, an Issuing and Paying Agent/Registrar Agreement and certain changes, additions or amendments to the related Trust Agreement and Remarketing Agreement; and providing an effective date.**

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**A RESOLUTION amending and restating prior resolutions adopted by the Board of Regents of The University of Texas System establishing an interim financing program; approving and authorizing the issuance of obligations in an aggregate principal amount at any one time outstanding of not to exceed \$250,000,000 to provide interim financing to pay Project Costs for Eligible Projects; authorizing such obligations to be issued, sold and delivered as variable rate notes, and prescribing the terms, features and characteristics of such notes; approving and authorizing certain authorized officers and employees to act on behalf of the Board of Regents of The University of Texas System in the selling and delivery of such notes, within the limitations and procedures specified herein; making certain covenants and agreements in connection therewith; resolving other matters incident and related to the issuance, sale, security and delivery of such notes, including the approval of a Credit Agreement, an Official Statement, an Issuing and Paying Agent/Registrar Agreement and certain changes, additions or amendments to the related Trust Agreement and Remarketing Agreement; and providing an effective date.**

**WHEREAS, the Board of Regents (the "Board") of The University of Texas System (the "System") hereby determines to issue obligations pursuant to the provisions of Section 18 of Article VII of the Constitution of the State of Texas, Article 717q, V.A.T.C.S., as amended, and Section 65.46, Texas Education Code, to provide interim financing for Eligible Projects (hereinafter defined); and**

**WHEREAS, an amendment to Section 18 of Article VII of the Texas Constitution, adopted by vote of the people of Texas on November 6, 1984 (the "1984 Constitutional Amendment") authorizes the Board to issue bonds and notes not to exceed a total amount of twenty percent of the cost value of investments and other assets of the Permanent University Fund (hereinafter defined) (exclusive of real estate) at the time of issuance thereof, and to pledge all or any part of its two-thirds interest in the Available University Fund (hereinafter defined) to secure the payment of the principal and interest of those bonds and notes, for the purpose of acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, major repair and rehabilitation of buildings and other permanent improvements, acquiring capital equipment and library books and library materials, and refunding bonds or notes issued under such section or prior law, at or for the System administration and certain component institutions of the System; and**

**WHEREAS, the Board has previously issued its Board of Regents of The University of Texas System Permanent University Fund Refunding Bonds, Series 1985, Series 1988, Series 1991 and Series 1992A and its Board of Regents of The University of Texas System Permanent University Fund Bonds, Series 1992B pursuant to the 1984 Constitutional Amendment, being payable from and secured by a first lien on and pledge of the Interest of the University (hereinafter defined) in the Available University Fund; and**

WHEREAS, the Board, by resolution, has previously established an interim financing program to pay Project Costs (hereinafter defined) for Eligible Projects (hereinafter defined) and authorized the issuance of various obligations thereunder in an aggregate principal amount at any time outstanding of not to exceed \$250,000,000 (except for a promissory note which was authorized in the principal amount of \$269,000,000); and

WHEREAS, the Board, by this resolution, has determined to amend and restate its prior resolutions establishing such interim financing program and to authorize the issuance hereunder of its Board of Regents of The University of Texas System Permanent University Fund Variable Rate Notes, Series A, in an amount at any one time outstanding of not to exceed \$250,000,000 (the "Notes"); and

WHEREAS, the Notes authorized hereby shall be secured in part by the Interest of the University in the Available University Fund, such lien and pledge thereof, however, being junior and subordinate to the lien and pledge thereof securing the payment of Fund Priority Obligations (hereinafter defined) outstanding on or after the date of issuance of the Notes; and

WHEREAS, the Board hereby finds that the purposes for which the Board may issue such Notes constitute a "public utility," as contemplated by Article 717q, V.A.T.C.S., as amended; and

WHEREAS, arrangements relating to the interim financing program have been settled and the Board hereby finds and determines that the issuance of such Notes, subject to the terms, conditions, and limitations hereinafter prescribed, should be approved and authorized at this time; NOW, THEREFORE,

**BE IT RESOLVED BY THE BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM:**

## ARTICLE I

### DEFINITIONS

Section 1.01. Definitions. Unless the context shall indicate a contrary meaning or intent, the terms below defined, for all purposes of this resolution or any resolution amendatory or supplemental hereto, shall be construed, are used and are intended to have the following meanings, to-wit:

"Acts" shall mean, collectively, Article 717q, V.A.T.C.S., as amended, and Section 65.46, Texas Education Code.

"Agreement" or "Credit Agreement" shall mean the liquidity agreement approved and authorized to be entered into by Section 2.04, as from time to time amended or supplemented, or any other liquidity agreement or liquidity agreements provided in lieu thereof in accordance with the provisions of Section 6.04(a).

"Authorized Representative" shall mean one or more of the following officers or employees of the System, to-wit: the Chancellor, any Executive Vice Chancellor, the General Counsel, the Executive Director of Finance, or such other officer or employee of the System authorized by the Board to act as an Authorized Representative.

"Available University Fund" shall mean, as provided in the Constitutional Amendment, all of the dividends, interest, and other income from the Permanent University Fund (less administrative expenses), including the net income attributable to the surface of Permanent University Fund land.

"Board of Regents" or "Board" shall mean the Board of Regents of the System.

"Bond Counsel" shall mean Vinson & Elkins L.L.P. or any other attorney or firm of attorneys nationally recognized as experienced in the field of bonds of governmental issuers and appointed by the Board.

"Bond Resolution" shall mean, collectively, the resolutions authorizing any Fund Priority Obligations.

"Business Day" shall mean any day (a) when banks are open for business in Austin, Texas and (b) when banks are not authorized to be closed in New York, New York.

"Constitutional Amendment" shall mean the 1984 Constitutional Amendment, and any amendment thereto or any other amendment to the Constitution of the State of Texas relating to the Permanent University Fund hereafter approved by the voters of the State of Texas.

"Constitutional Amendment Bond Resolutions" shall mean the 1985 Constitutional Amendment Bond Resolution, the resolutions authorizing the Series 1988 Bonds, Series 1991 Bonds, Series 1992A Bonds and Series 1992B Bonds, and any other resolution of the Board authorizing the issuance of bonds on a parity with the Series 1985 Bonds, the Series 1988 Bonds, the Series 1991 Bonds, the Series 1992A Bonds and the Series 1992B Bonds.

"Conversion Date" shall mean: (a) when used with respect to the Fixed Rate, the Fixed Rate Conversion Date; (b) when used with respect to any particular type of Variable Rate Period, the Daily Rate Conversion Date, the Weekly Rate Conversion Date, the Monthly Rate Conversion Date, the Quarterly Rate Conversion Date, the Semiannual Rate Conversion Date, and the Term Rate Conversion Date, as applicable; and (c) when used with respect to Flexible Rate Periods, the Flexible Rate Conversion Date.

"Daily Rate Conversion Date" shall mean the day on which the Variable Rate Notes first bear interest at a Daily Rate pursuant to Section 3.02(h) or (i).

"Daily Rate" shall mean the interest rate to be determined for the Variable Rate Notes on each Business Day pursuant to Section 3.02(b).

"Daily Rate Period" shall mean the period during which the Variable Rate Notes bear interest at a Daily Rate pursuant to Section 3.02(b), commencing on a Business Day and extending to but not including the next Business Day.

"Dealer" or "Remarketing Agent" shall have the meaning given said term in Section 5.04.

"DTC" shall mean The Depository Trust Company, New York, New York, and its successors and assigns, or any other securities depository selected by an Authorized Representative pursuant to Section 2.16 of this Resolution.

"DTC Participant" shall mean the securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

"Eligible Project" shall mean the acquisition of land either with or without permanent improvements, the construction and equipping of buildings or other permanent improvements, major repair and rehabilitation of buildings and other permanent improvements, the acquisition of capital equipment and library books and library materials. The term "Eligible Project" shall not include the construction, equipping, repairing or rehabilitating of buildings or other permanent improvements that are to be used for student housing, intercollegiate athletics, or auxiliary enterprises.

"Fiscal Year" shall mean the twelve-month operational period of the System commencing on September 1 of each year and ending on the following August 31.

"Fitch" shall mean Fitch Investors Service or, if such corporation is dissolved or liquidated or otherwise ceases to perform securities rating services, such other nationally recognized securities rating agency as may be designated in writing by the Board.

"Fixed Rate" shall mean the rate at which the Variable Rate Notes shall bear interest from and including the Fixed Rate Conversion Date to the maturity date thereof.

"Fixed Rate Conversion Date" shall mean the date on which the Variable Rate Notes are converted to bear interest at the Fixed Rate pursuant to Section 3.04 which Fixed Rate Conversion Date shall be an Interest Payment Date on which interest is payable for the Variable Rate Period from which the conversion is made or in the event of conversion from

Flexible Rate Periods, the day following an Interest Payment Date on which interest is payable on all Variable Rate Notes.

"Fixed Rate Period" shall mean the period during which the Variable Rate Notes bear interest at the Fixed Rate.

"Flexible Rate" shall mean, when used with respect to any particular Variable Rate Notes, the interest rate determined for each Flexible Rate Period applicable thereto pursuant to Section 3.03.

"Flexible Rate Conversion Date" shall mean the date on which the Variable Rate Notes first begin to bear interest at Flexible Rates which Flexible Rate Conversion Date shall be an Interest Payment Date on which interest is payable for the Variable Rate Period from which the conversion is to be made; provided, however, that in the case of a conversion from a Term Rate Period, the Conversion Date shall be an Interest Payment Date on which a new Term Rate Period would otherwise have commenced pursuant to Section 3.02(g).

"Flexible Rate Period" shall mean each period during which a Variable Rate Note bears interest at a Flexible Rate.

"Fund Priority Obligations" shall mean the Series 1985 Bonds, the Series 1988 Bonds, the Series 1991 Bonds, the Series 1992A Bonds, the Series 1992B Bonds, and any other obligations issued by the Board pursuant to the Constitutional Amendment which are secured by and payable from a lien on and pledge of the Interest of the University in the Available University Fund prior in rank and dignity to the lien and pledge securing the payment of the Notes.

"Holder" or "Noteholder" shall mean the Registered Owner or any person, firm, association, or corporation who is in possession of any Note drawn, issued or endorsed to such person, firm, association or corporation or to the order of such person, firm, association or corporation or to bearer or in blank.

"Interest of the University" and "Interest" in the Available University Fund shall mean the System's two-thirds interest in the Available University Fund as apportioned and provided in the Constitutional Amendment.

"Interest Payment Date" shall mean (a) when used with respect to Variable Rate Notes bearing interest at the Daily, Weekly or Monthly Rate, the first Business Day of each calendar month to which interest at such rate has accrued; (b) when used with respect to Variable Rate Notes bearing interest at the Quarterly Rate, the first Business Day of the third calendar month following the month in which the Quarterly Rate Conversion Date occurs and the first Business Day of each third calendar month thereafter to which interest at such rate has accrued; (c) when used with respect to Variable Rate Notes bearing interest at the Semiannual Rate or Term Rate or Fixed Rate, the first day of the sixth calendar month following the month in which the Semiannual, Term or Fixed Rate Conversion Date

occurs and the first day of each sixth month thereafter to which interest at such rate has accrued; and (d) when used with respect to any particular Variable Rate Note bearing interest at a Flexible Rate, the last day of each Flexible Rate Period applicable thereto.

"Interest Period" shall mean the period from and including any Interest Payment Date to and including the day immediately preceding the next following Interest Payment Date.

"Investment Company" shall mean an open-end diversified management investment company registered under the Investment Company Act of 1940, as amended.

"Issuing and Paying Agent," "Paying Agent/Registrar," "Paying Agent" or "Registrar" shall mean the agent appointed pursuant to Section 2.02, or any successor to such agent.

["Issuing and Paying Agent Agreement" or "Paying Agent/Registrar Agreement" shall mean the agreement referred to in Section 5.03, as from time to time amended or supplemented.]

"Liquidity Provider" shall mean, initially the Treasurer and, subsequently, any liquidity provider which becomes a party to a Credit Agreement.

"Maximum Interest Rate" shall mean the lesser of (a) 15% per annum and (b) the maximum net effective interest rate permitted by law to be paid on obligations issued or incurred by the Board in the exercise of its borrowing powers (prescribed by Article 717k-2, V.A.T.C.S., as amended, or any successor provision).

"Maximum Maturity Date" shall mean April 1, 2024.

"Monthly Rate" shall mean the interest rate to be determined for the Variable Rate Notes on a monthly basis pursuant to Section 3.02(d).

"Monthly Rate Conversion Date" shall mean the day (which is also an Interest Payment Date) on which the Variable Rate Notes first bear interest at a Monthly Rate pursuant to Section 3.02(h) or (i).

"Monthly Rate Period" shall mean each period during which the Variable Rate Notes bear interest at a Monthly Rate commencing on the first Business Day of each calendar month and ending on the last day prior to the first Business Day of the following month.

"Moody's" shall mean Moody's Investors Service, Inc. or, if such corporation is dissolved or liquidated or otherwise ceases to perform securities rating services, such other nationally recognized securities rating agency as may be designated in writing by the Board.

"1984 Constitutional Amendment" shall mean the amendment to Section 18 of Article VII of the Constitution of the State of Texas approved by the voters on November 6, 1984.

"1985 Constitutional Amendment Bond Resolution" shall mean the resolution adopted by the Board on October 24, 1985, authorizing the issuance of the Series 1985 Bonds.

"Note" or "Notes" shall mean the evidence of indebtedness authorized to be issued and at any time outstanding pursuant to this Resolution, in substantially the form described in Section 2.05.

"Note Date" shall have the meaning given in Section 2.02.

"Permanent University Fund," "Permanent Fund," and "Fund" used interchangeably herein shall mean the Permanent University Fund as created, established, implemented, and administered pursuant to Article VII, Sections 10, 11, 11a, 15, and 18 of the Texas Constitution, as currently or hereafter amended, and further implemented by the provisions of Chapter 66, Texas Education Code.

"Permanent University Fund Obligations" shall mean, collectively, all bonds or notes of the Board or the Board of Regents of The Texas A&M University System heretofore or hereafter issued and delivered pursuant to the provisions of the Constitutional Amendment, payable from and secured by a lien on and pledge of income from the Permanent University Fund.

"Project Costs" shall mean all costs and expenses incurred in relation to Eligible Projects, including without limitation design, planning, engineering, and legal costs, acquisition costs of land, interests in land, right-of-way, and easements, construction costs, costs of machinery, equipment, and other capital assets incident and related to the operation, maintenance, and administration of an Eligible Project, and financing costs, including interest during construction and thereafter, underwriter's discount and/or fees, legal, financial, and other professional services, and reimbursement for such Project Costs attributable to Eligible Projects incurred prior to the issuance of any Notes.

"Quarterly Rate" shall mean the interest rate to be determined for the Variable Rate Notes on a quarterly basis pursuant to Section 3.02(e).

"Quarterly Rate Conversion Date" shall mean the date on which the Variable Rate Notes first bear interest at a Quarterly Rate pursuant to Section 3.02(h) or (i).

"Quarterly Rate Period" shall mean each period during which the Variable Rate Notes bear interest at a Quarterly Rate (a) commencing initially on a Quarterly Rate Conversion Date and (b) ending on the last day preceding either the commencement date of the following Quarterly Rate Period or the Conversion Date on which a different Rate Period shall become effective.

"Rate Period" shall mean the period during which a particular rate of interest determined for the Variable Rate Notes is to remain in effect pursuant to Article III.

"Registered Owner" shall mean the person or entity in whose name any Note is registered in the Registration Books.

"Registration Books" shall mean the books or records relating to the registration, payment and transfer or exchange of the Project Notes maintained by the Issuing and Paying Agent pursuant to Sections 2.02 and 2.08.

"Regular Record Date" shall mean the close of business on the (a) Business Day immediately preceding the Interest Payment Date in the case of Variable Rate Notes bearing interest at Flexible, Daily, Weekly, Monthly, and Quarterly Rates and (b) fifteenth (15th) day of the month immediately preceding the Interest Payment Date in the case of Variable Rate Notes bearing interest at Semiannual or Term Rates or at the Fixed Rate.

"Remarketing Agreement" shall mean the agreement referred to in Section 5.04, as from time to time amended or supplemented.

"Resolution" shall mean this resolution and any amendment, modification, or supplement hereto as permitted hereby.

"Semiannual Rate" shall mean the interest rate to be determined for the Variable Rate Notes on a semiannual basis pursuant to Section 3.02(f).

"Semiannual Rate Conversion Date" shall mean the day on which the Variable Rate Notes first bear interest at a Semiannual Rate pursuant to Section 3.02(h) or (i).

"Semiannual Rate Period" shall mean each period during which the Variable Rate Notes bear interest at a Semiannual Rate.

"Series 1985 Bonds" shall mean The Board of Regents of The University of Texas System Permanent University Fund Refunding Bonds, Series 1985, dated October 15, 1985, and issued in the aggregate principal amount of \$345,970,000.

"Series 1988 Bonds" shall mean The Board of Regents of The University of Texas System Permanent University Fund Refunding Bonds, Series 1988, dated April 1, 1988, and issued in the aggregate principal amount of \$100,000,000.

"Series 1991 Bonds" shall mean The Board of Regents of The University of Texas System Permanent University Fund Refunding Bonds, Series 1991, dated April 1, 1991, and issued in the aggregate principal amount of \$254,230,000.

"Series 1992A Bonds" shall mean The Board of Regents of The University of Texas System Permanent University Fund Refunding Bonds, Series 1992A, dated May 15, 1992, and issued in the aggregate principal amount of \$196,015,000.

"Series 1992B Bonds" shall mean The Board of Regents of The University of Texas System Permanent University Fund Bonds, Series 1992B, dated April 1, 1992, and issued in the aggregate principal amount of \$80,000,000.

"Short Term Obligations" shall mean bonds or other evidences of indebtedness hereafter issued and incurred by the Board (other than the Notes) payable from the same sources, or any portion of such sources, securing the payment of the Notes and equally and ratably secured by a parity lien on and pledge of such sources securing the Notes, or any portion thereof.

"Special System Account" shall mean The State Treasurer - University of Texas Special System Account established by the Treasurer of the State of Texas pursuant to the Trust Agreement.

"Standard & Poor's" or "S&P" shall mean Standard & Poor's Ratings Group, a division of McGraw-Hill, or, if such entity ceases to perform securities rating services, such other nationally recognized securities rating agency as may be designated in writing by the Board.

"Term Rate" shall mean the interest rate to be determined for the Variable Rate Notes of a term of one or more years pursuant to Section 3.02(g).

"Term Rate Conversion Date" shall mean the day on which the Variable Rate Notes first bear interest at a Term Rate pursuant to Section 3.02(h) or (i).

"Term Rate Period" shall mean each period during which the Variable Rate Notes bear interest at a Term Rate.

"Treasurer" shall mean Treasurer of the State of Texas.

"Trust Agreement" shall mean the agreement referred to in Section 2.15, as from time to time amended or supplemented.

"University" or "System" shall mean The University of Texas System.

"Variable Rate" shall mean, as the context requires, the Daily Rate, Weekly Rate, Monthly Rate, Quarterly Rate, Semiannual Rate, or Term Rate applicable to Variable Rate Notes.

"Variable Rate Conversion Date" shall mean the day on which the Variable Rate Notes first bear interest at a Variable Rate pursuant to Section 3.02(h) or (i).

"Variable Rate Note" and "Variable Rate Notes" shall have the same meaning as "Note" and "Notes," respectively.

"Variable Rate Period" shall mean each period during which the Variable Rate Notes bear interest at a specific Variable Rate.

"Weekly Rate" shall mean the interest rate to be determined for the Variable Rate Notes on a weekly basis pursuant to Section 3.02(c).

"Weekly Rate Conversion Date" shall mean the day on which the Variable Rate Notes first bear interest at a Weekly Rate pursuant to Section 3.02(h) or (i).

"Weekly Rate Period" shall mean the period during which the Variable Rate Notes bear interest at a Weekly Rate.

Section 1.02. Construction of Terms Utilized in this Resolution. If appropriate in the context of this Resolution, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine, or neuter gender shall be considered to include the other genders.

## ARTICLE II

### AUTHORIZATION OF NOTES

Section 2.01. General Authorization. Pursuant to authority conferred by and in accordance with the provisions of the Constitution and laws of the State of Texas, particularly the Constitutional Amendment and the Acts, Notes to be designated "Board of Regents of The University of Texas System Permanent University Fund Variable Rate Notes, Series A" are hereby authorized to be issued in an aggregate principal amount not to exceed TWO HUNDRED FIFTY MILLION DOLLARS (\$250,000,000) at any one time outstanding for the purpose of financing Project Costs of Eligible Projects and to refinance, renew, or refund Notes, including interest thereon, all in accordance with and subject to the terms, conditions, and limitations contained herein. For purposes of this Section 2.01, any portion of outstanding Notes to be paid from money on deposit in the Series A Note Payment Fund or the Special System Account and from the available proceeds of Short Term Obligations, Fund Priority Obligations or other obligations of the Board issued pursuant to the Constitutional Amendment on the day of calculation shall not be considered outstanding.

Section 2.02. Terms Applicable to Notes - General. Under and pursuant to authority granted hereby and subject to the limitations contained herein, Variable Rate Notes shall be issued and sold and delivered from time to time in such principal amounts as determined by an Authorized Representative, such Variable Rate Notes to be dated as of the date of initial authentication of such Notes (the "Note Date"), to be in denominations provided in the Form of Variable Rate Notes in Section 2.05, to be numbered in ascending consecutive numerical order in the order of their issuance and to mature and become due and payable on the date selected by an Authorized Representative in accordance with this Resolution

but not later than the Maximum Maturity Date. Variable Rate Notes shall be payable and subject to purchase on demand of the Holder and redemption prior to maturity under the terms and conditions and at the redemption price or prices as set forth in Section 2.05 and Articles III and IV or as otherwise determined by an Authorized Representative; provided, however, any premium associated with a redemption prior to maturity of a Variable Rate Note shall not exceed three percent (3%) of the principal amount thereof.

Variable Rate Notes shall bear interest at Variable Rates, Flexible Rates or Fixed Rates as determined pursuant to this Resolution. Interest on the Variable Rate Notes shall be payable at maturity and at such intervals prior to maturity, all as determined in accordance with the provisions of Articles III and IV and in the form of Variable Rate Notes set forth in Section 2.05. All computations of interest shall be based on 365-day years for the actual number of days elapsed; except for interest at a Semiannual Rate, Term Rate, or Fixed Rate, which shall be computed on the basis of 360-day years of twelve 30-day months.

Subject to applicable terms, limitations, and procedures contained herein and to the provisions of Articles III and IV, Notes may be sold in such manner at public or private sale and at par or at such discount or premium (within the interest rate and yield restrictions provided herein) as an Authorized Representative shall approve at the time of the sale thereof; provided, however, that if any Notes are required to be sold through competitive bidding, such Notes shall be sold in accordance with the procedures set forth in Section 5.01.

The Notes shall be issued in fully registered form, without coupons. Both principal of and interest on the Notes shall be payable in the manner provided in Section 2.05.

The selection and appointment of Bankers Trust Company, New York, New York to serve as Paying Agent/Registrar for the Notes is hereby confirmed and the Board covenants and agrees to keep and maintain the Registration Books at the principal corporate office of the Paying Agent/Registrar, all as provided herein and pursuant to such reasonable rules and regulations as the Paying Agent/Registrar may prescribe. The Board covenants to maintain and provide a Paying Agent/Registrar at all times while the Notes are outstanding, which shall be a national or state banking association or corporation organized and doing business under the laws of the United States of America or of any State and authorized under such laws to exercise trust powers. Should a change in the Paying Agent/Registrar for the Notes occur, the Board agrees to promptly cause a written notice thereof to be (i) sent to each Registered Owner of the Notes then outstanding by United States mail, first-class, postage prepaid and (ii) published in a financial newspaper or journal of general circulation in The City of New York, New York, once during each calendar week for at least two calendar weeks, provided, however, the publication of such notice shall not be required if notice is given to each Holder. Such notice shall give the address of the successor Paying Agent/Registrar. A successor Paying Agent/Registrar may be appointed without the consent of the Holders.

A copy of the Registration Books and any change thereto shall be provided to the Board by the Paying Agent/Registrar, by means of telecommunications equipment or such other means as may be mutually agreeable thereto.

The Board and the Paying Agent/Registrar may treat the Registered Owner of any Note as the absolute owner thereof for the purpose of receiving payment thereof and for all other purposes, and the Board and the Paying Agent/Registrar shall not be affected by any notice or knowledge to the contrary.

**Section 2.03. Redemption of Variable Rate Notes.** To exercise its option to redeem Variable Rate Notes, the Authorized Representative shall deliver notice to the Paying Agent of its intention to redeem the Variable Rate Notes, which notice shall specify the principal amount of the Notes to be redeemed, and, if less than all of the Notes are to be called, the Notes or portions thereof to be redeemed, (a) with respect to Variable Rate Notes bearing interest at a Flexible Rate at least \_\_\_\_ ( ) days prior to the proposed redemption date; (b) with respect to Variable Rate Notes bearing interest at a Daily Rate, Weekly Rate, or Monthly Rate at least fifteen (15) days prior to the proposed redemption date; and (c) with respect to Variable Rate Notes bearing interest at a Quarterly Rate, Semiannual Rate, Term Rate or Fixed Rate at least thirty five (35) days prior to the proposed redemption date. The Paying Agent shall cause notice of any redemption of Variable Rate Notes to be mailed to each Registered Owner of Variable Rate Notes to be redeemed at the respective addresses appearing in the Registration Books. If such notice shall (i) be mailed at least \_\_\_\_ ( ) days prior to the redemption date with respect to Variable Rate Notes bearing interest at a Flexible Rate, at least (10) days prior to the redemption date with respect to Variable Rate Notes bearing interest at a Daily Rate, Weekly Rate, or Monthly Rate and at least thirty (30) days prior to the redemption date with respect to Variable Rate Notes bearing interest at a Quarterly Rate, Semiannual Rate, Term Rate or Fixed Rate, (ii) identify the Variable Rate Notes to be redeemed (specifying the CUSIP numbers (as defined in Section 2.05), if any, assigned to the Variable Rate Notes), (iii) specify the redemption date and the redemption price, and (iv) state that (a) on the redemption date the Variable Rate Notes called for redemption will be payable at the principal corporate trust office of the Paying Agent, (b) from the redemption date interest will cease to accrue, and (c) no representation is made as to the accuracy or correctness of the CUSIP numbers printed therein or on the Variable Rate Notes, and, if due provision for the payment of the redemption price is made, then the Variable Rate Notes which are to be redeemed thereby automatically shall be deemed to have been redeemed prior to their scheduled maturities, and they shall not bear interest after the redemption date, and they shall not be regarded as being outstanding except for the right of the Registered Owner thereof to receive the redemption price from the Paying Agent. No defect affecting the giving of notice of redemption of any Variable Rate Notes, whether in the notice of redemption or mailing thereof (including any failure to mail such notice) shall affect the validity of the redemption provisions for any other Variable Rate Notes.

**Section 2.04. Credit Agreement.** The Agreement, substantially in the form presented to the Board on the date of this Resolution, is hereby approved, and shall be entered into

with the Liquidity Provider. An Authorized Representative is hereby authorized to execute and deliver the Agreement and any other documents called for thereunder.

Section 2.05. Form of Variable Rate Notes. The Variable Rate Notes and the Certificate of Authentication to appear on each of the Notes shall be substantially in the form set forth in this Section with such appropriate insertions, omissions, substitutions and other variations as are permitted or required by this Resolution and may have such letters, numbers or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American [Banks] Association) ("CUSIP" numbers) and such legends and endorsements thereon as may, consistently herewith, be approved by an Authorized Representative. Any portion of the text of any Variable Rate Notes may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Variable Rate Notes.

The Variable Rate Notes shall be printed, lithographed, or engraved or produced in any other similar manner, or typewritten, all as determined and approved by an Authorized Representative.

Form of Variable Rate Note

\$ \_\_\_\_\_

Number \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF TEXAS  
BOARD OF REGENTS OF  
THE UNIVERSITY OF TEXAS SYSTEM PERMANENT UNIVERSITY FUND  
VARIABLE RATE NOTE, SERIES A

MATURITY DATE:

Interest Rate	Tender Date	Note Date	Principal Amount
_____	_____	_____	_____

INTEREST RATE MODE:

Flexible    Daily    Weekly    Monthly    Quarterly    Semiannual    Term    Fixed

REGISTERED OWNER:

THE BOARD OF REGENTS (the "Board") OF THE UNIVERSITY OF TEXAS SYSTEM (the "System") being an agency of the State of Texas, FOR VALUE RECEIVED, hereby promises to pay, solely from the sources hereinafter identified and as hereinafter stated, to the order of the registered owner set forth above, or the assignee thereof, on the Maturity Date specified above the principal amount specified above and to pay interest, if any, on said principal amount from the above specified Note Date to said Maturity Date or earlier redemption date or the date of payment pursuant to a demand for payment at the rate determined as herein provided from the most recent Interest Payment Date to which interest has been paid or duly provided for or from the Note Date if no interest has been paid, such payments of interest to be made on each Interest Payment Date until the principal hereof has been paid or provided for as aforesaid. Both principal of and interest on this note are payable in immediately available funds or clearing house funds, depending on the interest rate mode, the principal amount of notes owned and the instructions of the registered owner, in lawful money of the United States of America; the principal hereof being payable upon presentation and surrender of this note at the principal corporate office of the Paying Agent/Registrar executing the Certificate of Authentication appearing hereon, or its successor, and the interest hereon to be payable to the registered owner hereof whose name appears on the registration and transfer books (the "Registration Books") kept by the Paying Agent/Registrar as of the close of business on the record date by check mailed to such registered owner or by such other method requested by and at the risk and expense of the registered owner provided, that (i) if the registered owner has submitted a written

request with the Paying Agent/Registrar prior to the record date, interest for any Daily Rate Period, Weekly Rate Period, Monthly Rate Period or Quarterly Rate Period shall be paid by federal funds check, by deposit to the account of the registered owner if such account is maintained by the Paying Agent/Registrar or by wire transfer within the continental United States; or (ii) interest for Flexible Rate Periods will be paid in immediately available funds; provided further that interest accrued during any Flexible Rate Period and at the maturity of this Note shall be paid only upon its presentation and surrender. The record date for any Interest Payment Date shall be the close of business on the Business Day immediately preceding the Interest Payment Date, except that, while this note bears interest at Semiannual Rate, Term Rate, or Fixed Rate the regular record date shall be the close of business on the 15th day of the calendar month immediately preceding such Interest Payment Date. Notwithstanding the foregoing, during any period in which ownership of the Notes (as defined below) is determined only by a book entry at a securities depository for the Notes, payments made to the securities depository, or its nominee, shall be made in accordance with arrangements between the Board and the securities depository.

THIS NOTE is one of an issue of variable rate notes (the "Notes" or the "Variable Rate Notes") which has been duly authorized and issued in accordance with the provisions of a resolution (the "Resolution") passed by the Board for the purpose of financing Project Costs of Eligible Projects and to refinance, renew, or refund the Notes issued pursuant to the provisions of the Resolution; all in accordance and in strict conformity with the provisions of Section 18 of Article VII of the Constitution of the State of Texas, Article 717q, V.A.T.C.S., as amended and Section 65.46, Texas Education Code. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Resolution.

This note, together with the other Notes, is payable (which includes the obligation to purchase upon tender as provided herein) from and equally secured by (i) the proceeds from (a) the sale of Fund Priority Obligations, Short Term Obligations or other obligations of the Board under the Constitutional Amendment issued for such purpose and (b) the sale of Notes issued pursuant to the Resolution for such purpose, (ii) the amounts held in the Series A Note Payment Fund and the Special System Account, and (iii) the Interest of the University in the Available University Fund, such lien on and pledge of the Interest of the University in the Available University Fund, however, being junior and subordinate to the lien and pledge thereof securing the payment of Fund Priority Obligations now outstanding and hereafter issued by the Board. The Board reserves the right in the Resolution to enter into interest rate swap, cap or floor agreements, currency swap agreements, or similar agreements in relation to the payment or exchange of payments on the Notes and to provide that the obligations of the Board under such agreement may be secured by a pledge of the Interest of the University in the Available University Fund which is on a parity with the pledge securing payment of the Notes.

This note, together with the other Notes, is payable solely from the sources hereinabove identified securing the payment thereof. The Notes do not constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the Board, except with respect to the Interest of the University in the Available University Fund, and the

holder hereof shall never have the right to demand payment of this obligation from any sources or properties of the Board except as identified above.

### INTEREST ON VARIABLE RATE NOTES

The originally issued Variable Rate Notes shall bear interest at the applicable rate for the applicable Rate Period as determined by an Authorized Representative. If the Variable Rate Notes are initially issued to bear interest at a Flexible Rate, at the end of the initial Flexible Rate Period, the Variable Rate Notes shall be subject to mandatory tender, without right of retention by the registered owner, and thereafter the Variable Rate Notes shall continue in the Flexible Rate Mode until converted to another interest rate mode in accordance with the Resolution.

The rate of interest applicable to any Rate Period shall be determined in accordance with the applicable provisions of the Resolution and, for Flexible Rate Periods and Rate Periods, as hereinafter defined, pursuant to the terms of the Remarketing Agreement between the Board and Goldman, Sachs & Co., or any successor thereto (the "Remarketing Agent"). All computations of interest shall be based on 365-day years for the actual number of days elapsed; except for interest at a Semiannual Rate, Term Rate or Fixed Rate, which shall be computed on the basis of 360-day years of twelve 30-day months.

The Variable Rate Notes may bear interest at Flexible Rates or a Variable Rate effective for periods ("Flexible Rate Periods" in the case of Flexible Rates and "Rate Periods" in the case of Variable Rates) established in accordance with the Resolution, from time to time. The Variable Rate Notes may be converted to bear interest at a Fixed Rate from the conversion date until maturity in accordance with the Resolution.

The Variable Rate Notes may bear interest as follows:

#### Flexible Rate Mode.

While the Variable Rate Notes bear interest at Flexible Rates, the interest rate for each particular Variable Rate Note will remain in effect for the duration (not exceeding 180 days) of the Flexible Rate Period. While the Variable Rate Notes are in the Flexible Rate Mode, Variable Rate Notes may have successive Flexible Rate Periods of any duration up to 180 days each and any Variable Rate Note may bear interest at a rate and for a period different from any other Variable Rate Note.

#### Variable Rate Modes.

The Variable Rate Notes may bear interest at a Variable Rate computed on a Daily, Weekly, Monthly, Quarterly, Semiannual, or Term basis, as follows:

Daily Rate.

While the Variable Rate Notes bear interest at a Daily Rate, the interest rate established for the Variable Rate Notes will be effective from day to day until changed.

Weekly Rate.

While the Variable Rate Notes bear interest at a Weekly Rate, the rate of interest on the Variable Rate Notes will be determined weekly to be effective for a seven-day period commencing on Wednesday of the following week.

Monthly Rate.

While the Variable Rate Notes bear interest at a Monthly Rate, the interest rate will be determined monthly to be effective for a one-month period.

Quarterly Rate.

While the Variable Rate Notes bear interest at a Quarterly Rate, the rate of interest will be determined quarterly to remain in effect for a three-month period.

Semiannual Rate.

While the Variable Rate Notes bear interest at a Semiannual Rate, the rate of interest will be determined semiannually to remain in effect for a six-month period.

Term Rate.

While the Variable Rate Notes bear interest at a Term Rate, the interest rate determined will remain in effect for a term of one year or any whole multiple of one year selected in accordance with the Resolution.

Fixed Rate Mode.

At the option of an Authorized Representative, the Variable Rate Notes bearing interest at a Variable Rate or Flexible Rates may be converted to bear interest at a Fixed Rate to the Maturity Date.

An interest rate mode will remain in effect until changed. During each Rate Period, and unless otherwise established by an Authorized Representative, the rate of interest on the Variable Rate Notes shall be that rate which, in the determination of the Remarketing Agent, if borne by the Variable Rate Notes on the date of such determination under prevailing market conditions, would result in the market value of the Variable Rate Notes being 100% of the principal amount thereof. While this Note bears interest in the Flexible Rate Mode, and unless otherwise established by an Authorized Representative, each

Flexible Rate and Flexible Rate Period shall be determined by the Remarketing Agent in connection with the sale of the Variable Rate Notes to which they relate by the offer and acceptance of purchase commitments for such Variable Rate Notes at a Flexible Rate or Rates and for such Flexible Rate Periods as it deems to be advisable in order to minimize the net interest cost on the Variable Rate Notes under prevailing market conditions. In the event that the Remarketing Agent is unable, or fails, to determine the Variable Rate or the Flexible Rates, the Variable Rate or the Flexible Rates shall remain those in effect for the then current Rate Period or Flexible Rate Period.

Variable Rate Notes which bear interest at Flexible Rates will be issued in denominations of any multiple of \$1,000, with a minimum denomination of \$100,000. Variable Rate Notes which bear interest at a Daily Rate, Weekly Rate, Monthly Rate, or Quarterly Rate will be issued in denominations of \$100,000 and whole multiples thereof. Variable Rate Notes which bear interest at a Semiannual Rate, Term Rate or Fixed Rate will be issued in the denomination of \$5,000 and whole multiples thereof. In the event of a change in interest rate mode so that a registered owner owns Variable Rate Notes in an unauthorized denomination, the principal amount of Variable Rate Notes in excess of the authorized denomination is subject to mandatory tender for purchase at the principal amount thereof plus accrued interest on the date of conversion to the new interest rate mode.

#### OPTIONAL TENDERS

While this note bears interest at a Variable Rate the registered owner of this note has the right to tender this note to the Paying Agent/Registrar for purchase at the principal amount hereof plus accrued interest (from the same sources from which the principal and interest hereon are payable) as follows: (i) during a Daily Rate Period on any Business Day upon notice to the Paying Agent/Registrar and Remarketing Agent prior to 11:00 a.m., New York City time, on such Business Day, (ii) during a Weekly Rate Period on any Business Day upon notice to the Paying Agent/Registrar given on a Business Day at least 7 days prior to the Tender Date, (iii) during a Monthly Rate Period on any Interest Payment Date upon at least 3 Business Days notice to the Paying Agent/Registrar, (iv) during a Quarterly or Semiannual Rate Period on any Interest Payment Date upon notice to the Paying Agent/Registrar given on a Business Day at least 7 days prior to the Tender Date, and (v) during a Term Rate Period on the first day of the succeeding Rate Period upon notice to the Paying Agent/Registrar given on a Business Day at least 7 days prior to the Tender Date. **AFTER THE VARIABLE RATE NOTES HAVE BEEN CONVERTED TO BEAR INTEREST AT A FIXED RATE THEY SHALL NOT BE SUBJECT TO TENDER FOR PURCHASE.**

#### MANDATORY TENDERS

While this note bears interest at a Flexible Rate or at a Variable Rate, this note shall be tendered for purchase at the principal amount thereof plus accrued interest (from the same sources from which the principal and interest hereon are payable) to the Paying Agent/Registrar on the effective date of (i) a change from one interest rate mode to a

different interest rate mode (except for changes between a Daily Rate and Weekly Rate) and (ii) a change from one Flexible Rate Period to another Flexible Rate Period; provided, however, that the registered owner of this note may elect to retain this note (or his investment in this note in the event this note bears interest at a Flexible Rate) upon written notice to the Paying Agent/Registrar as provided in the Resolution.

Interest on any Variable Rate Note as to which a registered owner has not elected to continue to own after a mandatory tender date (as described above) and which is not tendered on the mandatory tender date, but for which there has been irrevocably deposited with the Paying Agent/Registrar an amount sufficient to pay the purchase price thereof, shall cease to accrue on the mandatory tender date, and the registered owner of such Variable Rate Note shall not be entitled to any payment other than the purchase price for such Variable Rate Note and such Variable Rate Note shall no longer be outstanding and entitled to the benefits of the Resolution, except for the payment of the purchase price of such Variable Rate Note from monies held by the Paying Agent/Registrar for such payment. On the mandatory tender date, the Paying Agent/Registrar shall authenticate and deliver substitute Variable Rate Notes in lieu of such untendered Variable Rate Notes.

#### WRITTEN NOTICE OF RATE MODE CHANGE

While the Variable Rate Notes bear interest at Flexible Rates or a Variable Rate, the Paying Agent/Registrar shall give notice to the registered owners of all Variable Rate Notes of the conversion from one interest rate mode to another at the times described in the Resolution. **ANY REGISTERED OWNER OF VARIABLE RATE NOTES WHO MAY BE UNABLE TO TAKE TIMELY ACTION ON ANY NOTICE SHOULD CONSIDER WHETHER TO MAKE ARRANGEMENTS FOR ANOTHER PERSON TO ACT IN HIS OR HER STEAD.** If a new interest rate mode for the Variable Rate Notes is not selected in a timely fashion in accordance with the Resolution, the interest rate mode then in effect will continue until changed by timely notice.

#### INTEREST PAYMENT DATES

While this note bears interest at a Flexible Rate, interest is payable on the last day of each Flexible Rate Period. While this note bears interest at a Daily Rate, Weekly Rate, or Monthly Rate, interest is payable on the first Business Day of each month. During Quarterly Rate Periods, interest is payable on the first Business Day of the third calendar month after the date each interest rate becomes effective. During any Semiannual or Term Rate Period, interest is payable on the first Business Day of the sixth calendar month after the date each interest rate becomes effective. After the Variable Rate Notes have been converted to bear interest at a Fixed Rate, interest is payable on January 1 and July 1 of each year. Each such date is herein defined as an "Interest Payment Date".

#### OPTIONAL REDEMPTION

During any Flexible, Daily, Weekly, Monthly, Quarterly, or Semiannual Rate Period, this Note is subject to redemption by the Board on any Interest Payment Date, in whole or

in part, at a redemption price equal to the principal amount thereof plus interest accrued to the redemption date.

[Insert - Term or Fixed Rate Redemption Provisions selected by an Authorized Representative, if any]

It is hereby certified and recited that all acts, conditions, and things required by law and the Resolution to exist, to have happened, and to have been performed precedent to and in the issuance of this note, do exist, have happened, and have been performed in regular and due time, form, and manner as required by law and that the issuance of this note, together with all other Notes, is not in excess of the principal amount of Notes permitted to be issued under the Constitutional Amendment or the Resolution.

This note is and has all the qualities and incidents of a negotiable instrument under the laws of the State of Texas.

This note shall not be entitled to any benefit under the Resolution or be valid or become obligatory for any purpose until this note shall have been authenticated by the execution by the Paying Agent/Registrar of the Certificate of Authentication hereon.

IN WITNESS WHEREOF, the Board has authorized and caused this note to be executed on its behalf by the manual or facsimile signatures of the Chairman of the Board and the Executive Secretary of the Board and its official seal impressed or a facsimile thereof to be printed hereon.

**BOARD OF REGENTS OF THE UNIVERSITY  
OF THE TEXAS SYSTEM**

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Executive Secretary

(SEAL)

**PAYING AGENT/REGISTRAR'S  
CERTIFICATE OF AUTHENTICATION**

This Variable Rate Note is one of the Variable Rate Notes delivered pursuant to the within mentioned Resolution.

**BANKERS TRUST COMPANY,  
as Paying Agent/Registrar**

Registered This Date: \_\_\_\_\_

By \_\_\_\_\_

Countersignature

Section 2.06. Execution - Authentication. The Notes shall be executed on behalf of the Board by the Chairman of the Board under its seal reproduced or impressed thereon and attested by the Executive Secretary of the Board. The signature of said officers on the Notes may be manual or facsimile. Notes bearing the manual or facsimile signatures of individuals who are or were the proper officers of the Board on the date of passage of this Resolution shall be deemed to be duly executed on behalf of the Board, notwithstanding that such individuals or either of them shall cease to hold such offices at the time of the initial sale and delivery of Notes authorized to be issued hereunder and with respect to Notes delivered in subsequent sales, exchanges and transfers, all as authorized and provided in Article 717k-6, V.A.T.C.S., as amended.

No Note shall be entitled to any right or benefit under this Resolution, or be valid or obligatory for any purpose, unless there appears on such Note a certificate of authentication substantially in the applicable form provided in Section 2.05, executed by the Paying Agent/Registrar by manual signature, and such certificate upon any Note shall be conclusive evidence, and the only evidence, that such Note has been duly certified or registered and delivered.

Section 2.07. Notes Mutilated, Lost, Destroyed, or Stolen. If any Note shall become mutilated, the Board, at the expense of the Holder of said Note, shall execute and the Paying Agent/Registrar shall authenticate and deliver a new Note of like tenor and number in exchange and substitution for the Note so mutilated, but only upon surrender to the Paying Agent/Registrar of the Note so mutilated. If any Note shall be lost, destroyed, or stolen, evidence of such loss, destruction, or theft may be submitted to the Board and the Paying Agent/Registrar and if such evidence be satisfactory to them and indemnity satisfactory to them shall be given, the Board, at the expense of the Holder, shall execute and the Paying Agent/Registrar shall authenticate and deliver a new Note of like tenor in lieu of and in substitution for the Note so lost, destroyed, or stolen. In the event any such Note shall have matured the Paying Agent/Registrar instead of issuing a duplicate Note may pay the same without surrender thereof after making such requirement as it deems fit for its protection, including a lost instrument bond. Neither the Board nor the Paying Agent/Registrar shall be required to treat both the original Note and any duplicate Note as being outstanding for the purpose of determining the principal amount of Notes which

may be issued hereunder, but both the original and the duplicate Note shall be treated as one and the same. The Board and the Paying Agent may charge the Holder of such Note with their reasonable fees and expenses for such service.

Section 2.08. Negotiability, Registration and Exchangeability. The Notes issued hereunder shall be, and shall have all of the qualities and incidents of a negotiable instrument under the laws of the State of Texas, and each successive Holder, in accepting any of the obligations, shall be conclusively deemed to have agreed that such Notes shall be and have all of the qualities and incidents of a negotiable instrument under the laws of the State of Texas.

Registration Books relating to the registration, payment, and transfer or exchange of the Notes shall at all times be kept and maintained by the Board at the corporate trust office of the Registrar, and the Registrar shall obtain, record, and maintain in the Registration Books the name and, to the extent provided by or on behalf of such Registered Owner, the address of each Registered Owner of the Notes issued under and pursuant to the provisions of this Resolution. In addition, in accordance with the terms of the Issuing and Paying Agent Agreement, a copy of the records reflected in the Registration Books shall be maintained at the System office in Austin, Texas. Any Note may, in accordance with its terms and the terms hereof, be transferred or exchanged for Notes of like tenor and character and of other authorized denominations upon the Registration Books by the Holder thereof in person or by his duly authorized agent, upon surrender of such Note to the Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder thereof or by his duly authorized agent, in form satisfactory to the Registrar.

Upon surrender for transfer of any Note at the corporate trust office of the Registrar, the Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Notes, executed on behalf of and furnished by the Board, of like tenor and character and of authorized denominations, and having the same maturity, bearing interest at the same rate, and of a like aggregate principal amount as the Note or Notes surrendered for transfer.

Furthermore, Notes may be exchanged for other Notes of like tenor and character and of authorized denominations and having the same maturity, bearing the same rate of interest, and of like aggregate principal amount as the Notes surrendered for exchange, upon surrender of the Notes to be exchanged at the corporate trust office of the Registrar. Whenever any Notes are so surrendered for exchange, the Registrar shall register and deliver new Notes of like tenor and character as the Notes exchanged, executed on behalf of, and furnished by, the Board to the Holder thereof requesting the exchange.

The Board and the Registrar may charge the Holder a sum sufficient to reimburse them for any expenses incurred in making any exchange or transfer after the first such exchange or transfer. The Registrar or the Board may also require payment from the Holder of a sum sufficient to cover any tax, fee, or other governmental charge that may be imposed

in relation thereto. Such charges and expenses shall be paid before any such new Note shall be delivered.

The Board and the Paying Agent/Registrar shall not be required to transfer or exchange any Note selected, called or being called for redemption in whole or in part unless said Note has been tendered for purchase and remarketed for a period which ends no later than the redemption date.

New Notes delivered upon any transfer or exchange shall be valid special obligations of the Board, evidencing the same debt as the Notes surrendered, shall be secured by this Resolution and shall be entitled to all of the security and benefits hereof to the same extent as the Notes surrendered.

The Board reserves the right to change the above registration and transferability provisions of the Notes at any time on or prior to the delivery thereof in order to comply with applicable laws and regulations of the United States of America in effect at the time of issuance thereof. In addition, to the extent that the provisions of this Section conflict with or are inconsistent with the provisions of Section 2.05 or Articles III and IV, such other provisions shall control.

Section 2.09. Series A Note Payment Fund. There is hereby established with the Issuing and Paying Agent a separate and special fund designated as the "Board of Regents of The University of Texas System Series A Note Payment Fund" (the "Series A Note Payment Fund"). The proceeds from the sale of Fund Priority Obligations issued for the purpose of refunding and retiring Notes shall be deposited to the credit of the Series A Note Payment Fund and used for such purpose. In addition, all amounts required to be deposited by the Board pursuant to Section 2.10 shall be deposited to the Series A Note Payment Fund and shall be used to pay principal of, premium, if any, and interest on Notes at the respective interest payment, maturity, redemption, or purchase dates of each issue of such Notes as provided herein. Amounts remaining in the Series A Note Payment Fund not then necessary for the purposes thereof may be transferred to the Series A Note Construction Account (as described in Section 2.12) upon request of an Authorized Representative.

Additionally all draws under the Credit Agreement shall be deposited into the Series A Note Payment Fund and used to pay the purchase price of Notes pursuant to Articles III and IV.

Pending the expenditure of moneys in the Series A Note Payment Fund for authorized purposes, moneys deposited therein may be invested at the direction of an Authorized Representative in the manner prescribed by law and in accordance with the written policies adopted by the Board. Any income received from investments in the Series A Note Payment Fund shall be retained in the Series A Note Payment Fund.

Section 2.10. Pledge of Revenues; Payments. (a) The Notes are special obligations of the Board payable from and secured solely by the funds pledged therefor pursuant to this

Resolution. The Board agrees to make payments into the Series A Note Payment Fund at such times and in such amounts as are necessary to provide for the full payment of the principal of, premium, if any, and the interest on and purchase price of the Notes when due, whether by reason of maturity, redemption, or tender for purchase. Except as otherwise provided in Section 4.01(e), payments from the Series A Note Payment Fund shall be made from the first moneys deposited to the account of the Series A Note Payment Fund. Unless paid from the proceeds from the sale of Fund Priority Obligations, Short Term Obligations, Notes, or other obligations of the Board issued pursuant to the Constitutional Amendment, such payments are to be made from the amounts required to be deposited in the Series A Note Payment Fund.

(b) To provide security for the payment of the principal of and interest on the Notes as the same shall become due and payable, there is hereby pledged, subject only to the provisions of this Resolution permitting the application thereof for purposes and on the terms and conditions set forth herein, (i) the proceeds from (a) the sale of the Fund Priority Obligations or Short Term Obligations or other obligations of the Board under the Constitutional Amendment issued for such purpose and (b) the sale of Notes issued pursuant to this Resolution for such purpose, (ii) the amounts held in the Series A Note Payment Fund and the Special System Account, provided, however, amounts in the Series A Note Payment Fund attributable to and derived from remarketing of Notes tendered for purchase and from draws under and pursuant to the Credit Agreement are pledged solely to, and shall be used solely to pay, the purchase price of tendered Notes, and (iii) the Interest of the University in the Available University Fund, such pledge of Interest of the University in the Available University Fund, however, being subordinate to the pledge thereof securing the payment of Fund Priority Obligations as described below, and it is hereby resolved and declared that the principal of and interest on the Notes shall be and are hereby equally and ratably secured by and payable from a lien on and pledge of the sources hereinabove identified in clauses (i), (ii) and (iii) subject and subordinate only to the exceptions noted therein.

(c) To the extent permitted by applicable law, the Board reserves the right to enter into interest rate swap, cap or floor agreements, currency swap agreements or similar agreements in relation to the payment or exchange of payments on the Notes and to pledge the Interest of the University in the Available University Fund to secure the Board's obligations thereunder, which pledge may be on a parity with the pledge securing payment of the Notes.

Section 2.11. Application of Prior Covenants. The covenants and agreements (to the extent the same are not inconsistent herewith) contained in the Constitutional Amendment Bond Resolutions are hereby incorporated herein and shall be deemed to be for the benefit and protection of the Notes and the Holders thereof in like manner as applicable to the Fund Priority Obligations; provided, however, in the event of any conflict between the terms, covenants, and agreements contained herein and the terms, covenants, and agreements contained in the 1985 Constitutional Amendment Bond Resolution, the provisions of the 1985 Constitutional Amendment Bond Resolution shall control over the provisions hereof; and provided, further, that, with respect to furnishing Holders full audits

and reports by the State Auditor of Texas, as described in the 1985 Constitutional Amendment Bond Resolution, the Board shall furnish such reports as the State Auditor of Texas is required by State law to prepare and distribute.

In accordance with the provisions of the Constitutional Amendment Bond Resolutions, the Notes represent obligations which are subordinate to the Fund Priority Obligations. As described in Section 9 of the 1985 Constitutional Amendment Bond Resolution, there heretofore has been established in the Treasury of the State of Texas a fund known as "Board of Regents of The University of Texas System Permanent University Fund Bonds Interest and Sinking Fund" (hereinafter called the "Interest and Sinking Fund"). The Fund Priority Obligations are payable from moneys required to be transferred to the Interest and Sinking Fund. After provision has been made for the payment of the principal of and interest on the Fund Priority Obligations, based upon the projection of monies to be deposited into the Interest and Sinking Fund from the Available University Fund which demonstrates that the deposits to the Series A Note Payment Fund will not impair the obligation of the Board to pay the principal of and interest on the Fund Priority Obligations as the same mature and come due, the balance of the Interest of the University in the Available University Fund shall be made available to the Board to deposit into the Series A Note Payment Fund such amounts as are necessary to pay the interest on and/or the principal, and premium, if any, of the Notes to the extent not paid from the proceeds of Notes, Short Term Obligations, Fund Priority Obligations, or other obligations of the Board issued pursuant to the Constitutional Amendment. After provision has been made for the payment of the interest and any premium on and/or principal of the Notes, the balance of the Interest of the University in the Available University Fund each year shall be made available to the Board in the manner provided by law and by regulations of the Board to be used by the Board as it may lawfully direct.

To the end that money will be available at the Paying Agent/Registrar in ample time to pay the principal of and interest and any premium on the Notes as such principal, interest and premium respectively come due, respectively, an Authorized Representative, or such officer or employee as may hereafter be designated by the Board to perform the following duties, shall perform the following duties:

(1) There has heretofore been established in the Treasury of the State of Texas the Special System Account. If there is on deposit in the Special System Account from the Interest of the University in the Available University Fund, monies sufficient to pay the interest and any premium on and/or principal of the Notes as the same come due and mature or are required to be purchased, an Authorized Representative or such other designated officer or employee shall transfer from the Special System Account to the Paying Agent/Registrar for deposit in the Series A Note Payment Fund moneys sufficient to pay such amounts, and thereafter shall coordinate with the Treasurer and the Comptroller of Public Accounts of the State of Texas (hereinafter called the "Comptroller of Public Accounts") and take such actions as shall be necessary to restore the Special System Account to an amount equal to the amount such official estimates will be necessary from the Interest of the University in the

Available University Fund, to pay said interest on and/or principal of and, premium, if any, on the Notes, including the purchase price thereof.

(2) If it is anticipated that there shall not be on account in the Series A Note Payment Fund or the Special System Account, from the Interest of the University in the Available University Fund, monies sufficient to pay the interest on and/or principal of, and premium, if any, on the Notes as the same are due, an Authorized Representative or such other designated officer or employee shall implement the procedures necessary to cause the Comptroller of Public Accounts to withdraw from the Interest and Sinking Fund the amount of such interest and/or principal and any premium which will become due on the scheduled payment date and deposit said amount in the Series A Note Payment Fund or, if such deposit cannot be made within the time required, to make an Advance in such amount.

Section 2.12. Series A Note Construction Account. The Board hereby reaffirms that there is established a separate account designated as the "Board of Regents of The University of Texas System Series A Note Construction Account" (the "Series A Note Construction Account"). The Series A Note Construction Account is and shall be maintained by the Board in an official depository of the System. Moneys on deposit or to be deposited in the Series A Note Construction Account shall remain therein until from time to time expended for the Project Costs, and shall not be used for any other purposes whatsoever, except as otherwise provided below. Pending the expenditure of moneys in the Series A Note Construction Account, moneys deposited therein or credited thereto may be invested at the direction of an Authorized Representative in the manner prescribed by law and in accordance with the written policies adopted by the Board. Any income received from investments in the Series A Note Construction Account shall be retained in the Series A Note Construction Account.

Any amounts remaining in the Series A Note Construction Account and not necessary for the payment of Project Costs shall be paid into the Series A Note Payment Fund and used either for the payment of interest during construction and thereafter on the Notes, payment of such maturities or purchases of the Notes coming due at such times as may be selected by the Authorized Representative. In the event no Notes are outstanding, any amounts in the Series A Note Construction Account not anticipated to be needed to pay Project Costs shall be transferred to the Interest and Sinking Fund.

Section 2.13. Cancellation. All Notes which at maturity are surrendered to the Paying Agent/Registrar for the collection of the principal and interest thereof or are surrendered for transfer or exchange pursuant to the provisions hereof shall, upon payment or issuance of new Notes, be cancelled by the Paying Agent/Registrar. The Paying Agent/Registrar shall destroy and cancel Notes and shall furnish the Board with a certificate of destruction.

Section 2.14. Fiscal and Other Agents. In furtherance of the purposes of this Resolution, the Board may from time to time appoint and provide for the payment of such

additional fiscal, paying or other agents or trustees as it may deem necessary or appropriate in connection with the Notes.

Section 2.15. Trust Agreement. The Trust Agreement by and between the Board and the Treasurer, dated as of December 5, 1985, and certain amendments thereto dated as of April 21, 1988 and December 22, 1989, were heretofore executed and delivered by the Board. An Authorized Representative is hereby authorized and directed to approve, execute and deliver to the Treasurer any such changes, additions, or amendments thereto as may be necessary and proper to confirm that such agreement relates to the Notes and to carry out the Board's purpose and intent in adopting this Resolution. An Authorized Representative is hereby authorized to enter into any supplemental agreement with the Trustee or with any successor thereto.

Section 2.16. Book-Entry System. If an Authorized Representative determines that it is possible and desirable to provide for a book-entry only system of Note registration with DTC, such Authorized Representative, acting for and on behalf of the Board, is hereby authorized to approve, execute and deliver Letters of Representations to DTC to implement such book-entry only system, such approval to be conclusively evidenced by the execution thereof by said Authorized Representative. In which event, beneficial owners of Notes will not receive physical delivery of Note certificates except as provided hereinafter. For so long as DTC shall continue to serve as securities depository for the Notes as provided herein, all transfers of beneficial ownership interests therein will be made by book entry only, and no investor or other party purchasing, selling or otherwise transferring beneficial ownership of the Notes is to receive, hold or deliver any Note certificate.

With respect to Notes registered in the name of DTC or its nominee, neither the Board nor the Paying Agent shall have any responsibility or obligation to any DTC Participant or to any person on whose behalf a DTC Participant holds an interest in the Notes. Without limiting the immediately preceding sentence, neither the Board nor the Paying Agent shall have any responsibility or obligation with respect to (i) the accuracy of the records of DTC or any DTC Participant with respect to any ownership interest in the Notes, (ii) the delivery to any DTC Participant or any other person, other than a registered owner of the Notes, as shown on the Registration Books, of any notice with respect to the Notes, including any notice of redemption, and (iii) the payment to any DTC Participant or any other person, other than a registered owner of the Notes, as shown in the Registration Books, of any amount with respect to principal of and premium, if any, or interest on the Notes.

Whenever, during the term of the Notes, the beneficial ownership thereof is determined by a book entry at DTC, the requirements in this Resolution of holding, registering, delivering, exchanging or transferring the Notes shall be deemed modified to require the appropriate person or entity to meet the requirements of DTC as to holding, registering, delivering, exchanging or transferring the book entry to produce the same effect.

If at any time, DTC ceases to hold the Notes, all references herein to DTC shall be of no further force or effect.

Whenever the beneficial ownership of the Notes is determined by a book entry at DTC, tenders of Notes shall be made pursuant to DTC's deliver order procedures or repayment option procedures, as applicable, as are in effect from time to time. Upon remarketing of the Notes, payment of the purchase price thereof shall be made to DTC and no surrender of the Notes is required. Such sales shall be made through the DTC Participants (which may include the Remarketing Agent for such Notes) to the new beneficial owners of such Notes, and the DTC Participants shall transmit payment to beneficial owners whose Notes were purchased pursuant to a remarketing. The Board and each Paying Agent, Liquidity Provider and Remarketing Agent are not responsible for transfer of payment to the DTC Participants or beneficial owners.

### ARTICLE III

#### INTEREST RATES ON VARIABLE RATE NOTES

Section 3.01. Initial Interest Rates; Subsequent Rates. The Variable Rate Notes originally issued hereunder shall bear interest at the Flexible Rate for an initial Flexible Rate Period which shall end on the date so determined by an Authorized Representative following the sale of the Variable Rate Notes in the manner described in Section 5.05. At the end of said initial Flexible Rate Period, the Variable Rate Notes shall be subject to mandatory tender, without right of retention by the Registered Owner. Thereafter, the Variable Rate Notes shall bear interest at the Flexible Rates determined from time to time in accordance with the provisions of Section 3.03, except that the Rate Period applicable to the Variable Rate Notes may be converted to or from Variable Rate Periods, Flexible Rate Periods, or to the Fixed Rate Period pursuant to Section 3.02, 3.03, or 3.04.

Section 3.02. Variable Rates; Conversions to Variable Rate Periods.

(a) Determination by Remarketing Agent. Subject to the further provisions of this Article III with respect to particular Variable Rates or conversions between Rate Periods, the Variable Rate to be applicable to Variable Rate Notes during any Variable Rate Period shall be determined by the Remarketing Agent. The Remarketing Agent shall determine the Variable Rate in accordance with this section on the Rate Determination Date and shall notify the Authorized Representative of such determination of the Variable Rate by providing telephonic notice of such rate to an Authorized Representative. The Variable Rate so determined shall become effective on the first day of the next succeeding Rate Period.

(i) In each case the Variable Rate for the Variable Rate Period in question shall be determined by the Remarketing Agent on the date or dates ("Rate Determination Date") and at the time or times required pursuant to Section 3.02 (b), (c), (d), (e), (f), or (g) below, whichever is applicable.

(ii) The Variable Rate so to be determined shall be the lowest rate of interest which, in the judgment of the Remarketing Agent, would cause the Variable Rate Notes to have a market value equal to the principal amount thereof, plus accrued interest, under prevailing market conditions as of the date of determination; provided that: (A) if the Remarketing Agent fails for any reason to determine or notify the Authorized Representative or the Paying Agent of the Variable Rate for any Variable Rate Period when required hereunder, the Variable Rate for such period shall be deemed to be determined as the Variable Rate then in effect; and (B) in no event shall the Variable Rate for any Variable Rate Period exceed the Maximum Rate.

(iii) All determinations of Variable Rates pursuant to this Section shall be conclusive and binding upon the Board, the Paying Agent, the Liquidity Provider, and the Holders of the Variable Rate Notes to which such rates are applicable. The Board, the Paying Agent, and the Remarketing Agent shall not be liable to any Holders for failure to give any notice required above or for failure of any Holders to receive any such notice.

(b) Daily Rates. A Daily Rate shall be determined for each Daily Rate Period as follows:

(i) Daily Rate Periods shall commence on each Business Day and shall extend to, but not include, the next succeeding Business Day.

(ii) The Daily Rate for each Daily Rate Period shall be effective from and including the commencement date thereof and shall remain in effect to, but not including, the next succeeding Business Day. Each such Daily Rate shall be determined between 1:00 p.m. and 4:00 p.m., New York City time, on the Business Day immediately preceding the commencement date of the Daily Rate Period to which it relates and made available to the Paying Agent by the Remarketing Agent by the close of business on the day such rate is determined. If the Daily Rate is not determined for any day the Daily Rate determined for the preceding day shall remain in effect.

(iii) Notice of Daily Rates determined for each Daily Rate Period shall be given by the Paying Agent by first-class mail to each Registered Owner by monthly statement within 7 Business Days after each Interest Payment Date on which Interest at a Daily Rate or Rates is to be paid.

(c) Weekly Rates. A Weekly Rate shall be determined for each Weekly Rate Period as follows:

(i) Weekly Rate Periods shall commence on Wednesday of each week and end on Tuesday of the following week; except that (A) in the case of a conversion to a Weekly Rate Period from a different Variable Rate Period or from a Flexible Rate Period, the initial Weekly Rate Period shall commence on the Conversion Date from such other Variable Rate Period and end on Tuesday of the following week; and (B) in the case of a conversion from a Weekly Rate Period to a different Rate Period or to the Fixed Rate, the last Weekly Rate Period prior to conversion shall end on the last day immediately preceding the Conversion Date.

(ii) The Weekly Rate for each Weekly Rate Period shall be effective from and including the commencement date of such period and shall remain in effect through and including the last day thereof. Each such Weekly Rate shall be determined by the Remarketing Agent on the eighth (8th) day prior to the commencement date of the Weekly Rate Period to which it relates or the immediately succeeding Business Day, if such eighth (8th) day is not a Business Day, and made available to the Paying Agent by the Remarketing Agent by the close of business on the day such rate is determined.

(iii) Notice of Weekly Rates determined for each Weekly Rate Period shall be given by the Paying Agent by first-class mail to each Registered Owner by monthly statement within 7 Business Days after each Interest Payment Date on which interest at a Weekly Rate or Rates is to be paid.

(d) Monthly Rates. A Monthly Rate shall be determined for each Monthly Rate Period as follows:

(i) Monthly Rate Periods shall commence on the first Business Day of each calendar month and end on the last day prior to the first Business Day of the following month.

(ii) The Monthly Rate for each Monthly Rate Period shall be effective from and including the commencement date of such period and shall remain in effect through and including the last day thereof. Each such Monthly Rate shall be determined by the Remarketing Agent not later than 12:00 p.m., New York City time, on the Business Day immediately preceding the commencement date of such period and made available to the Paying Agent by the Remarketing Agent by the close of business on the day such rate is determined.

(iii) Notice of Monthly Rates determined for each Monthly Rate Period shall be given by the Paying Agent by first-class mail to each Registered Owner within 7 Business Days after its determination pursuant to Section 3.02(d)(ii) above.

(e) Quarterly Rates. A Quarterly Rate shall be determined for each Quarterly Rate Period as follows:

(i) Quarterly Rate Periods shall (A) commence initially on a Quarterly Rate Conversion Date; and (B) end on the last day preceding either the commencement date of the following Quarterly Rate Period or the Conversion Date on which a different type of Rate Period shall become effective.

(ii) The Quarterly Rate for each Quarterly Rate Period shall be effective from and including the commencement date of such period and shall remain in effect through and including the last date thereof. Each such Quarterly Rate shall be determined by the Remarketing Agent not later than 12:00 p.m., New York City time, on the Business Day immediately preceding the commencement date of such period and made available to the Paying Agent by the Remarketing Agent by the close of business on the same day.

(iii) Notice of a Quarterly Rate shall be given by the Paying Agent by first-class mail to each Registered Owner promptly after such actual Quarterly Rate is determined pursuant to Section 3.02(e)(ii) above.

(f) Semiannual Rates. A Semiannual Rate shall be determined for each Semiannual Rate Period as follows:

(i) Semiannual Rate Periods shall (A) commence initially on the Conversion Date to a Semiannual Rate Period from a different type of Rate Period and on the first day of each sixth (6th) calendar month thereafter; and (B) end on the last day preceding either the commencement date of the following Semiannual Rate Period or the Conversion Date on which a different type of Rate Period shall become effective.

(ii) The Semiannual Rate for each Semiannual Rate Period shall be effective from and including the commencement date of such period and shall remain in effect through and including the last day thereof. Each such Semiannual Rate shall be determined by the Remarketing Agent for each Semiannual Rate Period shall be determined not later than 12:00 p.m., New York City time, on the Business Day immediately preceding the commencement date of such period and made available to the Paying Agent by the Remarketing Agent by the close of business on the day such rate is determined.

(iii) Notice of each Semiannual Rate shall be given by the Paying Agent by first-class mail to each Registered Owner promptly after such actual Semiannual Rate is determined pursuant to Section 3.02(f)(ii) above.

(g) Term Rates. A Term Rate shall be determined for each Term Rate Period as follows:

(i) Term Rate Periods shall (A) commence initially on the Term Rate Conversion Date and on the first day of a calendar month which is an integral multiple of twelve (12) calendar months thereafter; and (B) end on the last day preceding either the commencement date of the following Term Rate Period or the Conversion Date on which a different Rate Period, shall become effective.

(ii) The Term Rate for each Term Rate Period shall be effective from and including the commencement date of such period and remain in effect through and including the last day thereof. Each such Term Rate shall be determined for each Term Rate Period not later than 12:00 p.m., New York City time, on the day immediately preceding the commencement date of such period and made available to the Paying Agent by the Remarketing Agent by the close of business on the day such rate is determined.

(iii) Notice of each Term Rate shall be given by the Paying Agent by first-class mail to each Registered Owner promptly after such actual Term Rate is determined pursuant to Section 3.02(g)(ii) above.

(h) Conversions between Variable Rate Periods. At the option of an Authorized Representative, the Variable Rate Notes may be converted from one Variable Rate Period to another. To accomplish the proposed conversion, the Authorized Representative shall give written notice of the proposed conversion together with a copy of the opinion referred to in Section 3.02(h)(v), if applicable, to the Remarketing Agent not fewer than one day prior to the date that notice is required to be given pursuant to Section 3.02(h)(ii). The conversion shall be accomplished as follows:

(i) The Conversion Date of a conversion to a different Variable Rate Period shall be an Interest Payment Date on which interest is payable for the Variable Rate Period from which the conversion is to be made; provided, however, that if the conversion is from a Term Rate Period to a different Variable Rate Period, the Conversion Date shall be limited to an Interest Payment Date on which a new Term Rate Period would otherwise have commenced pursuant to Section 3.02(g) above; and provided, further, that if the conversion is between Daily and Weekly Rate Periods, the Conversion Date may be any Wednesday, regardless of whether the Wednesday is an Interest Payment Date.

(ii) The Authorized Representative shall give written notice of any such conversion to the Paying Agent and the Liquidity Provider, not fewer than forty-five (45) days prior to the proposed Conversion Date, or twenty (20) days in the case of conversions between Daily and Weekly Rate Periods. Such notice shall specify the

proposed Conversion Date and the Variable Rate Period to which the conversion will be made, and in the case of conversion to a Term Rate Period, or to a new Term Rate Period if the previous Rate Period is a Term Rate Period, the number of years to be included within such Term Rate Period.

(iii) Not fewer than fifteen (15) days prior to the Conversion Date in the case of conversions between Daily and Weekly Rate Periods and not fewer than thirty (30) days prior to the Conversion Date in all other cases (including Flexible Rate Periods), the Paying Agent, except as provided in Section 3.05, shall mail (by first-class mail) a written notice of the conversion to the Registered Owners. Such notice shall:

(A) contain the information set forth in the notice from the Authorized Representative pursuant to Section 3.02(h)(ii) above,

(B) set forth the dates by which the Remarketing Agent will determine and the Paying Agent will notify the Registered Owners of the Variable Rate for the Variable Rate Period commencing on the Conversion Date pursuant to Section 3.02(h)(iv) below, and

(C) set forth the matters required to be stated pursuant to Section 4.03 with respect to purchases of Variable Rate Notes governed by such Section.

(iv) The Variable Rate for the Variable Rate Period commencing on the Conversion Date shall be determined by the Remarketing Agent in the manner provided in Section 3.02(a) above on the date set forth in Section 3.02(b), (c), (d), (e), (f), or (g) above, whichever is applicable to the Variable Rate Period to which the conversion shall be made.

(v) Any conversion pursuant to this Section 3.02(h) from a Flexible, Daily, Weekly, Monthly, Quarterly, or Semiannual Rate Period to a Term Rate Period; or from a Term Rate Period to another Term Rate Period; or from a Term Rate Period to a Flexible, Daily, Weekly, Monthly, Quarterly, or Semiannual Rate Period; or from a Flexible, Daily, Weekly, Monthly, Quarterly, Semiannual or Term Rate Period to a Fixed Rate shall be subject to the condition that on or before the date of such conversion, an Authorized Representative shall have delivered to the Paying Agent and the Remarketing Agent an opinion of nationally recognized bond counsel to the effect that the conversion is authorized hereunder and will not adversely affect the exclusion from gross income of interest on the Variable Rate Notes for purposes of federal income taxation. If said opinion is not delivered, the conversion shall not occur and the Variable Rate Notes shall remain in the same Rate Period.

(i) Conversions from Flexible Periods. At the option of an Authorized Representative, the Variable Rate Notes may be converted from Flexible Rate Periods to

a Variable Rate Period. To accomplish the proposed conversion, an Authorized Representative shall give written notice of the proposed conversion together with a copy of the opinion referred to in Section 3.02(h)(v), if applicable, to the Remarketing Agent not fewer than one day prior to the date that notice is required to be given pursuant to subparagraph 3.02(i)(ii). The conversion shall be accomplished as follows:

(i) The Conversion Date shall be both (A) the first Business Day of a calendar month, and (B) the last Interest Payment Date on which interest is payable for any Flexible Rate Periods theretofore established for the Variable Rate Notes to be converted pursuant to Section 3.03.

(ii) The Authorized Representative shall give written notice of any such conversion to the Paying Agent and the Liquidity Provider no fewer than forty-five (45) days prior to the proposed Conversion Date. Such notice shall specify the proposed Conversion Date and the type of Rate Period to which the conversion will be made, and in the case of conversion to a Term Rate Period, the number of years to be included within such Term Rate Period. The Paying Agent shall give notice of conversion to Registered Owners prior to the Conversion Date in the manner prescribed by Section 3.02(h)(iii). Notwithstanding the foregoing, however, no conversion shall be effected unless, prior to the date on which such notice is required to be given, the Paying Agent shall have received written confirmation from the Remarketing Agent to the effect that it has not established and will not establish any Flexible Rate Periods extending beyond the Conversion Date and, if applicable, the opinion required by Section 3.02(h)(v) above shall be delivered prior to the Conversion Date. If said opinion is not delivered, the conversion shall not occur and the Variable Rate Notes shall remain in the same Rate Period.

(iii) The Variable Rate for the Variable Rate Period commencing on the Conversion Date shall be established and notice thereof shall be given in the same manner as is provided for conversions from one Variable Rate Period to another pursuant to Section 3.02(h)(iii) above, except as provided in Section 3.05.

Section 3.03. Flexible Rates; Conversions to Flexible Rate Periods.

(a) Flexible Rates. A Flexible Rate for each Flexible Rate Period shall be determined as follows:

(i) the Flexible Rate Period for each Variable Rate Note shall be of such duration, not exceeding 180 days, as may be offered by the Remarketing Agent and specified by the purchaser pursuant to Section 4.02 or 4.03 hereof and any Variable Rate Note may bear interest at a Flexible Rate for a Flexible Rate Period different from any other Variable Rate Note; provided that each such Flexible Rate Period shall

(A) commence on a Business Day (initially, the Flexible Rate Conversion Date), and  
(B) end on a day which is a Business Day; and

(ii) the Flexible Rate for each Flexible Rate Period shall be effective from and including the commencement date of such period through but not including the last day thereof. Each such Flexible Rate shall be determined by the Remarketing Agent in connection with the sale of the Variable Rate Note or Variable Rate Notes to which it relates pursuant to Section 4.02 or 4.03 hereof. Flexible Rates shall be determined for Variable Rate Notes prior to the commencement of each Flexible Rate Period with respect to such Variable Rate Note by the Remarketing Agent in connection with the remarketing of Variable Rate Notes, by the offer and acceptance of purchase commitments for such Variable Rate Notes at a rate or rates it deems to be advisable in order to minimize the net interest cost on the Variable Rate Notes under prevailing market conditions and shall notify an Authorized Representative of the Flexible Rate Period and the Flexible Rate for each Variable Rate Note by providing telephonic notice of such period and rate to an Authorized Representative. If the Flexible Rate Period is approved by an Authorized Representative (and it will be deemed to be approved if it is not rejected by an Authorized Representative within thirty minutes after such telephonic notice), it shall become effective on the first day of the next Rate Period. If the period is rejected by the Authorized Representative, the next succeeding Rate Period shall be a Flexible Rate Period of one day's duration. Longer Flexible Rate Periods may be established pursuant to Section 4.02(b) hereof.

(b) Conversions to Flexible Rate Periods. At the option of an Authorized Representative, the Variable Rate Notes may be converted from a Variable Rate Period to Flexible Rate Periods. To accomplish the proposed conversion, the Authorized Representative shall give written notice of the proposed conversion together with a copy of the opinion referred to in Section 3.02(h)(v), if applicable, to the Remarketing Agent not fewer than one day prior to the date that notice is required to be given pursuant to Section 3.03(b)(ii). The conversion shall be accomplished as follows:

(i) in any such case, the Flexible Rate Conversion Date shall be an Interest Payment Date on which interest is payable for the Variable Rate Period from which the conversion is to be made; provided, however, that in the case of a conversion from a Term Rate Period, the Conversion Date shall be an Interest Payment Date on which a new Term Rate Period would otherwise have commenced pursuant to Section 3.02(g);

(ii) the Authorized Representative shall give written notice of any such conversion to the Paying Agent and the Liquidity Provider in the manner and at the times prescribed by Sections 3.02(h)(ii) and (iii) above;

(iii) not fewer than thirty (30) days prior to the Conversion Date, the Paying Agent, except as provided in Section 3.05, shall mail (by first-class mail) a written notice of the conversion to the Registered Owner of all Variable Rate Notes, specifying the Conversion Date and setting forth the matters required to be stated pursuant to Section 4.03 with respect to purchases of Variable Rate Notes governed by such Section; and

(iv) any conversion at the direction of an Authorized Representative pursuant to this Section 3.03(b) shall be subject to the condition, if required by Section 3.02(h)(v), that on or before the date of such conversion, the Authorized Representative shall have delivered to the Paying Agent and the Remarketing Agent an opinion of nationally recognized bond counsel to the effect that the conversion is authorized hereunder and will not adversely affect the exclusion from gross income of interest on the Variable Rate Notes for purposes of federal income taxation. If said opinion is not delivered or if conversion is to be made on the determination of the Remarketing Agent and is rejected by the Authorized Representative, the conversion shall not occur and the Variable Rate Notes shall remain in the same Rate Period.

**Section 3.04. Fixed Rate Conversion at Option of Authorized Representative.** At the option of an Authorized Representative, the Variable Rate Notes bearing interest at a Variable Rate or Flexible Rates may be converted to bear interest at a Fixed Rate to their final maturity. Any such conversion, shall be made in accordance with this Section 3.04.

(a) The Fixed Rate Conversion Date shall be an Interest Payment Date on which interest is payable for the Variable Rate Period from which the conversion is to be made or an Interest Payment Date on which interest is payable for all Variable Rate Notes during Flexible Rate Periods.

(b) (i) The Authorized Representative shall give written notice of any such conversion to the Remarketing Agent, the Paying Agent, and the Liquidity Provider not fewer than forty-five (45) days prior to the proposed Conversion Date. Such notice shall specify the Fixed Rate Conversion Date.

(ii) Not fewer than thirty (30) days prior to the Fixed Rate Conversion Date, the Paying Agent shall mail (by first-class mail) a written notice of the conversion to the Holder of all Variable Rate Notes, specifying the Conversion Date and setting forth the matters required to be stated pursuant to Section 3.04(c) hereof.

(c) Notice of conversion shall be given by first-class mail by the Paying Agent to the Holders of all Variable Rate Notes. Such notice shall inform the Holders of:

(i) the proposed Fixed Rate Conversion Date;

(ii) the dates by which the Authorized Representative will determine and the Paying Agent will notify the Holders of the Fixed Rate pursuant to Section 3.04(d) below;

(iii) the conditions to the conversion pursuant to Section 3.04(e) below; and

(iv) the matters required to be stated pursuant to Section 4.04 hereof with respect to purchases of Variable Rate Notes governed by such Section.

(d) Not later than 12:00 p.m., New York City time, on the Business Day prior to the Fixed Rate Conversion Date an Authorized Representative shall determine the Fixed Rate for the Variable Rate Notes and make the Fixed Rate available to the Paying Agent. Such determination shall be conclusive and binding upon the Board, the Paying Agent and the Holders of the Variable Rate Notes to which such rate will be applicable. Promptly after the date of determination, the Paying Agent shall give notice of such Fixed Rate by first-class mail to the Board, the Remarketing Agent, the Liquidity Provider and the Holders (as of the Fixed Rate Conversion Date).

(e) Any conversion to a Fixed Rate pursuant to this Section 3.04 shall be subject to the following conditions:

(i) on or before the Fixed Rate Conversion Date, an Authorized Representative shall have delivered to the Paying Agent and the Remarketing Agent an opinion of nationally recognized bond counsel to the effect that the conversion is authorized hereunder and will not adversely affect the exclusion from gross income of interest on the Variable Rate Notes for purposes of federal income taxation; and

(ii) as of the Fixed Rate Conversion Date, sufficient funds shall be available to purchase Variable Rate Notes which are then required to be purchased pursuant to Section 4.04 hereof. If the foregoing conditions are not met for any reason, the conversion shall not be effective, the Variable Rate Notes shall continue to bear interest at the last effective Variable Rate (if the conversion was to have been made from a Variable Rate Period), at Flexible Rates determined by the Remarketing Agent pursuant to the provisions of Section 3.03(a) as of the date on which the conversion was to occur (if the conversion was to have been made from Flexible Rate Periods). The Paying Agent shall promptly notify the Registered Owners of such fact and shall give all additional notices and take all further actions required pursuant to Section 4.06.

Section 3.05. Notices to Registered Owners. In the event that the Remarketing Agent has not provided the Registrar with complete registration information, including the name and address of any Registered Owner of a Variable Rate Note, any notice which the Paying Agent is required to give to such Registered Owner with respect to such Variable

Rate Note shall be sent by the Paying Agent to the Remarketing Agent and it shall be the sole responsibility of the Remarketing Agent to furnish such notice to the Registered Owner. Where the Registrar has not been provided with complete registration information, including name and address of any Registered Owner, the Registrar and Paying Agent shall have no responsibility nor incur any liability in connection with the giving of such notice.

Section 3.06. Interest on Notes Purchased by Liquidity Provider. Anything to the contrary contained herein notwithstanding, Notes purchased by the Liquidity Provider pursuant to Section 4.01(e) shall bear interest from and after the purchase date therefor at the rate of interest specified in the Credit Agreement.

#### ARTICLE IV

#### TENDER AND PURCHASE OF VARIABLE RATE NOTES

##### Section 4.01. Tenders During Variable Rate Periods.

(a) Purchase Dates. The Holders of Variable Rate Notes bearing interest at Variable Rates may elect to have their Variable Rate Notes (or portions thereof in amounts equal to the lowest denomination then authorized pursuant to Section 2.05 hereof or whole multiples of such lowest denomination) purchased at a purchase price equal to 100% of the principal amount of such Variable Rate Notes (or portions), plus accrued interest, if any, on the following purchase dates and upon the giving of the following telephonic or written notices meeting the further requirements of subsection (b) below:

(i) Variable Rate Notes bearing interest at Daily Rates may be tendered for purchase at a price payable in immediately available funds on any Business Day prior to conversion from a Daily Rate Period to a different Rate Period, upon telephonic notice of tender given to the Paying Agent and the Remarketing Agent not later than 11:00 a.m., New York City time, on the purchase date.

(ii) Variable Rate Notes bearing interest at Weekly Rates may be tendered for purchase at a price payable in immediately available funds on any Business Day prior to conversion from a Weekly Rate Period to a different Rate Period upon delivery of a written notice of tender to the Paying Agent not later than 5:00 p.m., New York City time, on a Business Day not fewer than seven (7) days prior to the purchase date.

(iii) Variable Rate Notes bearing interest at Monthly Rates may be tendered for purchase on any Interest Payment Date for such Variable Rate Notes at a price payable in immediately available funds upon delivery of a written notice of tender not later than 5:00 p.m., New York City time, on a Business Day which is not fewer than three (3) Business Days prior to the purchase date.

(iv) Variable Rate Notes bearing interest at a Quarterly or Semiannual Rate may be tendered for purchase on an Interest Payment Date for such Variable Rate Notes at a price payable in clearing house funds upon delivery of a written notice of tender not later than 5:00 p.m., New York City time, on a Business Day which is not fewer than seven (7) days prior to the purchase date.

(v) Variable Rate Notes bearing interest at a Term Rate may be tendered for purchase on the commencement date the following Rate Period for such Variable Rate Notes at a price payable in clearing house funds upon delivery of a written notice of tender not later than 5:00 p.m., New York City time, on a Business Day which is not fewer than seven (7) days prior to the purchase date.

(vi) Notwithstanding any provision in this subsection to the contrary, any Registered Owner who has elected to retain Variable Rate Notes upon a conversion from one Rate Period to another in the manner prescribed in Section 4.03 or Section 4.04 may no longer elect to have their Variable Rate Notes purchased as provided in this Section 4.01.

(b) Notice of Tender. Each notice of tender:

(i) shall, in the case of a written notice, be delivered to the Paying Agent at its corporate trust office and be in form satisfactory to the Paying Agent;

(ii) shall state, whether delivered in writing or by telephone, (A) the principal amount of the Variable Rate Note to which the notice relates, (B) that the Holder irrevocably demands purchase of such Variable Rate Note or a specified portion thereof in an amount equal to the lowest denomination, then authorized pursuant to Section 2.05 hereof or a whole multiple of such lowest denomination, (C) the date on which such Variable Rate Note or portion is to be purchased, and (D) payment instructions with respect to the purchase price; and

(iii) shall automatically constitute, whether delivered in writing or by telephone, (A) an irrevocable offer to sell the Variable Rate Note (or portion thereof) to which the notice relates on the purchase date to any purchaser selected by the Remarketing Agent, at a price equal to the principal amount of such Variable Rate Note (or portion thereof) plus any interest thereon accrued and unpaid as of the purchase date, (B) an irrevocable authorization and instruction to the Paying Agent to effect transfer of such Variable Rate Note (or portion thereof) upon payment of such price to the Paying Agent on the purchase date, (C) an irrevocable authorization and instruction to the Paying Agent to effect the exchange of the Variable Rate Note to be purchased in whole or in part for other Variable Rate Notes in an equal aggregate principal amount so as to facilitate the sale of such Variable Rate Note (or portion thereof to be purchased), and (D) an acknowledgement that such Registered Owner will have no

further rights with respect to such Variable Rate Note (or portion thereof) upon payment of the purchase price thereof to the Paying Agent on the purchase date, except for the right of such Registered Owner to receive such purchase price upon surrender of such Variable Rate Note to the Paying Agent and that after the purchase date such Registered Owner will hold an undelivered certificate as agent for the Paying Agent.

The determination of the Paying Agent as to whether a notice of tender has been properly delivered pursuant to the foregoing shall be conclusive and binding upon the Registered Owner. The Paying Agent may waive nonconforming tenders.

(c) Variable Rate Notes to be Remarketed. Not later than 11:00 a.m., New York City time, on the Business Day immediately following the date of receipt of any notice of tender (or immediately upon such receipt, in the case of Variable Rate Notes bearing interest at Daily Rates), the Paying Agent shall notify, by telephone promptly confirmed in writing, in the case of a Daily Rate or Weekly Rate, and in writing in all other cases, an Authorized Representative, the Remarketing Agent and the Liquidity Provider of the principal amount of Variable Rate Notes (or portions thereof) to be purchased and the date of purchase.

(d) Remarketing of Tendered Variable Rate Notes. Unless otherwise instructed by an Authorized Representative, the Remarketing Agent shall offer for sale and use its best efforts to find purchasers for all Variable Rate Notes or portions thereof for which notice of tender has been received pursuant to Section 4.01(c) above. The terms of any sale by the Remarketing Agent shall provide for the payment of the purchase price for tendered Variable Rate Notes by the Remarketing Agent to the Paying Agent (in exchange for new registered Variable Rate Notes) (i) in immediately available funds at or before 2:00 p.m., New York City time, on the purchase date, in the case of Variable Rate Notes bearing interest at Daily, Weekly, Monthly, or Quarterly Rates, and (ii) in clearing house funds at or before 12:00 p.m., New York City time, on the purchase date, in the case of Variable Rate Notes bearing interest at Semiannual or Term Rates. Notwithstanding the foregoing, the Remarketing Agent shall not sell any Variable Rate Note for which a notice of conversion from one type of Variable Rate Period to another, to Flexible Rate Periods or to a Fixed Rate Period has been given by the Paying Agent unless the Remarketing Agent has advised the person to whom the sale is made of the conversion.

(e) Purchase of Tendered Variable Rate Notes.

(i) Notice. At or before 3:00 p.m., New York City time, on the Business Day immediately preceding the date fixed for purchase of tendered Variable Rate Notes (or 12:45 p.m., New York City time, on the purchase date in the case of Variable Rate Notes bearing interest at Daily Rates), the Remarketing Agent shall give notice by telephone, telegram, telecopy, telex, or other similar communication to the Authorized

Representative and the Paying Agent of the principal amount of tendered Variable Rate Notes which were remarketed. Not later than 5:00 p.m. (or 1:30 p.m., in the case of Variable Rate Notes bearing interest at Daily Rates), New York City time, on the date of receipt of such notice the Paying Agent shall give notice by telephone, telegram, teletype, or other similar communication to an Authorized Representative and the Liquidity Provider specifying the principal amount of tendered Variable Rate Notes as to which the Remarketing Agent has not found a purchaser. At or before 3:00 p.m., New York City time on the day prior to the purchase date to the extent known to the Remarketing Agent, but in any event, no later than 11:00 a.m. (or 1:00 p.m., in the case of Variable Rate Notes bearing interest at Daily Rates), New York City time, on the date fixed for purchase, the Remarketing Agent shall give notice to the Paying Agent by telephone (promptly confirmed in writing) of any change in the names, and taxpayer identification numbers of the purchasers, the denominations of Variable Rate Notes to be delivered to each purchaser, and, if available, payment instructions for regularly scheduled interest payments.

(ii) Sources of Payment. (A) The Remarketing Agent shall cause to be paid to the Paying Agent for deposit in the Series A Note Payment Fund on the date fixed for purchase of tendered Variable Rate Notes, all amounts representing proceeds of the remarketing of such Variable Rate Notes, such payments to be made in the manner and at the time specified in Section 4.01(d) above. If such amounts, plus all other amounts received by the Paying Agent for the purchase of tendered Variable Rate Notes, are not sufficient to pay the principal amount plus the accrued and unpaid interest thereon to the purchase date (if any), the Paying Agent shall immediately notify the Authorized Representative and the Liquidity Provider, of any deficiency. Whereupon the [Board] shall draw on the Credit Agreement and cause to be delivered to the Paying Agent an amount at least equal to the deficiency prior to 3:00 p.m., New York City time, on the date set for purchase of tendered Variable Rate Notes, such amount to be delivered in immediately available funds or clearing house funds pursuant to the Credit Agreement. If sufficient amounts for payment of the unpaid purchase price of tendered Variable Rate Notes shall not have been deposited in the Series A Note Payment Account by [3:00 p.m.], New York City time, on the date set for purchase of tendered Variable Rate Notes, the Board shall deliver to the Paying Agent (1) immediately available funds in an amount at least equal to such deficiency prior to [3:00 p.m.], New York City time, on the date set for purchase of tendered Variable Rate Notes bearing interest at Daily, Weekly, Monthly, or Quarterly Rates, and (2) clearing house funds in an amount at least equal to such deficiency prior to [3:00 p.m.], New York City time on the date set for purchase of tendered Variable Rate Notes bearing interest at Semiannual or Term Rates. (B) All monies received by the Paying Agent as remarketing proceeds, draws on the Credit Agreement and additional amounts, if any, received from the Board shall be deposited by the Paying Agent in the Series A Note Payment Account to be used solely for the payment of the purchase price of tendered Variable Rate Notes and shall not be commingled with

other funds held by the Paying Agent. (C) If any such monies exceed the amounts required to pay the purchase price of tendered Variable Rate Notes, such excess shall be paid to the Liquidity Provider to the extent necessary to satisfy any amounts owed to it under the Credit Agreement and then to the Board.

(iii) Payments by the Paying Agent. At or before 3:00 p.m., New York City time, on the date set for purchase of tendered Variable Rate Notes and upon receipt by the Paying Agent of 100% of the aggregate purchase price of the tendered Variable Rate Notes, the Paying Agent shall pay the purchase price of such Variable Rate Notes to the Holders thereof at its corporate trust office or by bank wire transfer. Such payments shall be made in immediately available funds, unless the Variable Rate Notes to be purchased bear interest at Semiannual or Term Rates, in which event such payments shall be made in clearing house funds. The Paying Agent shall apply in order (A) moneys paid to it by the Remarketing Agent as proceeds of the remarketing of such Variable Rate Notes by the Remarketing Agent, (B) moneys drawn on the Credit Agreement, and (C) moneys made available by the Board. If sufficient funds are not available for the purchase of all tendered Variable Rate Notes, no purchase shall be consummated.

(iv) Registration and Delivery of Tendered or Purchased Variable Rate Notes. On the date of purchase, the Paying Agent shall register and deliver (or hold) or cancel all Variable Rate Notes purchased on any purchase date as follows: (A) Variable Rate Notes purchased or remarketed by the Remarketing Agent shall be registered and made available (delivered in the case of Variable Rate Notes bearing interest at Flexible Rates) to the Remarketing Agent by 2:00 p.m., in New York City time, in accordance with the instructions of the Remarketing Agent; (B) Variable Rate Notes purchased with amounts drawn under the Credit Agreement, if any, shall be registered for transfer to the Liquidity Provider and, upon such registration of transfer, the Paying Agent shall hold such purchased Notes for the account of the Liquidity Provider in accordance with the terms of the Credit Agreement; provided that if such purchased Notes are held in the book-entry system described in Section 2.16, the Paying Agent shall cause such purchased Notes to be transferred to the Liquidity Provider's DTC account; and (C) Variable Rate Notes purchased with amounts provided by the Board shall be registered in the name of the Permanent University Fund and shall be held by the Paying Agent on behalf of the Permanent University Fund and shall not be released unless the Paying Agent shall have received written instructions from an Authorized Representative.

(v) Sale of Variable Rate Notes Registered to Liquidity Provider or Permanent University Fund. In the event that any Variable Rate Notes are registered to the Liquidity Provider or the Permanent University Fund pursuant to subparagraph (iv) above, the Remarketing Agent shall offer for sale and use its best efforts to sell such Variable Rate Notes registered to the Liquidity Provider and, to the extent requested

by an Authorized Representative, such Variable Rate Notes registered to the Permanent University Fund at a price equal to the principal amount thereof plus accrued interest.

(vi) Delivery of Variable Rate Notes; Effect of Failure to Surrender Variable Rate Notes. All Variable Rate Notes to be purchased on any date shall be required to be delivered to the corporate trust office of the Paying Agent at or before 1:00 p.m., New York City time, on the purchase date except for Variable Rate Notes delivered in accordance with Section 4.07 hereof which may be delivered on the purchase date. If the Registered Owner of any Variable Rate Note (or portion thereof) that is subject to purchase pursuant to this Section fails to deliver such Variable Rate Note to the Paying Agent for purchase on the purchase date, and if the Paying Agent is in receipt of the purchase price therefor, such Variable Rate Note (or portion thereof) shall nevertheless be deemed purchased on the day fixed for purchase thereof and ownership of such Variable Rate Note (or portion thereof) shall be transferred to the purchaser thereof as provided in Section 4.01(e)(iv) above. Any Registered Owner who fails to deliver such Variable Rate Note for purchase shall have no further rights thereunder except the right to receive the purchase price thereof upon presentation and surrender of said Variable Rate Note to the Paying Agent. The Paying Agent shall, as to any tendered Variable Rate Notes which have not been delivered to it (i) promptly notify the Remarketing Agent of such nondelivery and (ii) place a stop transfer against an appropriate amount of Variable Rate Notes registered in the name of such Registered Owner(s) on the Registration Books. The Paying Agent shall place such stop(s) commencing with the lowest serial number Variable Rate Note registered in the name of such Registered Owner(s) until stop transfers have been placed against an appropriate amount of Variable Rate Notes until the appropriate tendered Variable Rate Notes are delivered to the Paying Agent. Upon such delivery, the Paying Agent shall make any necessary adjustments to the Registration Books.

(vii) Tendered Notes to be Held in Trust. The Paying Agent shall hold all Variable Rate Notes delivered to it hereunder in trust solely for the benefit of the respective Registered Owner(s) which have so delivered such Variable Rate Notes until money representing the entire purchase price of such Variable Rate Notes shall have been delivered to or for the account of or to the order of such Registered Owner(s) and thereafter, in the case of Variable Rate Notes registered to the Liquidity Provider or the Permanent University Fund pursuant to subparagraph (iv) above, for the benefit of the Liquidity Provider or the Permanent University Fund, as Registered Owner of such Variable Rate Notes, until disposed of pursuant to instructions from the Liquidity Provider or an Authorized Representative, as appropriate. It is recognized and agreed by the Paying Agent that while the Paying Agent holds Variable Rate Notes registered to the Liquidity Provider or the Permanent University Fund pursuant to subparagraph (iv) above, such Variable Rate Notes are held by the Paying

Agent in trust as the agent and for the benefit of the Liquidity Provider or the Permanent University Fund, as Registered Owner of such Variable Rate Notes.

Section 4.02. Tenders During Flexible Rate Periods.

(a) Purchase Dates. Each Variable Rate Note bearing interest at a Flexible Rate shall be subject to mandatory tender for purchase, on the last day of each Flexible Rate Period applicable to such Variable Rate Note at a purchase price equal to 100% of the principal amount thereof, plus interest accrued during such Flexible Rate Period, subject, however, to the right of the Registered Owner to elect to retain his investment in the Variable Rate Note (unless, prior to such mandatory tender date, the Paying Agent shall have caused notice of tender of such Variable Rate Note to be mailed to the Registered Owner thereof in accordance with Section 2.03 of this Resolution) by irrevocable telephonic or written notice delivered to the Paying Agent or the Remarketing Agent, if authorized to receive such notice by the Paying Agent not later than 3:00 p.m., New York City time, on the Business Day before the expiration of the then current term of such Flexible Rate for that Variable Rate Note. In the event a Registered Owner of a Variable Rate Note bearing interest at a Flexible Rate desires to retain his investment, the Registered Owner must present his Variable Rate Note to the Paying Agent in exchange for payment of principal and accrued interest in immediately available funds and the Paying Agent will authenticate and deliver to the Remarketing Agent for redelivery to such Registered Owner a substitute Variable Rate Note for the term of the succeeding Flexible Rate Period in replacement of the old Variable Rate Note. Each such Flexible Rate Period and mandatory tender date for a Variable Rate Note shall be established on the date of purchase of such Variable Rate Note as hereinafter provided. The Registered Owner of any Variable Rate Note bearing interest at a Flexible Rate and tendered for purchase as provided in this Section 4.02(a) shall provide the Paying Agent with payment instructions for the purchase price of its Variable Rate Note upon tender thereof to the Paying Agent. The Paying Agent shall notify by telephone the Remarketing Agent immediately upon receipt of notice of any election to retain Variable Rate Notes.

(b) Remarketing of Tendered Notes. Not later than 3:00 p.m., New York City time, on the Business Day immediately preceding each purchase date the Remarketing Agent shall offer for sale and use its best efforts to find purchasers for all Variable Rate Notes bearing interest at Flexible Rates required to be purchased on the ensuing purchase date. Subject to the provisions of Section 3.03, in remarketing the Variable Rate Notes, the Remarketing Agent shall offer and accept purchase commitments for the Variable Rate Notes for such Flexible Rate Periods and at such Flexible Rates as it deems to be advisable in order to minimize the net interest cost on the Variable Rate Notes under prevailing market conditions; provided, however, that the foregoing shall not prohibit the Remarketing Agent from accepting purchase commitments for longer Flexible Rate Periods (and at higher Flexible Rates) than are otherwise available at the time of any remarketing if the Remarketing Agent determines that, under prevailing market conditions, a lower net

interest cost on the Variable Rate Notes can be achieved over the longer Flexible Rate Period. Notwithstanding the foregoing, no Flexible Rate Period may be established which exceeds 180 days or, if the Remarketing Agent has given or received notice of any conversion to a Variable Rate Period or Fixed Rate Period, the remaining number of days prior to the Conversion Date. The terms of any sale by the Remarketing Agent shall provide for the authorization of the payment of the purchase price by the Remarketing Agent to the Paying Agent in immediately available funds in exchange for Variable Rate Notes registered in the name of the new Registered Owner delivered to the Remarketing Agent at or before 2:15 p.m., New York City time, on the purchase date. Such payment by the Remarketing Agent pursuant to authorization shall be made no later than 2:45 p.m., New York City time, on such date, unless the Remarketing Agent shall notify the Paying Agent that the Variable Rate Notes are to be reauthenticated in accordance with instructions from the Remarketing Agent.

(c) Purchase of Tendered Notes. The provisions of Section 4.01(e) shall apply to tenders pursuant to this Section 4.02; provided that, for the purpose of so applying such provisions:

(i) the notices required pursuant to Section 4.01(e)(i) shall be given on the date of purchase at or before (A) 1:00 p.m., New York City time, in the case of the notice from the Remarketing Agent as to the principal amount of Variable Rate Notes remarketed, (B) 1:30 p.m., New York City time, in the case of the notice from the Paying Agent of the principal amount of Variable Rate Notes remarketed, and (C) 1:00 p.m., New York City time, in the case of the notice from the Remarketing Agent providing information concerning the purchasers of the Variable Rate Notes;

(ii) the manner and time of payment of remarketing proceeds shall be as specified in subsection 4.02(b) above;

(iii) all payments to tendering Holders shall be paid in immediately available funds on the purchase date; and

(iv) the deliveries of Variable Rate Notes under Section 4.02(a) shall be required to be made at or before 3:00 p.m., New York City time, on each purchase date.

Section 4.03. Tender Upon Variable or Flexible Rate Conversion.

(a) Conversions to Variable Rate Periods. On any Variable Rate Conversion Date pursuant to Section 3.02(h) or 3.02(i) hereof, the Variable Rate Notes shall be subject to optional or mandatory tender on such date as follows:

(i) Variable Rate Notes to be converted from Flexible Rate Periods to a Variable Rate Period or from any Variable Rate Period to a different type of Variable Rate Period (other than Variable Rate Notes to be converted from a Weekly Rate Period to a Daily Rate Period or from a Daily Rate Period to a Weekly Rate Period) are subject to mandatory tender for purchase on the Conversion Date at a purchase price equal to the principal amount thereof;

(ii) Holders of Variable Rate Notes may elect to retain their Variable Rate Notes (or authorized portions as described above) notwithstanding a mandatory tender pursuant to this subparagraph and Section 4.04 hereof, as follows:

(A) Upon a conversion to a Daily Rate Period or Weekly Rate Period from any Variable Rate Period (other than a Daily or Weekly Rate Period) or Flexible Rate Periods, a Registered Owner may elect to retain its Variable Rate Notes by delivering a written notice to the Paying Agent at its corporate trust officer of such election no later than 5:00 p.m., New York City time, on a Business Day which is at least fifteen (15) days (or seven (7) days in the case of conversion from Flexible Rate Periods) prior to the Conversion Date; or

(B) Upon a conversion to a Variable Rate Period (other than a Daily or Weekly Rate Period) from a different type of Rate Period or from Flexible Rate Periods, a Registered Owner may elect to retain its Variable Rate Notes by delivering a written notice to the Paying Agent at its corporate trust office of such election no later than 5:00 p.m., New York City time, on a Business Day which is at least (i) seven (7) days prior to the Conversion Date in the event of a conversion to a Monthly Rate Period; or (ii) thirteen (13) days in the case of a conversion to a Quarterly Rate Period; or (iii) fifteen (15) days in the case of a conversion to a Semiannual or Term Rate Period;

(C) Promptly upon receipt of any such notices, the Paying Agent shall notify the Remarketing Agent of the Variable Rate Notes to be retained pursuant to such notices.

(b) Conversion To Flexible Rate Periods From Variable Rate Periods. On any Flexible Rate Conversion Date pursuant to Section 3.03(b) hereof, the Variable Rate Notes are subject to mandatory tender for purchase on the applicable Conversion Date at a purchase price equal to the principal amount thereof, subject, however, to the right of the Registered Owner to elect to retain his investment in his Variable Rate Notes as provided

in Section 4.02(a) by irrevocable written notice delivered to the Paying Agent not later than 5:00 p.m., New York City time, at least three (3) Business Days prior to the Flexible Rate Conversion Date.

(c) **Mandatory Denomination Tender.** On any conversion to a Daily, Weekly, Monthly, or Quarterly Rate Period, any Variable Rate Note in a denomination which is not a whole multiple of \$100,000 is subject to mandatory tender for purchase on the applicable Conversion Date at a purchase price equal to the principal amount thereof; provided, however, that any Registered Owner may elect to retain any portion of its Variable Rate Notes which is in the denominations of any multiple of \$100,000 in the manner described in Section 4.03(d) hereof. On any conversion to a Semiannual or Term Rate period, any Variable Rate Note in a denomination which is not a whole multiple of \$5,000 is subject to mandatory tender for purchase on the applicable Conversion Date at a purchase price equal to the principal amount thereof; provided, however, that any Registered Owner may elect to retain any portion of its Variable Rate Notes which is in the denomination of any multiple of \$5,000 in the manner described in Section 4.03(d) hereof. On any conversion to Flexible Rate Periods, any Variable Rate Note which is not in the denomination of \$100,000 or a whole multiple of \$1,000 above \$100,000 is subject mandatory tender for purchase on the Flexible Rate Conversion Date at a purchase price equal to the principal amount thereof; provided, however, that any Registered Owner may elect to retain any portion of its Variable Rate Note which is in the denomination of \$100,000 or a whole multiple of \$1,000 above \$100,000 in the manner described in Section 4.03(d) hereof. To the extent that any Variable Rate Note is not in an authorized denomination on a Mandatory Tender Date the excess amount shall be cancelled and retired.

(d) **Notice of Election to Retain.** Notices of elections to retain Variable Rate Notes pursuant to Sections 4.03(a), (b) and (c) above shall state the name of the Registered Owner, specify the principal amount of the Variable Rate Notes (or portions thereof) to which such notice relates, and direct the Paying Agent not to purchase the Variable Rate Notes (or portions) so specified. Any such notice delivered to the Paying Agent shall be irrevocable and binding upon the Registered Owner delivering the same and all subsequent Holders of the Variable Rate Notes to be retained, including any Variable Rate Notes to be issued in exchange therefor or upon transfer thereof. Any Registered Owner who elects to retain its Variable Rate Notes pursuant to this Section shall no longer have the right to tender its Variable Rate Notes for optional purchase pursuant to Section 4.01 hereof prior to the applicable Conversion Date.

(e) **Notice to Holders.** Any notice of a Conversion Date given to Holders pursuant to Section 3.02(h)(iii), 3.02(i)(iii) or 3.03(b)(iii) hereof shall, in addition to the requirements of such Section: (i) state whether the Variable Rate Notes to be converted will be subject to mandatory tender for purchase on the Conversion Date and the time at which Variable Rate Notes are to be tendered for purchase; (ii) specify the date and time by which any notice of a tender or of an election to retain Variable Rate Notes pursuant to this Section

must be received; and (iii) if appropriate, specify the matters required to be stated in notices of elections to retain Variable Rate Notes (or contain a form thereof).

(f) **Remarketing.** Promptly after receipt of any election to retain Variable Rate Notes, but in any event not later than 1:00 p.m., New York City time, on the Business Day immediately following the last day on which notices of elections to retain Variable Rate Notes may be delivered to the Paying Agent pursuant to Section 4.03(a) or (b) above, the Paying Agent shall notify an Authorized Representative, the Remarketing Agent, and the Liquidity Provider by telephone, telegram, telecopy, or other similar communication, of the principal amount of Variable Rate Notes to be tendered for purchase on the Conversion Date. The Remarketing Agent shall offer for sale and use its best efforts to find purchasers for such Variable Rate Notes. The terms of any sale by the Remarketing Agent shall provide for the payment of the purchase price of tendered Variable Rate Notes by the Remarketing Agent to the Paying Agent in immediately available funds (or clearing house funds if Variable Rate Notes are converted from a Term or Semiannual Rate Period) at or before 2:00 p.m., New York City time, on the Conversion Date.

(g) **Purchase of Tendered Variable Rate Notes.** The provisions of Section 4.01(e) shall apply to tenders pursuant to this Section 4.03 with respect to Variable Rate Notes bearing interest at Variable Rates; provided that, for the purpose of so applying such provisions:

(i) the notices required pursuant to Section 4.01(e) shall be given as therein described, except that the provisions relating specifically to Variable Rate Notes bearing interest at Daily Rates shall be disregarded;

(ii) the manner and time of payment of remarketing proceeds referred to in Section 4.01(e)(ii) shall be as specified in Section 4.03(f) above;

(iii) all payments to tendering Holders referred to in Section 4.01(e)(iii) shall be made in immediately available funds unless the Variable Rate Notes to be purchased bear interest at Semiannual or Term Rates, in which event such payments shall be made in clearing house funds; and

(iv) the deliveries of Variable Rate Notes under Section 4.01(e)(vi) shall be required to be made at or before 1:00 p.m., New York City time, on the Conversion Date (or 5:00 p.m., New York City time, on the second (2nd) Business Day prior to the Conversion Date in the case of Variable Rate Notes bearing interest at Semiannual or Term Rates).

The provisions of Section 4.02(c) shall apply to tenders pursuant to this Section 4.03 with respect to Variable Rate Notes bearing interest at Flexible Rates.

Section 4.04. Tender Upon Fixed Rate Conversion.

(a) Mandatory Tender Upon Conversion. Any Variable Rate Notes to be converted to bear interest at the Fixed Rate pursuant to Section 3.04 hereof shall be subject to mandatory tender for purchase on the Fixed Rate Conversion Date at a price equal to the principal amount thereof; provided that the Holders of any such Variable Rate Notes may elect to retain their Variable Rate Notes notwithstanding a mandatory tender pursuant to this Section by delivering to the Paying Agent at its corporate trust office not later than 5:00 p.m., New York City time, on a Business Day which is not fewer than fifteen (15) days prior to the Fixed Rate Conversion Date a written notice of such election. Such written notice shall:

(i) state that the person delivering the same is a Registered Owner (specifying the numbers and denominations of the Variable Rate Notes of such Registered Owner);

(ii) state that the Registered Owner is aware of the fact that, after the Fixed Rate Conversion Date, the Variable Rate Notes will no longer be subject to tender at the option of the Registered Owner;

(iii) direct the Paying Agent not to purchase the Variable Rate Notes of such Registered Owner; and

(iv) be irrevocable and binding upon the Registered Owner delivering such notice and all subsequent Holders of the Variable Rate Notes to be retained, including any Variable Rate Notes issued in exchange therefor or upon transfer thereof.

(b) Notice to Holders. Any notice of conversion given to Holders pursuant to Section 3.04(c) hereof shall, in addition to the requirements of such Section, specify the date and time by which any notice of election to retain Variable Rate Notes pursuant to this Section must be received, and specify the matters required to be stated in such notices (or contain the form thereof).

(c) Remarketing. At or before 4:00 p.m., New York City time, on the Business Day immediately following the last day on which notices of elections to retain Variable Rate Notes may be delivered to the Paying Agent pursuant to Section 4.04(a) above, the Paying Agent shall notify an Authorized Representative, the Remarketing Agent, and the Liquidity Provider by telephone, telegraph, telecopy, telex, or other similar communication, of the principal amount of Variable Rate Notes to be tendered for purchase on the Fixed Rate Conversion Date. The Remarketing Agent shall offer for sale and use its best efforts to find purchasers for such Variable Rate Notes; provided that in no event shall the Remarketing Agent sell any such Variable Rate Note for sale to any person unless the Remarketing Agent has advised such person of the fact that, after the Fixed Rate

Conversion Date, the Variable Rate Notes will no longer be subject to tender at the option of the Registered Owner. The terms of any sale by the Remarketing Agent shall provide for the payment of the purchase price to the Paying Agent of the tendered Variable Rate Notes in immediately available funds (or clearing house funds in the event of conversion from a Term Rate or Semiannual Rate) at or before 3:00 p.m., New York City time.

(d) Purchase of Tendered Variable Rate Notes. The provisions of Section 4.01(e) shall apply to mandatory tenders pursuant to this Section 4.04; provided that, for the purpose of so applying such provisions:

(i) the notices required pursuant to Section 4.01(e)(i) shall be given as therein described, except that the provisions relating specifically to Variable Rate Notes bearing interest at Daily Rates shall be disregarded;

(ii) the manner and time of payment of remarketing proceeds referred to in Section 4.01(e)(ii) shall be as specified in subsection 4.04(c) above; and

(iii) the deliveries of Variable Rate Notes under Section 4.01(e)(vi) shall be required to be made at or before 1:00 p.m., New York City time, (3:00 p.m., New York City time in the case of Variable Rate Notes bearing interest at Flexible Rate), on the Conversion Date (or 5:00 p.m., New York City time, on the second (2nd) Business Day prior to the Conversion Date in the case of Variable Rate Notes bearing interest at Semiannual or Term Rates).

**Section 4.05. Mandatory Tender.**

(a) Upon Expiration of Credit Agreement. (i) At all times prior to conversion to a Fixed Rate, the Variable Rate Notes shall be subject to mandatory purchase upon the expiration or termination of the Credit Agreement, subject to the right of the Registered Owner to retain his Variable Rate Note, which purchase shall occur:

(A) on the last Business Day prior to the termination or expiration of the Credit Agreement, provided that no such tender and purchase shall be required if the Credit Agreement is renewed prior to the date of notice to Registered Owner pursuant to subsection 4.05(a)(ii) below; or

(B) on the last Business Day prior to the substitution of a new Credit Agreement, for such Variable Rate Notes, provided that no such tender and purchase shall be required if prior to the date of notice to the Registered Owner pursuant to subsection 4.05(a)(ii) below, the Remarketing Agent and the Paying Agent shall have received written confirmation from Standard & Poor's, Moody's and Fitch to the effect that the rating or ratings, if any, assigned by such agency to the Variable Rate Notes will not be lowered or withdrawn as a result of the expiration or substitution.

(ii) Not later than thirty (30) days prior to the purchase date, the Paying Agent shall mail a written notice of the purchase to the Holders of all Variable Rate Notes subject to purchase, which notice shall specify (1) the purchase date, (2) the event requiring the purchase pursuant to subsection (a)(i) above, and (3) state whether any ratings assigned by Standard & Poor's, Moody's or Fitch have been lowered or withdrawn as a result of the expiration or substitution of the Credit Agreement.

(iii) The Holders of any Variable Rate Notes may elect to retain their Variable Rate Notes notwithstanding a mandatory tender pursuant to this Section by delivering to the Paying Agent at its corporate trust office not later than 5:00 p.m., New York City time, on a Business Day which is not fewer than fifteen (15) days prior to the mandatory tender date a written notice of such election. Such written notice shall:

(A) state that the person delivering the same is a Registered Owner (specifying the numbers and denominations of the Variable Rate Notes of such Registered Owner);

(B) state that the Registered Owner is aware of the fact that after the Credit Agreement termination or expiration date, the Credit Agreement will no longer be in effect;

(C) state that the Registered Owner is aware of the status of any ratings which had been assigned to the Variable Rate Notes by Standard & Poor's, Moody's or Fitch prior to the expiration or substitution of the Credit Agreement;

(D) direct the Paying Agent not to purchase the Variable Rate Notes of such Holders; and

(E) be irrevocable and binding upon the Holder delivering such notice and all subsequent Holders of the Variable Rate Notes to be retained, including Variable Rate Notes issued in exchange therefor or upon transfer thereof.

(iv) Upon "Event of Default" Under Credit Agreement. At any time prior to conversion to a Fixed Rate and upon the written direction of the Liquidity Provider to the Paying Agent of the occurrence of an "event of default" under the Credit Agreement and its election to terminate the Credit Agreement, the Paying Agent will send a written notice to the Holders of the Variable Rate Notes (the form of which shall be provided by the Liquidity Provider), the Board and the Liquidity Provider, by United States mail, first-class postage prepaid, that (i) the purchase of all of the Variable Rate Notes will occur on the Business Day specified by the Liquidity Provider that is not more than five (5) Business Days after the date of receipt by the Paying Agent of the written direction sent by the Liquidity Provider (the "Liquidity Purchase Date") and (ii) the Holders of the Variable Rate Notes shall have no right to retain their Variable Rate Notes after such date. On the

Liquidity Purchase Date, all Variable Rate Notes shall be tendered by the Holders thereof to the Paying Agent for purchase at a purchase price equal to the principal amount thereof plus accrued interest, if any.

Section 4.06. Inadequate Funds for Tenders. If the funds available for purchases of Variable Rate Notes pursuant to this Article IV are inadequate for the purchase of all Variable Rate Notes tendered on any purchase date, the Paying Agent shall, after any applicable grace period: (a) return all tendered Variable Rate Notes to the Holders thereof; (b) return all moneys received for the purchase of such Variable Rate Notes to the persons providing such moneys; and (c) notify an Authorized Representative of the return of such Variable Rate Notes and moneys and the failure to make payment for tendered Variable Rate Notes.

Section 4.07. Tenders or Waivers By Investment Companies. The Registered Owner of any Variable Rate Note issued hereunder may, at its option, notify the Remarketing Agent and the Paying Agent in writing that it is an Investment Company, or is holding Note(s) on behalf of an Investment Company and in such notice either (a) irrevocably waive its option to retain its Note(s) subject to mandatory tender pursuant to Section 4.03(a), (b) or (c) and 4.04(a) hereof or (b) irrevocably elect to have its Note(s) purchased on the next date on which such Note(s) may be purchased pursuant to Section 4.01 hereof. In the event of a notice under clause (b) above, the notice from the purchaser shall contain the information required under Section 4.01(b) hereof. Any notice delivered by an Investment Company with respect to its Note(s) shall be irrevocable with the same effect described in Section 4.01(b)(iii).

Section 4.08. Mandatory Tender at End of Initial Flexible Rate Period. Notwithstanding any provision of this Resolution to the contrary, the Variable Rate Notes initially issued hereunder shall be subject to mandatory tender, without right of retention by the Registered Owner at the end of the initial Flexible Rate Period.

## ARTICLE V

### ISSUE AND SALE OF NOTES

Section 5.01. Issuance and Sale of Notes. (a) Except as provided in subsection (b) of this Section, all Notes issued to provide funds to pay Project Costs shall be sold through competitive bidding in the manner set forth in this Resolution and as required by the Constitutional Amendment. In connection with sales of Notes to provide funds to pay Project Costs (specifically excluding Notes described in Section 5.01(b)), an Authorized Representative shall prepare a Notice to Bidders and Bidding Instructions with respect thereto.

(b) All Notes sold to refund Notes are hereby deemed to be "refunding bonds" within the meaning of the Constitutional Amendment and therefore may be sold in the manner determined by an Authorized Representative to be most economically advantageous to the Board.

(c) The Notes shall be completed and delivered by the Issuing and Paying Agent in accordance with telephonic, computer or written instructions of any Authorized Representative and in the manner specified in the Issuing and Paying Agent Agreement and below. To the extent such instructions are not written, they shall be confirmed in writing within 24 hours. Said instructions shall specify such principal amounts, dates of issue, maturities, rates of discount or interest, and other terms and conditions which are hereby authorized and permitted to be fixed by any Authorized Representative at the time of sale of the Notes. Such instructions shall include the purchase price of the Notes, and a request that the Issuing and Paying Agent authenticate such Notes by counter signature of its authorized officer or employee and deliver them to the named purchaser or purchasers thereof upon receipt of payment in accordance with the custom then prevailing in the New York financial market in regard to obligations such as the Notes. Such instructions shall also specify the amounts of the proceeds of such issue of Notes which are to be deposited to the Series A Note Payment Fund and to be transferred to the Series A Note Construction Account. Such instructions shall also contain provisions representing that all action on the part of the Board necessary for the valid issuance of the Notes then to be issued has been taken, that all provisions of Texas and federal law necessary for the valid issuance of such Notes with provision for original issue discount and interest exemption from federal income taxation have been complied with, and that such Notes in the hands of the Holders thereof will be valid and enforceable special obligations of the Board according to their terms, subject to the exercise of judicial discretion in accordance with general principles of equity and bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that, based upon the advice of Bond Counsel, the earned original issue discount on the Notes or stated interest on the Notes, as the case may be, is excludable from gross income for purposes of federal income taxation. Such instructions shall also certify that:

(i) if the Notes are being issued to pay Project Costs, (A) the bidding requirements set forth in this Resolution have been satisfied and (B) attached to such instructions is (1) a No-Arbitrage Certificate (as described in Section 6.06), (2) an approving opinion of Bond Counsel, and (3) an opinion of the general counsel of the University that the Notes are being issued to pay Project Costs for Eligible Projects;

(ii) no Event of Default under Section 7.01 has occurred and is continuing as of the date of such Certificate and that the Issuing and Paying Agent has not received a No-Issuance Notice (as defined in the Agreement);

(iii) the Board is in compliance with the covenants set forth in Section 2.11 and Article VI as of the date of such instructions;

(iv) that the sum of the interest payable on such Note and any discount established for such Note will not exceed a yield (calculated on the principal amount of the Note on the basis of a 360-day year of twelve 30-day months or a 365-day year and actual days elapsed, as applicable) to the maturity date of such Note in excess of the Maximum Interest Rate in effect on the date of issuance of such Note;

(v) that the aggregate principal amount of Fund Priority Obligations, Notes (including the principal amount of the Notes to be sold pursuant to such instructions), Short Term Obligations and other obligations of the Board issued under the Constitutional Amendment does not exceed a total amount of 20 percent of the cost value of investments and other assets of the Permanent University Fund (exclusive of real estate) as of the time of the sale of the Notes; and

(vi) that, based upon the projected monies to be deposited into the Interest and Sinking Fund from the Interest of the University in the Available University Fund, the payment of the interest on and/or principal of any Note from monies on deposit in the Interest and Sinking Fund by the Board will not impair the obligation of the Board to pay the principal of and/or interest on any Fund Priority Obligation as the same matures and comes due.

**Section 5.02. Proceeds of Sale of Notes.** The proceeds of the sale of any Notes (net of all expenses and costs of sale and issuance) shall be deposited into Series A Note Payment Fund, and shall be applied for any or all of the following purposes as directed by an Authorized Representative:

(i) Proceeds to be used for the payment and redemption or purchase of outstanding Notes at or before maturity shall be expended therefor.

(ii) Proceeds not to be retained in the Series A Note Payment Fund as provided in subparagraph (i) above shall be transferred to the Series A Note Construction Account and used and applied in accordance with the provisions of Section 2.12.

**Section 5.03. Issuing and Paying Agent Agreement.** The Issuing and Paying Agent Agreement by and between the Board and Bankers Trust Company, New York, New York, substantially in the form presented to the Board on the date of this Resolution, is hereby approved, and shall be entered into with the Issuing and Paying Agent. An Authorized Representative is hereby authorized and directed to execute and deliver the Issuing and Paying Agent Agreement and any other documents called for thereunder.

Section 5.04. Remarketing Agreement. The Remarketing Agreement by and between the Board and Goldman, Sachs & Co. (the "Dealer" or "Remarketing Agent") dated as of December 1, 1985, and an amendment thereto dated as of December 22, 1989, were heretofore executed and delivered by the Board. An Authorized Representative is hereby authorized and directed to approve, execute and deliver to the Dealer such changes, additions, or amendments thereto as may be necessary and proper to confirm that such agreements relates to the sale, from time to time, of Notes or the purchase of Notes from the Board, all for a fee as set forth in said Remarketing Agreement, and to carry out the Board's purpose and intent of the Board in adopting this Resolution. An Authorized Representative is hereby authorized to enter any supplemental agreements with the Dealer or with any successor Dealer selected by the Board.

Section 5.05. Initial Sale. The Board hereby authorizes that Notes may be issued as provided in this Resolution to the extent that the aggregate principal amount of Notes at any time outstanding shall not exceed \$250,000,000. The Board hereby directs an Authorized Representative to sell the Notes through competitive bid in accordance with the procedures described in the Official Notice of Sale and Official Bid Form, presented to the Board on the date of this Resolution; provided, that, an Authorized Representative may vary the date and times of such competitive sale.

## ARTICLE VI

### COVENANTS OF THE BOARD

Section 6.01. Limitation on Issuance. Unless this Resolution is amended and modified by the Board in accordance with the provisions of Section 8.01 hereof, the Board covenants that there will not be issued and outstanding at any time more than \$250,000,000 in principal amount of Notes. The Board, however, does reserve the right to issue additional notes in excess of said amount by resolution duly adopted by the Board. For purposes of this Section 6.01 any portion of outstanding Notes to be paid on the day of calculation from moneys on deposit in the Series A Note Payment Fund and the proceeds of Notes, Short Term Obligations, Fund Priority Obligations or other obligation of the Board issued pursuant to the Constitutional Amendment shall not be considered outstanding.

Additionally, the Board covenants and agrees that the total principal amount of all Notes outstanding at any one time and the total amount of interest accrued or to accrue thereon in the succeeding [185] days following such date of calculation shall not exceed the sum total of the "Commitment" (as defined in the Agreement) plus the amount on deposit in the Series A Note Payment Fund and the Special System Account.

Section 6.02. General Covenant. The Board covenants and agrees that while the currently outstanding Permanent University Fund Obligations are outstanding, the Board will maintain and invest and keep invested the Permanent University Fund in a prudent manner and as required by law.

Section 6.03. Payment of Fund Priority Obligations and Notes. The Board hereby covenants and reaffirms to the holders or owners of any Fund Priority Obligations that the payment from time to time of the interest on and/or principal of the Notes shall not impair the ability or the obligation of the Board to pay the principal of and/or interest on any Fund Priority Obligations, and that the Board further covenants (i) that it shall establish appropriate procedures with the Treasurer and the Comptroller of Public Accounts with respect to deposits into the Series A Note Payment Fund and the Special System Account, and (ii) that such procedures shall not impair the ability of the Board to pay the principal of and/or interest on the Fund Priority Obligations.

Section 6.04. Maintenance of Available Credit Agreement Requirement. (a) The Board agrees and covenants that at all times while there are outstanding Variable Rate Notes which have not been converted to a Fixed Rate it will maintain one or more Credit Agreements in amounts such that, assuming that all then outstanding Variable Rate Notes which have not been converted to a Fixed Rate were to be tendered for purchase, the amount available to be drawn under the Credit Agreements would be sufficient at that time to pay principal of all such Variable Rate Notes which have not been converted to a Fixed Rate, and interest thereon for [185] days computed at the rate of 15% per annum. No Variable Rate Notes which have not been converted to a Fixed Rate shall be issued which if, after giving effect to the issuance thereof and, if applicable, the immediate application of the proceeds thereof to retire other Variable Rate Notes which have not been converted to a Fixed Rate covered by the Credit Agreement, the aggregate principal amount of all Variable Rate Notes which have not been converted to a Fixed Rate and interest thereon covered by the Credit Agreement would exceed the amount of the liquidity commitment under the Credit Agreements. The availability for draws under the Credit Agreements may be subject to reasonable conditions precedent, including but not limited to, bankruptcy of the Board. In furtherance of the foregoing covenant, the Board agrees that it will not issue any Notes or make any borrowings which will result in a violation of such covenant, will not amend the Credit Agreement in a manner which will cause a violation of such covenant and, if and to the extent necessary to maintain compliance with such covenant, and will arrange for new Credit Agreements prior to, or contemporaneously with, the expiration of the Credit Agreement.

(b) A Credit Agreement may be in the form of a standby purchase agreement, letter of credit, line of credit or similar agreement.

(c) (i) An alternate Credit Agreement may be provided in substitution for such Credit Agreement then in effect or to confirm such Credit Agreement then in effect,

or an extension or amendment thereof, only upon receipt of (1) a written notice from each of Standard & Poor's, Moody's and Fitch, to the extent such firms are then rating the Notes, stating that as of the effective date of such alternate Credit Agreement, its ratings on the applicable series of Notes will not be lowered or withdrawn from the then current short-term rating as a result of the action proposed to be taken, and (2) an opinion of legal counsel to the Liquidity Provider therefor, acceptable to Standard & Poor's, Moody's, Fitch and such Paying Agent, to the extent such firms are then rating the Notes, stating that (i) such Credit Agreement, extension, or amendment was issued in accordance with the conditions of this Section, (ii) such Credit Agreement, as extended or amended, constitutes a legal, valid, and binding obligation of such Liquidity Provider and is enforceable in accordance with its terms (except to the extent that the enforceability thereof may be limited by bankruptcy, insolvency, reorganization, moratorium, or other laws for the relief of debtors other than the Board and by general principles of equity which permit the exercise of judicial discretion), (iii) the substitution of such alternate Credit Agreement or such Credit Agreement then in effect or the acceptance of such extension or amendment, as the case may be, will not adversely affect the status for the purposes of federal income taxation of interest on any Notes, and (iv) no registration of such Notes under the Securities Act of 1933, as amended, or qualification of this Resolution under the Trust Indenture Act of 1939, as amended, will be required in connection with the issuance and delivery of such alternate Credit Agreement or the remarketing of such Notes with the benefits thereof.

(ii) If the short-term rating of the Notes shall at any time be less than A-1 by any of Standard & Poor's, Moody's or Fitch, to the extent such firm is then rating the Notes, or the equivalent of such short-term ratings, the Board shall, if permitted under the terms of the Credit Agreement, proceed with substitution or termination, as the case may be, of such Credit Agreement in accordance with its terms and the terms of this Resolution.

(iii) The release of a Liquidity Provider from all or some of its obligations under a Credit Agreement and the substitution of one or more new Liquidity Provider(s) that assume(s) the released obligations of such Liquidity Provider shall constitute the provision of an alternate Credit Agreement for all purposes of this Resolution, including, without limitation, Section 4.05(a)(ii).

(d) The Agreement presently satisfies the covenant contained in paragraph (a) above with respect to the issuance of up to \$100,000,000 in aggregate principal amount at any one time outstanding of Notes, which have not been converted to a Fixed Rate.

Section 6.05. Available Funds. To the extent Notes cannot be issued to renew or refund outstanding Notes, the Board in good faith shall endeavor to sell a sufficient principal amount of Fund Priority Obligations, Short Term Obligations, or other obligations

of the Board under the Constitutional Amendment in order to have funds available, together with other moneys available therefor, to pay the Notes and the interest thereon, or any renewals thereof, as the same shall become due, and other amounts due under the Agreement.

Section 6.06. Notes to Remain Tax Exempt. (a) General Tax Covenant. The Board intends that the interest on the Notes shall be excludable from gross income for purposes of federal income taxation pursuant to sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), and applicable regulations. The Board covenants and agrees not to take any action, or knowingly omit to take any action within its control, that if taken or omitted, respectively, would cause the interest on the Notes to be includable in gross income, as defined in section 61 of the Code, of the holders thereof for purposes of federal income taxation. In particular, the Board covenants and agrees to comply with each requirement of this Section 6.06; provided, however, that the Board shall not be required to comply with any particular requirement of this Section 6.06 if the Board has received an opinion of Bond Counsel ("Counsel's Opinion") that such noncompliance will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Notes or if the Board has received a Counsel's Opinion to the effect that compliance with some other requirement set forth in this Section 6.06 will satisfy the applicable requirements of the Code, in which case compliance with such other requirement specified in such Counsel's Opinion shall constitute compliance with the corresponding requirement specified in this Section 6.06.

(b) Use of Proceeds. The Board covenants and agrees that its use of the Net Proceeds of the Notes (as hereinafter defined) will at all times satisfy the following requirements:

(i) the Board will limit the amount of original or investment proceeds of the Notes to be used (other than use as a member of the general public) in the trade or business of any person other than a governmental unit to an amount aggregating no more than ten percent of the Net Proceeds of the Notes ("private-use proceeds"). For purposes of this Section, the term "person" includes any individual, corporation, partnership, unincorporated association, or any other entity capable of carrying on a trade or business; and the term "trade or business" means, with respect to any natural person, any activity regularly carried on for profit and, with respect to persons other than natural persons, any activity other than an activity carried on by a governmental unit. Any use of proceeds of the Notes in any manner contrary to the guidelines set forth in Revenue Procedures 82-14, 1982-1 C.B. 459, and 82-15, 1982-1 C.B. 460, including any revisions or amendments thereto, shall constitute the use of such proceeds in the trade or business of one who is not a governmental unit;

(ii) the Board will not permit more than five percent of the Net Proceeds of the Notes to be used in the trade or business of any person other than a governmental

unit if such use is unrelated to the governmental purpose of the Notes. Further, the amount of private-use proceeds of the Notes in excess of five percent of the Net Proceeds of the Notes ("excess private-use proceeds") will not exceed the proceeds of the Notes expended for the governmental purpose of the Notes to which such excess private-use proceeds relate; and

(iii) the Board will not permit an amount of proceeds of the Notes exceeding the lesser of (i) \$5,000,000 or (ii) five percent of the Net Proceeds of the Notes to be used, directly or indirectly, to finance loans to persons other than governmental units.

When used in this Section 6.06, the term Net Proceeds of the Notes shall mean the proceeds from the sale of the Notes, including investment earnings on such proceeds, less accrued interest.

(c) No Federal Guaranty. The Board covenants and agrees not to take any action, or knowingly omit to take any action within its control, that, if taken or omitted, respectively, would cause the Notes to be "federally guaranteed" within the meaning of section 149(b) of the Code and applicable regulations thereunder, except as permitted by section 149(b)(3) of the Code and such regulations.

(d) Notes are not Hedge Bonds. The Board covenants and agrees that not more than 50 percent of the proceeds of the Notes will be invested in nonpurpose investments (as defined in section 148(f)(6)(A) of the Code) having a substantially guaranteed yield for four years or more within the meaning of section 149(g)(3)(A)(ii) of the Code, and the Board reasonably expects that at least 85 percent of the spendable proceeds of the Notes will be used to carry out the governmental purposes of the Notes within the three-year period beginning on the date the Notes are issued.

(e) No-Arbitrage Covenant. The Board shall certify, through an authorized officer, employee or agent that based upon all facts and estimates known or reasonably expected to be in existence on the date the Notes are delivered, the Board will reasonably expect that the proceeds of the Notes will not be used in a manner that would cause the Notes to be "arbitrage bonds" within the meaning of section 148(a) of the Code and applicable regulations thereunder. Moreover, the Board covenants and agrees that it will make such use of the proceeds of the Notes including interest or other investment income derived from Bond proceeds, regulate investments of proceeds of the Notes, and take such other and further action as may be required so that the Notes will not be "arbitrage bonds" within the meaning of section 148(a) of the Code and applicable regulations thereunder.

(f) Arbitrage Rebate. The Board will take all necessary steps to comply with the requirement that certain amounts earned by the Board on the investment of the "gross proceeds" of the Notes (within the meaning of section 148(f)(6)(B) of the Code), be rebated to the federal government. Specifically, the Board will (i) maintain records regarding the

investment of the gross proceeds of the Notes as may be required to calculate the amount earned on the investment of the gross proceeds of the Notes separately from records of amounts on deposit in the funds and accounts of the Board allocable to other bond issue of the Board or moneys which do not represent gross proceeds of any bonds of the Board, (ii) calculate at such times as are required by applicable regulations, the amount earned from the investment of the gross proceeds of the Notes which is required to be rebated to the federal government, and (iii) pay, not less often than every fifth anniversary date of the delivery of the Notes or on such other dates as may be permitted under applicable regulations, all amounts required to be rebated to the federal government. Further, the Board will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the gross proceeds of the Notes that might result in a reduction in the amount required to be paid to the federal government because such arrangement results in a smaller profit or a larger loss than would have resulted if the arrangement had been at arm's length and had the yield on the issue not been relevant to either party.

(g) **Information Reporting.** The Board covenants and agrees to file or cause to be filed with the Secretary of the Treasury, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Notes are issued, an information statement concerning the Notes all under and in accordance with section 149(e) of the Code and applicable regulations thereunder.

Section 6.07. **Supplemental Resolutions.** Other than as permitted in Section 6.10 with respect to the issuance of additional obligations of the Board secured by the Interest of the University in the Available University Fund, the Board will not adopt any supplemental resolutions, pursuant to this Resolution or otherwise, without, to the extent required by the Agreement, the consent of the Liquidity Provider or which would materially adversely affect the ability of the Board to make payments on the Notes when due.

Section 6.08. **Opinion of Bond Counsel.** The Board shall cause the legal opinion of Bond Counsel as to the validity of the Notes and as to the exemption of interest on the Notes from federal income taxation to be furnished to any Holder without cost.

Section 6.09. **Compliance With Bond Resolution and Other Documents.** The Board will comply with the terms and provisions of the Bond Resolution, and any other resolution or contract to which the Board is a party, the non-compliance with which would materially adversely affect the ability of the Board to make payments on the Notes when due.

Section 6.10. **Reservation of Right to Issue Obligations of Superior Lien, Obligations of Inferior Lien and Short Term Obligations.** The Board hereby expressly reserves the right to hereafter issue obligations payable from and secured by a lien on and pledge of the Interest of the University in the Available University Fund prior in right and claim to the

lien on and pledge of the Interest of the University in the Available University Fund covering the payment of the Notes. Furthermore, the Board expressly reserves the right to hereafter issue additional Notes or Short Term Obligations when and as the Board shall determine and authorize without any limitation as to principal amount or otherwise, which additional Notes or Short Term Obligations may be equally and ratably payable from and secured by a lien on and pledge of the Interest of the University in the Available University Fund of equal rank and dignity with the lien and pledge securing the payment of the Notes and may or may not be secured by the Agreement. The Board also retains the right to issue obligations or other evidences of indebtedness or to incur contractual obligations secured by a lien on and pledge of the Interest of the University in the Available University Fund junior and subordinate to the lien and pledge securing the Notes. Notwithstanding any of the above to the contrary, the Board covenants that the lien created by this Resolution will not be impaired in any manner as a result of any action or non-action on the part of the Board or officers of the System, and that the Board will, subject to the provisions hereof, continuously preserve the Fund and each and every part thereof.

## ARTICLE VII

### EVENTS OF DEFAULT AND REMEDIES OF NOTEHOLDERS

Section 7.01. Events of Default. If one or more of the following events (an "Event of Default" or "Events of Default") shall happen, to-wit:

(a) if default shall be made in the due and punctual payment of any installment of principal of any Note when and as the same shall become due and payable, whether at stated maturity as therein expressed, by declaration or otherwise;

(b) if the Board shall fail to make due and punctual payment of any installment of interest on any Note when and as such interest installment shall become due and payable and such failure shall continue for five (5) Business Days;

(c) if an "Event of Default" under the Agreement occurs;

(d) if default shall be made by the Board in the performance or observance of any other of the covenants, agreements or conditions on its part in this Resolution or in the Notes contained, and such default shall continue for a period of 60 days after written notice thereof to the Board by the Holders of not less than 10% in principal amounts of the Notes then outstanding; or

(e) if default shall be made in the due and punctual payment of a Note upon tender for payment pursuant to the demand payment provisions thereof.

Section 7.02. Suits at Law or in Equity and Mandamus. In case one or more Events of Default shall occur, then and in every such case the Holder of any Note at the time outstanding shall be entitled to proceed to protect and enforce such Holder's rights by such appropriate judicial proceeding as such Holder shall deem most effectual to protect and enforce any such right, either by suit in equity or by action at law, whether for the specific performance of any covenant or agreement contained in this Resolution, or in aid of the exercise of any power granted in this Resolution, or to enforce any other legal or equitable right vested in the Holders by this Resolution or the Notes or by law. The provisions of this Resolution shall be a contract with each and every Holder and the duties of the Board shall be enforceable by any Holder by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction.

Section 7.03. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Holders is intended to be exclusive of any other remedy, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise, and may be exercised at any time or from time to time, and as often as may be necessary, by any Holder.

## ARTICLE VIII

### MISCELLANEOUS

Section 8.01. Amendments or Modifications Without Consent of Holders. This Resolution and the rights and obligations of the Board and of the Holders may be modified or amended at any time by a supplemental resolution, without notice to or the consent of any Holders, but only to the extent permitted by law, and, subject to the rights of the Holders, only for any one or more of the following purposes:

(1) to add to the covenants and agreements of the Board in the Resolution contained, other covenants and agreements thereafter to be observed, or to surrender any right or power herein reserved to or conferred upon the Board;

(2) to cure any ambiguity, or to cure or correct any defective provision contained in the Resolution[, upon receipt by the Board of an approving opinion of Bond Counsel, that the same is needed for such purpose, and will more clearly express the intent of the Resolution];

(3) to supplement the security for the Notes, replace or provide additional Credit Agreements, or change the form of the Notes or make such other changes in the provisions hereof as the Board may deem necessary or desirable and which shall not materially adversely affect the interests of the Noteholders;

(4) to make any changes or amendments requested by Standard & Poor's, Moody's, or Fitch as a condition to the issuance or maintenance of a rating, which changes or amendments do not, in the judgment of the Board, materially adversely affect the interests of the Holders; or

(5) to make any changes or amendments with respect to any mode of the Variable Rate Notes if there are no Variable Rate Notes then outstanding in such mode;

provided, however, nothing herein contained shall permit or be construed to permit the amendment of the terms and conditions of this Resolution or in the Notes so as to:

- (1) Make any change in the stated maturity of any of the outstanding Notes;
- (2) Reduce the rate of interest borne by any of the outstanding Notes;
- (3) Reduce the amount of the principal payable on any of the outstanding Notes;
- (4) Modify the terms of payment of principal or interest on the outstanding Notes, or impose any conditions with respect to such payment;
- (5) Affect the rights of the Holders of less than all of the outstanding Notes; and
- (6) Reduce or restrict the pledge made herein (Section 2.10) for payment of the Notes;

and provided, further, that, except as provided in Section 8.02 hereof, no change, modification or amendment shall be made in the Resolution or become valid and effective without the approval of such change, modification or amendment by the Attorney General of the State of Texas if, in the opinion of Bond Counsel, such approval is required by the Constitutional Amendment and the Acts and, to the extent required by the Agreement, without the consent of the Liquidity Provider.

**Section 8.02. Additional Actions.** The Chairman of the Board, the Executive Secretary of the Board, the Authorized Representatives and the other officers of the Board are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to consummate the issuance, sale, and delivery of the Notes and otherwise to effectuate the purposes of this Resolution, the Agreement, the Remarketing Agreement, the Trust Agreement, and the Issuing and Paying Agent Agreement.

Section 8.03. Resolution to Constitute a Contract; Equal Security. In consideration of the acceptance of the Notes, the issuance of which is authorized hereunder, by those who shall hold the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the Board and the Holders from time to time of the Notes and the pledge made in this Resolution by the Board and the covenants and agreements set forth in this Resolution to be performed by the Board shall be for the equal and proportionate benefit, security, and protection of all Holders, without preference, priority, or distinction as to security or otherwise of any of the Notes authorized hereunder over any of the others by reason of time of issuance, sale or maturity thereof or otherwise for any cause whatsoever, except as expressly provided in or permitted by this Resolution.

Section 8.04. Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other provisions hereof or of the Notes issued hereunder.

Section 8.05. Payment and Performance on Business Days. Except as provided to the contrary in the Form of Notes or in Article III and IV, whenever under the terms of this Resolution or the Notes, the performance date of any provision hereof or thereof, including the payment of principal of or interest on the Notes, shall occur on a day other than a Business Day, then the performance thereof, including the payment of principal of and interest on the Notes, need not be made on such day but may be performed or paid, as the case may be, on the next succeeding Business Day with the same force and effect as if made on the date of performance or payment.

Section 8.06. Defeasance. If, when all or any portion of the Notes shall have become due and payable in accordance with their terms or otherwise as provided in this Resolution, the entire principal and interest so due and payable upon said Notes shall be paid, or if at or prior to the date said Notes have become due and payable, sufficient moneys or direct obligations of, or obligations guaranteed by, the United States of America the principal of and interest on which will provide sufficient moneys for such payment upon maturity, to the date upon which the Notes have been called for redemption or to a mandatory tender date (after taking into account any demand payment provisions), shall be held by the Issuing and Paying Agent and provision shall also be made for paying all other sums payable hereunder by the Board with respect to said Notes, the rights, title and interest of the Holders of the Notes in the Interest of the University in the Available University Fund shall thereupon cease, terminate and become discharged and said Notes shall no longer be deemed outstanding for purposes of this Resolution and all the provisions of this Resolution, including all covenants, agreements, liens and pledges made herein, shall be deemed duly discharged, satisfied and released.

Section 8.07. Limitation of Benefits With Respect to the Resolution. With the exception of the rights or benefits herein expressly conferred, nothing expressed or contained herein or implied from the provisions of this Resolution or the Notes is intended or should be construed to confer upon or give to any person other than the Board, the Holders, the Paying Agent/Registrar and the parties to the Remarketing Agreement and the Agreement, any legal or equitable right, remedy or claim under or by reason of or in respect to this Resolution or any covenant, condition, stipulation, promise, agreement, or provision herein contained. This Resolution and all of the covenants, conditions, stipulations, promises, agreements, and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the Board, the Noteholders, the Issuing and Paying Agent/Registrar and the parties to the Remarketing Agreement and the Agreement as herein and therein provided.

Section 8.08. Approval of Attorney General. No Notes herein authorized to be issued shall be sold or delivered by an Authorized Representative until the Attorney General of the State of Texas shall have approved this Resolution and the Agreement, all as is required by the Constitutional Amendment and the Acts.

Section 8.09. Approval of Official Statement. An Authorized Representative is hereby authorized to approve the form of Official Statement, to be used by the Dealer in the offering of the Notes, and the use thereof by the Dealer in connection therewith.

Section 8.10. Notices. (a) To Liquidity Provider. The Board shall provide or cause to be provided to the Liquidity Provider copies of such notices given under this Resolution as required by the Credit Agreement.

(b) To Rating Agencies. The Board shall provide notice of the following to Standard & Poor's, Moody's and Fitch, to the extent such firm is then rating the Notes:

- (i) any proposed change to the Resolution or a Credit Agreement;
- (ii) any change of Paying Agent or Remarketing Agent;
- (iii) any extension, termination or substitution of a Credit Agreement;
- (iv) any tender or redemption of all outstanding Notes; and
- (v) any conversion of Notes to a Fixed Rate.

Such notice shall be given by United States mail at the addresses set forth below unless written notice designating a different address is given to the Board:

If to Fitch: Fitch Investors Service, Inc.  
One State Street  
33rd Floor  
New York, New York 10004  
Attention: Structured Finance Group

If to Moody's: Moody's Investors Service, Inc.  
99 Church Street  
New York, New York 10007  
Attention: Public Finance Department  
Rating Desk/VRDO

If to Standard & Poor's: Standards & Poor's Ratings Group  
25 Broadway  
20th Floor  
New York, New York 10004-1064  
Attention: Structured Finance Group

Section 8.11. References to Liquidity Provider. Any provision of this Resolution regarding the consent of, or notice to, or mandating the direction of action by, a Liquidity Provider shall, except as expressly provided, be deemed ineffective if (i) the Credit Agreement executed by such Liquidity Provider thereby is no longer in effect and no amount is due and owing under such Credit Agreement or (ii) such Liquidity Provider has failed to honor a proper draw under such Credit Agreement; provided, that, for as long as any Variable Rate Bond is registered to the Liquidity Provider as a result of a draw on the Credit Agreement, such Liquidity Provider shall be afforded all the rights and privileges granted hereunder to owners of Variable Rate Notes.

PASSED AND ADOPTED, this the \_\_\_\_ day of April, 1994.

ATTEST:

\_\_\_\_\_  
Executive Secretary

\_\_\_\_\_  
Chairman

(Seal)

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# **LIQUIDITY AGREEMENT**

**between**

**BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM**

**and**

**STATE TREASURER OF THE STATE OF TEXAS**

**Dated as of \_\_\_\_\_, 1994**

**Relating to**

**Board of Regents of  
The University of Texas System  
Permanent University Fund  
Variable Rate Notes, Series A**

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## LIQUIDITY AGREEMENT

THIS LIQUIDITY AGREEMENT dated as of \_\_\_\_\_, 1994 is between the Board of Regents (the "Board") of The University of Texas System (the "System") and the State Treasurer of the State of Texas (the "Liquidity Provider").

### WITNESSETH:

WHEREAS, the Board, pursuant to the Resolution hereafter described and the Acts (as defined below), has authorized the issuance of its Board of Regents of The University of Texas System Permanent University Fund Variable Rate Notes, Series A (the "Notes") for the purposes set forth in the Resolution.

WHEREAS, the Board has requested the Liquidity Provider to provide a standby purchase commitment to provide liquidity for the Notes outstanding under the Resolution until such time as the Notes bear interest at a Fixed Rate or Rates (as defined below).

WHEREAS, the Liquidity Provider is willing to provide such standby purchase commitment upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and covenants herein contained, the parties hereto agree as follows:

**SECTION 1. CERTAIN DEFINITIONS.** As used herein, the following terms shall have the following respective meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

"Acts" shall have the meaning assigned to such term in the Resolution.

"Agreement" means this Liquidity Agreement as amended, modified or supplemented from time to time in accordance with the provisions hereof.

"Available Commitment" means (A) the difference between (i) the Commitment and (ii) the amount made available to the Paying Agent under Section 2.B hereof, plus (B) the principal of and interest on Purchased Notes (other than amounts representing interest accruing on such Purchased Notes after the date such Purchased Notes are purchased by the Paying Agent for the Liquidity Provider as contemplated by Section 2.D hereof) paid to the Liquidity Provider plus (C) the proceeds paid to the Liquidity Provider of Purchased Notes purchased from the Liquidity Provider, as contemplated by Section 2.F hereof (other than any of such proceeds representing interest accruing on such Purchased Notes after the date such Purchased Bonds are purchased by the Paying Agent for the Liquidity Provider as contemplated by Section 2.D hereof).

"Available University Fund" shall have the meaning assigned to such term in the Resolution.

"Bankruptcy Code" means 11 U.S.C. SECTION 101, et seq., as amended, and any comparable statute of any other jurisdiction.

"Business Day" shall have the meaning assigned to such term in the Resolution.

"Call Notice" shall have the meaning given to that term in paragraph (iii) of Section 8 hereof and shall be substantially in the form attached hereto as Exhibit C.

"Code" means the Internal Revenue Code of 1986, as amended, and all applicable regulations (whether proposed, temporary or final) under that Code and any official rulings and judicial determinations under the foregoing applicable to the Notes. Unless otherwise indicated, reference to a Section means that Section of the Code, including such applicable Treasury Regulations, rulings, announcements, procedures and determinations pertinent to that Section.

"Commitment" means \$100,000,000 plus [185] days' interest thereon at a rate of 15% per annum, subject to reduction from time to time pursuant to Section 2.G or Section 8 hereof.

"Computation Period" means (i) the period commencing on the Settlement Date and ending on the first Quarterly Date thereafter and (ii) each successive three month period thereafter commencing on the day following one Quarterly Date and ending on the next following Quarterly Date.

Daily Commitment means \$25,000,000 plus 185 days interest thereon at the rate of 15% per annum.

"Debt" of any entity means at any date (without duplication) all of the following: (a) all obligations and securities of or issued by such entity for borrowed money evidenced by bonds, debentures, notes or other similar instruments; (b) all obligations and securities of or issued by such entity to pay the deferred purchase price of property or services, except trade accounts payable under normal trade terms and which arise in the ordinary course of business; (c) all obligations of or issued by such entity as lessee under capitalized leases; and (d) all obligations for borrowed money of or issued by other Persons evidenced by bonds, debentures, notes or other similar instruments, to the extent guaranteed by, or secured by the revenues or assets of, such entity.

"Default" means an Event of Default or any other event which with notice or lapse of time or both would become an Event of Default.

"Event of Default" shall have the meaning assigned to such term in Section 8 hereof.

"Final Date" means the earlier of (i) August 31, 1997 (provided, however, that such date may be extended upon the written request of the Board for up to two years if the Liquidity Provider consents thereto in writing) or (ii) the date on which the Notes begin to bear interest at a Fixed Rate or Rates.

"Fixed Rate" shall have the meaning assigned to such term in the Resolution.

"Governmental Approval" means an authorization, consent, approval, license or exemption of, registration or filing with, or report to, any governmental body or regulatory authority having competent jurisdiction.

"Hereunder", "herein", "hereof" and the like mean and refer to this Agreement as a whole and not merely to the specific section, paragraph or clause in which the respective word appears.

"Interest" means interest calculated on the basis of a year of 365 or 366 days and the actual number of days elapsed.

"Interest of the University" shall have the meaning assigned to such term in the Resolution.

"Investment Grade" means that a rating in one of the top four categories (for example, a rating by Moody's Investors Service, Inc. of "Aaa," "Aa," "A" or "Baa") has been assigned by any of Moody's Investors Service, Inc., Standard & Poor's Ratings Group, a division of McGraw-Hill, and Fitch Investors Service, Inc.

"Maximum Interest Rate" shall have the meaning assigned to such term in the Resolution.

"Notes" means all Board of Regents of The University of Texas System Permanent University Fund Variable Rate Notes, Series A, issued under the Resolution.

"Notice of Draw" means an irrevocable notice, substantially in the form of Exhibit B hereto, given to the Liquidity Provider by the Board, or by the Paying Agent on its behalf, pursuant to Section 2.B hereof.

"Outstanding" means, when used with reference to a Note or Notes and as of a particular date, such Note or Notes not canceled except a Note or Notes for the payment or redemption of which provision has been made; provided however, that any Purchased Notes shall be deemed to be Outstanding until such Notes are paid in full by the Board.

"Participant" shall have the meaning given to that term in Section 9.B hereof.

"Paying Agent" shall have the meaning assigned to such term in the Resolution.

"Permanent University Fund" shall have the meaning assigned to such term in the Resolution.

"Person" means a natural person, corporation (which shall be deemed to include a business trust), unincorporated organization, a government or any department or agency thereof, association, company, partnership or any other entity.

"Purchase Account" means the Series A Note Payment Account of the Board held by the Paying Agent, into which the proceeds of all funds delivered hereunder by the Liquidity Provider to the Paying Agent shall be deposited.

"Purchased Notes" means Notes purchased by the Liquidity Provider pursuant to this Agreement.

"Purchased Notes Rate" means a per annum rate of interest equal to .25% plus the then current Prior Day Effective Federal Funds Rate, as it may from time to time change, as published by Telerate (or, if not available from Telerate, such other source as the Treasurer may reasonably determine), not to exceed the Maximum Interest Rate.

"Quarterly Date" means the last day of any [November, February, May and August].

"Remaining Notes" means Tendered Notes (or portions thereof in denominations of \$100,000 or any integral multiple of \$1,000 in excess thereof) with respect to which the Paying Agent does not, as of 11:30 a.m. (New York City time) on the date such Tendered Notes are required to be purchased pursuant to Sections 4.02, 4.03, 4.04 or 4.05 of the Resolution, have sufficient funds to make such purchase.

"Remarketing Agent" shall have the meaning assigned to such term in the Resolution.

"Remarketing Agreement" shall have the meaning assigned to such term in the Resolution.

"Resolution" means the resolution of the Board entitled "A Resolution adopted by the Board of Regents of The University of Texas system on \_\_\_\_\_, 1994, establishing an interim financing program; approving and authorizing the issuance of obligations in an aggregate principal amount at any one time outstanding of not to exceed \$250,000,000 to provide interim financing to pay Project Costs for Eligible Projects; authorizing such obligations to be issued, sold and delivered as variable rate notes, and prescribing the terms, features and characteristics of such notes; approving and authorizing certain authorized officers and employees to act on behalf of the Board of Regents of The University of Texas System in the selling and delivery of such notes, within the limitations and procedures specified herein; making certain covenants and agreements in connection therewith; resolving other matters incident and related to the issuance, sale, security and delivery of such notes, including the approval of a Credit Agreement and Official Statement and certain changes, additions or amendments to the related Issuing and Paying Agent/Registrar Agreement, Trust Agreement and Remarketing Agreement; and providing an effective date" as such Resolution may from time to time be amended, modified or supplemented with the consent of the Liquidity Provider.

"State" means the State of Texas.

"Tendered Notes" means, as of any date, Notes that are subject to purchase pursuant to Sections 4.02, 4.03, 4.04 or 4.05 of the Resolution.

"Transaction Documents" means this Agreement, the Resolution and the Remarketing Agreement.

"Treasurer" shall have the meaning assigned to such term in the Resolution.

## SECTION 2. THE COMMITMENT.

A. Agreement to Purchase Remaining Notes. Subject to the terms of this Agreement, the Liquidity Provider hereby agrees, at the request from time to time of the Paying Agent on behalf of the Board, to purchase Remaining Notes.

B. Method of Request. The Paying Agent, on behalf of the Board, shall request that the Liquidity Provider purchase Remaining Notes by delivering to the Liquidity Provider, no later than 12:00 p.m. (New York City time) on the date such Remaining Notes are required to be purchased under the terms of Sections 4.02, 4.03, 4.04 or 4.05 of the Resolution, a completed Notice of Draw setting forth the principal and accrued but unpaid interest on such Remaining Notes.

C. Disbursement of Funds. Subject to the provisions of this Agreement (including but not limited to Section 2.E hereof and paragraphs (i), (ii) and (iii) of Section 8 hereof), the Liquidity Provider shall, by 3:00 p.m. (New York City time) on the date it receives a Notice of Draw, make available to the Paying Agent, for deposit in the Purchase Account, immediately available funds in the amount set forth in the Notice of Draw as the "Amount of Draw"; provided, however, that any of such funds that are not used to purchase Remaining Notes on such date shall, by 3:30 p.m. on such date, be returned to the Liquidity Provider in immediately available funds.

D. Purchase of Remaining Notes. The Board shall cause the Paying Agent to (i) use the moneys in the Purchase Account to purchase, pursuant to the terms of the Resolution, the Remaining Notes and (ii) cause such Remaining Notes (a) that are held in the book-entry system described in Section 2.16 of the Resolution to be transferred into the Liquidity Provider's DTC account or (b) that are not held in such book-entry system to be held by the Paying Agent for the benefit of the Liquidity Provider as set forth in Section 4.01(e)(vii) of the Resolution, unless the Liquidity Provider directs otherwise. The purchase price for such Remaining Notes shall equal the sum of (i) the principal of such Remaining Notes and (ii) the accrued but unpaid interest on such Remaining Notes. Remaining Bonds so purchased shall be "Purchased Bonds" under the Resolution].

E. Level of Commitment. Notwithstanding anything to the contrary in this Section 2 or elsewhere in this Agreement, in no event shall the Liquidity Provider be required to make funds available to the Paying Agent, or otherwise advance funds or purchase Remaining Notes (i) if (a) such action would reduce the Available Commitment below zero or (b) immediately prior to such action the Available Commitment is zero or less or (ii) after the Final Date.

F. Resales of Notes Purchased with the Proceeds of Draws. The Board shall use its best efforts to cause to be purchased from the Liquidity Provider, as soon as possible, each Purchased Note. In connection therewith, the Liquidity Provider hereby authorizes the Remarketing Agent, as agent of the Board, to determine the Flexible Rate Period and Flexible Rate for each Purchased Note so as to permit such Purchased Note to be sold at a price which, together with moneys provided by the Board under the Resolution, will equal the principal of such Purchased Notes plus accrued but unpaid interest thereon.

G. Reduction of the Commitment. The Board may, upon not less than three Business Days' irrevocable prior notice to the Liquidity Provider, reduce all or any portion of the Commitment, provided that no such reduction shall result in the Commitment being less than the sum of (i) the principal of all Notes (including Purchased Notes Outstanding at such time and (ii) the amount of interest that would be due thereon at the next date that interest is scheduled to be paid thereon if the interest rate on such Notes were 15% per annum.

H. Liquidity Provider Records. The date and amount of each Notice of Draw, and all payments made on account thereof, shall be recorded by the Liquidity Provider on its books, which books shall be conclusive as to amounts payable by the Board hereunder, absent error on the part of the Liquidity Provider.

I. Change in Law. In the event that any requirement, restriction, limitation or guideline is imposed upon, or determined or held to be applicable to, the Liquidity Provider or any Participant by any court or administrative or governmental authority charged with the administration thereof, under or pursuant to any applicable law of any relevant jurisdiction, or any change in applicable law of any relevant jurisdiction shall either impose, modify or deem applicable any tax, reserve, special deposit, capital adequacy, insurance premium or similar requirement against or with respect to or measured by reference to standby purchase commitments issued or to be issued or reinstated by the Liquidity Provider or any Participant or impose upon the Liquidity Provider or any Participant any other condition relating, directly or indirectly to this Agreement and the result shall be to increase the cost to the Liquidity Provider or such Participant of issuing or maintaining the Commitment or maintaining its obligation hereunder or performing its obligations hereunder or (in the case of any capital adequacy requirement) to reduce the rate of return on the Liquidity Provider's or such Participant's capital as a consequence of its obligations under this Agreement to a level below that which the Liquidity Provider or such Participant could have achieved but for the imposition of such requirement (taking into account the Liquidity Provider's and such Participant's capital adequacy policies) or reduce any amount receivable by the Liquidity Provider or such Participant hereunder (which increase in cost, reduction in rate of return or reduction in amount receivable shall be the result of the Liquidity Provider's or such Participant's reasonable allocation of the aggregate of such increases or reductions resulting from such event), then, within 30 days of the Liquidity Provider's or such Participant's request therefor, the Board agrees to pay to the Liquidity Provider or such Participant, from time to time as specified by the Liquidity Provider or such Participant, such additional amounts as shall be sufficient to compensate the Liquidity Provider or such Participant, as the case may be, for such increased costs or reductions from the date of such change; provided, however, that the Board shall not be

required to reimburse the Liquidity Provider or such Participant for any costs or fees (including attorneys' fees) incurred in the calculation of such additional amounts. A statement as to such increased costs or reductions incurred by the Liquidity Provider or such Participant, submitted by such entity to the Board, shall be conclusive as to the amount thereof, absent error. The Liquidity Provider or such Participant, as the case may be, will promptly notify the Board of the occurrence of any event of which the Liquidity Provider or such Participant, as the case may be, has actual knowledge which will entitle the Liquidity Provider or such Participant, as the case may be, to compensation under this Section 3.H.

### SECTION 3. FEES.

A. Fees. The Board hereby agrees to pay the Liquidity Provider a commitment fee at a rate equal 0.04% per annum on the daily amount of the Commitment. Such fee shall be payable to the Liquidity Provider quarterly in arrears in respect of each Computation Period, five days after each Computation Period. Further, the Board agrees to pay to the Liquidity Provider a transfer fee in the amount of \$1,000 for each change in the Paying Agent or the Remarketing Agent, payable within thirty (30) days of such change. Such change shall be deemed to have occurred whenever the Paying Agent or Remarketing Agent is replaced, substituted or changed as a result of any sale, assignment, merger, consolidation, reorganization, act of law or other cause.

B. Payments. Except as otherwise provided herein, all payments by or on behalf of the Board to the Liquidity Provider under this Agreement shall be made in United States dollars and immediately available funds, so that the same is received not later than the due date thereof. Any payment hereunder received after such date shall be deemed received on the next succeeding Business Day and interest shall accrue to such succeeding Business Day, as herein provided. Each payment hereunder shall be made without reduction by reason of set-off, counterclaim or otherwise, and free and clear of, and without deduction for, any taxes, duties, levies, imposts or other charges of a similar nature. Amounts paid by the Board shall be applied to the amounts then due and payable hereunder and under the terms of the Purchased Notes in the following order: first, to interest accruing on Purchased Notes after the date such Purchased Notes are purchased by the Paying Agent for the Liquidity Provider as contemplated by Section 2.D hereof; second, to interest accruing on Purchased Notes at or prior to the date such Purchased Notes are purchased by the Paying Agent for the Liquidity Provider as contemplated by Section 2.D hereof; and third, to principal of the Purchased Notes; provided, however, that any amount specified by the Board as being a payment of fees and expenses due hereunder shall be applied to such fees and expenses.

C. Extension of Payments. If any payment under this Agreement shall become due on a day which is not a Business Day, the due date thereof shall be extended to the next following day which is a Business Day, and such extension shall be taken into account in computing the amount of any interest or fees then due and payable hereunder.

D. Computation of Fees. All fees payable under this Agreement shall be computed on the basis of a year of 365 or 366 days and the actual number of days elapsed.

#### SECTION 4. CONDITIONS PRECEDENT.

A. Initial Conditions Precedent. The obligations of the Liquidity Provider under this Agreement are subject to the satisfaction of each of the following conditions precedent on or before the Settlement Date:

(i) Action. The Liquidity Provider shall have received copies of all action taken by the Board approving the execution and delivery by the Board of this Agreement and the other Transaction Documents to which the Board is a party, in each case certified as complete and correct as of the Settlement Date.

(ii) Incumbency of Officers. The Liquidity Provider shall have received an incumbency certificate of the Board in respect of each of the officers who is authorized to sign this Agreement and the other Transaction Documents to which it is a party on behalf of the Board.

(iii) Opinion of Counsel to the Board. The Liquidity Provider shall have received a written opinion of Ray Farabee, general counsel to the Board, covering matters relating to the transactions contemplated by this Agreement and the other Transaction Documents, in form and substance satisfactory to the Liquidity Provider.

(iv) Opinion of Bond Counsel. The Liquidity Provider shall have received a letter from bond counsel authorizing such Liquidity Provider to rely on the final approving opinion of bond counsel delivered in respect of the Notes as if such opinion were addressed to the Liquidity Provider.

(v) Opinion of Attorney General. The Liquidity Provider shall have received an opinion of the Attorney General of the State approving the Notes.

(vi) Notes. The Liquidity Provider shall have received a photocopy of the form of the Notes.

(vii) Transaction Documents. The Liquidity Provider shall have received copies of each of the Transaction Documents duly executed by the parties thereto.

(viii) No Default, Etc. No Default shall have occurred and be continuing as of the [Settlement Date]; the representations and warranties made by the Board in Section 5 hereof shall be true and correct in all material respects on and as of the Settlement Date as if made on and as of such date; and the Liquidity Provider shall have received a certificate from the Board to the foregoing effect.

(ix) Other Documents. The Liquidity Provider shall have received such other documents, certificates and opinions as it or its counsel shall have reasonably requested.

SECTION 5. REPRESENTATIONS AND WARRANTIES. The Board represents and warrants to the Liquidity Provider that as of the date hereof and as of the Settlement Date:

A. Organization. The System is an agency of the State and the Board is the duly appointed governing body of the system.

B. Authorization of Agreement and Transaction Documents. The Board has the power and has taken all necessary action to authorize the execution, delivery and performance of the Board's obligations under this Agreement and each of the other Transaction Documents to which it is a party in accordance with their respective terms. This Agreement has been duly executed and delivered by the Board and is, and each of the other Transaction Documents to which it is a party when executed and delivered will be, legal, valid and binding obligations of the Board enforceable against the Board in accordance with their respective terms, except as may be limited by bankruptcy, insolvency, reorganization or moratorium applicable to the Board and general equitable principles regarding the availability of specific performance.

C. Compliance of Agreement and Transaction Documents. The execution, delivery and performance by the Board of this Agreement and each of the other Transaction Documents to which it is a party in accordance with their respective terms do not and will not (i) contravene any applicable law of the United States or of the State in effect on the date hereof, (ii) require any consent or approval of any creditor of the Board or (iii) conflict with, result in a breach of or constitute a default under, or accelerate the performance required by, any contract, indenture or agreement to which the Board is a party or by which it, the Permanent University Fund or the Interest of the University in the Available University Fund may be bound.

D. Regulatory Approvals. All authorizations and approvals, including Governmental Approvals, necessary for the Board to enter into this Agreement and the other Transaction Documents to which it is a party and to perform its obligations hereunder and thereunder have been obtained and remain in full force and effect and are subject to no further administrative or judicial review.

E. Compliance with Law and Transaction Documents. The Board (i) is in compliance with all laws of the United States and of the State material to its performance hereunder and with all provisions of each Transaction Document to which it is a party and (ii) has received no notice nor has it any knowledge that a material default, after any applicable notice and grace period, by the Board exists under any material contracts, agreements or other instruments to which it is a party or by which it, the Permanent University Fund or the Interest of the University in the Available University Fund is bound.

F. Litigation. There is no action, suit, proceeding, inquiry or investigation at law or in equity, pending or, to the best of the Board's knowledge after due inquiry, threatened against or affecting the Board nor is there any basis for any such action, suit, proceeding, inquiry, or investigation, in which an unfavorable decision, ruling or finding would restrain or enjoin the issuance or delivery of the Bonds or would adversely affect the

transactions contemplated by this Agreement, the other Transaction Documents, or any other agreements or documents provided for or contemplated by the Transaction Documents. No such litigation for which the Board has received notice is pending or threatened against the Board, involving the Board, the Permanent University Fund or the Interest of the University in the Available University Fund or any property, assets or revenues under the control of the Board which (i) involves the possibility of any judgment or liability not fully covered by insurance or adequate established reserves and which may result in any material adverse change in the properties, assets, or in the condition, financial or otherwise, of the Board, the Permanent University Fund or the Interest of the University in the Available University Fund, or (ii) would have a materially adverse effect upon the financial condition of the Board, the Permanent University Fund or the Interest of the University in the Available University Fund, or the matters provided for in or contemplated by the Transaction Documents.

G. Accuracy and Completeness of Other Information. Any written information, reports and other papers and data prepared by the Board and furnished to the Liquidity Provider by the Board pursuant to this Agreement were, at the time the same were so furnished, complete and correct in all material respects to the extent necessary to give the Liquidity Provider a true and accurate knowledge of the subject matter thereof.

H. Representations and Warranties Contained in the Transaction Documents. The Board is in compliance with all representations and warranties set forth in the Transaction Documents, which are hereby made part of this Agreement.

**SECTION 6. AFFIRMATIVE COVENANTS.** From the date hereof and so long as the Liquidity Provider is committed to advance funds hereunder and until the payment in full of all of the obligations of the Board under this Agreement and the Bonds, the Board will do all of the following:

A. Notices. Provide to the Liquidity Provider (i) when sent or received by the Board, a copy of any notice required to be sent by or to the Board under any Transaction Document other than this Agreement and (ii) when sent to any holder of any Bond, a copy of any notice sent to any holder of any Bond pursuant to any of the Transaction Documents.

B. Transaction Documents. Perform all of its obligations under each of the Transaction Documents to which it is a party and take such actions and proceedings from time to time as shall be necessary in the judgment of the Liquidity Provider to cause the other parties to the Transaction Documents to perform their obligations thereunder.

C. Inspection of Books. To the extent permitted by law, permit representatives of the Liquidity Provider, from time to time during normal business hours, as often as may be reasonably requested to (i) inspect its books and records and make copies from such books and records which relate to its performance under this Agreement and (ii) discuss with its officers and accountants its business, assets, liabilities, financial condition, results of operations and business prospects.

D. No-Default Certificate. Furnish or cause to be furnished to the Liquidity Provider as soon as available and in any event not later than thirty (30) days after the end of each fiscal year a certificate, in the form attached hereto as Exhibit "D," of an officer of the Board certifying that no Default has occurred and is continuing or, if a Default has occurred and is continuing, describing the nature thereof and the action the Board proposes to take with respect thereto.

E. Notice of Certain Events. Promptly notify the Liquidity Provider, or, with respect to the items described in clauses (v) below cause the Remarketing Agent or the Paying Agent, respectively, to notify the Liquidity Provider, of the occurrence of (i) any Default and (ii) any pending or threatened litigation or administrative proceedings of which the Board has received actual notice or knowledge and in which there is a reasonable possibility of an adverse determination that may have a materially adverse effect on the Board's ability to perform its obligations pursuant to this Agreement or the other Transaction Documents to which it is a party and (iii) any event of which the Board is required under the Resolution to give notice to the holders of the Notes and (iv) the issuance of the Notes, which notification shall be on a form in substantially the form attached hereto as Exhibit "A," and (v) any change in the Flexible Rate Period or Flexible Rate on any of the Notes, which notification shall be on a form in substantially the form attached hereto as Exhibit "A."

F. Compliance with Laws, Etc. Comply with the requirements of all applicable law of the United States and of the State the noncompliance with which would, singly or in the aggregate, have a materially adverse effect on the ability of the Board to perform its obligations pursuant to this Agreement or the other Transaction Documents to which it is a party.

G. Further Assurance. Execute and deliver to the Liquidity Provider all such documents and instruments as may be necessary or reasonably required by the Liquidity Provider to enable the Liquidity Provider to exercise and enforce its rights under this Agreement and the other Transaction Documents.

H. Maintenance of Remarketing Agent and Paying Agent. While any Notes (including Purchased Notes) remain Outstanding, maintain in place a Remarketing Agent and Paying Agent under the Resolution and obtain the prior written consent of the Liquidity Provider to any change of Remarketing Agent or Paying Agent, which consent shall not be unreasonably withheld.

I. Covenants Contained in the Transaction Documents. Comply with all covenants set forth in the Transaction Documents, which are hereby made part of this Agreement.

J. Covenant to Remarket Tendered Notes. Use its best efforts to (i) remarket as promptly as is reasonable all Tendered Notes and (ii) cause the payment of the purchase price of the Tendered Notes to be paid out of the proceeds of a remarketing without the need for the Liquidity Provider to advance funds hereunder.

**SECTION 7. NEGATIVE COVENANTS.** From the date hereof and so long as the Liquidity Provider is committed to advance funds hereunder and until the payment in full of all of the obligations of the Board under this Agreement and the Notes, the Board will not do any of the following:

A. **Other Agreements.** Enter into any agreement containing any provision which would be violated or breached by the performance of its obligations hereunder or under the other Transaction Documents to which it is a party.

B. **Transaction Documents.** Amend or modify any provision of, or give any consent to or grant any waiver under, any Transaction Document, without the prior written consent of the Liquidity Provider, which consent shall not be unreasonably withheld.

C. **Total Outstanding.** Permit the aggregate principal amount of all Notes (other than Purchased Notes) Outstanding, plus the amount of interest that will be due thereon at the next date that interest is scheduled to be paid thereon, at any time to exceed the Available Commitment at such time.

D. **Negative Covenants Under Transaction Documents.** Breach any negative covenant contained in any Transaction Document.

**SECTION 8. EVENTS OF DEFAULT.** In case of the happening of any of the following events (herein called "Events of Default"):

A. The Board fails to pay any fees, expenses or other amounts payable by it to the Liquidity Provider; or

B. The Board (i) applies for or consents to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or of all or of a substantial part of its property or assets, (ii) admits in writing its inability, or is generally unable, to pay its debts as they become due or is subject to a moratorium for the repayment of any of its Debt, (iii) makes a general assignment for the benefit of creditors, (iv) commences a voluntary case under the Bankruptcy Code (as now or hereafter in effect), (v) files a petition seeking to take advantage of any other laws relating to bankruptcy, insolvency, reorganization, liquidation, winding-up or composition or adjustment of debts, or (vi) takes any action for the purpose of effecting any of the acts set forth in clauses (i) through (v) of this Section 8.B; or

C. The State or any other governmental entity having jurisdiction over the Board imposes a debt moratorium, debt restructuring, or other event that results in a restriction on repayment when due and payable of the principal of or interest on any Debt by the Board; or

D. The Board shall fail to pay when due a money judgment entered by a court or other regulatory body of competent jurisdiction against the Board in an amount in excess of \$5 million, and enforcement of such judgment continues unstayed and in effect for a period of 60 consecutive days; or

E. This Agreement in its entirety or the provisions of Subsection 2.I, Sections 3, 6 or 7, Subsections 9.B, 9.C, 9.D, 9.E, 9.H or 9.I, or this Section 8, for any reason ceases to be valid and binding on the Board in accordance with its terms, or is declared, pursuant to a final judgment, to be null and void, or the validity or enforceability of this Agreement, the Notes or the Resolution is repudiated, rejected or contested through legal procedures by the Board or a proceeding is commenced by the Board seeking to establish the invalidity or unenforceability thereof; or

F. The Board fails to pay when due and payable (whether at maturity or upon acceleration or otherwise), after giving effect to any applicable grace period, the principal of or interest on any debt of the Board secured by and payable from a lien on and pledge of the Interest of the University in the Available University Fund or the ratings of any such debt falls below Investment Grade; or

G. A breach or failure by (i) the Board or the State of any covenant contained in Sections 6.03 or 4.01(e)(ii)(A) of the Resolution, (ii) the Paying Agent of any covenant contained in Section 4.01(e)(ii)(A) of the Resolution, or (iii) the Board of any covenant contained in Sections 6.F, 6.H, 7.B or 7.C hereof; or

H. A breach or failure by the Board of any covenant, condition or agreement of the Board contained in this Agreement (other than a breach or failure covered by paragraphs A through G above) that continues for a period of 45 days after notice thereof from the Liquidity Provider to the Board, which breach or failure the Liquidity Provider reasonably determines may have a material adverse effect on the Liquidity Provider; or

I. Any of the Board's representations or warranties made or deemed made by the Board herein or in any other Transaction Document or in any statement or certificate at any time given pursuant hereto or thereto or in connection herewith or therewith proves at any time to have been false or misleading in any material respect when made, or any such warranty is breached and may have a material adverse effect on any Liquidity Provider.

**THEREUPON, the Liquidity Provider shall have the following remedies:**

(i) Upon an Event of Default (other than an Event of Default described in Section 8.A, 8.B, 8.H or 8.I), the Liquidity Provider may, upon notice to the Board, immediately reduce the Commitment and the Available Commitment to zero, in which case the obligations of the Liquidity Provider under Section 2 hereof shall immediately terminate and expire;

(ii) Upon an Event of Default described in Subsection 8.B, the Commitment and the Available Commitment shall automatically, without notice or other action by the Liquidity Provider or any other Person, reduce to zero, in which case the obligations of the Liquidity Provider under Section 2 hereof shall immediately terminate and expire;

(iii) Upon an Event of Default described in Subsection 8.A, 8.H or 8.I, the Liquidity Provider may deliver to the Board or the Tender Agent, as the Board's agent, a Call Notice in substantially the form attached hereto as Exhibit "C," in which case the Board shall cause the purchase of the Notes in accordance with Section 4.05(b) of the Resolution. Following such purchase, the Liquidity Provider may, upon notice to the Board, reduce the Commitment and the Available Commitment to zero and terminate the obligations of the Liquidity Provider under Section 2 hereof; and

(iv) Upon any Event of Default, the Liquidity Provider may pursue any other remedy available to it at law or in equity.

**SECTION 9. MISCELLANEOUS.**

A. Notices. Except where otherwise expressly provided herein, all notices, requests, consents, instructions, rescissions and other communications provided for hereunder shall (i) be in writing and sent by telecopy, (ii) be followed by a copy (a) sent by registered or certified mail, postage prepaid, return receipt requested or (b) delivered by hand, and (iii) be given to the Person to whom addressed at the following respective addresses and telecopy numbers:

If to the Liquidity Provider, at

State Treasurer of the State of Texas  
Investment Division  
200 East 10th Street, 4th Floor  
Austin, Texas 78701  
Attention: Director of Investments  
Telephone: (512) 463-6010  
Telecopy: (512) 463-6040

If to the Board, at

The Board of Regents of  
The University of Texas System

\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_  
Telephone: (512) \_\_\_\_\_  
Telecopy: (512) \_\_\_\_\_

If to the Board, at

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_  
Telephone: (512) \_\_\_\_\_  
Telecopy: (512) \_\_\_\_\_

Notices and other communications hereunder may be addressed to such other address or telecopy number as the addressee may hereafter specify for such purpose in a notice to the other party hereto specifically captioned "Notice of Change of Address Pursuant to Section 9.A." Notices and other communications shall be effective when such communication is transmitted and the appropriate answer back is received or receipt is otherwise acknowledged, provided that a Notice of Borrowing will be effective only upon actual receipt thereof by the Liquidity Provider.

**B. Survival of Covenants; Successors and Assigns.** All of the Board's covenants, agreements, representations and warranties made herein and in the certificates delivered pursuant hereto shall survive the making of any advance of funds hereunder and shall continue in full force and effect so long as the Liquidity Provider has obligations under this Agreement and until all obligations of the Board hereunder shall have been paid in full. Whenever in this Agreement any of the parties hereto is referred to, such reference shall, subject to the next sentence, be deemed to include the successors and assigns of such party, and all covenants, promises and agreements by or on behalf of the Board which are contained in this Agreement shall inure to the benefit of the successors and assigns of the Liquidity Provider. The Board may not transfer its rights or obligations under this Agreement without the prior written consent of the Liquidity Provider.

Notwithstanding the foregoing, the Liquidity Provider shall, with the Board's consent (which shall not be unreasonably withheld), be permitted to grant to one or more financial institutions (each a "Participant"), a participation or participations in all or any part of the Liquidity Provider's rights and benefits under this Agreement or any other Transaction Document on a participating basis (a "Participation"), or as a party to this Agreement (a "Syndication"). In the event of any such grant by the Liquidity Provider of a Participation to a Participant, the granting Liquidity Provider shall remain responsible for the performance of its obligations hereunder, and the Board shall continue to deal solely and directly with the granting Liquidity Provider in connection with the Liquidity Provider's rights and obligations under this Agreement. The Board agrees that each Participant shall, to the extent of its Participation, be entitled to the benefits of Section 2.I hereof as if such Participant were the Liquidity Provider. In the event of any such grant by the Liquidity Provider of a Syndication to a Participant, the Liquidity Provider shall be released from the performance of its obligations hereunder (to the extent of the Syndication) and the Participant shall be deemed to be a "Liquidity Provider" with several (not joint) obligations under this Agreement.

C. Nature of Obligations. The obligations of the Board under this Agreement shall be payable strictly in accordance with the terms of this Agreement, notwithstanding any amendment or waiver of or any consent to departure from the terms of all or any of the Transaction Documents to which the Liquidity Provider has not consented in writing.

D. Commercial Practices and Indemnification. The Board agrees that (i) to the extent legally permissible, the Liquidity Provider and its officers and directors shall not be liable or responsible for, (ii) to the extent legally permissible, the Board shall indemnify, defend, and hold the Liquidity Provider and its officers and directors harmless from any loss, cost, damage or expense (including reasonable attorneys' fees and expenses) relating, directly or indirectly to, and (iii) the obligations of the Board to the Liquidity Provider hereunder shall not in any manner be affected by: (a) the use which may be made of the funds advanced hereunder by the Paying Agent or any other Person; (b) the validity, sufficiency or genuineness of documents other than this Agreement, even if such documents should, in fact, prove to be in any or all respects, invalid, insufficient, fraudulent or forged; (c) the accuracy or completeness of any disclosure made or offering documents given in connection with any offer or sale of Notes; or (d) any other circumstances whatsoever in making or failing to make payment hereunder, except that the Board shall have a claim against the Liquidity Provider, and the Liquidity Provider shall be liable to the Board, to the extent, but only to the extent, of any direct, as opposed to consequential or special, damages suffered by the Board which the Board proves are caused by the willful misconduct or negligence of the Liquidity Provider in determining whether the Notice of Draw complied with the terms of this Agreement or the negligent or willful failure of the Liquidity Provider to make an advance of funds under the terms and provisions of this Agreement in accordance with the provisions of this Agreement after the presentation of a Notice of Draw strictly complying with the terms and conditions of this Agreement, unless such payment is not legally permitted or otherwise not required or permitted hereunder. In furtherance and not in limitation of the foregoing, the Liquidity Provider may accept documents that appear on their face to be in order without responsibility for further investigation regardless of any notice or information to the contrary. The Liquidity Provider shall have no responsibility in respect of, and the obligations of the Liquidity Provider under this Agreement shall not be affected by, any term or provision of the Resolution at variance with any term or provision hereof.

E. Expenses and Taxes. The Board will pay within 10 days of receipt of an invoice therefor (i) the reasonable costs and expenses of the Liquidity Provider in connection with the negotiation, preparation, execution and delivery of this Agreement any other documents which may be delivered in connection with this Agreement including the reasonable fees and disbursements of counsel to the Liquidity Provider, (ii) the reasonable costs and expenses of any amendment, modification or waiver of any of the terms of this Agreement or any of the other Transaction Documents, including the reasonable fees and disbursements of counsel to the Liquidity Provider and (iii) all reasonable costs and expenses, if any, in connection with the enforcement of this Agreement and any other documents which may be delivered in connection herewith or therewith, including the fees and disbursements of counsel to the Liquidity Provider.

F. Applicable Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE.

G. No Waiver. Neither any failure nor any delay on the part of the Liquidity Provider in exercising any right, power or privilege hereunder, nor any course of dealing with respect to any of the same, shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The remedies herein provided are cumulative, and not exclusive of any remedies provided by law.

H. Modification, Amendment, Waiver, Etc. No modification, amendment or waiver of any provision of this Agreement, and no consent to any departure by the Board herefrom, shall be effective unless the same shall be in writing and signed by the Liquidity Provider and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on the Board shall entitle the Board to any other or further notice or demand in the same, similar or other circumstances.

I. Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provisions in any other jurisdiction, and the remaining portion of such provision and all other remaining provisions hereof will be construed to render them enforceable to the fullest extent.

J. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original, but when taken together shall constitute but one agreement and any of the parties hereto may execute this Agreement by signing any such counterpart.

K. Table of Contents; Headings. The table of contents and the section and subsection headings used herein have been inserted for convenience of reference only and do not constitute matters to be considered in interpreting this Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first above written.

THE BOARD OF REGENTS OF  
THE UNIVERSITY OF TEXAS SYSTEM

[SEAL]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE TREASURER OF THE STATE OF TEXAS,  
as Liquidity Provider

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

EXHIBIT A

FORM OF NOTICE OF ISSUANCE OR  
CHANGE IN FLEXIBLE RATE PERIOD OR FLEXIBLE RATE

Attention:

Re: Notice of Issuance or Change

Pursuant to Section 6.E of the Liquidity Agreement dated as of \_\_\_\_\_, 1994 (the "Agreement") between the Board of Regents of The University of Texas System and the State Treasurer of the State of Texas (the "Liquidity Provider"), we hereby give you notice that on the date hereof we have issued, or changed the interest rate on, the following Bonds:

1. Principal Amount: \$ \_\_\_\_\_
2. Flexible Rate: \_\_\_\_\_
3. Flexible Rate Period: \_\_\_\_\_ days ending on \_\_\_\_\_, 19\_\_

Capitalized terms used herein and not defined shall have the respective meanings given to them in the Agreement.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

THE BOARD OF REGENTS OF  
THE UNIVERSITY OF TEXAS SYSTEM

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[May be executed by the Remarketing Agent or  
the Paying Agent on behalf of the Board.]

EXHIBIT B

FORM OF NOTICE OF DRAW

Attention:

Re: Notice of Draw

Pursuant to Section 2.B of the Liquidity Agreement dated as of \_\_\_\_\_, 1994 (the "Agreement") between the Board of Regents of The University of Texas System and the State Treasurer of the State of Texas (the "Liquidity Provider"), we hereby give you irrevocable notice that we request funds to purchase Remaining Notes as follows:

1. (a) Principal of Remaining Notes: \$ \_\_\_\_\_  
(b) Accrued but unpaid interest on Remaining Notes through the purchase date: \$ \_\_\_\_\_  
(c) Amount of draw (sum of (a) and (b)) \$ \_\_\_\_\_
2. Date of Draw: \_\_\_\_\_, 19\_\_.
3. The proceeds of such Draw will be used as follows:  
\_\_\_\_\_.
4. Payment of the Draw herein requested should be made as follows:  
\_\_\_\_\_  
\_\_\_\_\_

Capitalized terms used herein and not defined shall have the respective meanings given to them in the Agreement.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

THE BOARD OF REGENTS OF  
THE UNIVERSITY OF TEXAS SYSTEM

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[May be executed by the Paying Agent on behalf of the Board.]

EXHIBIT C

FORM OF CALL NOTICE

Dated: \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

Re: Liquidity Agreement Between the Board of Regents of The University of Texas System (the "Board") and the State Treasurer of the State of Texas (the "Liquidity Provider") dated as of \_\_\_\_\_, 1994 (the "Liquidity Agreement")

Pursuant to Section 4.05(b) of the Resolution (as defined in the Liquidity Agreement) and paragraph (iii) of Section 8 of the Liquidity Agreement entered into in connection with the issuance by the Board of its Permanent University Fund Variable Rate Notes, Series A (the "Notes"), you are hereby notified that the Liquidity Provider has determined that there exists an "Event of Default" as defined in the Liquidity Agreement.

Upon receipt of this notice, as provided in Section 4.05(b) of the Resolution, you shall cause a purchase of the Notes in accordance with the procedures set forth in Section 4.05(b) of the Resolution.

Very truly yours,

STATE TREASURER OF THE  
STATE OF TEXAS, as Liquidity Provider

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

cc: Board of Regents of The University of Texas System

EXHIBIT D

FORM OF NO DEFAULT CERTIFICATE

Re: Liquidity Agreement (the "Agreement") dated as of \_\_\_\_\_, 1994 by and between the Board (as defined below) and State Treasurer of the State of Texas (the "Liquidity Provider")

The undersigned, on behalf of the Board of Regents of the University of Texas System (the "Board"), does hereby certify to the Liquidity Provider, that:

CHOOSE ONE:

\_\_\_\_\_ no Default (as defined in the Agreement) has occurred and is continuing

\_\_\_\_\_ a Default (as defined in the Agreement) has occurred and is continuing. The Default is described as follows (include reference to appropriate section of the Agreement): \_\_\_\_\_

With respect to such Default, the Board will take the following action: \_\_\_\_\_

Date: \_\_\_\_\_  
Officer

By: \_\_\_\_\_ Authorized

4. U. T. Board of Regents: Request to Amend the Guidelines Governing Administration of the Revenue Financing System; Approve an Aggregate Amount of Equipment Financing for Fiscal Year 1994; and Approve the Use of Revenue Financing System Parity Debt, Receipt of Certification, and Finding of Fact with Regard to Financial Capacity.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs that the U. T. Board of Regents:

- a. Amend the Guidelines Governing Administration of the Revenue Financing System by the addition of the following:
9. Equipment purchases authorized by the U. T. Board of Regents to be funded through the Revenue Financing System will be approved in aggregate amount by component institution at the beginning of each fiscal year. The minimum aggregate amount is \$100,000 per component institution and allows for several smaller equipment purchases to be commingled to achieve the minimum amount. Each piece of equipment must have a useful life of not less than 3 years. The equipment will be purchased from the vendor by the component institution and Revenue Financing System debt will be issued on the first business day of each November, February, May, and August to reimburse the component institution for the equipment purchases. The debt will be amortized each February 15 and August 15 with full amortization not to exceed seven years.
- b. Approve an aggregate financed amount of \$14,202,000 under the Revenue Financing System for certain equipment purchased in Fiscal Year 1994 by the following component institutions: \$2,000,000 - U. T. Austin; \$100,000 - U. T. Dallas; \$402,000 - U. T. El Paso; \$500,000 - U. T. Tyler; \$5,000,000 - U. T. Medical Branch - Galveston; \$1,000,000 - U. T. Health Science Center - Houston; \$2,000,000 - U. T. Health Science Center - San Antonio; \$3,000,000 - U. T. M.D. Anderson Cancer Center and \$200,000 - U. T. Health Center - Tyler.

The Chancellor also concurs in the recommendation of the Executive Vice Chancellor for Business Affairs that, in compliance with Section 5 of the Master Resolution Establishing The University of Texas System Revenue Financing System, approved by the U. T. Board of Regents in April 1990, amended February 1991 and October 1993, and upon delivery of the Certificate of an Authorized Representative as set out on Page BAAC - 102, the U. T. Board of Regents resolve that:

- a. Parity Debt shall be issued to pay the project's cost paid prior to the issuance of such Parity Debt
- b. Sufficient funds will be available to meet the financial obligations of the U. T. System including sufficient Pledged Revenues as defined in the Master Resolution to satisfy the Annual Debt Service Requirements of the Financing System and to meet all financial obligations of the Board relating to the Financing System
- c. The component institutions to finance equipment, which are "Members" as such term is used in the Master Resolution, possess the financial capacity to satisfy its direct obligation as defined in the Master Resolution relating to the issuance by the U. T. Board of Regents of tax-exempt Parity Debt in the aggregate amount of \$14,202,000 for the purchase of equipment
- d. This resolution satisfies the official intent requirement set forth in Section 1.150-2 of the U. S. Treasury Regulations.

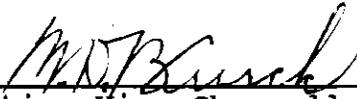
#### BACKGROUND INFORMATION

One of the methods used by component institutions to acquire equipment is vendor leasing. Recognizing lease financing as expensive, the State of Texas has encouraged the use of internal financing programs and has authorized the Texas Public Finance Authority ("TPFA") to issue tax-exempt bonds to finance the purchase of equipment. The TPFA financing allows state agencies to purchase equipment and incur debt at a tax-exempt rate plus an administration fee. The U. T. System issues tax-exempt debt for the component institutions through the Revenue Financing System. As compared to the TPFA programs, financing costs are lower since no administration fee is charged and the program will be managed solely for the needs of U. T. System components.

PARITY DEBT CERTIFICATE OF U. T. SYSTEM REPRESENTATIVE

I, the undersigned Executive Vice Chancellor for Business Affairs of The University of Texas System, a U. T. System Representative under the Master Resolution Establishing The University of Texas System Revenue Financing System adopted by the Board on April 12, 1990 and amended October 8, 1993 (the "Master Resolution"), do hereby execute this certificate for the benefit of the Board of Regents pursuant to Section 5 (a) (ii) of the Master Resolution in connection with the authorization by the Board to issue "Parity Debt" pursuant to the Master Resolution to finance equipment cost at U. T. Austin, U. T. Dallas, U. T. El Paso, U. T. Tyler, U. T. Medical Branch - Galveston, U. T. Health Science Center - Houston, U. T. Health Science Center - San Antonio, U. T. Health Center - Tyler, and U. T. M.D. Anderson Cancer Center, and do certify that to the best of my knowledge the Board of Regents is in compliance with all covenants contained in the Master Resolution, First Supplemental Resolution Establishing an Interim Financing Program, and the Second Supplemental Resolution, and is not in default of any of the terms, provisions and conditions in said Master Resolution, First Supplemental Resolution and Second Supplemental Resolution.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 1994

  
\_\_\_\_\_  
Executive Vice Chancellor for Business Affairs

5. U. T. Board of Regents: Recommendation to Adopt a Resolution Approving an Interest Rate Swap Agreement with Goldman Sachs Capital Markets, L.P., Authorizing Appropriate U. T. System Officers to Complete the Transaction and Determining Capacity; and Amending the First Supplemental Resolution Establishing an Interim Financing Program Under the Revenue Financing System.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs that the U. T. Board of Regents adopt a resolution substantially in the form set out on Pages BAAC 105 - 153:

- a. Authorizing the execution of an Interest Rate Swap Agreement with Goldman Sachs Capital Markets, L.P., and U. T. System representatives to complete the transaction and determining that the Members of the Revenue Financing System possess the financial capacity to satisfy their Direct obligations
- b. Amending the First Supplemental Resolution Establishing an Interim Financing Program under the Revenue Financing System to authorize U. T. System representatives to accept and execute confirmations as defined in interest rate swap agreements when, in their judgement, such hedging arrangements will result in a lower net interest cost of Commercial Paper Notes issued under terms contemplated in such arrangements.

#### BACKGROUND INFORMATION

Under the First Supplemental Resolution to the Revenue Financing System approved in 1990, the U. T. System is authorized to conduct a tax-exempt commercial paper program to provide interim financing for projects approved in the Capital Improvement Plan for revenue bond financing. At that time, the Board appointed Goldman, Sachs & Company as dealer/remarketing agent. The program is authorized in the amount of \$150,000,000. As of March 14, 1994, \$78,171,000 was outstanding. The use of an interest rate swap agreement with an affiliate of the dealer/remarketing agent will allow commercial paper notes to be sold to investors under hedged arrangements which provide flexibility to tailor interest rate formulas to the needs of the investor. The U. T. System, under the agreement, enters into an interest rate swap transaction so that it receives, from Goldman Sachs Capital Markets, L.P., the identical indexed rate paid to the investor in exchange for paying, to Goldman, either a fixed rate or a rate tied to an index as described in the confirmation, most commonly, the Public Securities Association index for high grade tax-exempt issuers of commercial paper based on a 30-day yield allowing U. T. to manage the floating rate liability associated with the rate formula.

The objective of this rate formulation and hedging arrangement is to obtain a rate at least 10 to 20 basis points (.1% to .2%) below prevailing rates for U. T. commercial paper.

The obligations of Goldman Sachs Capital Markets, L.P. (counterparty) to make swap payments to U. T. is backed by a guarantee from Goldman, Sachs Group, L.P. Moody's Investors Service, Standard and Poor's Ratings Group and Fitch Investors Service have published ratings of A1, A+ and AA, respectively, for Goldman, Sachs Group L.P. Commercial paper notes may be issued for up to 270 days. Transactions under the swap agreement will mature with each commercial paper note. Initially, up to \$25,000,000 of commercial paper notes will be offered under the program. The maximum exposure by the counterparty to U. T. is estimated to be approximately \$500,000 based on assumed differentials in interest rate formulas. Payments under the agreement will be netted and paid at maturity. Notification of this amendment to the program will be made to the Texas Bond Review Board. The amendment and the agreement require the approval of outside bond counsel for U. T. (McCall, Parkhurst & Horton, L.L.P.) and the Texas Attorney General.

**RESOLUTION  
AMENDING FIRST SUPPLEMENTAL RESOLUTION TO THE  
MASTER RESOLUTION AND AUTHORIZING AN  
INTEREST RATE SWAP AGREEMENT**

**WHEREAS, the Board of Regents (the "Board") of The University of Texas System has adopted the "Amended and Restated Master Resolution Establishing The University of Texas System Revenue Financing System" (the "Master Resolution"), originally adopted on April 12, 1990, amended and restated on February 14, 1991 and further amended on October 8, 1993, to establish a new System-wide financing structure for revenue supported indebtedness which would provide reduced costs and increased borrowing capacity to the components of the System, additional security to the credit markets, and greater financial flexibility to the Board; and**

**WHEREAS, the Board adopted the First Supplemental Resolution to the Master Resolution Establishing the University of Texas System Revenue Financing System on the 12th day of April, 1990, as amended on October 8, 1993 (the "First Supplement") which established an interim financing program pursuant to which the Board has issued its Revenue Financing System Commercial Paper Notes, Series A (the "Commercial Paper Note Program") to provide interim financing for capital improvements and to finance equipment purchases; and**

**WHEREAS, terms used herein and not otherwise defined have the meanings given in the First Supplement and the Master Resolution; and**

**WHEREAS, the Board hereby finds it necessary and desirable to enter into an Interest Rate Swap Agreement (the "Swap Agreement") with Goldman Sachs Capital Markets, L.P. in connection with the Commercial Paper Note Program with the Swap Agreement constituting a Credit Agreement under the Master Resolution; and**

**WHEREAS, the staff has recommended and the Board hereby finds and determines to further amend the First Supplement pursuant to Section 8.01(a)(iii) of the First Supplement to provide that in connection with the issuance of Project Notes the U. T. System Representative is authorized to execute and accept confirmations issued under the Swap Agreement when in his or her judgment the lowest effective net interest cost can be achieved by issuing Commercial Paper Notes with other than a fixed interest rate and establishing an alternative interest rate or interest rate formula for such Commercial Paper Notes through an interest rate swap agreement confirmation;**

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM THAT:**

**Section 1. The Executive Director of Finance is hereby authorized and directed to execute and deliver the Swap Agreement in substantially the form of Exhibit A attached hereto, together with other officers and representatives of the Board, is authorized to take such further action as may be necessary to make the Swap Agreement effective. The Board hereby determines that the Members of the Revenue Financing System for whom the**

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Commercial Paper Note Program is utilized and therefore for whom the Swap Agreement is being entered into possess the financial capacity to satisfy their respective Direct Obligations after taking into account the obligations under the Swap Agreement.

Section 2. The first paragraph of Section 2.02 of the First Supplement is hereby amended to read as follows:

"Section 2.02. TERMS APPLICABLE TO NOTES - GENERAL. Subject to the limitations contained herein, Commercial Paper Notes herein authorized shall be dated as of their date of issuance and Variable Rate Notes herein authorized shall be dated as of the date of authentication of such Variable Rate Notes (the "Note Date"), and Project Notes shall bear no interest or bear interest at such rate or rates (either fixed, variable, floating, adjustable, or otherwise) per annum computed either on the basis of (i) actual days elapsed and on a 365-day year, or (ii) a 360-day year composed of twelve 30-day months (but in no event to exceed the Maximum Interest Rate in effect on the date of issuance thereof), as provided herein or otherwise as may be determined by a U.T. System Representative, and shall mature on or prior to the Maximum Maturity Date. Subject to the provisions of Articles III and IV, a U.T. System Representative may establish a formula, index, or other method for establishing the interest rates for Variable Rate Notes. In addition, in connection with the issuance of the Commercial Paper Notes hereunder, the U.T. System Representative may accept and execute confirmations under and as defined in the Interest Rate Swap Agreement between the Board and Goldman Sachs Capital Markets, L.P. or confirmations delivered under another interest rate swap agreement entered into by the Board relating to Commercial Paper Notes issued hereunder when, in his or her judgment, the issuance of the Commercial Paper Notes containing the terms then contemplated with the hedge provided by the confirmation would result in the lowest net interest cost for such Commercial Paper Notes."

Section 3. The Executive Director of Finance and the General Counsel are authorized to approve any technical amendments to this Resolution requested by the rating agencies as a condition to their issuance or maintenance of a rating on Parity Debt issued under the Master Resolution.

Section 4. The amendment to the First Supplement shall take effect immediately pursuant to Section 8.01(a)(iii) of the First Supplement since it relates to the change of form of Outstanding Parity Debt issued under the First Supplement and otherwise changes the provisions of the First Supplement in a manner the Board deems necessary and desirable and which do not, in the judgment of the Board, materially adversely affect the interests of the owners of the Outstanding Parity Debt issued under the First Supplement. Other than as set forth in this Resolution, the First Supplement is not amended, altered or rescinded and is in full force and effect.

Section 5. The recitals set forth in the preamble to this Resolution are hereby incorporated into this resolution and made a part hereof for all purposes.

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EXHIBIT A

INTEREST RATE SWAP AGREEMENT

Dated as of April 1, 1994

GOLDMAN SACHS CAPITAL MARKETS, L.P., a limited partnership organized under the law of the State of Delaware ("GSCM") and the Board of Regents of The University of Texas System, the duly appointed governing body of The University of Texas System, a governmental agency of the State of Texas ("Counterparty") have entered and/or anticipate entering into one or more transactions (each a "Rate Swap Transaction"). The parties agree that each Rate Swap Transaction will be governed by the terms and conditions set forth in this document and in the documents (each a "Confirmation") exchanged between the parties confirming such Rate Swap Transactions. Each Confirmation constitutes a supplement to and forms part of this document and will be read and construed as one with this document, so that this document and all Confirmations constitute a single agreement between the parties (collectively referred to as this "Agreement"). The parties acknowledge that all Rate Swap Transactions are entered into in reliance on the fact that this document and all Confirmations will form a single agreement between the parties, it being understood that the parties would not otherwise enter into any Rate Swap Transactions.

Accordingly, the parties agree as follows:

**1. Interpretation**

1.1 **Definition.** The terms defined in Section 13 will have the meanings therein specified for the purpose of this Agreement.

1.2 **Inconsistency.** In the event of any inconsistency between the provisions of any Confirmation and this Agreement, such Confirmation will prevail for the purpose of the relevant Rate Swap Transaction.

**2. Payments**

**2.1 Obligations and Conditions.**

(a) **Obligations and Conditions.** Subject to the payment basis specified below and the other terms and conditions set forth or incorporated by reference in this Agreement or in a Confirmation with respect to a Rate Swap Transaction, each party will make each

payment specified in each Confirmation as being payable by it by transfer of the relevant amount in United States Dollars, in freely transferable funds, to the account of the other party specified in Section 15, or as otherwise specified in a Confirmation for that Rate Swap Transaction. Unless otherwise provided in a Confirmation, the Fixed Amount or Floating Amount applicable to a Payment Date will be the Fixed Amount or Floating Amount calculated with reference to the Calculation Period ending on, but excluding, the Period End Date (or, in the case of the final Calculation Period, the Termination Date) that coincides with or corresponds to, that Payment Date.

(b) **Change of Account.** Either party may change its account to another account in the United States, by giving notice to the other party at least five Business Days prior to the Payment Date to which such change applies.

2.2 **Fixed Amounts.**

(a) **Calculation of Fixed Amounts.** The Fixed Amount for each applicable Payment Date in respect of any Calculation Period will be:

(i) if an amount is specified for the Rate Swap Transaction as the Fixed Amount in respect of that Calculation Period, such amount; or

(ii) if an amount is not specified for the Rate Swap Transaction as the Fixed Amount payable in respect of that Calculation Period, an amount calculated on a formula basis in respect of that Calculation Period as follows:

$$\begin{array}{rcccccc} \text{Fixed} & & & & & & \text{Fixed Rate} \\ \text{Amount} & = & \text{Notional} & & \text{Fixed} & & \text{Day Count} \\ & & \text{Amount} & \times & \text{Rate} & \times & \text{Fraction} \end{array}$$

(b) **Certain Definitions Relating to Fixed Amounts.** For purposes of the calculation of a Fixed Amount:

(i) "Fixed Rate" means the per annum rate specified as such for the Rate Swap Transaction, expressed as a decimal.

(ii) "Fixed Rate Day Court Fraction" means, for any Rate Swap Transaction, unless otherwise specified in the related Confirmation, the number of days in the Calculation Period in respect of which payment is being made (calculated on the basis of a year of 360 days with twelve 30-day months) divided by 360.

2.3 Floating Amount.

(a) Calculation of Floating Amounts. The Floating Amount for each applicable Payment Date in respect of any Calculation Period for a Rate Swap Transaction will be an amount calculated on a formula basis in respect of that Calculation Period as follows:

$$\begin{array}{rcccccc} \text{Floating} & & & & \text{Floating} & & \text{Floating Rate} \\ \text{Amount} & = & \text{Notional} & & \text{Rate} & & \text{Day Count} \\ & & \text{Amount} & \times & \pm \text{ Spread} & \times & \text{Fraction} \end{array}$$

(b) Certain Definitions Relating to Floating Amounts.  
For purposes of the calculation of a Floating Amount:

(i) "Floating Rate" means, in respect of any Calculation Period for any Rate Swap Transaction, unless otherwise specified in the related Confirmation, a per annum rate, expressed as a decimal, equal to the arithmetic mean of the Relevant Rates in effect for each day in that Calculation Period, calculated by multiplying each Relevant Rate by the number of days such Relevant Rate is in effect, determining the sum of such products and dividing such sum by the number of days in the Calculation Period.

(ii) "Relevant Rate" means, with respect to the Floating Amount payable by any Floating Rate Payor pursuant to any applicable Rate Swap Transaction, unless otherwise specified in the related Confirmation, for any day, a per annum rate, expressed as a decimal equal to:

(A) If such day is a Reset Date, the Relevant Rate shall mean a per annum rate determined as of such Reset Date equal to the product obtained by multiplying the Index Percentage by the Index (the "Index") generally made available on such Reset Date by Municipal Market Data which meet specific criteria established by the Public Securities Association (the "PSA Municipal Swap Index") or any successor indexing agent hereunder (the "Indexing Agent"). The Index shall be based upon 30-day yield evaluations at par of bonds, the interest on which is excludable from gross income for federal income tax purposes under the Code, of not less than five "high grade" component issuers selected by the Indexing Agent which shall include, without limitation, issuers of general obligation bonds. The specific issuers included among the component issuers may be changed from time to time by the Indexing Agent in its discretion. The bonds on which the Index is based shall not include any bonds the interest on which is subject to an "alternative minimum tax" or similar tax under the Code, unless all tax-exempt bonds are subject to such tax.

If the Indexing Agent no longer publishes an Index satisfying the requirements of the preceding paragraph, GSCM shall be the successor Indexing Agent hereunder and shall determine the Index on each Reset Date upon consultation with the Counterparty. The Index so determined shall equal the prevailing rate determined by the Indexing Agent for bonds rated in the highest short-term rating category by Moody's Investors Service, Inc. and Standard & Poor's Corporation in respect of issuers most closely resembling the "high grade" component Issuers selected by Public Securities Association that are subject to tender by the holders thereof for purchase on not more than seven (7) days notice and the interest on which is (i) variable on a weekly basis, (ii) excludable from gross income for federal income tax purposes under the Code, and (iii) not subject to an "alternative minimum tax" or similar tax under the Code, unless all tax-exempt bonds are subject to such tax.

(B) If such day is not a Reset Date, the Relevant Rate determined pursuant to clause (ii)(A) above for the next preceding Reset Date.

(iii) "Reset Date" means, with respect to the Floating Amount payable by any Floating Rate Payor pursuant to any applicable Rate Swap Transaction, unless otherwise specified in the related Confirmation, each Thursday during the term (and, if the Effective Date is a day other than a Thursday, the Thursday next preceding the Effective Date) or, if any Thursday is not a Business Day, the first succeeding Business Day.

(iv) "Spread" means the per annum rate, if any, specified as such for the applicable Rate Swap Transaction (expressed as a decimal). For purposes of determining a Floating Amount, if positive the Spread will be added to the Floating Rate and if negative the Spread will be subtracted from the Floating Rate.

(v) "Floating Rate Day Count Fraction" means, in respect of any Calculation Period for any Rate Swap Transaction, unless otherwise specified in the related Confirmation, the actual number of days in that Calculation Period divided by 365 (or, if any portion of that Calculation Period falls in a leap year, the sum of (A) the actual number of days in that portion of the Calculation Period falling in a leap year divided by 366 plus (B) the actual number of days in that portion of the Calculation Period falling in a non leap year divided by 365).

#### 2.4 Netting.

The obligations of the parties under this Section 2.4 will be calculated and payable on the basis of "Net Payments -- Corresponding Payment Dates."

"Net Payments - Corresponding Payment Dates" means that, without regard to Section 2.5(b), (i) on any day when amounts would otherwise be payable under this Agreement by either party to this Agreement to the other (regardless of whether such amounts are payable in respect of the same Rate Swap Transaction), then on such day each party's obligation to make payment of any such amount will be automatically satisfied and discharged and, if the aggregate amount that would otherwise have been payable by one party exceeds the aggregate amount that would otherwise have been payable by the other party, replaced by an obligation upon the party by whom the larger aggregate amount would have been payable to pay to the other party the excess of the larger aggregate amount over the smaller aggregate amount and (ii) on any date when any amounts would be payable under this Agreement by only one party, such amounts will be paid in full by that party.

#### 2.5 Payments.

(a) Payment Procedures. Payments in respect of a Rate Swap Transaction will be timely if received in same day funds not later than close of the Federal Funds wire on the day on which they are due. Any amount due on a day on which banks are not open for business in either the designated place of payment or the place from which payment is made will be payable (without interest) on the first following day on which banks are open in both places.

(b) Conditions Precedent. Each obligation of each party to this Agreement to pay any amount due under this Agreement in respect of any Calculation Period is subject to (i) the condition precedent that no Event of Default (as defined in Section 5(a)), no event that with the giving of notice or lapse of time (or both) would become an Event of Default, or Incipient Illegality (as defined in Section 5(a)) in respect of the other party has occurred and is continuing and (ii) each other applicable condition precedent specified in this Agreement.

(c) Default Rate. A party that defaults in the payment of any amount due shall, to the extent permitted by law, pay interest on such amount to the other party, on demand, for the period from, and including, the original due date for payment to, but excluding, the date of actual payment at the Default Rate (using the Floating Rate Day Count Fraction that would apply if such Default Rate were a Floating Rate and such period were a Calculation Period).

(d) Rounding. All percentages resulting from any calculations referred to in this Agreement will be rounded upwards, if necessary, to the next higher one hundred-thousandth of a

percentage point (e.g., 9.876541% (or .09876541) being rounded to 9.87655% (or .0987655)), and all dollar amounts used in or resulting from such calculations will be rounded to the nearest cent (with one half cent being rounded up).

### 3. Representations

(a) **Representations of the Parties.** On the date as of which it enters into this Agreement and on the Trade Date of each Rate Swap Transaction governed by this Agreement, each party makes to the other party and to any Specified Entity of the other party the following representations:

(i) "Basic Representations," which means that the party represents that: (a) in the case of GSCM, it is a limited partnership organized under the laws of the State of Delaware, in the case of Counterparty, it is the duly appointed governing body of the University System, a governmental agency of the State of Texas and, in each case, it is validly existing and in good standing under the laws of such jurisdiction; (b) it has the power to execute and deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver, and to perform its obligations under this Agreement and any obligations it has under any Credit Support Document, and has taken all necessary action and made all necessary determinations and findings to authorize such execution, delivery and performance, and the individual(s) executing and delivering this Agreement and any other documentation (including any Credit Support Document) relating to this Agreement to which it is a party or that it is required to deliver are duly empowered and authorized to do so; (c) its execution and delivery of this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver and in performance of its obligations under this Agreement and any obligations it has under any Credit Support Document do not violate or conflict with any law, rule or regulation applicable to it, any provision of its charter or by-laws (or comparable constituent documents), any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting the party or any of its assets; (d) all authorizations of and exemptions, actions or approvals by, and all notices to or filings with, any governmental or other authority that are required to have been obtained or made by the party at the time this representation is made with respect to this Agreement or any Credit Support Document to which it is a party have been obtained or made and are in full force and effect and all conditions of any such authorizations, exemptions, actions or approvals have been compiled with; and (e) each of this Agreement and any Credit Support

Document to which it is a party constitutes the party's legal, valid and binding obligation, enforceable against the party in accordance with its terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

(ii) "Absence of Certain Events," which means that the party represents that no event or condition has occurred that constitutes (or would with the giving of notice or passage of time or both constitute) an Event of Default or Incipient Illegality or, to the party's knowledge, a Termination Event with respect to the party, and no such event would occur as a result of the party's entering into or performing its obligations under this Agreement or any Credit Support Document to which it is a party.

(iii) "Absence of Litigation," which means that the party represents that there is not pending or, to the party's knowledge, threatened against the party or any of its Affiliates any action, suit or proceeding at law or in equity or before any court, tribunal, governmental or regulatory body, agency or official or any arbitrator that is likely to affect the legality, validity or enforceability against the party of this Agreement or any Credit Support Document to which it is a party or the party's ability to perform its obligations under this Agreement or such Credit Support Document. For purposes of this Section 3(a)(iii), the definition of "Affiliate" shall be limited to such Affiliates, if any, as may be Specified Entities for purposes of Section 5(a)(iii).

(iv) "Accuracy of Financial Information," which means that the party represents that all financial information furnished to the other party to this Agreement pursuant to Section 4 is, as of its date, a fair presentation of the financial condition of the relevant person.

(v) "Accuracy of Specified Information" means that the party represents that all applicable information that is furnished in writing by or on behalf of the party to the other party to this Agreement (including without limitation the documents specified in Section 4(a) and, if so specified, in a Confirmation, but excluding the legal opinions and the Guaranty and any information required to be delivered in connection therewith) is, as of the date of the information, true, accurate and complete in every material respect and in the case of audited or unaudited financial statements, is a fair

presentation of the financial condition of the relevant party.

(vi) "Standardization, Creditworthiness and Transferability" means the economic terms of this Agreement, any Credit Support Document to which it is a party, and each Rate Swap Transaction have been individually tailored and negotiated by it; it has received and reviewed financial information concerning the other party and has had a reasonable opportunity to ask questions of and receive answers from the other party concerning such other party, this Agreement, such Credit Support Documents, and such Rate Swap Transaction; the creditworthiness of the other party was a material consideration in its entering into or determining the terms of this Agreement, such Credit Support Document, and such Rate Swap Transaction; and transferability of this Agreement, such Credit Support Document, and such Rate Swap Transaction is restricted as provided herein and therein.

(vii) "No Reliance" means that in connection with the negotiation of, the entering into, and the confirming of the execution of, this Agreement, any Credit Support Document to which it is a party, and each Rate Swap Transaction: (A) the other party is not acting as a fiduciary for it; (B) it has consulted with its own legal, regulatory, tax, business, investment, financial, and accounting advisors to the extent it has deemed necessary, and it has made its own investment, hedging, and trading decisions based upon its own judgment and upon any advice from such advisors as it has determined necessary; (C) it has determined that the rates, prices, or amounts and other terms of each Rate Swap Transaction and the indicative quotations (if any) provided by the other party reflect those in the relevant market for similar transactions, and all trading decisions have been the result of arm's length negotiations between the parties; and (D) it is entering into this Agreement, such Credit Support Document, and such Rate Swap Transaction with a full understanding of all of the risks hereof and thereof (economic and otherwise), and it is capable of assuming and willing to assume (financially and otherwise) those risks.

(b) Additional Representations of Counterparty.

Counterparty hereby further represents to GSCM and to any Specified Entity of GSCM (which representations will be deemed to be repeated by Counterparty at all times until the termination of this Agreement) that:

(i) **Non-Speculation.** This Agreement has been, and each Rate Swap Transaction has been and will be, entered into not for the purpose of speculation but solely in

connection with the financing activities of Counterparty, for the purpose of effectively hedging with respect to all or a portion of Counterparty's debt or converting interest on all or a portion of certain of Counterparty's debt from a fixed rate to a floating rate, or from a floating rate to a fixed rate, and therefore reducing the cost of borrowing on its outstanding debt by optimizing the relative amounts of fixed and floating rate obligations or the risk of variations in its debt service costs, and by increasing the predictability of cash flow from earnings on invested funds and thereby improving Counterparty's ability to manage its funds and revenues.

(ii) **No Limitation or Restrictions.** Counterparty shall obtain all necessary authorizations, approvals, and resolutions of its board or other authorized body and any other governmental body or agency having jurisdiction over Counterparty prior to entering into any Rate Swap Transaction.

(iii) **Assets of Counterparty.** No Affiliate or other person, firm, corporation, entity, or association may liquidate, borrow, encumber or otherwise utilize the assets of Counterparty, other than as provided in the Master Resolution.

(iv) **Organization.** Counterparty is the governing body of the University System, a governmental agency of the State of Texas.

(vi) **Official Statements.** No official statement or similar disclosure document of Counterparty since \_\_\_\_\_, \_\_\_\_\_, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

**4. Agreements**

The agreements of the parties are specified below:

(a) Each party agrees to deliver to the other party any documents specified below or in a Confirmation as soon as practicable or by the date specified below or in such Confirmation:

<b>Party required to deliver document</b>	<b>Form/Document/Certificate</b>	<b>Date by which to be delivered</b>
GSCM	Power of Attorney with respect to GSCM	As of execution of this Agreement
GSCM	Guaranty of The Goldman Sachs Group, L.P.	As of execution of this Agreement
GSCM	Legal opinion of Counsel with respect to GSCM and The Goldman Sachs Group, L.P.	As of execution of this Agreement
GSCM	Audited Annual Statements of Financial Condition of The Goldman Sachs Group, L.P.	After demand by Counterparty when copies are publicly available
Counterparty	Legal opinion of Counsel with respect to Counterparty	As of execution of this Agreement
Counterparty	Incumbency Certificate with respect to Counterparty	As of execution of this Agreement

Party required to deliver document	Form/Document/Certificate	Date by which to be delivered
Counterparty	Certified copies of Master Resolution	As of execution of this Agreement and, to the extent not covered by documents previously delivered, upon execution of the Confirmation for a Rate Swap Transaction and, in the case of amendments, promptly following the time each such amendment is made
Counterparty	Annual report of Counterparty containing Consolidated Financial Statements for each year	After demand by GSCM when copies are publicly available
Counterparty	Covered Documents	After demand by GSCM

Party required to deliver document	Form/Document/Certificate	Date by which to be delivered
Counterparty	The official statement or similar disclosure document or other information provided in connection with the issuance of any bonds, notes or other indebtedness payable from Pledged Revenues	Upon execution of the Confirmation for the relevant Bond Transaction and, otherwise, as soon as practicable but in any event not later than thirty (30) days after initial delivery or publication thereof

(b) Each party agrees to "Maintain Authorizations and Comply with Laws," which means that each party agrees to use all reasonable efforts (i) to maintain in full force and effect all authorizations of and exemptions, actions or approvals by, and all filings with or notices to, any governmental or other authority that are required to be obtained or made by such party with respect to this Agreement or any Credit Support Document to which it is a party and will use all reasonable efforts to obtain or make any that may become necessary in the future (but only to the extent that each party agrees to use all reasonable efforts) and (ii) to comply in all material respects with all applicable laws, rules, regulations and orders to which it may be subject if failure so to comply would materially impair its ability to perform its obligations under this Agreement or any Credit Support Document to which it is a party.

(c) **Source of Payments.** Counterparty agrees that its obligations hereunder are, and until the termination of this Agreement pursuant to the terms hereof shall remain special obligations of Counterparty secured by and payable from a first lien on and pledge of Pledged Revenues.

(d) **Nature of Obligations.** The obligations of Counterparty to make payments to GSCM under this Agreement and each Rate Swap Transaction (a) are not subject to appropriation or

similar action and (b) do not (1) constitute any kind of indebtedness of Counterparty or (2) create any kind of lien on or security interest in any property or revenues of Counterparty which, in either case (1) or (2), is proscribed by any constitution, charter, law, rule, regulation, government code, constituent or governing instrument, resolution, guideline, ordinance, order, writ, judgment, decree, charge, or ruling to which Counterparty (or any of its officials in their respective capacities as such) or its property is subject.

(e) **Compliance with Covered Documents.** Counterparty will observe, perform and fulfill each covenant, term, and provision in the Covered Documents applicable to Counterparty in effect on the date specified in the Confirmation for the related Bond Transaction, as any of those covenants, terms, and provisions may be amended, supplemented or modified with the prior written consent of GSCM (the "Incorporated Provisions") (provided, however, that to the extent no consent of holders of the obligation secured by the Covered Documents is needed, it shall not be necessary to obtain the consent of GSCM), with the effect, among other things, and without limiting the generality of the foregoing, that GSCM will have the benefit of each of the Incorporated Provisions (including without limitation, covenants, right to consent to certain actions subject to consent under the Covered Documents and delivery of financial statements and other notices and information). In the event the Covered Documents cease to be in effect for any reason, including, without limitation, defeasance of the Bonds issued in connection with such Covered Documents, prior to the termination of this Agreement, the Incorporated Provisions (other than those provisions requiring payments in respect of bonds, notes, warrants or other similar instruments issued in connection with the Covered Documents) will remain in full force and effect for purposes of this Agreement as though set forth herein until such date on which all of the obligations of Counterparty under this Agreement and all obligations of Counterparty have been fully satisfied. The Incorporated Provisions are hereby incorporated by reference and made a part of this Agreement to the same extent as if such provisions were set forth herein. For purposes of this Agreement, the Incorporated Provisions shall be construed as though (i) all references therein to any party making loans, extensions of credit or financial accommodations thereunder or commitments therefor (the "Financings") were to GSCM and (ii) to the extent that such Incorporated Provisions are conditioned on or related to the existence of such financings of Counterparty having any obligations in connection therewith, all references to such Financings or obligations were to the obligations of Counterparty under this Agreement. Any amendment, supplement, modification or waiver of any of the Incorporated Provisions without the written consent of GSCM shall have no force and effect with respect to this Agreement. Any amendment, supplement or modification for which such consent is obtained shall be part of the Incorporated Provisions for purposes of this Agreement.

(f) **Notice of Incipient Illegality.** If an Incipient Illegality occurs, Counterparty will, promptly upon becoming aware of it, notify GSCM, specifying the nature of that Incipient Illegality and will also give such other information about that Incipient Illegality as GSCM may reasonably require.

## 5. **Events of Default and Termination Events**

The Events of Default and Termination Events with respect to each party are specified below. The occurrence of any Event of Default or Termination Event with respect to a party or a Specified Entity of a party will constitute an Event of Default or Termination Event with respect to such party.

### (a) **Events of Default.**

(i) "Failure to Pay," which means failure by the party to pay, when due, any amount required to be paid by it under this Agreement following a cure period of three Business Days after notice, given in accordance with Section 14;

(ii) "Breach of Covenant," which means failure by the party to comply with or perform any agreement or obligation (not including an obligation to make a payment or to give notice of a Termination Event (other than notice of an illegality pursuant to Section 6(b)(i))), to be complied with or performed by the party in accordance with this Agreement or any Credit Support Document following a cure period of thirty days after notice, given in accordance with Section 14;

(iii) "Credit Support Default," which means (i) default by the party or any applicable Specified Entity with respect to any obligation which the party (or such Specified Entity) has under any Credit Support Document relating to this Agreement or to any Rate Swap Transaction governed by this Agreement (which default is continuing after any applicable grace period has elapsed) or (ii) the expiration or termination of such Credit Support Document, or the ceasing of such Credit Support Document to be in full force and effect, prior to the Termination Date of each Rate Swap Transaction governed by this Agreement and to which the Credit Support Document applies without the written consent of the other party to this Agreement or (iii) the party (or such Specified Entity) repudiates, or challenges the validity of, such Credit Support Document (or such action is taken by any person or entity appointed or empowered to operate it or act on its behalf);

(iv) "Misrepresentation," which means a representation made or repeated or deemed to have been made or repeated by the party or any applicable Specified

Entity in this Agreement, or any Credit Support Document relating to this Agreement proves to have been incorrect or misleading in any material respect when made or repeated or deemed to have been made or repeated;

(v) "Default Under Specified Swap," which means the occurrence of an event of default in respect of the party or any applicable Specified Entity under any Specified Swap that, following the giving of any applicable notice and the lapse of any applicable grace period, has resulted in the designation or occurrence of an early termination date in respect of that Specified Swap;

(vi) "Cross-Default," means: (1) the occurrence or existence of an event or condition in respect of such party or any applicable Specified Entity under one or more agreements or instruments relating to Specified Indebtedness of such party or any such Specified Entity in an aggregate amount of not less than the Threshold Amount which has resulted in such Specified Indebtedness becoming due and payable under such agreements or instruments before it would otherwise have been due and payable, or (2) the failure by such party or any such Specified Entity to make one or more payments at maturity in an aggregate amount of not less than the Threshold Amount under such agreements or instruments (after giving effect to any applicable grace period);

(vii) "Bankruptcy," which means the occurrence of any of the following events with respect to a party or any applicable Specified Entity:

such party or any such Specified Entity (1) is dissolved (in the case of GSCM or any applicable Specified Entity, as the case may be, other than pursuant to a withdrawal or admission of a partner or a consolidation or amalgamation with, or merger into, or transfer of all or substantially all its assets to, or reorganization, incorporation, reincorporation, reformation, or reconstitution into or as, another entity), (2) becomes insolvent or fails or is unable or admits in writing its inability generally to pay its debts as they become due, (3) makes a general assignment, arrangement or composition with or for the benefit of its creditors, (4) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for the winding-up or liquidation of the party or any such Specified Entity, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order

for the winding-up or liquidation, of the party or such Specified Entity or (B) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof, (5) has a resolution passed for its winding-up or liquidating, (6) (A) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets (or, in the case of a Government Entity, for the System) or (B) in the case of a Government Entity or any applicable Specified Entity of such Government Entity, (i) there shall be appointed or designated with respect to it, an entity such as an organization, board, commission, authority, agency or body to monitor, review, oversee, recommend or declare a financial emergency or similar state of financial distress with respect to it or (ii) there shall be declared or introduced or proposed for consideration by it or by any legislative or regulatory body with competent jurisdiction over it, the existence of a state of financial emergency or similar state of financial distress in respect of it (regardless of how brief such appointment may be, or whether any obligations are promptly assumed by another entity or whether any other event described in this clause (6) has occurred and is continuing) (7) any event occurs with respect to the party or any such Specified Entity which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (1) to (6) (inclusive), or (8) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the forgoing acts; other than in the case of clause (1) or (5) or, to the extent it relates to those clauses, clause (8), for the purpose of a consolidation, amalgamation, succession, transfer, reorganization, incorporation, reincorporation, reconstitution, or merger which would not constitute a Merger Without Assumption;

(viii) "Merger Without Assumption," which means that a party or, in the case of Counterparty, any Related Entity, consolidates or amalgamates with, or merges into, or transfers all or substantially all its assets (or, in the case of a Government Entity, all or substantially all of the System) to, or reorganizes, incorporates, reincorporates, or reconstitutes into or as, another entity, and also in the case of a Government Entity, any board, body, commission, agency, or authority succeeds to the principal functions of, and/or the powers or duties granted to, such Government Entity or any applicable Related Entity generally or with respect to the System, and, at the time of such consolidation, amalgamation, merger, transfer, reorganization, incorporation, reincorporation, reconstitution, or succession:

(1) the resulting, surviving, transferee or successor entity fails to assume all the obligations of such party or Related Entity under this Agreement by operation of law or pursuant to an agreement reasonably satisfactory to the other party to this Agreement, or

(2) the benefits of any Credit Support Document relating to this Agreement fail to extend (without the consent of the other party) to the performance of such resulting, surviving, transferee or successor entity of its obligations under this Agreement, or

(3) the sources of payment for Counterparty's obligations as set forth in Section 4(b) are no longer available for the satisfaction of such resulting, surviving, transferee or successor entity's obligations to GSCM hereunder.

(ix) "Illegality," which means, due to the adoption of, or any change in, any applicable treaty, law, rule or regulation after the Trade Date of a Rate Swap Transaction governed by this Agreement or due to the promulgation of, or any change in, the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable treaty, law, rule or regulation after the Trade Date of that Rate Swap Transaction, it becomes unlawful for the party (1) to perform any absolute or contingent obligation to make a payment or to receive a payment in respect of that Rate Swap Transaction or to comply with any other material provision of this Agreement relating to that Rate Swap Transaction or (2) to perform, or for any applicable Specified Entity to perform, any absolute or contingent obligation which the party (or such Specified Entity) has under any Credit Support Document relating to that Rate Swap Transaction.

(b) Termination Event.

"Credit Event Upon Merger," which means such party or the Goldman Sachs Group, L.P., in the case of GSCM (X) consolidates or amalgamates with, or merges into, or transfers all or substantially all its assets (or, in the case of Counterparty, all or substantially all of the System) to, or reorganizes, incorporates, reincorporates, reforms, or reconstitutes into or as, another entity, or X otherwise reorganizes or effects a recapitalization, or another entity consolidates or amalgamates with, or merges into, or transfers all or substantially all its assets, (or, in the case of Counterparty, all or substantially all of the System) to, or reorganizes, incorporates, reincorporates, or reconstitutes into or as, X, and also, in the case of Counterparty, any board,

body, commission, agency, or authority succeeds to the principal functions of, and/or the powers and duties granted to, X (or, in the case of Counterparty, any Related Entity) generally or with respect to the System, and such action does not constitute a Merger Without Assumption but the creditworthiness of X or any resulting, surviving, transferee, reorganized, reformed, reconstituted, recapitalized or successor (which will be the Affected Party) is materially weaker than that of X immediately prior to such action.

## 6. Early Termination

(a) Right to Terminate Following Event of Default. If at any time an Event of Default with respect to a party (the "Defaulting Party") has occurred and is then continuing, the other party may, by not more than 20 days notice to the Defaulting Party specifying the relevant Event of Default, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect to all outstanding Rate Swap Transactions. However, an Early Termination Date will be deemed to have occurred in respect of all Rate Swap Transactions immediately upon the occurrence of any Event and Default specified in Section 5(a)(vii)(1), (2), (3), (5), (6), (7) or (8) and as of the time immediately preceding the institution of the relevant proceeding or the presentation of the relevant petition upon the occurrence of any Event of Default specified in Section 5(a)(vii)(4).

### (b) Right to Terminate Following Termination Event.

(i) Notice. Upon the occurrence of a Termination Event, an Affected Party will, promptly upon becoming aware of the same, notify the other party thereof, specifying the nature of such Termination Event and the Affected Transactions relating thereto. The Affected Party will also give such other information to the other party with regard to such Termination Event as the other party may reasonably require.

(ii) Right to Terminate. If a Termination Event occurs, the party which is not the Affected Party may, by not more than 20 days notice to the other party and provided that the relevant Termination Event is then continuing, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all Affected Transactions.

(c) Effect of Designation. If notice designating an Early Termination Date is given under Section 6(a) or (b), the Early Termination Date will occur on the date so designated, whether or not the relevant Event of Default or Termination Event is continuing on the relevant Early Termination Date. Upon the effectiveness of notice designating an Early Termination Date (or the deemed occurrence of an Early Termination Date), the

obligations of the parties to make any further payments under Section 2.1(a) in respect of the Terminated Transactions will terminate, but without prejudice to the other provisions of this Agreement.

(d) **Calculations.**

(i) **Statement.** Following the occurrence of an Early Termination Date, each party will make the calculations (including calculation of applicable interest rates) on its part contemplated by Section 6(e) and will provide to the other party a statement:

(1) showing, in reasonable detail, such calculations (including all relevant quotations); and

(2) giving details of the relevant account to which any payment due to it under Section 6(e) is to be made. In the absence of written confirmation of a quotation obtained in determining a Market Quotation from the source providing such quotation, the records of the party obtaining such quotation will be conclusive evidence of the existence and accuracy of such quotation.

(ii) **Due Date.** The amount calculated as being payable under Section 6(e) will be due on the day that notice of the amount payable is effective (in the case of an Early Termination Date which is designated or deemed to occur as a result of an Event of Default) and not later than the day which is two Business Days after the day on which notice of the amount payable is effective (in the case of an Early Termination Date which is designated as a result of a Termination Event).

Such amount will be paid together with (to the extent permitted under applicable law) interest thereon from (and including) the relevant Early Termination Date to (but excluding) the relevant due date, calculated as follows:

(1) if notice is given designating an Early Termination Date or if an Early Termination Date is deemed to occur, in either case as a result of an Event of Default, at the Default Rate; or

(2) if notice is given designating an Early Termination Date as a result of a Termination Event, at the Default Rate minus the Default Spread.

Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed but in no event will it exceed the maximum amount allowed by law.

(e) **Payments on Early Termination.**

(i) **Determination of Settlement Amount.** If notice is given designating an Early Termination Date or if an

Early Termination Date is deemed to occur, the party which is neither a Defaulting Party nor an Affected Party will determine the Settlement Amount in respect of the Terminated Transactions and the payment to be made will be equal to (A) the sum of such Settlement Amount and the Unpaid Amounts owing to the party determining the Settlement Amount ("X") less (B) the Unpaid Amounts owing to the party not determining the Settlement Amount ("Y").

(ii) **Party Owning.** If the amount calculated under Section 6(e)(i) is a positive number, Y will pay such amount to X; if such amount is a negative number, X will pay the absolute value of such amount to Y.

(iii) **Adjustment for Bankruptcy.** In circumstances where an Early Termination Date is deemed to occur, the amount determined under Section 6(e) will be subject to such adjustments as are appropriate and permitted by law to reflect any payments made by one party to the other under this Agreement (and retained by such other party) during the period from the relevant Early Termination Date to the date for payment determined under Section 6(d).

(iv) **Pre-Estimate of Loss.** The parties agree that the amounts recoverable under this Section 6(e) are a reasonable pre-estimate of loss and not a penalty. Such amounts are payable for the loss of bargain and the loss of protection against future risks and, except as otherwise provided in this Agreement, neither party will be entitled to recover any additional damages as a consequence of such losses.

(f) **Usury.** Notwithstanding any provision of this Agreement to the contrary, it is hereby agreed that in no event shall the amount of interest (as defined and calculated in accordance with applicable law) contracted for, charged, reserved, received or taken by either party in connection with the transaction hereunder exceed the amount of interest which could have been contracted for, charged, reserved, received or taken at the maximum rate of nonusurious interest allowed from time to time by applicable law. If the applicable law is ever judicially interpreted so as to render usurious any amount called for hereunder or otherwise contracted for, charged, reserved, received or taken in connection with the transaction hereunder, then notwithstanding anything to the contrary contained in this Agreement, all excess amounts theretofore paid or received shall be credited on the principal balance of the amount owed (or, if such principal amount has been or would thereby be paid in full, refunded), and the provisions of this Agreement shall immediately be deemed reformed and the amounts

thereafter collectible hereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder. All sums paid or agreed to be paid for the use, forbearance or detention of money hereunder shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the rate or amount of interest on account of such indebtedness does not exceed the usury ceiling from time to time in effect and applicable to such indebtedness for so long as such indebtedness is outstanding.

#### **7. Expenses.**

A Defaulting Party will, on demand, reimburse the other party for and against all reasonable out-of-pocket expenses, including legal fees, incurred by such other party by reason of the enforcement and protection of its rights under this Agreement or any Credit Support Document to which the Defaulting Party is a party or by reason of the early termination of any Rate Swap Transaction, including, but not limited to, costs of collection.

#### **8. Transfer**

(a) Except as expressly provided herein, neither this Agreement, any interest or obligation in or under this Agreement, nor any Rate Swap Transaction may be transferred by GSCM without the prior written consent of Counterparty (other than pursuant to a consolidation or amalgamation with, or merger, into, or transfer of all or substantially all of GSCM's assets to, or reorganization, incorporation, reincorporation, or reconstitution into or as, another entity which does not constitute a Merger Without Assumption), provided that such consent may not be arbitrarily withheld, and any purported transfer without such consent will be void. GSCM may transfer this Agreement, any of its interests or obligations in or under this Agreement, or one or more Rate Swap Transactions to any GSCM's Affiliate that is either a domestic corporation within the meaning of Section 7701(a) of the Code or a domestic partnership within the meaning of Section 7701(a) of the Code, provided that (i) if such transfer is to an entity other than The Goldman Sachs Group, L.P., or any successor thereto, either (A) such transferee must have a long-term, unsecured, unsubordinated debt obligation rating or financial program rating (or other similar rating) by at least one U.S. nationally recognized rating agency which is equal to or greater than the comparable long-term, unsecured, unsubordinated debt obligation rating or financial program rating (or other similar rating) of the Goldman Sachs Group, L.P., immediately prior to such transfer, or (B) Counterparty is furnished with a Guaranty of The Goldman Sachs Group, L.P., or any successor thereto, of such transferor's obligations in substantially the form of the Guaranty referred to in Section 11 or with an agreement in writing of The Goldman Sachs

Group, L.P., or any successor thereto, that such Guaranty will continue to apply to the obligations of such transferee under this Agreement and (ii) an Event of Default or a Termination Event does not occur as a result of such transfer. Any transfer permitted by the foregoing causes will not constitute an event or condition described in Sections 5(a)(viii) or 5(b)(ii).

(b) Neither this Agreement, any interest or obligation in or under this Agreement, nor any Rate Swap Transaction may be transferred by Counterparty without the prior written consent of GSCM (other than pursuant to a consolidation or amalgamation with, or merger into, or transfer of all or substantially all of Counterparty's assets to, another entity), provided that such consent may not be arbitrarily withheld, and any purported transfer without such consent will be void.

## 9. Miscellaneous

(a) **Entire Agreement.** This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all oral communications and prior writings with respect thereto.

(b) **Amendments.** No amendment, modification or waiver in respect of this Agreement will be effective unless in writing and executed by each of the parties or confirmed by an exchange of telexes.

(c) **Survival of Obligations.** Except as provided otherwise in Section 6(c), the obligations of the parties under this Agreement will survive the termination of any Rate Swap Transaction.

(d) **Remedies Cumulative.** Except as provided otherwise in this Agreement, the rights, powers, remedies and privileges provided in this Agreement are cumulative and not exclusive of any rights, powers, remedies and privileges provided by law.

(e) **Confirmations.** A Confirmation may be executed in counterparts or created by an exchange of telexes, substantially in the form of the letter or telex attached hereto as Exhibit I (or such other form as the parties may agree), which in either case will be sufficient for all purposes to evidence a binding supplement to this Agreement. Any such counterpart or telex will specify that it constitutes a Confirmation.

## 10. Interest Rate Caps, Collars, and Floors.

(a) Notwithstanding anything to the contrary in this Agreement, the following provisions will apply with respect to a Rate Protection Transaction:

(i) the Floating Rate applicable to any Calculation Period will be (A) with respect to a Floating Rate Payor

for which a Cap Rate is specified, the excess, if any, of the Floating Rate calculated as provided in this Agreement (without reference to this paragraph 10(a)(i)) over the Cap Rate and (B) with respect to a Floating Rate Payor for which a Floor Rate is specified, the excess, if any, of the Floor Rate over the Floating Rate calculated as provided in this Agreement (without reference to this paragraph 10(a)(i));

(ii) "Cap Rate" means, in respect of any Calculation Period, the per annum rate specified as such for that Calculation Period; and

(iii) "Floor Rate" means, in respect of any Calculation Period, the per annum rate specified as such for that Calculation Period.

(b) For purposes of the determination of a Market Quotation for a Terminated Transaction in respect of which a party ("X") had, immediately prior to the designation or occurrence of the relevant Early Termination Date, no future payment obligations, whether absolute or contingent, under Section 2(a) of this Agreement with respect to the Terminated Transaction, (i) the quotations obtained from Reference Market-makers shall be such as to preserve the economic equivalent of the payment obligations of the party ("Y") that had, immediately prior to the designation or occurrence of the relevant Early Termination Date, future payment obligations, whether absolute or contingent, under Section 2(a) of this Agreement with respect to the Terminated Transaction and (ii) if X is making the determination such amounts shall be expressed as positive amounts and if Y is making the determination such amounts shall be expressed as negative amounts.

(c) Notwithstanding the terms of Sections 5 and 6 of this Agreement, if at any time and so long as one of the parties to this Agreement ("X") shall have satisfied in full all its payment obligations under Section 2(a) of this Agreement and shall at the time have no future payment obligations, whether absolute or contingent, under such Section, then unless the other party ("Y") is required pursuant to appropriate proceedings to return to X or otherwise returns to X upon demand of X any portion of any such payment, (a) the occurrence of any event described in Section 5(a)(i), (ii), (iii), (iv), (vi), (vii), or (viii) of this Agreement with respect to X or any Specified Entity of X shall not constitute an Event of Default or a potential Event of Default with respect to X as the Defaulting Party and (b) Y shall be entitled to designate an Early Termination Date, pursuant to Section 6 of this Agreement only as a result of the occurrence of an Event of Default set forth in Section 5(a)(v) or Section 5(a)(ix) of this Agreement with respect to X as the Defaulting Party or a Termination Event set forth in Section 5(b)(i) of this Agreement with respect to Y as the Affected Party.

#### **11. Credit Support Documents**

The obligations of the parties under this Agreement and in respect of each Rate Swap Transaction will be secured or guaranteed in accordance with the Credit Support Documents specified below:

- (a) The Guaranty of The Goldman Sachs Group, L.P., to be delivered by GSCM to Counterparty.

## 12. Service of Process

Counterparty irrevocably appoints:

Name: The University of Texas System  
Address: 201 West 7th Street  
Austin, Texas 78701  
Attention: General Counsel

GSCM irrevocably appoints:

Name: Goldman Sachs Capital Markets, L.P.  
Address: 85 Broad Street  
New York, New York 10004  
Attention: Legal Department

If for any reason either party's agent for service of process is unable to act as such, such party will promptly notify the other party and within 30 days appoint a substitute agent for service of process acceptable to the other party.

## 13. Definitions

As used in this Agreement:

**"Additional Person"** has the meaning given such term in the definition of Affiliate.

**"Affected Party"** means each party in respect of which a Termination Event has occurred as defined in Section 5(b).

**"Affected Transactions"** means (a) with respect to any Termination Event consisting of an Illegality or Credit Event Upon Merger, all Rate Swap Transactions affected by the occurrence of such Termination Event and (b) with respect to any other Termination Event, all Rate Swap Transactions.

**"Affiliate"** means any entity controlled, directly or indirectly, by the party, any entity that controls, directly or indirectly, the party or any entity under common control with the party. With respect to Counterparty such term will also include any board, body, commission, agency, or authority that succeeds to the principal functions of, and/or the powers and duties granted to, Counterparty in respect of the Systems, any person,

corporation, entity, instrumentality, agency, association, or similar entity or authority, political subdivision, or similar organization, entity, or authority (each an "Additional Person") governed or controlled, directly or indirectly, by Counterparty, any Additional Person that governs or controls, directly or indirectly, Counterparty, or any Additional Person under common governance or control with Counterparty, or any Additional Person which acts as a depository or in a similar capacity for, on behalf of, or in respect of, Counterparty. For purposes of this definition, "control" of an entity or of a party means ownership of a majority of the voting power of the entity or party.

"**Authorizing Law**" means Chapter 55, Texas Education Code and Vernon's Annotated Texas Civil Statutes, Article 717q, as amended.

"**Banking Day**" means any day other than a Saturday, a Sunday or a day on which commercial Banks in New York City or the State of Texas are required or authorized to be closed.

"**Bonds**" means any bonds, notes, certificates or other indebtedness or securities identified in a Confirmation for a Bond Transaction.

"**Bond Transaction**" means a Rate Swap Transaction entered into by or on behalf of Counterparty in connection with the issuance of Bonds by Counterparty, and which is identified as such in the related Confirmation.

"**Business Day**" means any Banking Day other than a day on which the New York Stock Exchange is closed.

"**Calculation Agent**" means GSCM, which is responsible for (a) calculating the applicable Floating Rate, if any, for each Calculation Period or, (b) calculating any Floating Amount payable in respect each Calculation Period, (c) calculating any Fixed Amount payable in respect of each Calculation Period, (d) giving notice to the parties to the Rate Swap Transaction on the Calculation Date for each Calculation Period, specifying (i) the date for payment in respect of such Calculation Period, (ii) the party or parties required to make the payment or payments then due, (iii) the amount or amounts of the payment or payments then due and (iv) reasonable details as to how such amount or amounts were determined, and (e) if, after such notice is given, there is a change in the number of days in the relevant Calculation Period and the amount or amounts of the payment or payments due in respect of that period, promptly giving the parties to the Rate Swap Transaction notice of such changes, with reasonable details as to how such changes were determined. Whenever the Calculation Agent is required to select banks or dealers for the purpose of calculating a Floating Rate, the Calculation Agent will make such selection in good faith for the purpose of obtaining a representative rate that will reasonably reflect conditions prevailing at the time in the relevant market.

**"Calculation Date"** means, for each Rate Swap Transaction, unless otherwise stated in the Confirmation for such Rate Swap Transaction, for any Calculation Period, the earliest day on which it is practicable to provide the notice that the Calculation Agent is required to give in respect of that Calculation Period, and in no event earlier than ten (10) days prior to, or later than the close of business in New York City on the Banking Date next preceding, the Payment Date in respect of that Calculation Period.

**"Calculation Period"** means, for each Rate Swap Transaction, each period from, and including, one Period End Date, to, but excluding, the next following applicable Period End Date during the Term of a Rate Swap Transaction, except that (a) the initial Calculation Period for each Rate Swap Transaction will commence on, and include, the Effective Date, and (b) the final Calculation Period for each Rate Swap Transaction will end on, but exclude, the Termination Date.

**"Code"** means the Internal Revenue Code of 1986, as amended.

**"Commercial Paper"** means the Board of Regents of The University of Texas System Revenue Financing System Commercial Paper Notes, Series A.

**"Composite 3:30 P.M. Quotations for U.S. Government Securities"** means the daily statistical release designated as such, or any successor publication, published by the Federal Reserve Bank of New York.

**"Consolidated Financial Statements"** means in respect of Counterparty, a copy of the annual report of such party relating to the Systems containing unaudited consolidated financial statements for such party's fiscal year, prepared in accordance with the Texas Comptroller of Public Accounts Annual Financial Reporting Requirements and on a basis consistent with prior periods.

**"Covered Documents"** means the Master Resolution including particularly the First Supplemental Resolution to the Master Resolution adopted by the Counterparty on April 12, 1990, as amended on October 29, 1993 and April 14, 1994 and the Resolution of Counterparty adopted on April 14, 1994.

**"Credit Support Document"** means any agreement or instrument which is specified as such in this Agreement.

**"Default Rate"** means a rate per annum determined in accordance with the Federal Funds Floating Rate Option plus the Default Spread, using a rate reset daily; provided, however, that, with respect to amounts payable by the Counterparty, the Default Rate shall not exceed the maximum rate allowed by law, as determined by Vernon's Annotated Texas Civil Statutes, Article 717k-2, as amended. The Default Rate will be applied in accordance with Section 2 of this Agreement as if the overdue amount were a

Notional Amount, and interest will accrue and be payable before as well as after judgment to the extent permitted by law.

**"Default Spread"** means 1½ per annum.

**"Early Termination Date"** means a Business Day on which the parties to this Agreement will settle out, on a "lump-sum" basis, their payment obligations for the Rate Swap Transactions governed by this Agreement in respect of each Calculation Period for any such Rate Swap Transaction that would, but for the occurrence of the Early Termination Date, end after the Early Termination Date.

**"Effective Date"** means the date specified as such for a Rate Swap Transaction, which date is the first day of the Term of the Rate Swap Transaction.

**"Event of Default"** means, in respect of a party and a Rate Swap Transaction, any event specified in Section 5(a) of this Agreement or the Confirmation for such Rate Swap Transaction as an Event of Default in respect of that party.

**"Federal Funds Floating Rate Option"** means for any given day, the rate set forth in H.15(519) for that day opposite caption "Federal Funds (Effective)". If such rate is not yet published in H.15(519), the rate will be the rate set forth in Composite 3:30 P.M. Quotations for U.S. Government Securities for that day under the caption "Federal Funds/Effective Rate." If on the Calculation Date the appropriate rate for that day is not yet published in either H.15(519) or Composite 3:30 P.M. Quotations for U.S. Government Securities, the rate for that day will be determined as if the parties had specified "Federal Funds (Reference Dealers)" as the applicable Floating Rate Option.

**"Federal Funds (Reference Dealers)"** means that the rate will be the arithmetic mean of the rates for the last transaction in overnight Federal funds arranged by each Reference Dealer prior to 9:00 a.m., New York City time, on that day.

**"Fixed Amount"** means, in respect of a Rate Swap Transaction, an amount that, subject to Sections 2.4 and 2.5(b), is payable by a Fixed Rate Payor on an applicable Payment Date and determined by reference to a Calculation Period as provided in Section 2.2.

**"Fixed Rate Payor"** means, in respect of a Rate Swap Transaction, a party obligated to make payments from time to time during the Term of the Rate Swap Transaction of amounts calculated by reference to a fixed per annum rate.

**"Floating Amount"** means, in respect of a Rate Swap Transaction, an amount that, subject to Sections 2.4 and 2.5(b), is payable by a Floating Rate Payor on an applicable Payment Date and

determined by reference to the Floating Rate and a Calculation Period as provided in Section 2.3.

**"Floating Rate Payor"** means, in respect of a Rate Swap Transaction, a party obligated to make payments from time to time during the Term of the Rate Swap Transaction of amounts calculated by reference to a floating per annum rate.

**"Government Entity"** means Counterparty.

**"Guaranty"** means the Guaranty of The Goldman Sachs Group, L.P., in substantially the form attached hereto as Exhibit II.

**"H.15(519)"** means the weekly statistical release designated as such, or any successor publication, published by the Board of Governors of the Federal Reserve System.

**"Incipient Illegality"** means (a) the enactment by any legislative body with competent jurisdiction over a Government Entity of legislation which, if adopted as law, would render unlawful (i) the performance by such Government Entity of any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of a Rate Swap Transaction or the compliance by such Government Entity with any other material provision of this Agreement relating to such Rate Swap Transaction or (ii) the performance by a Government Entity or a Specified Entity of such Government Entity of any contingent or other obligation which the Government Entity (or such Specified Entity) has under any Credit Support Document relating to such Rate Swap Transaction, (b) any assertion in any proceeding, forum or action by a Government Entity, in respect of such Government Entity or in respect of any entity located or organized under the laws of the state in which such Government Entity is located to the effect that performance under this Agreement or similar agreements is unlawful or (c) the occurrence with respect to a Government Entity or any Specified Entity of such Government Entity of any event that constitutes an illegality.

**"Incumbency Certificate"** means the Incumbency Certificate, substantially in the form attached hereto as Exhibit IV.

**"Index Percentage"** means, with respect to the Floating Amount payable by any Floating Rate Payor pursuant to any Rate Swap Transaction, the percentage specified as such in the related Confirmation; provided that if no percentage is so specified, the Index Percentage shall be 100%.

**"Legal Opinion of Counsel"** means the legal opinion, substantially in the form attached hereto as Exhibit III.

**"Loss"** means, with respect to a Terminated Transaction and a party, an amount equal to the total amount (expressed as a positive amount) required, as determined as of the relevant Early

Termination Date (or, if an Early Termination Date is deemed to occur, as of a time as soon thereafter as practicable) by the party in good faith, to compensate it or, in the case of GSCM, the person with which GSCM has entered into a transaction offsetting the Rate Swap Transaction with Counterparty that later becomes a Terminated Transaction, for any losses and costs (including loss of bargain and costs of funding but excluding legal fees and other out-of-pocket expenses) that it may incur as a result of the early termination of the obligations of the parties of such Terminated Transaction. If a party determines that it would gain or benefit from such early termination, such party's Loss will be an amount (expressed as a negative amount) equal to the amount of the gain or benefit as determined by such party.

**"Market Quotation"** means, with respect to a Terminated Transaction and a party to such Terminated Transaction making the determination, an amount (which may be negative) determined on the basis of quotations from Reference Market-makers for the amount that would be or would have been payable on the relevant Early Termination Date, either by the party to the Terminated Transaction making the determination (to be expressed as a positive amount) or to such party (to be expressed as a negative amount), in consideration of an agreement between such party and the quoting Reference Market-maker and subject to such documentation as they may in good faith agree, with the relevant Early Termination Date as the date of commencement of such agreement (or, if later, the date specified as the effective date of such Terminated Transaction in the relevant Confirmation), that would have the effect of preserving for such party the economic equivalent of the payment obligations of the parties under Section 2.1(a) in respect of such Terminated Transaction that would, but for the occurrence of the relevant Early Termination Date, fall due after such Early Termination Date (excluding any Unpaid Amounts in respect of such Terminated Transaction but including, without limitation, any amounts that would, but for the occurrence of the relevant Early Termination Date, have been payable (assuming each applicable condition precedent had been satisfied) after such Early Termination Date by reference to any period in which such Early Termination Date occurs). The party making the determination (or its agent) will request each Reference Market-maker to provide its quotation to the extent practicable as of the same time (without regard to different time zones) on the relevant Early Termination Date (or, if an Early Termination Date is deemed to occur, as of a time as soon thereafter as practicable). The time as of which such quotations are to be obtained will, if only one party is obliged to make a determination under Section 6(e), be selected in good faith by that party and otherwise will be agreed by the parties. If more than three such quotations are provided, the Market Quotation will be the arithmetic mean of the quotations, without regard to the quotations having the highest and lowest values. If exactly three such quotations are provided, the Market Quotation will be the quotation remaining after disregarding the quotations having the highest and lowest values. If fewer than three quotations are

provided, it will be deemed that the Market quotation in respect of such Terminated Transaction cannot be determined.

**"Master Resolution"** means the First Amended and Restated Master Resolution establishing The University of Texas System Revenue Financing System adopted by the Counterparty on February 14, 1991, as amended on October 8, 1993 and each Supplemental Resolution thereto authorizing Parity Debt.

**"Notional Amount"** means, in respect of any Calculation Period for a Rate Swap Transaction, the amount specified as such for the related Confirmation.

**"Parity Debt"** means Parity Debt as defined in the Master Resolution.

**"Payment Date"** means, with respect to any Rate Swap Transaction: (a) each day that is five (5) Banking Days after an applicable Period End Date or after the Termination Date; or (b) each day as is otherwise specified in the Confirmation for a Rate Swap Transaction, except that if a Payment Date is otherwise specified in the Confirmation for any Rate Swap Transaction and would fall on a day that is not a Banking Day, an adjustment to the Payment Date for such Fixed Amounts and Floating Amounts as shall be specified in such Confirmation will be made so that such Payment Date will be the first following Banking Day.

**"Period End Date"** means, in respect of a Rate Swap Transaction, each day during the Term so specified or predetermined in the Confirmation for such Rate Swap Transaction or, if Period End Dates are not specified or predetermined in such Confirmation, each Payment Date during the Term of the Rate Swap Transaction.

**"Pledged Revenues"** means Pledged Revenues as defined in the Master Resolution.

**"Power of Attorney"** means the Power of Attorney, substantially in the form attached hereto as Exhibit V.

**"PSA Municipal Swap Index"** means that the rate for a Reset Date will be the rate determined on the basis of an index based upon the weekly interest rate resets of tax-exempt variable rate issues included in a data base maintained by Municipal Market Data which meet specific criteria established by the Public Securities Association and effective for that Reset Date.

**"Rate Protection Transaction"** means any Rate Swap Transaction that is identified in the related Confirmation as a Rate Protection Transaction, Rate Cap Transaction, Rate Floor Transaction or Rate Collar Transaction.

**"Rate Swap Transaction"** means a rate exchange swap transaction.

**"Reference Dealers"** means three leading brokers of Federal funds transactions in New York City.

**"Reference Market-maker"** means four leading dealers in the relevant rate swap market selected by the party determining a Market Quotation in good faith from among dealers of the highest credit standing which satisfy all the criteria that such party applies generally at the time in deciding whether to enter into transactions similar to those contemplated by this Agreement.

**"Related Entity"** means none.

**"Settlement Amount"** means, with respect to a party and any Early Termination Date, the sum of:

(a) the Market Quotations (whether positive or negative) for each Terminated Transaction for which a Market Quotation is determined; and

(b) for each Terminated Transaction for which a Market Quotation is not, or cannot be, determined, such party's Loss (whether positive or negative).

**"Specified Entity"** means in relation to GSCM for the purpose of:

Sections 5(a)(iii), (iv) and (ix), The Goldman Sachs Group, L.P.

Section 5(a)(v), The Goldman Sachs Group, L.P.

Section 5(a)(vi), The Goldman Sachs Group, L.P.

Section 5(a)(vii), The Goldman Sachs Group, L.P.

and in relation to Counterparty for the purpose of:

Sections 5(a)(iii) and (iv) and 5(a)(ix), a Related Entity

Section 5(a)(v), a Related Entity

Section 5(a)(vi), a Related Entity

Section 5(a)(vii), a Related Entity

**"Specified Indebtedness"** means any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) in respect of borrowed money.

**"Specified Swap"** means any currency and/or rate swap, cap, floor, or collar, currency forward, currency exchange, forward rate, future rate, or asset swap transaction or agreement, other

exchange or rate protection transaction or agreement or other similar transaction or agreement (however designated), any combination of such transactions or agreements, or any option with respect to any such transaction or agreement, now existing or hereafter entered into (a) with respect to GSCM, between GSCM (or any applicable Specified Entity) and Counterparty (or any applicable Specified Entity) and (b) with respect to Counterparty, between Counterparty (or any applicable Specified Entity) and any other party, including without limitation GSCM (or any applicable Specified Entity).

"**System**" means The University of Texas System Revenue Financing System established in the Master Resolution.

"**Term**" means the period commencing on the Effective Date of a Rate Swap Transaction and ending on the Termination Date of such Rate Swap Transaction.

"**Terminated Transactions**" means (a) with respect to any Early Termination Date occurring as a result of a Termination Event, all Affected Transactions and (b) with respect to any Early Termination Date occurring as a result of an Event of Default, all Rate Swap Transactions, which in either case are in effect as of the time immediately preceding the effectiveness of the notice designating such Early Termination Date.

"**Termination Date**" means the date specified as such for a Rate Swap Transaction, which date is the last day of the Term of such Rate Swap Transaction.

"**Termination Event**" means, in respect of a party and a Rate Swap Transaction, any event specified in Section 5(b) of this Agreement or the Confirmation for such Rate Swap Transaction as a Termination Event in respect of that party.

"**Threshold Amount**" means \$25,000,000.

"**Trade Date**" means, in respect of a Rate Swap Transaction, the date on which the parties enter into such Rate Swap Transaction.

"**University System**" means The University of Texas System.

"**Unpaid Amounts**" owing to any party means, with respect to any Early Termination Date, the aggregate of the amounts that became due and payable (or that would have become due and payable but for Section 2.5(b) or the designation or occurrence of such Early Termination Date) to such party under Section 2 in respect of all Terminated Transactions by reference to all Calculation Periods ended on or prior to such Early Termination Date and which remain unpaid as at such Early Termination Date, together with (to the extent permitted under applicable law and in lieu of any interest calculated under Section 2.5(c)) interest thereon from (and including) the date such payment became due and payable or would

have become due and payable to (but excluding) such Early Termination Date, calculated as follows:

(a) in the case of amounts that became so due and payable by a Defaulting Party, at the Default Rate; and

(b) in the case of all other such amounts at the Federal Funds Floating Rate Option.

Such interest will be computed as if the rate specified were a Floating Rate, such period were a Calculation Period and the amount due were a Notional Amount; provided, however, that in no event will such interest exceed the maximum amount allowed by law.

#### 14. Notice.

(a) Notices. Any notice or communication in respect of this Agreement will be sufficiently given to a party if in writing and delivered in person, sent by certified or registered mail (airmail, if overseas) or the equivalent (with return receipt requested) or by overnight courier or given by telex (with answerback received) or by confirmed facsimile or similar telecommunications device addressed to the party at its address or telex or facsimile number provided for that purpose.

(b) Effectiveness of Notice. A notice or communication will be effective, if delivered by hand or sent by overnight courier or by facsimile or similar telecommunications device, on the day it is confirmed delivered (or, if that day is not a day on which commercial banks are open for business in the city specified in the address for notice provided by the recipient (a "Local Banking Day"), or if delivered after the close of business on a Local Banking Day, on the first following day that is a Local Banking Day), if sent by telex, on the day the recipient's answerback is received (or if that day is not a Local Banking Day, or if after the close of business on a Local Banking Day, on the first following day that is a Local Banking Day) or, if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), three Local Banking Days after dispatch if the recipient's address for notice is in the same country as the place of dispatch and otherwise seven Local Banking Days after dispatch.

(c) Addresses for Notices.

Address for notice or communications to GSCM:

Address: 85 Broad Street  
New York, New York 10004

Attention: Capital Markets Group

Telex No. 421344 Answerback: GOLSAX

Facsimile No: 212-902-2424  
With a copy to: 85 Broad Street  
New York, New York 10004  
Attention: Treasury Administration  
Telex No: 421344 Answerback GOLSAX  
Facsimile No: 212-902-2799  
Address for notices or communications to Counterparty:  
Address: Board of Regents of the University of  
Texas System  
201 West 7th Street  
Austin, Texas 78701  
Attention: Office of Finance  
Facsimile No: 512-499-4367

#### 15. Other Provisions

(a) Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Texas except that GSCM's rights, remedies, and obligations hereunder shall be governed by and construed in accordance with the laws of the State of New York.

(b) Reserved.

(c) Effective Date. This Agreement is deemed to have come into effect on April 1, 1994.

(d) Accounts. If a Confirmation does not state the account to which payments are to be made, they shall be made as follows:

#### GSCM

Pay: Citibank, N.A., New York  
For the Account of: The Goldman Sachs Group, L.P.,  
for the benefit of Goldman Sachs Capital  
Markets, L.P.  
Account Number/  
CHIPS UID: 4061-6061  
Attention: Capital Markets Group  
Fed. ABA No.: 0210-0008-9

#### Counterparty

Pay: As set forth in the Confirmation  
For the Account of: The University of Texas System  
Account Number/  
CHIPS UID: M2582-00656/#2582-204-001/UTSYSTEMS  
Attention: BNF=GSFG/DDA #4161467/FS-POP  
Fed. ABA No.: 0710-0015-2

(e) Procedures for Entering into Rate Swap Transactions.  
With respect to each Rate Swap Transaction entered into pursuant to this Agreement, GSCM will, on or promptly after the Trade Date thereof, send Counterparty a Confirmation substantially in the standard form of Confirmation utilized by GSCM (which form is attached hereto as Exhibit I) or in such other form as mutually agreed upon by the parties. Counterparty will promptly thereafter confirm the accuracy of or request the correction of such Confirmation (in the latter case, indicating how it believes the terms of such Confirmation should be correctly stated and such other terms which should be added to or deleted from such Confirmation to make it correct).

(f) Reserved.

(g) Severability. If any term, provision, covenant, or condition of this Agreement, or the application thereof to any party or circumstance, shall be held to be invalid or unenforceable (in whole or in part) for any reason, the remaining terms, provisions, covenants, and conditions hereof shall continue in full force and effect as if this Agreement had been executed with the invalid or unenforceable portion eliminated, so long as this Agreement as so modified continues to express, without material change, the original intentions of the parties as to the subject matter of this Agreement and the deletion of such portion of this Agreement will not substantially impair the respective benefits or expectations of the parties to this Agreement; provided, however, that this severability provision shall not be applicable if any provision of Section 2, 5, 6, or 15(a) (or any definition or provision in Section 13 to the extent it relates to, or is used in or in connection with any such Section) shall be so held to be invalid or unenforceable.

(h) No Waiver of Rights. A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise of that right, power or privilege or the exercise of any other right, power or privilege. No payment made or received by a party after the deemed occurrence of an Early Termination Date shall be presumed to operate as a waiver of any right, power or privilege of such party.

(i) Counterparts. This Agreement, and each written agreement relating hereto, may be executed in counterparts, each of which will be deemed an original.

(j) Headings. The paragraph headings used in this Agreement are for convenience of reference only and are not to affect the construction of or be taken into consideration in interpreting this Agreement.

IN WITNESS WHEREOF, the parties have executed this document as of the date specified on the first page of this document.

**GOLDMAN SACHS CAPITAL MARKETS, L.P.**

By: \_\_\_\_\_  
**Goldman Sachs Capital Markets, Inc.**  
**General Partner**

By: \_\_\_\_\_  
Name:  
Title:

**BOARD OF REGENTS  
OF THE UNIVERSITY OF TEXAS SYSTEM**

By: \_\_\_\_\_  
Name:  
Title:

[Letterhead of Goldman Sachs Capital Markets, L.P.]

C O N F I R M A T I O N

DATE: \_\_\_\_\_, 1994

TO: Board of Regents of the University of Texas System  
Office of Finance  
201 West 7th Street  
Austin, Texas 78701  
Telephone No: 512-499-4358  
Facsimile No. 512-499-4367  
Attention: John A. Roan  
Title: Executive Director of Finance

FROM: Chip Carver  
Phone No: (212) 902-8285  
Bradley Wendt  
Phone No: (212) 902-6477  
Facsimile: (212) 902-422-9458  
Goldman Sachs Capital Markets, L.P.

CC: James T. Gavin

SUBJECT: Interest Rate Swap Transaction

REF. NO.: \_\_\_\_\_

Gentlemen:

The purpose of this communication is to set forth the terms and conditions of the interest rate swap transaction entered into on the Trade Date specified below (the "Rate Swap Transaction") between Goldman Sachs Capital Markets, L.P. ("GSCM") and the Board of Regents of the University of Texas System ("Counterparty"). This communication constitutes a "Confirmation" as referred to in the Swap Agreement specified below.

1. If GSCM and Counterparty are parties to an Interest Rate Swap Agreement that sets forth general terms and conditions applicable to interest rate swap transactions between GSCM and Counterparty (the "Swap Agreement"), this Confirmation supplements, forms a part of, and is subject to, such Swap Agreement.

All provisions contained in, or incorporated by reference in, such Swap Agreement shall govern this Confirmation except as expressly modified below. In the event of any inconsistency between this Confirmation and such Swap Agreement, this Confirmation shall control for the purpose of the Rate Swap Transaction to which this Confirmation relates.

2. The terms of the particular Rate Swap Transaction to which this Confirmation relates are as follows:

Notional Amount: USD \_\_\_\_\_  
Trade Date: \_\_\_\_\_, 1994  
Effective Date: \_\_\_\_\_, 1994  
Termination Date: \_\_\_\_\_  
Fixed Amounts:  
    Fixed Rate Payor: \_\_\_\_\_  
    Fixed Rate: \_\_\_\_\_  
    Fixed Rate Day Count Fraction: \_\_\_\_\_  
    Period End Dates: \_\_\_\_\_  
Fixed Rate Payments:  
Payment Dates:  
Floating Amounts:  
    Floating Rate Payor: \_\_\_\_\_  
    Floating Rate Option: \_\_\_\_\_  
    Averaging: \_\_\_\_\_  
    Compounding: \_\_\_\_\_  
    Floating Rate Day Count Fraction \_\_\_\_\_

Calculation Agent:

3. GSCM agrees to provide the following Credit Support Documents:

Guaranty of The Goldman Sachs Group, L.P., to be delivered by GSCM to Counterparty.

4. Account Details:

USD payments to GSCM:  
For the Account of:

The Goldman Sachs  
Group, L.P. for the  
benefit of Goldman Sachs  
Capital Markets, L.P.

Name of Bank:  
Account No.

Citibank, N.A., N.Y.  
4061-6061

Attention:  
Fed ABA No.:

Capital Markets Group  
0210-0008-9

GSCM Settlements:

James T. Gavin  
Swap Administration  
Goldman Sachs Capital  
Markets, L.P.  
Telephone No. 212 902-5774  
Facsimile No. 212 902-2417

Payments to Counterparty:

Board of Regents of the  
University of Texas  
System

Name of Bank:

The Northern Trust  
Company (TNT)

Account No.:

M2582-00656/#2582-204-  
001/UTSYSTEMS

Attention:

BNF=GSFG/DDA #4161467/  
FS-POP

Fed ABA No.:

0710-0015-2

Counterparty Settlements:

5. Please check this Confirmation reference number \_\_\_\_\_  
\_\_\_\_\_ carefully and immediately upon receipt so that errors  
or discrepancies can be promptly identified and rectified. Please  
confirm that the foregoing correctly sets forth the terms of the  
agreement between Goldman and Counterparty with respect to the  
particular Swap Transaction to which this Confirmation relates by  
signing in the space provided below and immediately returning a  
copy of the executed Confirmation to Paul Stolbof, Controllers  
Department, Facsimile No. 212-357-8242.

Very Truly yours,

**GOLDMAN SACHS CAPITAL  
MARKETS, L.P.**

By: Goldman Sachs Capital  
Markets, Inc.,  
General Partner

By: \_\_\_\_\_

Agreed and Accepted By:

**BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

EXHIBIT II

(Date)

Board of Regents of the University of Texas System

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention:

Title: \_\_\_\_\_

Gentlemen:

For valued received, The Goldman Sachs Group, L.P. (the "Guarantor"), a limited partnership duly organized under the law of Delaware, hereby unconditionally guarantees the prompt and complete payment when due, whether by acceleration or otherwise, of all obligations and liabilities, whether now in existence or hereafter arising, of Goldman Sachs Capital Markets, L.P., a subsidiary of the Guarantor and a limited partnership duly organized under the law of Delaware ("GSCM") to the Board of Regents of the University of Texas System ("Counterparty") arising out of or under the Interest Rate Swap Agreement (the "Swap Agreement") dated as of \_\_\_\_\_, 1994 between GSCM and the Counterparty (the "Obligations"). This Guaranty is one of payment and not of collection.

The Guarantor hereby waives notice of acceptance of this Guaranty and notice of the Obligations, and waives presentment, demand for payment, protest, notice of dishonor or non-payment of the Obligations, suit, or the taking of other action by Counterparty against GSCM, the Guarantor, or others.

Counterparty may, at any time and from time to time without notice to or consent of the Guarantor and without impairing or releasing the Obligations of the Guarantor hereunder; (1) make any change in the terms of the Obligations; (2) take or fail to take any action of any kind in respect of any security for the Obligations; (3) exercise or refrain from exercising any rights against GSCM or others in respect of the Obligations; or (4) compromise or subordinate the Obligations, including any security therefor. Any other suretyship defenses are hereby waived by the Guarantor.

This Guaranty shall continue in full force and effect until the opening of business on the fifth business day after

Counterparty receives written notice of termination from the Guarantor. It is understood and agreed, however, that notwithstanding any such termination, this Guaranty shall continue in full force and effect with respect to all Obligations which shall have been incurred in connection with any Rate Swap Transaction as defined in the Agreement prior to such termination.

The obligations of the Guarantor under this Guaranty shall be without recourse to any partner of the Guarantor, and no general or limited partner of the Guarantor, or of any assignee which is resulting, surviving, or transferee entity to substantially all the assets and business of the Guarantor, shall have any personal liability under this Guaranty, and any judgment taken or rendered against the Guarantor or any such assignee under this Guaranty or related thereto shall be enforceable only against the property of the Guarantor or such assignee.

The Guarantor may transfer this Guaranty to any resulting, surviving, or transferee entity pursuant to the Guarantor's consolidation or amalgamation with, or merger into, or transfer of all or substantially all its assets to, or reorganization, incorporation, reincorporation, or reconstitution into or as, another entity.

This Guaranty shall be governed by, and construed and enforced in accordance with, the internal laws of the State of New York.

Very truly yours,

**THE GOLDMAN SACHS GROUP, L.P.**

By: \_\_\_\_\_  
Name:  
Title: General Partner

On this \_\_ day of \_\_\_\_\_, 19\_\_, before me personally came \_\_\_\_\_, whose signature appears above, a general partner of The Goldman Sachs Group, L.P., to me know and known to me to be a member of said firm.

\_\_\_\_\_  
Notary Public

[Letterhead of Counterparty's Legal Counsel]

\_\_\_\_\_, 199\_\_

Goldman Sachs Capital Markets, L.P.  
85 Broad Street  
New York, New York 10004

Dear Sirs:

We are attorneys admitted to practice in the State of Texas and are generally familiar with the affairs of the Board of Regents of the University of Texas System ("Counterparty"). We have examined and are familiar with (i) the documents relating to the creation, authorization, existence, and operation of Counterparty, (ii) the Interest Rate Swap Agreement dated as of \_\_\_\_\_, 199\_\_ between Counterparty and Goldman Sachs Capital Markets, L.P. (GSCM) (the "Swap Agreement"), (the "Agreement"), (iii) all necessary documentation of Counterparty relating to the authorization, execution, delivery, and performance of the Agreement, and (v) such other records and instruments as we deemed advisable.

Based upon the foregoing, we are of the opinion that:

1. Counterparty is the governing body of The University of Texas System, a governmental agency of the State of Texas duly and validly created, authorized, organized, and existing under the constitution and laws of the state of Texas.

2. Counterparty has full legal right power, and authority, and has taken all action necessary, to execute, deliver, and perform its obligations under the Agreement and any other documentation relating to the Agreement that Counterparty is required by the Agreement to execute, deliver, and/or perform, and Counterparty has complied with the provisions of all applicable constitutions, laws, rules, regulations, government codes, constituent or governing instruments, resolutions, guidelines, ordinances, orders, writs, judgments, decrees, and rulings to which Counterparty (or any of its officials in their respective capacities as such) or its property is subject in all matters relating to the authorization, execution, delivery, and performance of the Agreement.

3. The Agreement has been duly authorized, executed, and delivered by Counterparty, is in full force and effect,

constitutes the legal, valid, and binding obligation of Counterparty, and is enforceable against Counterparty in accordance with its terms, subject, as to enforceability, to applicable bankruptcy, reorganization, insolvency, moratorium, or similar laws affecting creditors' rights generally and to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law).

4. All federal, state, and local governmental, public, and regulatory authority approvals, consents, notices, authorizations, registrations, licenses, exemptions, and filing that are required to have been obtained or made by Counterparty with respect to the authorization, execution, delivery, and performance by, or the enforcement against or by, Counterparty of the Agreement have been obtained and are in full force and effect and all conditions of such approvals, consents, notices, authorizations, registrations, licenses, exemptions, and filings have been fully complied with.

5. The authorization, execution, delivery, and performance of the Agreement and compliance with the provisions thereof do not and will not conflict with, violate, or constitute a breach of or default under, any instrument relating to the creation, authorization, organization, existence, or operation of Counterparty, any commitment, agreement, or other instrument to which Counterparty is a party or by which it or its property or assets is bound or affected, or any constitution, law, rule, regulation, government code, resolution, guideline, ordinance, judgment, order, writ, decree, or ruling to which Counterparty (or any of its officials in their respective capacities as such) or its property is subject.

6. There is no action, suit, claim, proceeding, inquiry, or investigation, at law or in equity or by or before any court, governmental or public board, body, or agency, or regulatory authority, or private arbitration association, pending or, to our knowledge, threatened against or affecting Counterparty or any entity affiliated with Counterparty (or any of its officials in their respective capacities as such) or any of its property (nor to our knowledge is there any basis therefore), which in any way questions the right, power, or authority of Counterparty referred to in paragraph 2 above, the validity of the proceeding taken by Counterparty in connection with the authorization, execution, delivery, or performance of the Agreement, or the Agreement, or wherein any unfavorable decision, ruling, or finding could adversely affect the transactions contemplated by the Agreement or which in any way could adversely affect the Agreement or the legality, validity, binding effect, or enforceability thereof.

7. Counterparty is not in violation or breach of or default under any constitution, law, rule, regulation, order, writ, decree, ruling, commitment, agreement, or other instrument to which Counterparty (or any of its officials in their respective capacities as such) or its property is subject, adversely affect

the Agreement or the legality, validity, binding effect, or enforceability thereof, the ability of Counterparty to perform its obligations under the Agreement, or the financial condition or operations of Counterparty.

8. Counterparty (the "Board") had the lawful authority to adopt its April 14, 1994 Resolution (the "Resolution"), each member of the Board has been duly appointed a member thereof pursuant to the constitution and laws of the State of Texas, the Resolution authorizes the execution, delivery, and performance by Counterparty of the Agreement in connection with the Board of Regents of The University of Texas System Revenue Financing System Commercial Paper Notes, Series creates a valid, binding, and enforceable pledge of Pledged Revenues (as defined in the Agreement to secure the payment obligations of Counterparty under the Agreement, the Resolution is in full force and effect, and the Resolution complied as to form and substance with, and does not violate any applicable, constitution, law, rule, regulation, government code, constituent or governing instrument, resolution, guideline, ordinance, order, writ, judgment, decree, or ruling to which Counterparty (or any of its officials in their respective capacities as such) or its property is subject.)

9. The obligations of Counterparty to make payments under the Agreement constitute special, Pledged Revenues obligations of Counterparty and are secured by a pledge of and a lien and charge upon the Pledged Revenues and are payable from such revenues on a parity with the Parity Debt and other indebtedness hereafter issued or incurred and payable from such Pledged Revenues on a parity with the Parity Debt and do not constitute any kind of indebtedness of Counterparty or any indebtedness for which the faith and credit of Counterparty or any of its revenues are pledged or any indebtedness secured by any lien on or security interest in any property of Counterparty as defined under and/or proscribed by any constitution, charter, law, rule, regulation, government code, constituent or governing instrument, resolution, guideline, ordinance, order, writ, judgment, decree, or ruling to which Counterparty (or any of its officials in their respective capacities as such) or its property is subject.]

Very truly yours,

**INCUMBENCY AND SIGNATURE CERTIFICATE**

The undersigned, the \_\_\_\_\_, of the Board of Regents of the University of Texas System, a \_\_\_\_\_ duly and validly existing under the constitution and laws of the State of Texas ("Counterparty"), hereby certifies that:

1. The Interest Rate Swap Agreement dated as of \_\_\_\_\_, 1994, including the Confirmations and other exhibits, supplements, and attachments thereto and documents incorporated by reference therein (collectively the "Rate Swap Agreement Documentation"), between Counterparty and Goldman Sachs Capital Markets, L.P. have been duly executed and delivered in the name and on behalf of Counterparty by the following official, whose title and signature appear below:

<u>NAME</u>	<u>TITLE</u>	<u>SIGNATURE</u>
-------------	--------------	------------------

2. The foregoing official who, on behalf of Counterparty, executed and delivered the Rate Swap Agreement Documentation was at the date thereof and it now duly authorized to perform such acts at the respective times of such acts, and the signature of such person appearing on the Rate Swap Agreement Documentation is his genuine signature.

**IN WITNESS WHEREOF**, the undersigned has executed this certificate this \_\_ day of \_\_\_\_\_, 1994.

\_\_\_\_\_

By:  
Title:

I, \_\_\_\_\_, a \_\_\_\_\_ of \_\_\_\_\_ ("Counterparty"), hereby certify that \_\_\_\_\_ is a duly elected, qualified, and acting \_\_\_\_\_ of Counterparty and that the signature appearing above is his genuine signature.

IN WITNESS WHEREOF, I have hereunto signed my name the \_  
day of \_\_\_\_\_, 1994.

---

Name:  
Title:

EXHIBIT V

POWER OF ATTORNEY

The Power of Attorney Expires on \_\_\_\_\_, 19\_\_ **KNOW ALL MEN BY THESE PRESENTS** that **GOLDMAN SACHS CAPITAL MARKETS, L.P.**, a Delaware limited partnership, whose principal place of business is at 85 Broad Street, New York, New York, 10004, does hereby make, constitute, and appoint Mark Schwartz, Paul F. Jacobson, Jacob Z. Schuster, Thomas R. Pura, Thomas K. Montag, John E. Eisenberg, Kevin Cunningham, William F. Kerins, Christine L. Thomas, Paul Kuo and David Boren and each of such foregoing persons, acting alone, as its true and lawful attorneys, with the power and authority specified below, to be exercised by said attorneys signing their individual names only, to act for it in connection with transactions effected with the Board of Regents of the University of Texas System ("Counterparty"), giving and granting unto said attorneys as specified below full power and authority to execute the Interest Rate Swap Agreement dated as of \_\_\_\_\_, 1994 (the "Agreement") and any and all documents pertaining to or to be delivered in connection with the Agreement (Jacob Z. Schuster and Christine L. Thomas), and to execute any and all confirmations pertaining to or to be delivered in connection with the Agreement (all of said attorneys other than Jacob Z. Schuster and Christine L. Thomas), hereby giving and granting unto said attorneys full power and authority to act as aforesaid as fully to all intents and purposes as **GOLDMAN SACHS CAPITAL MARKETS, L.P.** might or could do if personally present by one of its partners, and hereby ratifying and confirming all that any of said attorneys shall lawfully do pursuant to this Power of Attorney, but reserving to said firm of Goldman Sachs Capital Markets, L.P. full power of revocation. Said Counterparty may act upon the faith of the original hereof (but not any copy) until the stated expiration dated of this Power Attorney or until such earlier time as notice in writing of the termination of this Power of Attorney or any authority granted hereunder shall be delivered to said Counterparty by **GOLDMAN SACHS CAPITAL MARKETS, L.P.**

IN WITNESS WHEREOF, **GOLDMAN SACHS CAPITAL MARKETS, L.P.** has hereunto set its hand this \_\_\_\_\_ day of \_\_\_\_\_, 1994.

By: Goldman Sachs Capital  
Markets, Inc.,  
General Partner

By: \_\_\_\_\_

6. U. T. System: Recommendation to Amend the Policy on Contracting with Minority and Female-Owned Small Business Firms.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs, the Executive Vice Chancellor for Health Affairs, and the Executive Vice Chancellor for Business Affairs that the U. T. System Policy on Contracting with Minority and Female-Owned Small Business Firms be amended as set out below in congressional style:

POLICY ON UTILIZATION OF HISTORICALLY UNDERUTILIZED  
[CONTRACTING-WITH-MINORITY-AND-FEMALE-OWNED  
SMALL] BUSINESS (HUB) FIRMS

I. POLICY STATEMENT

A. Purpose

It is the policy of The University of Texas System to maximize opportunities for Historically Underutilized Business (HUB) firms to provide materials, supplies, equipment, and services needed to support mission, administrative, and logistical operations of U. T. System Administration and U. T. System component institutions. U. T. System Administration and component institutions commit to a good faith effort to increase the number and value of business transactions with HUB firms consistent with the state's functional goal to build a solid foundation for social and economic prosperity [encourage-minority-and female-owned-small-businesses-to-bid-for-U.-T.-System-and-component-institution-contracts-and open-market-purchases-and-to-assist-these-businesses-in-that-bidding].

B. Scope

This policy applies to acquisition of materials; supplies; equipment; professional, consulting, or other services; and capital improvements by [all-procurement-and-contract activities-of-the] U. T. System Administration and component institutions, including auxiliary enterprises, regardless of funding source (treasury or non-treasury funds).

C. Definitions

1. "Historically Underutilized Business"  
["Minority-or-female-owned-small-business"] means a business enterprise[+

;----That-is-independently-owned-and-operated;]  
formed for the purpose of making a profit  
[;-and-has-fewer-than-100-employees-or  
less-than-\$1,000,000-in-annual-gross  
receipts

2.---At] in which at least 51% of all classes of the shares of stock or other equitable securities or assets and interest are [which-is] owned [or-controlled] by one or more persons who: (a) are [is] socially [and-economically] disadvantaged because of their [his-or-her] identification as [a] members of certain groups[7] and who have suffered the effects of discriminatory practices over which they have no control, and (b) demonstrate active participation in the control, operation, and management of the enterprise's affairs [including-women;-Black-Americans;-Mexican-Americans-and-other-Americans-of-Hispanic-origin;-Asian-Americans;-and-American Indians].

2. "Socially Disadvantaged Groups" mean and include:

- (a) Black Americans - includes persons having origins in any of the Black racial groups of Africa;
- (b) Hispanic Americans - includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
- (c) Women - includes all women of any ethnicity;
- (d) Asian Pacific Americans - includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U. S. Trust Territories of the Pacific and the Northern Marianas; and,
- (e) Native Americans - includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians.

3. "Forms of Historically Underutilized Business Enterprises" mean and include:

- (a) A corporation in which at least 51% of all classes of the shares of stock or other equitable securities are owned by one or more persons described in C.2 above,
- (b) A sole proprietorship that is 100% owned by a person described in C.2 above,
- (c) A partnership in which at least 51% of the assets and interests in the partnership is owned by one or more persons described in C.2 above,
- (d) A joint venture in which each entity in the joint venture is an historically underutilized business, and

(e) A supplier contract between an historically underutilized business and a prime contractor under which the historically underutilized business is directly involved in the manufacture or distribution of the supplies or materials or otherwise warehouses and ships the supplies.

4. "Treasury Funds" are funds maintained in the state treasury and paid through the State Comptroller's Office for U. T. System Administration or a component institution.

5. "Non-Treasury Funds" are all funds paid by U. T. System Administration or a component institution that are not deposited in the state treasury.

## II. U. T. SYSTEM ADMINISTRATION AND COMPONENT INSTITUTION RESPONSIBILITIES

### A. U. T. System Administration

1. The Chancellor, with support from and delegation to the Executive Vice Chancellor for Academic Affairs and the Executive Vice Chancellor for Health Affairs, exercises oversight responsibility for implementation of policies outlined herein by the U. T. System as a whole and is responsible for policy implementation in U. T. System Administration.

2. The Executive Vice Chancellor for Business Affairs provides functional staff expertise and support and advises the Chancellor, the Executive Vice Chancellor for Academic Affairs, and the Executive Vice Chancellor for Health Affairs regarding all phases of the HUB program.

### B. U. T. System Component Administration

The Chief Administrative Officer (CAO) of each component institution is responsible for implementation of policies and procedures promulgated herein at his/her institution. CAOs will develop strategic and action plans necessary for effective implementation of the HUB program.

**[A.---Procedures**

**[In-order-to-achieve-this-policy,-the-office-or department-exercising-the-central-purchasing function-in-the-U.-P.-System-and-each-component institution-will:**

- 1.---Prepare,-publicize,-and-distribute-information-about-procurement-procedures-and policies-in-a-manner-designed-to-encourage minority-and-female-owned-small-businesses to-do-business-with-the-System-or-component**
- 2.---Maintain-updated-lists-of-minority-and female-owned-small-businesses-through-communication-with-the-U.-P.-System,-the local-minority-business-community-in-the component-city,-the-State-Purchasing-and General-Services-Commission,-and-the-Texas Department-of-Commerce-Office-of-Minority Business-Development**
- 3.---Consult-and-use-on-an-alternating-basis with-other-businesses-providing-the-same goods-or-services-the-minority-and-female-owned-small-business-lists-for-purchases requiring-only-one-bid-or-proposal**
- 4.---Ensure,-whenever-possible,-that-one-or more-qualified-minority-and-female-owned small-business-is-included-in-solicitations-requiring-more-than-one-bid-or-proposal**
- 5.---Specify-personnel-within-the-office-or department-to-communicate-with-minority and-female-owned-small-businesses-to assist-such-companies-in-understanding purchasing-procedures-and-to-encourage their-bidding-or-submitting-proposals on-goods-and-services-for-which-they-are qualified**
- 6.---Award-tie-bids-to-minority-and-female-owned-small-businesses-wherever-consistent with-state-and-federal-laws-and-State-Purchasing-and-General-Services-Commission regulations**
- 7.---Adopt-in-conjunction-with-the-U.-P.-System and-other-purchasing-departments-and offices-information-forms-for-minority-and female-owned-small-businesses-with-pertinent-qualifying-data**
- 8.---Ensure-that-offices,-departments,-or-divisions-of-the-U.-P.-System-or-a-component institution-not-required-to-handle-contracts-through-the-System's-or-component's central-purchasing-unit-have-access-to-the minority-and-female-owned-business-lists**

9.---Report-to-the-U.-P.-System's-Office-of-Business-Affairs-on-an-annual-basis-the-number,-types,-and-value-of-contracts-awarded-to-minority-and-female-owned-small-businesses-in-the-year-preceding-the-determination-and-the-ratio-of-the-number-and-value-of-these-contracts-to-the-number-and-value-of-all-contracts-awarded-by-the-U.-P.-System-or-component-institution-in-that-year.

B.---Coordination-and-Evaluation

The-U.-P.-System-Office-of-Business-Affairs,-in-conjunction-with-the-chief-business-officer-and-central-purchasing-office-or-department-of-each-component-institution,-will-develop-procedures-for:

- 1.---Sharing-minority-and-female-owned-small-business-lists-between-and-among-the-U.-P.-System-and-the-component-institutions
- 2.---Record-keeping-and-documenting-U.-P.-System-and-component-institutions-contracting-information-concerning-minority-and-female-owned-small-businesses
- 3.---Coordinating-between-and-among-the-U.-P.-System-and-component-institutions-in-providing-programs,-seminars,-or-classes-for-small-businesses-in-business-operations-and-management
- 4.---Undertaking-periodic-surveys-of-the-effectiveness-of-this-policy-and-recommending-necessary-methods-of-improvement
- 5.---Providing-other-information-as-will-encourage-and-assist-minority-and-female-owned-small-businesses-in-contracting-with-the-System-and-each-component
- 6.---Recommending-methods-of-educating-U.-P.-System-and-component-personnel-making-procurement-decisions-about-this-policy-and-ensuring-that-all-offices-and-departments-of-the-U.-P.-System-or-a-component-institution-not-handling-contracts-through-a-central-purchasing-unit-use-minority-and-female-owned-small-business-lists-in-the-same-manner-required-of-the-central-purchasing-unit.

C.---U.-P.-System-Administration

The-Vice-Chancellor-for-Business-Affairs-of-the-U.-P.-System-will-be-responsible-for-administering-U.-P.-System-responsibilities-described-in-this-policy.

D.---Component-Administration

The-chief-business-officers-of-each-component-institution-will-be-responsible-for-administering-component-responsibilities-described-in-this-policy.]

### III. PROCEDURES

- A. Specify an operating division structure for the purpose of defining responsibility and accountability for achieving HUB program goals and objectives (line and block diagram with necessary explanatory narrative/notes). Include that structure in strategic and action plans required by Section II.B above.
- B. Establish a staff coordinating group (SCG), chaired by the Chief Business Officer, to provide functional staff expertise, advice, and counsel regarding implementation of all aspects of the HUB program. Organization of the SCG shall include the directors, or comparable supervisors, of budget, accounting, purchasing, information services, and physical plant functions, and HUB coordinators. Other staff representation may be added at the discretion of the Chief Administrative Officer.
- C. Establish an outreach program designed to contact and maintain continuous liaison with the local/regional HUB business community. Two major objectives of this program are (1) to become knowledgeable of HUB firms capable of supplying needed materials, supplies, equipment, and services, and (2) to inform the HUB business community of business opportunities with component institutions and of requisite business processes and procedures.
- D. Establish an inreach program designed to educate and provide functional staff expertise to operating division heads, who exercise budget expenditure authority, and their staffs. All staff engaged in daily procurement operations must be knowledgeable of and vigorously implement HUB program goals, objectives, strategies, and action plans.
- E. Develop and maintain a HUB utilization reporting system (§111.19, 18 Texas Register 6832, October 5, 1993). Compile monthly data by operating division; compile data sufficient to satisfy reporting requirements of the General Services Commission (GSC) and to produce output and outcome measures specified in institutional strategic plans, including output/outcome measures by ethnic/gender divisions of HUB firms. Reports submitted to the GSC and to U. T. System (subparagraph I below) will be certified by the Chief Administrative Officer or the Chief Business Officer.
- F. Give preference, among bids or other proposals that are otherwise comparable, to the bid or other proposal by a GSC certified HUB firm having its home office located in this state whenever consistent with state and federal laws and GSC regulations.
- G. Utilize and supplement, as appropriate, non-competitive and competitive bid procedures for delegated purchases published by the GSC in support of HUB objectives.

- H. Establish a system to monitor individual buyer performance as it relates to institutional HUB program goals and objectives.
- I. Report progress toward HUB program objectives as requested by U. T. System Administration.

#### BACKGROUND INFORMATION

The Policy on Contracting with Minority and Female-Owned Small Business Firms was approved by the U. T. Board of Regents in August 1990 pursuant to action by the 71st Legislature. Actions by the 72nd and 73rd Legislatures, and by the Office of the Governor, through Executive Order AWR 93-7, define new program eligibility criteria and administrative rules.

The proposed amendments rename the policy, identify administrative responsibilities, specify required program elements, and establish a new management emphasis consistent with the new legislation.

- 7. U. T. System Administration and U. T. Austin: Request for Approval to Amend Resolution Regarding the List of Individuals Authorized to Negotiate, Execute, and Administer Classified Government Contracts (Managerial Group).--

#### RECOMMENDATION

The Chancellor recommends that the U. T. Board of Regents approve the amended resolution set out below updating the list of named members of the U. T. Board of Regents as shown under item d., with the understanding that the list of officers cleared for access to classified material and authorized to negotiate, execute, and administer classified government contracts does not change.

BE IT RESOLVED:

- a. That those persons occupying the following positions among the officers of The University of Texas System shall be known as the Managerial Group as described in the Department of Defense Industrial Security Manual for Safeguarding Classified Information:

William H. Cunningham, Chancellor, Chief Executive Officer

Arthur H. Dilly, Executive Secretary to the Board of Regents

Robert M. Berdahl, President, U. T. Austin

Gerhard J. Fonken, Executive Vice President and Provost, U. T. Austin

G. Charles Franklin, Vice President for Business Affairs, U. T. Austin

Wayne K. Kuenstler, Director, Office of Sponsored Projects, U. T. Austin; U. T. System a.k.a.

U. T. Austin Security Supervisor

Bobby C. McQuiston, Associate Director, Office of Sponsored Projects, U. T. Austin

- b. That the Chief Executive Officer and the members of the Managerial Group have been processed or will be processed for a personnel clearance for access to classified information, to the level of the facility clearance granted to the institution, as provided for in the aforementioned Industrial Security Manual, and all replacements for such positions will be similarly processed for security clearance.
- c. That the said Managerial Group is hereby delegated all of the Board's duties and responsibilities pertaining to the protection of classified contracts of the Department of Defense, or User Agencies of its Industrial Security Program, awarded to the institutions of The University of Texas System.
- d. That the following named members of the U. T. Board of Regents shall not require, shall not have, and can be effectively excluded from access to all classified information in the possession of The University of Texas System and do not occupy positions that would enable them to affect adversely the policies and practices of the institutions of The University of Texas System in the performance of classified contracts for the Department of Defense, or User Agencies of its Industrial Security Program, and need not be processed for a personnel clearance:

Members of the U. T. Board of Regents:

Bernard Rapoport, Chairman  
Ellen Clarke Temple, Vice-Chairman  
Lowell H. Lebermann, Jr., Vice-Chairman  
Robert J. Cruikshank  
Thomas O. Hicks  
Zan W. Holmes, Jr.  
Tom Loeffler  
Mario E. Ramirez, M.D.  
Martha E. Smiley

#### BACKGROUND INFORMATION

The proposed resolution is needed to comply with the Department of Defense Industrial Security Manual requirements and to provide for the exclusion of named members of the U. T. Board of Regents. Other than for changes to include the current Board members, the proposed resolution is identical to the one adopted in June 1993.

Academic Affairs Com.

ACADEMIC AFFAIRS COMMITTEE  
Committee Chairman Holmes

Date: April 14, 1994  
Time: Following the meeting of the Business Affairs  
and Audit Committee  
Place: Auditorium (Room 119), Biomedical Research  
Building, U. T. Health Center - Tyler

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15. U. T. San Antonio and U. T. Health Science Center - San Antonio: Recommendation to Formalize Membership in the Southwest Research Consortium, San Antonio, Texas, and Request for Authorization to Execute Proposed Cooperative Agreement 44

1. U. T. System: Proposal to Revise the Policy Regarding the Sale of Duplicate Rare Volumes Held in Various Library Collections.--

#### RECOMMENDATION

The Chancellor concurs with the recommendation of the Executive Vice Chancellor for Academic Affairs and the Executive Vice Chancellor for Health Affairs that the U. T. System policy regarding the sale of duplicate rare volumes held in various library collections be revised and reissued as set forth below in congressional style:

#### Policy Guidelines Regarding the Sale of Art Work or Duplicate Rare Volumes Held in Various University [Library] Collections

- a. The disposability and current fair market value of any such volume or of any such work of art shall be certified by a three member[s] panel of university [The-University] faculty and administration including an expert bibliographer[7] or art historian.
- b. The University of Texas System institutions shall be given first choice in acquiring any such item.
- c. A permanent record of disposition and future location of the items shall be kept.
- d. Proceeds shall be used for purchases to improve [improvement-of] the collection from which the item is drawn.
- e. Upon approval by the appropriate Executive Vice Chancellor, an [An] annual report shall be made to the U. T. Board of Regents via inclusion in the institutional docket each October under "Other Fiscal Matters." The [and-filed-with the-Secretary,-the] report shall [to] summarize [both] the disposition of duplicate[s-and-of] works of art and rare volumes [the-nature-of the-future-acquisitions-(by-exchange-volumes-or by-purchase)].

This item requires the concurrence of the Health Affairs Committee.

#### BACKGROUND INFORMATION

In order to permit sale of rare books, the U. T. Board of Regents adopted a U. T. System policy at the April 1964 meeting regarding the sale of duplicate rare volumes held in various library collections. The policy was amended in November 1968 and again at the April 1981 U. T. Board of Regents' meeting to authorize deaccessioning of certain art work as well. The current proposal recommends revising the policy to broaden its applicability to all university collections, to require the establishment of fair market value

prior to disposition of works of art or duplicate rare volumes, and to modify the reporting requirement to allow annual reporting via the October institutional docket.

2. U. T. System: Recommendation to Amend the Policy for Student Deposit Endowment Fund.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and the Executive Vice Chancellor for Health Affairs that the general policy guidelines for the administration of the institutional Student Deposit Endowment Fund be amended as set forth below in congressional style:

Policy for Student Deposit Endowment Fund

- (1) A Student Deposit Endowment Fund, to be managed in a manner consistent with U. T. System endowment policies, is to be established on behalf of each U. T. System component institution with forfeited student general property deposits.
- (2) That portion of the current balance of each student deposit fund consisting of the aggregated sums of unexpended student general property deposits forfeited under Section 54.5021 of the Texas Education Code are to be transferred into the Student Deposit Endowment Fund, effective with establishment of the endowment.
- (3) ~~[All-future-general-property-deposits-forfeited-pursuant to-Section-54.5021-of-the-Texas-Education-Code-are-to-be added-to-the-corpus-of-the-Student-Deposit-Endowment-Fund as-soon-as-practicable-after-forfeiture.]~~
- {4}] Income from investment of the Student Deposit Endowment Fund is to be used to award scholarships to needy and deserving resident students to the extent authorized by Subsection (b) of Section 54.5021, Texas Education Code. Administrative expenses may not be charged against the Fund.

This item requires the concurrence of the Health Affairs Committee.

BACKGROUND INFORMATION

In February 1989, the U. T. Board of Regents standardized procedures related to the handling and use of forfeited general property deposits at all component institutions through the formal establishment of an endowment for each component institution. At the same time, the Board also approved general policy guidelines, consistent with long-standing institutional practices at U. T. Austin and U. T. El Paso, for each institutional Student Deposit Endowment Fund. In December 1989, the U. T. Board of Regents approved similar endowment funds for U. T. Pan American and U. T. Brownsville.

Recent amendment to Section 54.5021 of the Texas Education Code (H.B. 982), as interpreted by the Texas Higher Education Coordinating Board staff on August 25, 1993, acknowledges the continued validity of this type of endowment if established prior to the effective date of the legislation. However, no further additions are to be made to the endowments using forfeited general property deposits and administrative expenses may not be charged against the Fund. The proposed amendments clarify this requirement.

3. U. T. System: Request for Authorization to Submit to the Coordinating Board Role and Mission Statements and Tables of Programs for General Academic Institutions.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and the Presidents of the general academic component institutions that authorization be granted for the U. T. System Administration to submit to the Texas Higher Education Coordinating Board revised Role and Mission Statements and Tables of Programs which are consistent with the respective component institution's long-range strategic plan and the consolidated Table of Programs shown on Page AAC - 7.

#### BACKGROUND INFORMATION

Section 61.051 of the Texas Education Code requires the Texas Higher Education Coordinating Board to review periodically the Role and Mission Statements, Tables of Programs, and all degree and certificate programs offered by public institutions of higher education. Tables of Programs for U. T. System general academic institutions were last reviewed and approved by the Coordinating Board in October 1990. The next comprehensive review and amendment to those tables will provide the framework and planning authorization for new degree programs to be implemented during the following four years. Upon approval by the U. T. Board of Regents, the U. T. System Administration will be authorized to negotiate with the Coordinating Board staff to expand the Tables of Programs adequately to provide for the planned addition of new degree programs.

The U. T. Board of Regents first approved Tables of Programs for U. T. component institutions in June 1984 as a part of the U. T. System strategic planning process. Those Tables of Programs have guided planning in the U. T. System since that time. Subsequently, the Coordinating Board adopted more detailed tables using footnotes in some instances to restrict degree program authority to subsets of the broad discipline categories shown in the tables. The Coordinating Board staff has indicated that they will continue to use the footnote approach. Consequently, U. T. System Administration and the institutional administrations will be called upon to work with Coordinating Board staff to resolve issues associated with

those footnotes. The U. T. System Administration recommends that the U. T. Board of Regents continue to adopt the more generalized form of Tables of Programs first used in 1984 and followed in the consolidated Table of Programs.

The scope of programs recommended for each component institution is based primarily upon the size of the population served by that institution and the number of degrees which a population of that size might be expected to earn annually. If the number of degrees for a given level and discipline is low, the corresponding row and column in the table is left blank and the university does not seek approval to establish programs in that discipline and level. Exceptions are made at the undergraduate level for the core disciplines in the liberal arts and sciences and at any level and discipline where special circumstances lead to the conclusion that a strong program can be developed with an adequate number of students to operate efficiently.

National data on degrees awarded in the United States as a whole have been used as guidelines for the development of these tables. Within the two categories, core disciplines and professional programs, the disciplines are listed in descending order from the discipline in which the most degrees are awarded to the discipline category in which the fewest degrees are awarded. All categories used are those in a national taxonomy for classifying academic programs. As a general rule, institutions serving a larger population will have degree program authority for more categories than will smaller institutions.

The Role and Mission Statement and Table of Programs for each institution will be reported to the U. T. Board of Regents after they have been approved by the Coordinating Board. The Coordinating Board tentatively plans to consider the documents for the U. T. System general academic institutions at its April 1994 meeting and for U. T. System health-related institutions at its October 1994 meeting.

Table 1

TABLE OF PROGRAMS  
UNIVERSITY OF TEXAS SYSTEM  
ACADEMIC INSTITUTIONS  
March 1994

Disciplines	Bachelor								Masters								Doctors											
	A R L	A R L	B R L	D R L	E R L	P R L	P R L	S R L	T R L	A R L	A R L	B R L	D R L	E R L	P R L	P R L	S R L	T R L	A R L	A R L	B R L	D R L	E R L	P R L	P R L	S R L	T R L	
<b>ARTS &amp; SCIENCES</b>																												
Social Sciences	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1		1	2				1
Psychology	1	1	1	1	1	1	1	1	1	1	1		1	1	1	1	1	1	1	1	1		1	1				
Letters	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1		1	2				2
Visual/Performing Arts	1	1	1	1	1	1	1	1	1	1	1		1	1	0	1	1	1	1	1								
Life Sciences	1	1	1	1	1	1	1	1	1	1	1	2	1	1	1	1	1	1	1	1	1		1	2				1
Physical Sciences	1	1	1	1	1	1	1	1	1	1	1		1	1	2	1	1	1	1	1	1		1	1				
Mathematics	1	1	1	1	1	1	1	1	1	1	1	2	1	1	1	1	1	1	1	1	1		1					2
Foreign Languages	1	1	1	1	1	1	1	1	1	1	1	1		1	1		1	1	1	1	1		2	2				
Philosophy	1	1		1	1	1		1	1	1	1		1	1		0	1		1	1								
<b>PROFESSIONS</b>																												
Business Mgmt & Adm. Svcs.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1		1	2	1			2
Education										1	1	1	1	1	1	1	1	1	1	1		1	1	1			1	1
Parks, Rec. & Fitness Stds	1	1	1		1	1	1	1	1	1	1	1		2				1		1								
Engineering	1	1		1	1	1	0	1		1	1		1	1	2	0	1			1	1		1	1				1
Health Professions & Rel. Sci.	1	1	1	1	1	1	2	1	1	1	1	2	1	1	1		1	1	1	1	*		1	2				
Communications	1	1	2	1	1	1	1	1	1	1	1		1	1	2					1	1							
Computer & Information Sci.	1	1	1	1	1	1	1	1	1	1	1		1	1	2	1	1	1	1	1	1		1					1
Engineering--Related Tech.			1		1	1		1										1										
Public Admin. & Services	1	1	1	1	1	1		1		1	1	2	1	1	1		1	1	1	1	1		1	2				
Protective Services	1	1		1	1	1	1	1	1	1	2		2	2														
Home Economics		1	2		2	1				1				2			1		1	1								
Architecture & Rel. Prgms	1	1			2			1		1	1						1		1	2	1							
Marketing, Oper. & Dist.								1										1										
Conservation & Re. Nat. Res.						2							1	2									1	2				
Law & Legal Studies	1		2							1										1*								
Library Science		1								1			2							1								
<b>INTERDISCIPLINARY</b>																												
Liberal A&S, Gen. Studies	1	1	1	1	1	1	1	1	1	1	1		1	1			1	1	1	1			1					2
Multi/Interdisciplinary Studies	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1							
Area, Ethnic, & Cultural Stds	1		1	1	1		1			1	2	1	1	1		1				1								

\* Includes professional degree programs for J.D., Pharm.D.

**KEY - Table of Programs Authorization Status**

0. Institutions are deleting previously received U. T. Board of Regents authority to develop degree programs in this discipline and level.
1. Institutions have been given authority by the U. T. Board of Regents to develop degree programs in this discipline and level, although in some instances no program is currently offered.
2. Institutions are requesting U. T. Board of Regents authority to develop degree programs in this discipline and level.

4. U. T. Arlington: Recommendation to Approve an Increase in University Housing Rates Effective with the Fall Semester 1994 (Catalog Change).--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Amacher that the U. T. Board of Regents approve an increase in rental rates for University-owned residence halls (dormitories) and apartments at U. T. Arlington to be effective with the Fall Semester 1994 as set out below:

The University of Texas at Arlington  
Proposed Rate Schedule for 1994-95

University-Owned Residence Halls (Dormitories)

	<u>1993-94</u> <u>Current Rate</u>	<u>1994-95</u> <u>Proposed Rate</u>
<u>LONG SESSION</u>		
Lipscomb (North)	\$1,380	\$1,420
Lipscomb (South)	1,380	1,420
Trinity	1,380	1,420
Brazos	1,220	1,260
Pachl	1,220	1,260
<u>SUMMER SESSION</u>		
Lipscomb (North)	480	480
Lipscomb (South)	480	480
Trinity	480	480
Brazos	480	480
Pachl	480	480
Summer Groups	\$10 per night per person	\$10 per night per person

Apartments

<u>Complex</u>	<u>No. of</u> <u>Units</u>	<u>Monthly Rate</u>	
		<u>1993-94</u> <u>Current</u> <u>Rate</u>	<u>1994-95</u> <u>Proposed</u> <u>Maximum</u>
Border West			
1 bedroom	17	\$345	\$355
2 bedroom	19	454	464
Cooper South			
1 bedroom	14	345	355
2 bedroom	15	454	464

<u>Complex</u>	<u>No. of Units</u>	<u>Monthly Rate</u>	
		<u>1993-94 Current Rate</u>	<u>1994-95 Proposed Maximum</u>
<b>West</b>			
1 bedroom	7	281*	291*
2 bedroom	7	400*	410*
<b>Pisces</b>			
1 bedroom	58	308	318
2 bedroom	1	454	464
<b>Capricorn</b>			
1 bedroom	48	324	334
1 bedroom	4	335	345
<b>Campus</b>			
1 bedroom	28	281*	291*
3 bedroom	1	389*	399*
<b>San Suz</b>			
1 bedroom	22	254*	264*
2 bedroom	1	384*	394*
<b>Del Mar</b>			
1 bedroom	12	237*	247*
<b>Shelmar North</b>			
1 bedroom	12	237*	247*
<b>Shelmar South</b>			
1 bedroom	7	291	301
2 bedroom	1	324	334
<b>University Village</b>			
1 bedroom	80	324*	334*
1 bedroom	28	345*	355*
1 bedroom	12	340*	350*
1 bedroom	4	368*	378*
1 bedroom	4	368*	378*
<b>Warwick II</b>			
1 bedroom	5	324	334
1 bedroom	12	335	345
<b>Warwick III</b>			
1 bedroom	14	324	334
<b>Warwick V</b>			
Efficiency	1	237	247
1 bedroom	3	345	355
1 bedroom	8	356	366
<b>Keys</b>			
1 bedroom	70	286	296
1 bedroom	2	291	301
2 bedroom	8	400	410
2 bedroom	4	405	415
<b>Libra</b>			
Efficiency	10	206*	216*

\* Tenant pays electric bill.

Upon Regental approval, the Minute Order will reflect that the next appropriate catalog published at U. T. Arlington will be amended to conform to this action.

#### BACKGROUND INFORMATION

Rates for residence halls and apartments were last increased for Fall 1993. The proposed increase of approximately 3% for residence halls and apartments for Fall 1994 are minimal and are necessary to meet the increasing costs for operations and maintenance and to conform to increasing private sector rental rates. Summer session rates for residence halls will remain unchanged in order to keep the occupancy rate as high as possible.

As previously approved by the U. T. Board of Regents, the proposed apartment rates are maximum charges for the respective units, with U. T. Arlington authorized to make downward adjustments if the Arlington-area apartment rental rates do not support the full charge.

5. U. T. Austin: Proposed Appointments to Endowed Academic Positions Effective September 1, 1994.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Berdahl that the following initial appointments be made to endowed academic positions at U. T. Austin effective September 1, 1994. Professors will vacate any currently held endowed positions on the effective date of the new appointments unless noted otherwise.

<u>Name of Proposed Appointee</u>	<u>Endowed Academic Position</u>
Dr. John H. Murphy, II Professor, Department of Advertising	Joe C. Thompson Centennial Professorship in Advertising in the College of Communication; established February 1984
Dr. Judith A. Jellison Professor, Department of Music	Mary D. Bold Regents Professorship of Music in the College of Fine Arts; established April 1988
Dr. William Beckner Professor, Department of Mathematics	Paul V. Montgomery Centennial Memorial Professorship in Mathematics in the College of Natural Sciences; established August 1983; redesignated August 1989
Dr. Robert S. Boyer Professor in Computer Sciences (No. 4); will retain this appointment	Professorship in Computer Sciences (No. 5) in the College of Natural Sciences; established June 1988

Name of Proposed Appointee

Endowed Academic Position

Dr. Richard J. Lagow  
Professor, Department of  
Chemistry and Biochemistry

Louis Nicolas Vauquelin  
Regents Professorship in  
Inorganic Chemistry in the  
College of Natural Sci-  
ences; established Febru-  
ary 1983; redesignated  
August 1985

Dr. A. James Schwab, Jr.  
Associate Professor,  
School of Social Work

Clara Pope Willoughby  
Centennial Professorship  
in Child Welfare in the  
School of Social Work;  
established August 1983

BACKGROUND INFORMATION

Dr. Murphy joined the U. T. Austin faculty in 1973 and is nationally recognized for his scholarly contributions in the areas of advertising and marketing management. He has authored or coauthored three books and numerous book chapters and articles in his field. His professional activities include serving on a wide range of editorial and reviewer boards, consulting for many firms and government agencies, and serving on or chairing numerous panels and committees in his area of expertise.

Dr. Jellison, a faculty member at U. T. Austin since 1983, is nationally and internationally recognized for her scholarly contributions in the area of music therapy. She has authored or coauthored numerous scholarly book chapters, proceedings, and articles in her field, has served on a wide variety of university, college, and departmental committees, and has been both graduate and undergraduate area advisor in the Department of Music. She has served on several editorial and reviewer boards and has consulted extensively with public schools and music educator organizations.

Dr. Beckner joined the U. T. Austin faculty in 1983 and is generally acknowledged as a world leader in mathematical analysis, including computational and applied mathematics, and the harmonic analysis. He is the recipient of numerous awards and has served with distinction as both a teacher and a researcher. Dr. Beckner has authored or coauthored four books and numerous scientific publications and has received research support from the National Science Foundation and the Texas Advanced Research Program.

Dr. Boyer, a faculty member at U. T. Austin since 1981, is internationally recognized as one of the leading researchers in the fields of automatic theorem proving and formal program verification. In collaboration with Professor J. S. Moore, he developed the "Boyer-Moore Prover," considered to be the best known computer theorem prover in the world, for which they were selected as the initial recipients of the John McCarthy Prize for Program Verification. Dr. Boyer has authored or coauthored four books and numerous scientific publications, has been successful in the research arena with over a dozen grants funded, and has served on a number of prestigious editorial boards.

Dr. Lagow joined the U. T. Austin faculty in 1976 and is internationally recognized for his scholarly research in the fields of inorganic chemistry including organometallic chemistry, lithium and fluorine chemistry, fluorocarbon polymers and inorganic polymers, and artificial bone chemistry. He is the author or coauthor of over 150 scholarly publications and is the holder of 45 patents. His research has been strongly and consistently supported by the Robert A. Welch Foundation, the Air Force Office of Scientific Research, the U. S. Department of Energy, and the National Science Foundation.

Dr. Schwab's promotion to Professor in the School of Social Work at U. T. Austin has been approved effective September 1, 1994. Dr. Schwab joined the U. T. Austin faculty in 1976 and is nationally recognized for his scholarly work in the areas of rehabilitation and child welfare and of computer software applications. He has authored or coauthored numerous book chapters, papers in refereed journals, and articles in his field and has been successful in the research arena with over a dozen grants funded. He developed the Level of Care System which has improved the availability of foster family placements for children in Texas, especially those with emotional and behavioral problems.

6. U. T. Austin: Recommendation to Name Room and to Remove a Name Designation in the Harry Ransom Humanities Research Center (Regents' Rules and Regulations, Part One, Chapter VIII, Section 1, Subsection 1.2, Naming of Facilities Other Than Buildings).--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Berdahl that Room 3.335 of the Harry Ransom Humanities Research Center at U. T. Austin be designated as the Kelly H. Stevens Room in accordance with the Regents' Rules and Regulations, Part One, Chapter VIII, Section 1, Subsection 1.2, relating to the naming of facilities other than buildings.

It is further recommended that the designation of Room 7.308 of the Harry Ransom Humanities Research Center at U. T. Austin as the Kelly H. Stevens Room be removed.

#### BACKGROUND INFORMATION

The proposed naming of Room 3.335 and removal of the previous name designation for Room 7.308 is related to the proposed relocation of the Kelly H. Stevens collection from Room 7.308 to Room 3.335 in the Harry Ransom Humanities Research Center at U. T. Austin. The collection consists of furniture, paintings, sculptures and other objects of art donated under the terms of a trust indenture entered into in May 1972 between Dr. Kelly H. Stevens and the U. T. Board of Regents. The purpose of the move is to make the Stevens material more accessible and to allow Room 7.308 to be used for other materials.

The Office of General Counsel has reviewed the trust indenture and finds no prohibition against moving the collection from Room 7.308 to Room 3.335.

7. U. T. Austin: Recommendation to Approve a Change in the Compulsory Student Services Fee Effective with the Fall Semester 1994 (Catalog Change).--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Berdahl that the U. T. Board of Regents approve a change in the Compulsory Student Services Fee at U. T. Austin from \$117.46 per semester or summer session to \$101.64 per semester or summer session for a student taking twelve or more semester credit hours effective with the Fall Semester 1994.

The recommended fee is comprised of two components: (1) a fixed fee for counseling and psychological services of \$6.24 per semester or summer session for all students; and (2) a per credit hour fee of \$7.95 per semester credit hour for a maximum charge of \$95.40 for a student taking twelve or more credit hours of course work per semester or summer session for other services and activities funded partially or totally from the Student Services Fee. These services include: Students' Attorney, Recreational Sports, Shuttle Bus, The Daily Texan, KVRX Student Radio (formerly KTSB), Texas Student Television (TSTV), Campus Activities Office, Students' Association, Cabinet of College Councils, Ombudsman, Student Services Fee Committee, University Student Child Care Center, Volunteer Center, and Services for Students with Disabilities (a new item for 1994-95).

Upon Regental approval, the Minute Order will reflect that the next appropriate catalog published by U. T. Austin will be amended to conform to this action.

#### BACKGROUND INFORMATION

Section 54.513 of the Texas Education Code authorizes a maximum compulsory student services fee at U. T. Austin of \$150 per semester or summer session. The fee proposal has been endorsed by the Student Fees Advisory Committee in accordance with statutory requirements.

In past years, a portion of the fee has been assessed on the basis of head count in support of the Student Health Center and counseling and psychological services. As authorized by Section 54.5089 of the Texas Education Code and Regental action at the August 1993 meeting, a separate Medical Services Fee of \$48.16 per semester or summer session has been approved administratively for U. T. Austin for Fall 1994. Consequently, the portion of the compulsory student services fee charged on a head count basis will be decreased from \$51.34 to \$6.24 for 1994-95, with the \$6.24 supporting counseling and psychological services. This represents an increase for these services from \$5.98 per student per semester or summer session to \$6.24.

The increase in the per semester credit hour portion of the fee includes increases for Students' Attorney, Recreational Sports, KVRX Student Radio, Texas Student Television, Campus Activities Office, Students' Association, Ombudsman, and Volunteer Center, and adds \$165,837 for Services for Students with Disabilities. The increase in the per semester credit hour portion of the fee will also help offset a projected decrease in enrollment and semester credit hour production.

8. U. T. Austin: Recommendation for Approval to Increase the Rates for University Housing Effective with the Fall Semester 1994 (Catalog Change).--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Berdahl that the U. T. Board of Regents approve changes in the rental rates and meal rates for University housing at U. T. Austin to be effective with the Fall Semester 1994 as set out below:

The University of Texas at Austin  
Rate Schedule Effective 1994-95

UNIVERSITY RESIDENCE HALLS

	<u>1993-94 Current Long Session Rates</u>			<u>1994-95 Proposed Long Session Rates</u>		
	<u>Rooms</u>	<u>Meals</u>	<u>Total</u>	<u>Rooms</u>	<u>Meals</u>	<u>Total</u>
Air-Conditioned						
Double Rooms	\$1640	\$1768	\$3408	\$1720	\$1808	\$3528
Non-Air-Conditioned						
Double Rooms	\$1336	\$1768	\$3104	\$1416	\$1808	\$3224
Optional Meal Contracts						
Thirteen Meals/Week		\$1690			\$1730	
Ten Meals/Week		\$1587			\$1627	

(Regular meal contract includes twenty meals per week. All residence hall contracts require purchase of one of the meal options.)

Other University Residence Hall Rates

- a. Room rates for single rooms and double rooms rented as singles are 1.6 times the double rate.
- b. Summer Session rates are based on the Long Session per diem rate and the number of days in the Summer Session adjusted to meet market demand.
- c. Short-term, Orientation, and Summer Conference Program rates vary based on the length of stay, number of participants, and the services provided. Base rates are recommended as set forth on Page AAC - 15.

	<u>Daily Rates Per Person</u>	
	<u>1993-94</u>	<u>1994-95</u>
	<u>Current</u>	<u>Proposed</u>
Meals	\$13.22	\$13.79
Double Room	<u>11.44</u>	<u>11.73</u>
Total	\$24.66	\$25.52

(Single room is 1.5 times the double room rate.)

UNIVERSITY APARTMENTS - FAMILY STUDENT HOUSING

	<u>Monthly Rates</u>	
	<u>1993-94</u>	<u>1994-95</u>
	<u>Current</u>	<u>Proposed</u>
Mobile Home Lots	\$112	\$125
Colorado and Gateway Apartments		
Unfurnished		
1 bedroom	\$272	\$283
2 bedroom	\$303	\$316
Furnished		
1 bedroom	\$319	\$332
Brackenridge Apartments		
1 bedroom	\$275	\$283
2 bedroom	\$326	\$335
3 bedroom	\$415	\$427

- a. Rates for the Mobile Home Park, Colorado Apartments, Gateway Apartments, and Brackenridge Apartments include water only.
- b. The resident is responsible for the electric bill in all units and for the gas bill in the Mobile Home Park, Colorado Apartments, and Brackenridge Apartments. Gateway Apartments are all electric.

STUDENT HOUSING UNITS - WOMEN'S COOPERATIVES

	<u>Monthly Rental Per Co-Op Paid to the University</u>		
	<u>Number of Residents Per Co-Op</u>	<u>1993-94 Current Rate</u>	<u>1994-95 Proposed Rate</u>
Air-Conditioned	17	\$1448.91	\$1593.75
Double Rooms	19	\$1619.36	\$1781.25
Non-Air-Conditioned			
Double Rooms	15	\$ 891.90	\$1070.25

Upon Regental approval, the Minute Order will reflect that the next appropriate catalog published at U. T. Austin will be amended to conform to this action.

## BACKGROUND INFORMATION

University housing rates for rent and meals are the result of projections of a number of cost factors: personnel benefits; utilities, supplies, and services; current status of physical facilities, operating accounts, and reserve accounts; and current and projected occupancy status. An effort is made to keep proposed increases to a minimum and to be sensitive to the economy and its effect on residents and their families. Justification summaries by category of housing follow:

### Residence Halls

The proposal is to increase University Residence Hall rates by \$120 (3.52% to 3.87%) for the 1994-95 Long Session. The increased revenue will enable U. T. Austin to continue providing superior room and meal services to its residents.

### Other Rates

U. T. Austin recommends that the rates for single rooms and double rooms rented as singles remain at 1.6 times the double room rate. The procedure for calculating the Summer Session rates is recommended to remain unchanged, whereby the per diem room rate for the Long Session is multiplied by the number of days in the Summer Session, with contingent authority to reduce that amount to respond to low market demand. Based on current market conditions, the base rate for Short-term, Orientation, and Summer Conference Program housing is recommended to increase by \$.86 (3.48%) per day.

### University Apartments - Family Student Housing

U. T. Austin proposes to continue the plan to level the rates in the University Apartments which was begun in 1988-89. The leveling is directed toward improving the attractiveness of the Brackenridge Apartments and increasing the overall occupancy. The increase in the Mobile Home Park rate is necessary to cover the increasing maintenance costs caused by the age of the facility. The recommended rates for 1994-95 will still be below Austin market rates.

### Women's Cooperatives

The aging of the Women's Cooperatives and the resultant need for additional maintenance necessitate the increases of between \$144.84 and \$178.35 per month per Cooperative House (\$8.52 to \$11.89 per month per resident). The difference in the increase between the air-conditioned and non-air-conditioned houses is the first step in a program to level the rates in these two facilities to reflect only the differences in expenses generated by the air-conditioning system.

9. U. T. Dallas: Recommendation to Approve an Increase in the Compulsory Student Services Fee Effective with the Fall Semester 1994 (Catalog Change).--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Rutford that the U. T. Board of Regents approve an increase in the Compulsory Student Services Fee at U. T. Dallas from \$12 per semester credit hour with a maximum fee of \$108 per semester or summer session to \$13 per semester credit hour with a maximum fee of \$118 per semester or summer session to be effective with the Fall Semester 1994.

Upon Regental approval, the Minute Order will reflect that the next appropriate catalog published at U. T. Dallas will be amended to conform to this action.

#### BACKGROUND INFORMATION

Section 54.503 of the Texas Education Code authorizes a maximum compulsory student services fee of \$150 per semester or summer session. The proposed fees will fall within the statutory limit. Since U. T. Dallas offers one eight-week summer term, the actual maximum fee for the summer session is prorated at \$79.

The proposed fee increase of approximately 9% has been endorsed by the Student Union Fee and Student Service Fee Advisory Committee in accordance with statutory requirements. The increase is necessary to meet increasing costs for student services and to maintain the level and quality of services required for U. T. Dallas' diverse and growing student body.

10. U. T. Pan American: Recommendation for Approval of a Proposed Agreement of Cooperation with the Instituto de Estudios Superiores de Tamaulipas, Altamira, Tamaulipas, Mexico, and Request for Authorization to Execute Agreement.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Nevarez that approval be given to the proposed agreement of cooperation set out on Page AAC - 19 between U. T. Pan American and the Instituto de Estudios Superiores de Tamaulipas, Altamira, Tamaulipas, Mexico.

It is further recommended that the Executive Vice Chancellor for Academic Affairs be authorized, on behalf of the U. T. Board of Regents, to execute the agreement with the understanding that any and all specific agreements arising from this agreement are to be submitted for prior administrative review and approval as required by the Regents' Rules and Regulations.

#### BACKGROUND INFORMATION

This proposed agreement establishes a program of exchange in areas of interest and benefit to both institutions. Specific goals are to:

- a. Promote institutional exchanges of faculty and staff
- b. Promote exchange of students for periods of study and/or research
- c. Organize joint academic activities such as symposia, conferences, short courses and meetings on research issues
- d. Carry out joint research and continuing education programs
- e. Exchange information pertaining to developments in teaching, student development, and research.

The proposed agreement has been reviewed and approved by the Office of General Counsel and is similar to other agreements of cooperation previously approved by the U. T. Board of Regents. The agreement was initially signed by U. T. Pan American in May 1993 prior to approval of a standard form agreement of cooperation by the U. T. Board of Regents in October 1993. (Standard agreements require only administrative approval and U. T. Board of Regents ratification via the institutional docket.) Thus this nonstandard agreement, which was only recently executed by the Instituto de Estudios Superiores de Tamaulipas, is submitted for approval via the agenda.

AGREEMENT OF COOPERATION BETWEEN  
INSTITUTO DE ESTUDIOS SUPERIORES DE TAMAULIPAS AND  
THE UNIVERSITY OF TEXAS-PAN AMERICAN

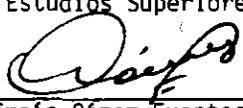
THE UNIVERSITY OF TEXAS-PAN AMERICAN, (hereinafter referred to as UTPA), and Instituto de Estudios Superiores de Tamaulipas, (hereinafter referred to as IEST) enter into an agreement of cooperation to establish a program of exchange and collaboration in areas of interest and benefit to both institutions.

- I. The purposes of the cooperation between UTPA and IEST are as follows:
- \* to promote interest in the teaching and research activities of the respective institutions, and
  - \* to deepen the understanding of the economic, cultural and social issues environment of the respective institutions.
- II. To achieve these goals, UTPA and IEST will, insofar as the means of each allow:
- \* promote institutional exchanges by inviting faculty and staff of the partner institution to
  - \* participate in a variety of teaching and/or research activities and professional development;
  - \* receive undergraduate and graduate students of the partner institution for periods of study and/or research;
  - \* organize symposia, conferences, short courses and meetings on research issues;
  - \* carry out joint research and continuing education programs; and
  - \* exchange information pertaining to developments in teaching, student development and research at each institution.
- III. Each institution shall designate a coordinator to oversee and facilitate the implementation of this Agreement. The coordinators, working with other appropriate administrators at the respective universities, shall have the following responsibilities:
- \* to promote academic collaboration at both faculty, graduate and under graduate student levels for research and study;
  - \* to act as principal contacts for individual and group activities and to plan and coordinate all activities within their institutions as well as with the partner institution;
  - \* to distribute to each institution information about the faculty, facilities, research, publications, library materials and educational resources of the other institution; and
  - \* to meet periodically to review and evaluate past activities and to work out new ideas for future cooperative agreements.
- IV. This general AGREEMENT OF COOPERATION shall be identified as the parent document of any program agreement executed between the parties. Further agreements concerning any program shall provide details concerning the specific commitments made by each party and shall not become effective until they have been reduced to writing, executed by the duly authorized representatives of the parties, and approved in writing by the Executive Vice Chancellor for Academic Affairs of The University of Texas System. The scope of the activities under this agreement shall be determined by the funds regularly available at both institutions for the types of collaboration undertaken and by financial assistance as may be obtained by either institution from external sources.
- V. Except as may be stipulated in any specific program agreement, each institution shall be responsible for expenses incurred by its employees under this agreement.
- VI. Upon approval by each institution, this agreement shall remain in effect until terminated by either institution. Such termination by one institution shall be effected by giving the other institution at least ninety (90) days advance written notice of its intention to terminate. Termination shall be without penalty. If this agreement is terminated, neither UTPA nor IEST shall be liable to the other for any monetary or other losses which may result.

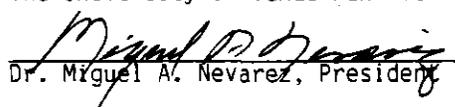
Executed on this 21 day of May, 1993.

ATTEST:

FOR:  
Instituto de Estudios Superiores de  
Tamaulipas

  
C.P. David Efraín Gómez Fuentes, M.A.  
Rector

FOR  
The University of Texas-Pan American

  
Dr. Miguel A. Nevarez, President

APPROVED AS TO FORM

By \_\_\_\_\_  
Helen K. Bright, Attorney  
Office of General Counsel

APPROVED

By: \_\_\_\_\_  
Dr. James P. Duncan  
Executive Vice Chancellor for Academic  
Affairs, The University of Texas System

Date: \_\_\_\_\_

CERTIFICATE OF APPROVAL

I hereby certify that the foregoing agreement was approved by The Board of Regents of The University of Texas System on the \_\_\_\_\_ day of \_\_\_\_\_, 199\_ and that the person whose signature appears above is authorized to execute such agreement on behalf of the Board.

\_\_\_\_\_  
Mr. Arthur H. Dilly, Executive Secretary  
U.T. Board of Regents

11. U. T. Pan American: Recommendation for Approval of Membership in the Mexican-American Solidarity Foundation, A.C., Mexico City, Mexico, and Request for Approval of Proposed Bylaws and Articles of Incorporation.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs that approval be given for President Nevarez, on behalf of U. T. Pan American, to become a member of the Mexican-American Solidarity Foundation, A.C., Mexico City, Mexico.

It is further recommended that approval be given to proposed bylaws and articles of incorporation set out on Pages AAC 21 - 38 with the understanding that any and all specific agreements arising from the documents are to be submitted for prior administrative review and approval as required by the Regents' Rules and Regulations.

#### BACKGROUND INFORMATION

The Mexican-American Solidarity Foundation, A.C. is a non-profit corporation started by a collaboration of public and private sector leaders in Mexico and by educators and distinguished leaders of Mexican-American organizations.

The purpose of the Foundation is to strengthen and give continuity to educational and cultural relations and to promote the improvement of economic relations between Mexico and the communities of Mexican origin through the design and development of short-term and long-term strategies. No financial contribution is required of U. T. Pan American to join the collaboration. Specific goals of the Foundation are to:

- a. Promote continuity of social, philosophical, historical, educational, and cultural programs between both communities
- b. Develop projects that will promote, educate, and advance the cultures of both communities
- c. Examine and elevate the image of culture in Mexico and within communities of Mexican origin in the United States
- d. Promote better relations between and among all minority groups in both countries through education and cultural seminars
- e. Encourage the cooperation and solidarity of public and private sectors of both communities.

The proposed bylaws and articles of incorporation have been reviewed and approved by the Office of General Counsel. President Nevarez will serve, on behalf of U. T. Pan American, as a founding member of the Foundation.

PROPOSED BY-LAWS OF THE  
MEXICAN-AMERICAN SOLIDARITY FOUNDATION, A.C.

TITLE ONE	OFFICES
TITLE TWO	NATURE, OBJECTIVES AND ACTIVITIES
TITLE THREE	ASSETS
TITLE FOUR	MEMBERSHIP
TITLE FIVE	BOARD OF DIRECTORS AND OFFICERS
TITLE SIX	DISSOLUTION

## TITLE ONE

### OFFICES

Article 1.- The Non-profit Corporation named Mexican-American Solidarity Foundation is constituted with its domicile in Mexico City, Federal District, with power to establish offices and agencies in any place of the Mexican Republic, the city of Washington, District of Columbia, or any other city in the United States of America.

ARTICLE 2.- The Foundation shall have unlimited duration from the date of its constitution.

## TITLE TWO

### NATURE, OBJECTIVES AND ACTIVITIES

ARTICLE 3.- By its nature, the Foundation:

- I.- Is a Non-profit Corporation, started by a collaboration of the public and private sectors in Mexico and by educators and distinguished leaders of the most representative mexican-american organizations, who shall be empowered to seek the collaboration of public and private sectors in the United States that share the goals of this corporation.
- II.- Its target population is the community of mexican origin in the United States, including the different strata that comprise it: mexicans, that is, those born within the territory of Mexico, or of mexican father or mother, and who have adopted mexican nationality, whether those mexicans are recently emigrated or whether they have several years of residence in that country, no matter what their migratory status might be; mexican-americans, that is, every person who is a descendant of mexicans, no matter how many generations removed, and who have either been born in the United States of America or naturalized as american citizens.
- III.- Is based in the interests of Mexico and of the community of mexican origin in the United States of America, that deem such a rapprochement and collaboration necessary and beneficial for both peoples.
- IV.- Is organized and operates as a permanent bonding mechanism between Mexico and the communities of mexican origin in the United States of America in pursuance of

the objectives that inspire the Foundation.

- V.- Shall not pursue for-profit purposes.
- VI.- Is not a political organization, nor shall it participate in any such activities.
- VII.- Is an instrument for the raising of funds and for their efficient and transparent channeling to the development of programs and projects in furtherance of its objectives.
- VIII.- Shall have full legal personality, different from that of its members, who shall not be personally liable in any case of the acts of the Foundation, because it shall respond fully for its actions with its own assets.

ARTICLE FOUR.- The Foundation's principal objective is to strengthen and give continuity to educational and cultural relations and to promote the improvement of economic relations between Mexico and the communities of mexican origin, through the design and development of short term and long term action strategies. To that purpose the Foundation should:

- I.- Plan and design the most adequate strategies to reinforce educational and cultural collaboration with communities of mexican origin and to orient the actions developed in that realm to insure that they really respond to the needs and the interests of the community to which they are addressed.
- II.- Determine the projects that will complement the existing collaboration and allow for a speedier rapprochement between Mexico and the communities of mexican origin in the United States of America.
- III.- Develop projects that will have a multiplying effect and that will reach all the levels of the target population.
- IV.- Facilitate the knowledge and understanding of the mexican reality between the groups of mexican origin in the United States of America and divulge in Mexico the meaning, the problems, the struggles and the achievements of that community.
- V.- Reevaluate and elevate the image of Mexico in the United States of America and that of the population of mexican origin in the United States of America and in Mexico.
- VI.- Promote the economic, educational, artistic and cultural leadership of these groups, through projects calculated to elevate the capability of individuals and institutions

in these fields.

- VII.- Move for the development of the communities of mexican origin in the United States of America through the improvement of education and the encouragement of mexican values.
- VIII.- Promote better relations with other minority groups, especially with the other latin groups, through the development of projects of interest to all.
- IX.- Encourage copartnership and solidarity of the public and private sectors of both countries, with the tasks of the Foundation.

The activities of the Foundation shall not, in any way, interfere with the legal attributes of the Departments of Public Education and Foreign Affairs of the Republic of Mexico.

ARTICLE FIVE.- The Foundation shall have the power to:

- I.- Plan, coordinate, promote, execute and evaluate the activities calculated to achieve its objectives.
- II.- Raise funds and manage them.
- III.- Provide support and advise to programs consistent with its goals.
- IV.- Serve as a liaison between public and private institutions of both countries involved in activities consistent with the goals of the Foundation.
- V.- Conduct those surveys and research deemed necessary.
- VI.- Complement activities conducted by public and private sectors of both countries in the same areas covered by the Foundation, paying special attention to those projects tending to foster the development of the capabilities of institutions and individuals and the structural changes favorable to the development of both communities.
- VII.- Enter into and perform agreements, contracts and covenants to perform and support specific programs whose goals are consistent with those of the Foundation.
- VIII.- Purchase, possess, or manage by means of any legal title any kind of personal and real property needed for the fulfillment of its purpose.
- IX.- Make all kinds of contracts and guarantees directly or indirectly related with its goals and to subscribe,

endorse and negotiate all kinds of credit instruments, incur liabilities, borrow money and secure any of its obligations by mortgage or pledge of guarantees as necessary for the efficient management of its assets. Also to make all kinds of investments, with the required previous authorization of the Board of Directors, to consolidate the assets of the Foundation.

### TITLE THREE

#### ASSETS

ARTICLE 6.- The assets of the Foundation shall proceed from the following sources:

- I.- Members' donations in kind or in cash.
- II.- Donations, estate gifts, trusts, grants and any other contributions.
- III.- Any and all other legitimate income related to the Foundation's objectives.

The contributions of the Mexican Federal Government, shall in no case constitute more than 50% of the total endowment of the Foundation.

### TITLE FOUR

#### MEMBERSHIP

ARTICLE 7.- The Founding Members shall be:

From Mexico:

- I. The Federal Government through the offices of the Secretary of Public Education and the Secretary of Foreign Relations of the Republic of Mexico.
- II. Jose Angel Pescador Osuna
- III.- Jorge Bustamante

- IV.- Roger Diaz de Cossio
- V.- Graciela Orozco de Andapia
- VI.- The Director of the National Council of Science and Technology
- VII.- Roberto Gonzalez Barrera  
President of the MASECA Industrial Group
- VIII.- Carlos Cabal Peniche  
President of the Board of Directors of Banca Union.

From the communities of mexican origin:

- I.- Raul Yzaguirre  
President, National Council of La Raza.
- II.- Antonia Hernandez  
President and General Counsel of the Mexican American Legal Defense and Education Fund.
- III.- Antonio Gil Morales  
Executive Director of American G.I. Forum
- IV.- Jose Velez  
Executive Director of the National League of United Latin American Citizens
- V.- Joel Gomez  
Executive Director of the National Clearinghouse for Bilingual Education
- VI.- Maria del Refugio Robledo de Montecel  
President of Intercultural Development Research Association
- VII.- Blandina Cardenas
- VIII.- Miguel Nevarez
- IX.- Raul Cardenas
- X.- Josue Gonzalez

ARTICLE 8.- Any alien who at the time of the constitution of the Foundation or at any time after that shall acquire an interest or social participation in the Foundation, shall be considered a

mexican vis a vis mexicans and the communities of mexican origin by virtue of that simple fact, in the understanding that s/he shall not claim the protection of his government, under penalty of losing all interest or participation in favor of the Mexican Nation in the event of a violation of this agreement.

## TITLE FIVE

### THE GOVERNING BODIES OF THE FOUNDATION

ARTICLE 9.- The Foundation shall have the following governing bodies:

- I.- The Board of Directors;
- II.- The Executive Director;
- III.- The Advisory Board, and
- IV.- The Oversight Commission.

### THE BOARD OF DIRECTORS

ARTICLE 10.- The General Assembly of Members shall be the Board of Directors. The Board of Directors is the supreme governing body of the Foundation, and it is composed of all the members.

ARTICLE 11.- The Board of Directors shall be comprised of representatives from Mexico and from the communities of mexican origin in equal numbers. The only admissible difference shall be of the order of one or two members from either one of the two groups.

The institutional members shall be able to name one representative to the Board of Directors.

ARTICLE 12.- The following guidelines shall determine the composition of the Board of Directors:

A) The representatives of the communities of mexican origin in the United States, shall be divided into the following categories and in the following percentages:

- I.- National mexican american organizations, at least 33%.
- II.- Cultural, educational or research organizations or institutions, at least 30%.

III.- Entrepreneurs, at least 10%.

IV.- Experts, at least 20%.

B). The representatives from Mexico shall be divided into the following categories:

I.- The Federal Government, represented by the offices of the Department of Public Education and the Department of Foreign Relations of the Republic of Mexico.

II.- Cultural, educational and research institutions.

III.- Entrepreneurs

IV.- Experts.

ARTICLE 13.- Participation in the Board of Directors is institutional and not personal in nature, except in the case of the entrepreneurs and the experts. At the conclusion of their term of elective or appointed office, the representatives of Institutions shall be able to continue their support of the Foundation as members of the Advisory Board.

ARTICLE 14.- The structure of the Board of Directors shall be susceptible to modification (modifiable) by the consent of two thirds of its members, while the number of members may be enlarged or reduced by a decision of a simple majority of the Board of Directors.

The Board of Directors shall authorize the membership of mexican entrepreneurs and entrepreneurs from the community of mexican american origin.

ARTICLE 15.- In order to better carry out their functions, the Board of Directors shall appoint from among their group a President, a Vice President, a Treasurer and a Secretary. These appointments shall be for terms of two years. The offices of President and Vice President shall be occupied alternatively by a representative from Mexico and from the United States of America.

ARTICLE 16.- The Board of Directors shall meet at least once a year, in the month of March, upon a calling by the President, or in his absence, by the Vice President, and the meetings shall take place alternatively in Mexico and in the United States of America.

ARTICLE 17. The meetings of the Board of Directors may be ordinary or extraordinary.

The ordinary meetings shall be called by two previous notices which shall be issued and sent to the members simultaneously in writing. The first notice shall be dated thirty natural days before the scheduled date of the meeting, the second shall be dated seven natural days after the date of the first notice. Both shall contain the Agenda for the meeting, the place and address of the meeting, the date and time of the meeting and the signature of the person calling to the meeting.

The required quorum for the meetings shall be 51% of the members present at the first meeting. In case that 10 days before the date of the meeting the confirmed attendants do not constitute quorum, the meeting shall take place with the members in attendance after a second calling.

Written minutes of the proceedings of each meeting of the Board of Directors, shall be kept in Spanish and English, signed by all the members in attendance, and shall be recorded in a book specifically designated for that sole purpose.

ARTICLE 18.- Motions shall be passed by majority vote of the members in attendance, except for those cases where these by-laws require a majority of two thirds of the votes. There shall be no vote by proxy.

The members shall not vote in those motions that directly involve the institutions and organizations they are affiliated with.

ARTICLE 19.- Whenever an extraordinary meeting is required in the best judgement of two thirds of the members of the Board of Directors, the calling and notice requirements of ARTICLE 16 shall not apply.

ARTICLE 20.- The Board of Directors shall have the following stated attributes but it shall not be limited to just these attributes.

- I.- To insure that the goals of the Foundation are fulfilled, in conformity with the By-laws;
- II.- To evaluate the By-laws of the Foundation and implement any amendments deemed necessary in the judgement of two thirds of the members;
- III.- To designate committees of its members, in charge of developing concrete projects;
- IV.- To approve the organizational structure of the Foundation upon motion of the Executive Director.
- V. To approve the auditing and management systems and select

independent outside auditors.

- VI.- To sanction and supervise the Foundation's work plan.
- VII.- To approve the Foundation's yearly operations budget, which shall operate on the basis of a January to December fiscal year.
- VIII.- To insure the proper allocation of the Foundation's assets.
- IX.- To establish policies to guide fund raising, and the use of financial and fiscal incentives to increase the assets of the Foundation.
- X.- To establish the organizational and operational rules of the committees it establishes.
- XI.- To suspend or remove the directors of the Board of Directors pursuant to the vote of two thirds of the Board.
- XII.- To establish its own operational rules,
- XIII.- And any other rules necessary for the fulfillment of its goals.

ARTICLE 21.- The Board of Directors shall have the power to delegate on its members by appointment for the fulfillment of concrete acts. It shall, likewise have the power to confer general and special powers of attorney in representation of the Foundation on any person regardless of whether or not that person is a member of the Board of Directors, and the power to revoke in part or in whole any of the delegations made or the powers conferred, and shall always reserve upon itself the exercise of this power.

#### THE EXECUTIVE DIRECTOR

ARTICLE 22.- The Executive Director shall be responsible for carrying out the programs of the Foundation. He shall propose to the Board of Directors the organizational structure of the institution and shall manage programs and acts.

ARTICLE 23.- The Executive Director shall be appointed by the Board of Directors, and shall have the powers conferred upon him by the Board, including the following:

- I.- To be the legal representative of the Foundation before public and private educational institutions, philanthropic trusts, international organizations and kindred professional organizations.

- II.- To direct the work of the Foundation following the guidelines set by the Board of Directors.
- III.- To present for the approval of the Board of Directors the work plan and the yearly budget of the Foundation.
- IV.- To carry out and evaluate the results of Foundation programs, projects and actions;
- V.- To prepare and present a yearly report of activities and any further reports requested by the Board of Directors.
- VI.- To obey and respect the resolutions of the Board of Directors;
- VII.- To attend the meetings of the Board of Directors as a non-voting participant with the right to be heard;
- VIII.- To manage the assets of the Foundation;
- IX.- To analyze proposals, studies, projects, publications and specific Foundation actions to be submitted to the Board of Directors;
- X.- To support the works of the Advisory Board and promote its development.
- XI.- And any other powers granted by the Board of Directors in pursuance of the purpose of the Foundation.

ARTICLE 24.- The Executive Director, subject to Board policy, shall have broad and sufficient legal power and authorization to deal in and with, and manage personal and real property, file lawsuits, collect moneys owed and represent the Foundation in legal proceedings in accordance with the provisions of the law.

#### ADVISORY BOARD

ARTICLE 25.- An Advisory Board made of distinguished individuals from the communities in Mexico and the United States who wish to contribute to the work of the Foundation shall be invited to participate for terms of indefinite duration. The Board of Directors shall approve the appointments to the Advisory Board.

OVERSIGHT COMMISSION

ARTICLE 26.- If the Board of Directors so decrees, the oversight of the Foundation shall be delegated on an Oversight Commission integrated by the number of member the Board of Directors deems necessary, appointed to terms of two years each. The Oversight Commission shall have only those powers conferred by the Board of Directors.

TITLE SIX

DISSOLUTION

ARTICLE 27.- The Foundation shall dissolve if such dissolution is mandated by any statute or regulation in effect or voluntarily by the vote of two thirds of the associates.

ARTICLE 28.- In the event of dissolution, the liquidated assets of the Foundation shall be distributed as gifts to the non-profit institution or institutions determined by the Board of Directors.

TRANSITORY

FIRST.- Initial contributions to the endowment of the Foundation:

From the Mexican Government: \$ \_\_\_\_\_

Roberto Gonzalez Barrera: \$ \_\_\_\_\_

Carlos Cabal Peniche: \$ \_\_\_\_\_

The other members shall make their contributions \_\_\_\_\_ days after the enactment of the by-laws.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
BUSINESS REGULATION ADMINISTRATION



C E R T I F I C A T E

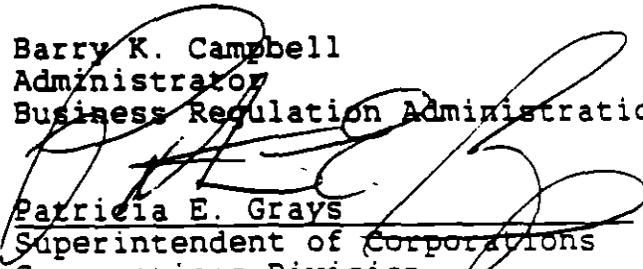
THIS IS TO CERTIFY that all applicable provisions of the DISTRICT OF COLUMBIA NONPROFIT CORPORATION ACT have been complied with and accordingly, this CERTIFICATE of INCORPORATION is hereby issued to MEXICAN AMERICAN SOLIDARITY FOUNDATION, INCORPORATED

as of JANUARY 14th , 1994 .

Hampton Cross  
Acting Director

Barry K. Campbell  
Administrator  
Business Regulation Administration

Acting

  
Patricia E. Grays  
Superintendent of Corporations  
Corporations Division

Sharon Pratt Kelly  
Mayor

ARTICLES OF INCORPORATION

OF

MEXICAN AMERICAN SOLIDARITY FOUNDATION, INCORPORATED

TO: Department of Consumer and Regulatory Affairs, Business Regulation Administration, Corporation Division, 614 H Street, N.W., Washington, D.C. 20001.

We, the undersigned natural persons of the age of twenty-one years or more, acting as incorporators of a corporation under the NONPROFIT CORPORATION ACT (D.C. Code, 1981 edition, Title 29, Chapter 5), adopt the following Articles of Incorporation:

FIRST: The name of the corporation is

Mexican American Solidarity Foundation, Incorporated

SECOND: The period of duration is perpetual.

THIRD: (1) The non-profit corporation's objectives are basically to strengthen and to promote the improvement of economic relations between Mexico and the communities of Mexican origin through action strategies, such as, but not limited to:

(a) Continuity of social, philosophical, historical, educational programs concerning both cultures;

(b) Continuity of cultural programs concerning both communities;

(c) Create projects that will promote, educate, advance the cultures of both communities; and

(d) Examine, evaluate, and elevate the image and purpose of Mexico's education and culture in the United States and the United States culture within the Mexican origin communities. For example, problems, struggles and the achievements of each respective community will be communicated to each community.

(e) Develop projects that will complement the

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existing educational and cultural institutions and which will have a multiplying effect and will reach all levels of the target population.

(f) Encourage the education of both cultures to understand and respect the Mexican value systems.

(g) Promote better relations between all minority groups in both countries through education and cultural seminars.

(h) Encourage the cooperation and solidarity of the public and private sectors of both communities.

FOURTH: The corporation will have no members.

FIFTH: The manner of election and appointment of the directors will be provided in the bylaws.

SIXTH: The board of directors will be divided into three classes of members. Non-Profit Associations, Private Sector Business and Public & Governmental organizations (to the extent allowed by law). Each class of directors will have equal voting rights.

SEVENTH: The provisions for the regulation of the internal affairs of the corporation, including provision for the distribution of assets on dissolution or final liquidation will be delineated in detail in the by-laws. In event of dissolution of the corporations all remaining assets shall be distributed as gifts to non-profit institution or or organizations to be determined by the Board of Directors.

EIGHTH: The Articles of Incorporation can be amended by a majority vote (51%) of the Board of Directors at a regularly convened meeting or at a special meeting provided fifteen days notice is given of the proposed amendment(s) to the Board prior to the meeting.

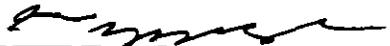
NINTH: The name of the initial registered agent and initial registered office address are:

A. Baltazar Baca, Esq.  
888 16th Street, N.W.  
Washington, D.C. 20006

The register agent is a resident of the District of Columbia.



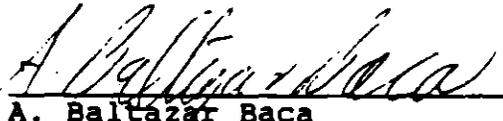
ELEVENTH: The names of the incorporators and their addresses of the above corporation are:

  
\_\_\_\_\_  
Raul Yzaguirre

President, National  
Counsel of La Raza  
810 First St.N.E.  
Washington,D.C.20001

  
\_\_\_\_\_  
Joel Gomez,

Executive Director,  
National Clearinghouse  
for Bilingual Education  
1118 22nd Street,NW  
Washington,D.C.20037

  
\_\_\_\_\_  
A. Baltazar Baca

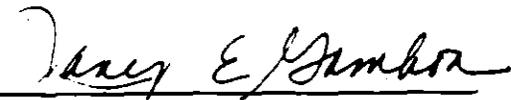
888 16th Street, NW  
Washington,D.C.20006

DATE: JANUARY 14, 1994

I, JANET.E. GAMBOA, a Notary Public, hereby certify  
that on this 14th day of January, 1994:

Raul Yzaguirre  
Joel Gomez &  
A. Baltazar Baca

appeared before me and signed the foregoing document as  
incorporators, and have averred that the statements therein are  
true.

  
\_\_\_\_\_  
NOTARY PUBLIC

SEAL

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
BUSINESS REGULATION ADMINISTRATION



C E R T I F I C A T E

THIS IS TO CERTIFY that there were received and accepted for record in the Department of Consumer and Regulatory Affairs, Corporations Division, on the 14th day of JANUARY, 1994, Articles of Incorporation of:

**MEXICAN AMERICAN SOLIDARITY FOUNDATION, INCORPORATED**

The above named corporation is duly incorporated and existing pursuant to and by virtue of the Nonprofit Corporation Act of the District of Columbia and authorized to conduct its affairs in the District of Columbia as of the date mentioned above.

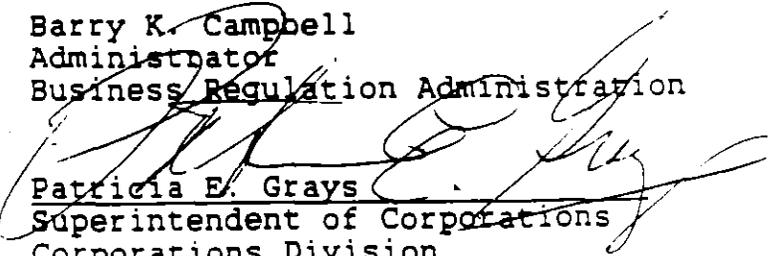
WE FURTHER CERTIFY that the above entitled corporation is at the time of issuance of this certificate in Good Standing, according to the records of the Corporations Division, having filed all annual reports required by the District of Columbia Nonprofit Corporation Act.

IN TESTIMONY WHEREOF I have hereunto set my hand and caused the seal of this office to be affixed this 14th day of JANUARY, 1994 .

Hampton Cross  
Acting Director

Barry K. Campbell  
Administrator  
Business Regulation Administration

Acting

  
Patricia E. Grays  
Superintendent of Corporations  
Corporations Division

Sharon Pratt Kelly  
Mayor

12. U. T. San Antonio: Recommendation to Approve Logo (Regents' Rules and Regulations, Part Two, Chapter I, Section 9, Subsection 9.4).--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Kirkpatrick that the U. T. Board of Regents approve the adoption of a logo for U. T. San Antonio. This request is in accordance with the Regents' Rules and Regulations, Part Two, Chapter I, Section 9, Subsection 9.4 relating to approval of official logos.

A graphic representation of the logo is set out on Page AAC - 40 as Design B and that page also shows representative variations of the logo that will be used.

#### BACKGROUND INFORMATION

U. T. San Antonio has selected a logo design composed of three elements. The acronym, UTSA, in bold block letters has been used by the University on various kinds of official publications and athletic uniforms for many years. The icon element of the logo is a graphic representation of U. T. San Antonio's primary campus landmark, the Sombrilla. The unique abbreviation of the University's official name, University of Texas \* San Antonio, adds distinctiveness to the overall graphic when used as a trademark by the institution or by their licensees.

Upon Regental approval of the logo, the Office of General Counsel will submit the graphic representation for trademark registration.



Design A



Design B



Design C

UNIVERSITY OF TEXAS  
SAN ANTONIO

13. U. T. San Antonio: Request for Authorization to Establish a Master of Science Degree in Psychology and to Submit the Proposed Degree Program to the Coordinating Board for Approval (Catalog Change).--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Kirkpatrick that authorization be granted to establish a Master of Science degree in Psychology at U. T. San Antonio and to submit the proposal to the Texas Higher Education Coordinating Board for review and appropriate action. In addition, the Coordinating Board will be asked to change the U. T. San Antonio Table of Programs to reflect authorization for the proposed new degree. The program is consistent with U. T. San Antonio's mission and its plans for offering quality degree programs to meet student and regional needs. A description of the degree program is included in the Background Information of this agenda item.

Upon approval by the Coordinating Board, the next appropriate catalog published at U. T. San Antonio will be amended to reflect this action.

#### BACKGROUND INFORMATION

##### Program Description

The proposed Master of Science degree program in Psychology is a 36 semester credit hour degree, including a common core of five courses, five prescribed electives, three hours of free electives, and a research-based thesis. This program will be administered by the Division of Behavioral and Cultural Sciences in the College of Social and Behavioral Sciences and supervised by the Graduate Studies Committee, consisting of representatives of the graduate faculty in psychology. The first goal of the program is to serve as a bridge for prospective scientists (many from minority backgrounds) between receiving the bachelor's degree and acceptance into a Ph.D. program. In addition to preparing students to enter doctoral programs in psychology, the program will also prepare graduates for employment in positions related to psychology. The program will have a strong research design and quantitative component that could be applied to a number of content areas, including human perception and cognition, psychopathology, social processes, and program evaluation.

##### Need

San Antonio has a large population of first generation college students (many of them Hispanic) who do not have sufficient opportunities for graduate training. The Master of Science degree in Psychology will aid first generation and nontraditional students who are highly motivated but lack the research experience and focus required for most Ph.D. programs in psychology. The program is designed to provide the opportunity to begin graduate studies for students who are unable or unwilling to leave San Antonio because of family considerations and/or financial commitments.

### Program Quality

The program is designed to be completed in two years by those who take three graduate courses each semester. However, courses would be sequenced so that students may take two courses per semester in order to complete the program within three years. A total of nine full-time U. T. San Antonio faculty will participate in the delivery of the proposed program. These faculty are already in place. Each will teach one or two graduate courses per year in his or her area of expertise and will supervise research apprenticeships and master's thesis work. The psychology faculty at U. T. San Antonio is unusually strong in its research background and performance. The program will be very demanding.

### Cost

The degree program will require the addition of one tenure-track faculty member. Other new expenses will include salaries for graduate assistants, a modest amount of clerical support and faculty release time for administration, and equipment to support student research. A combination of redirected institutional funds, special item funding, eventual formula funding, and research grants will meet the requirements for new funds.

### Summary

U. T. San Antonio requests authorization to establish a Master of Science degree in Psychology. The proposed degree is intellectually vigorous and meets a significant need in San Antonio and South Texas.

A copy of the proposal for the Master of Science degree in Psychology is on file in the U. T. System Office of Academic Affairs.

14. U. T. San Antonio: Request for Authorization to Establish a Bachelor of Business Administration Degree in Tourism Management and to Submit the Proposed Degree Program to the Coordinating Board for Approval (Catalog Change).--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Kirkpatrick that authorization be granted to establish a Bachelor of Business Administration degree in Tourism Management at U. T. San Antonio and to submit the proposal to the Texas Higher Education Coordinating Board for review and appropriate action. The proposed degree program is consistent with U. T. San Antonio's mission and its plans for offering quality degree programs to meet student and regional needs. A description of the degree program is included in the Background Information of this agenda item.

Upon approval by the Coordinating Board, the next appropriate catalog published at U. T. San Antonio will be amended to reflect this action.

## BACKGROUND INFORMATION

### Program Description

The proposed Bachelor of Business Administration degree program in Tourism Management is a 129 semester credit hour degree, including 54 hours of university core curriculum, 36 hours of common body of knowledge, 27 hours of tourism management, and 12 hours of nonbusiness electives. This is an interdisciplinary program in the College of Business and will build on the core Bachelor of Business Administration degree program. The proposed program will be administered by the Division of Management and Marketing and is designed to focus on the study of planned social and technological change, on corporate communication and training, and on the preparation of specialists to improve "people performance" in all types of tourism organizations.

### Need

The tourism management degree will address the needs of the tourism industry by providing a comprehensive curriculum in tourism/hospitality, thus filling a void in U. T. San Antonio's undergraduate programs. In 1990, the tourism industry was Texas' third largest industry. San Antonio, with its first class hotels, renowned attractions, international air service and interstate highway access, has become Texas' most popular tourist destination. Currently, no South Texas public university offers a specific program related to the tourism industry.

### Program Quality

The program is designed with an emphasis on business foundations in accounting, economics, finance, business law, management and marketing to meet the general needs of the marketplace. Faculty with extensive backgrounds in the tourism industry have already been recruited to teach specialized courses in the proposed program, thereby supplementing U. T. San Antonio's current strengths in the foundational fields.

### Cost

One new full-time faculty member will be hired for this program to join the two current faculty members in tourism management at U. T. San Antonio. Existing faculty in supporting fields will teach some courses in the program and will provide foundation courses. Appropriate increases in staff support, operating expenses, and library acquisitions are also required. Costs will be met initially through funding from the South Texas Border Initiative special item funding, reallocation of existing funds, and income from an endowment grant in support of the program.

### Summary

U. T. San Antonio requests authorization to establish a Bachelor of Business Administration degree in Tourism Management. There is a strong economic need and demonstrated support for the program in San Antonio and South Texas.

A copy of the proposal for the Bachelor of Business Administration degree in Tourism Management is on file in the U. T. System Office of Academic Affairs.

15. U. T. San Antonio and U. T. Health Science Center - San Antonio: Recommendation to Formalize Membership in the Southwest Research Consortium, San Antonio, Texas, and Request for Authorization to Execute Proposed Cooperative Agreement.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellors for Academic and Health Affairs and Presidents Kirkpatrick and Howe that approval be given to formalize the memberships of U. T. San Antonio and U. T. Health Science Center - San Antonio in the Southwest Research Consortium, San Antonio, Texas.

It is further recommended that Presidents Kirkpatrick and Howe be authorized to execute a proposed cooperative agreement set out on Pages AAC 45 - 52 with the understanding that any and all specific agreements arising from the agreement are to be submitted for prior administrative review and approval as required by the Regents' Rules and Regulations.

This item requires the concurrence of the Health Affairs Committee.

#### BACKGROUND INFORMATION

The proposed cooperative agreement for the Southwest Research Consortium is designed to encourage and facilitate cooperative activities among several institutions in San Antonio, Texas. The goals of the agreement are:

- a. Exchange of research and teaching personnel
- b. Development of collaborative research projects
- c. Exchange of equipment and laboratories.

Other parties to the agreement are the Southwest Foundation for Biomedical Research, the Southwest Research Institute, and Trinity University, all in San Antonio, Texas. The agreement formalizes a cooperative venture initiated at the institutional level in 1988 and expands the venture to add Trinity University to the cooperative activities.

The proposed cooperative agreement contains terms and conditions similar to cooperative agreements previously approved by the U. T. Board of Regents and has been reviewed by the Office of General Counsel.

COOPERATIVE AGREEMENT  
for the  
SOUTHWEST RESEARCH CONSORTIUM

THE STATE OF TEXAS |

COUNTY OF BEXAR |

This AGREEMENT is executed on (new date), by and between The University of Texas Health Science Center at San Antonio, referred to as UTHSC in this agreement; The University of Texas at San Antonio, referred to as UTSA in this agreement; the Southwest Foundation for Biomedical Research of San Antonio, Texas, referred to as SFBR in this agreement; the Southwest Research Institute of San Antonio, Texas, referred to as SwRI in this agreement; and Trinity University of San Antonio, Texas, referred to as TU in this agreement; WITNESSETH:

WHEREAS, the professional staff of the SFBR and SwRI are engaged in basic and applied research and have laboratories, equipment, and facilities which complement those of UTHSC, UTSA and TU;

WHEREAS, the faculty and staff of UTHSC, UTSA, and TU are similarly engaged in basic and applied research and have laboratories, equipment and facilities which complement those of SFBR and SwRI; and as well are engaged in research on clinical problems and have facilities therefor which SFBR and SwRI lack;

WHEREAS, SwRI and SFBR recognize, encourage, and support the continuing development and improvement of university graduate degree programs in science and

(1)

engineering; and

WHEREAS, UTHSC, UTSA, and TU are engaged in graduate education which could aid and promote the continuing professional development of SFBR and SwRI staff members and to which the SFBR and SwRI could contribute both staff and facilities;

WHEREAS, all five institutions recognize that adjunct and joint appointments and joint research projects provide valuable opportunities for members of their staffs to broaden their professional credentials, to avail themselves to new knowledge and developments in their fields of expertise, and to foster closer ties with their professional counterparts in the community; and

WHEREAS, all five institutions agree that it would be mutually beneficial to enter into an agreement to promote increased cooperation among their respective staffs.

NOW, THEREFORE, with these objectives in mind and with an intent to develop more cooperative activities to the extent consistent with the interests of each institution, UTHSC, UTSA, SFBR, SwRI and TU hereby agree to an affiliation called the Southwest Research Consortium, referred to as Consortium in this agreement, and which is more fully described as follows:

**(1) PURPOSE OF AGREEMENT**

The purpose of this agreement is to encourage and facilitate cooperative activities among UTHSC, UTSA, SFBR, SwRI and TU. It is agreed that the initiative for establishing such cooperative activity may be initiated, subject to Item (2) of this agreement, by any staff member associated with the several departments, divisions, or other operating units of the Consortium institutions or by the respective Presidents or their Delegates. It is further understood that any one Consortium institution may or may not establish cooperative

(2)

activities, depending upon their needs and circumstances. However, if cooperative activities are to be established, they will be subject to final approval by and be under the cognizance of the Consortium Presidents and their Delegates.

This agreement is not intended, and shall not be interpreted, to create legal rights and obligations between or among any of the parties. If any such rights or obligations are to be created relative to any cooperative activity alluded to in this agreement, they must be created by specific, separate agreements between or among the parties involved in those agreements, each of which agreements shall recite that the intention of the parties is to create rights and obligations which shall be legally binding upon the parties as stated therein. The Southwest Research Consortium referred to herein shall not be deemed to be a legal entity, or have the power to have legal relationships with entities; rather, the Consortium is and shall be deemed to be merely an informal discussion group whose purpose is to encourage and facilitate cooperative activities among the parties.

**(2) COOPERATIVE ACTIVITIES UNDER THIS AGREEMENT**

The parties contemplate that cooperative activities which will be considered under this agreement include, but not be limited to, the following:

**(a) Provision for Cooperation Through Joint Appointments  
for Staff Members**

There may be occasions where two of the Consortium institutions will want to make a joint (or adjunct) appointment so that both institutions will have the benefit of a staff member's presence and, as well, responsibility for their administrative and financial needs. These occasions may result from the desire for added inducement to attract well qualified professionals to the San Antonio region. Or, the occasion may

(3)

arise to facilitate the desires of current staff members wanting to work more closely with colleagues at one of the other Consortium institutions. In some cases, this might take the form of having staff from one institution serve on a thesis or dissertation committee at another institution; qualified SFBR or SwRI staff members teaching courses at UTHSC, UTSA or TU through joint (or adjunct) faculty appointments or other suitable arrangements; or a variety of other activities that would ultimately enhance the cooperative activities of the Consortium institutions.

Such joint (or adjunct) appointments may be initiated by any Consortium institution and will be granted after mutual agreement on an individual basis, subject to the applicable faculty appointment procedures and the Regents' Rules for The University of Texas System and TU.

(b) Provision for Cooperation Through Jointly Conducted Research Projects

In order that the Consortium institutions jointly conduct research projects, each institution will encourage its staff members to professionally interact with those of the other institutions to explore fully the values of linking talents and facilities in synergistic ways. There may be occasions when two or more of the Consortium institutions desire to collaborate in developing a proposal to be considered for funding by a non-Consortium institution. Additionally, one institution may wish to subcontract existing funds to another Consortium institution to acquire needed talent or two or more institutions may wish to investigate a common technical interest, each providing the funds for their portion of the study.

In each such jointly conducted research project, there will be a written and approved agreement (usually a formal proposal) that describes fully the technical

(4)

responsibilities and financial requirements of each participating staff member and institution. As well, the agreement should consider other matters including ownership of equipment acquired with the research funds and plans for the disposition of intellectual property (patents, copyrights, etc.). This agreement or proposal document must be approved by each participating institution before it is officially offered to a potential sponsor for funding.

(c) Provision for Cooperation Through Sharing of Equipment and Laboratories

There may be occasions when staff members from one institution desire access to equipment and/or laboratories located at one of the other Consortium institutions. This may be in conjunction with a jointly conducted research project where there is a need for staff members from both institutions to be integrally involved with the same facility. There may be a need for access to equipment at another institution on a project conducted exclusively at another Consortium institution or there may be an occasion where a staff member and a graduate student(s) from one institution need the use of equipment or laboratories of another institution.

In each such case where the sharing of equipment and/or laboratories is desirable, there will be a written and approved agreement that describes fully the technical requirements and personnel involved, as well as the financial arrangements to insure each institution is satisfactorily reimbursed. This type of cooperation must be accomplished on a basis that it enhances the quality of an institution's endeavors and does not interfere with the traditional mission of any Consortium institution. The agreement for sharing equipment and/or laboratories must be approved by each participating institution before such sharing can occur.

(5)

**(3) PROVISION FOR REVIEW**

It is agreed that a productive and harmonious relationship between the Consortium institutions depends upon maintaining effective channels of communication. The institutions anticipate that routine matters will be handled and decided by mutual agreement through continuous contact at the department, division, or operating unit levels subject to review and approval by the Presidents or their Delegates. At least annually, and more frequently if necessary or desirable, the Presidents of each participating institution shall meet to review and discuss overall relationships, all agreements, policies, and other matters of common concern. More frequently, the Delegates will meet to monitor and coordinate the cooperative activities that are conducted under the jurisdiction of this Cooperative Agreement.

**(4) MODIFICATION OF AGREEMENT AND TERMINATION**

If any aspect of this Agreement becomes unsatisfactory to any participating institution, the Delegates shall be responsible for discussing and resolving questions involved. If a change in the Agreement is necessary or desirable, the Delegates shall make recommendations to the Presidents. If problems develop that are serious, and that cannot be resolved, any participating institution shall have the right to terminate this agreement upon not less than six months' written notice to each of the others. The effective date of such termination shall be mutually agreed upon with adequate time allowed each institution to make necessary arrangements for an orderly transition. In the absence of such an agreement, however, the effective date of such termination shall be six months after the receipt by all others of such written notice.

(6)

**(5) TERM OF AGREEMENT**

This Agreement shall be for a term of ten years from and after the date of execution unless sooner terminated as herein-above provided or by mutual consent of all institutions. It may also be extended or amended in writing to include such provisions as all institutions may agree upon.

**(6) CANCELLATION**

This agreement supersedes and cancels that certain Agreement, dated November 18, 1988, by and between the Board of Regents of The University of Texas System, the Board of Regents of Trinity University and the Board of Governors of Southwest Foundation for Biomedical Research and the Board of Directors of Southwest Research Institute; and the same shall be of no further force and effect.

**(7) CAPTIONS**

All captions in this agreement are for convenience only and shall not be interpreted as having any meaning of substance.

(7)

EXECUTED by the parties on the day and year first above written.

\* \* \*

ATTEST:

SOUTHWEST FOUNDATION FOR  
BIOMEDICAL RESEARCH

\_\_\_\_\_  
Henry C. McGill, Jr.

\_\_\_\_\_  
Frank F. Ledford, Jr., President

\* \* \*

ATTEST:

SOUTHWEST RESEARCH INSTITUTE

\_\_\_\_\_  
Jay M. Lewallen

\_\_\_\_\_  
Martin Goland, President

\* \* \*

ATTEST:

THE UNIVERSITY OF TEXAS  
AT SAN ANTONIO

\_\_\_\_\_  
Reynaldo S. Elizondo

\_\_\_\_\_  
Samuel A. Kirkpatrick, President

\* \* \*

ATTEST:

THE UNIVERSITY OF TEXAS HEALTH  
SCIENCE CENTER AT SAN ANTONIO

\_\_\_\_\_  
Sanford A. Miller

\_\_\_\_\_  
John P. Howe, III, M.D., President

\* \* \*

ATTEST:

TRINITY UNIVERSITY

\_\_\_\_\_  
William H. Stone

\_\_\_\_\_  
Ronald K. Calgaard, President

(8)

# Health Affairs Committee

HEALTH AFFAIRS COMMITTEE  
Committee Chairman Ramirez

Date: April 14, 1994  
Time: Following the meeting of the Academic Affairs  
Committee  
Place: Auditorium (Room 119), Biomedical Research  
Building, U. T. Health Center - Tyler

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1. U. T. Southwestern Medical Center - Dallas: Proposed Appointment to the Arnold N. and Carol S. Ablon Professorship in Biomedical Science Effective Immediately.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Wildenthal that Willis Crocker Maddrey, M.D., be appointed as initial holder of the Arnold N. and Carol S. Ablon Professorship in Biomedical Science at the U. T. Southwestern Medical Center - Dallas effective immediately.

This appointment is contingent upon the establishment of the Professorship as proposed in Item 28 on Page AMC - 28.

#### BACKGROUND INFORMATION

Dr. Maddrey is Executive Vice President for Clinical Affairs and Professor of Internal Medicine (with tenure) at the U. T. Southwestern Medical Center - Dallas. He was recruited in 1990 from Jefferson Medical College, Philadelphia, Pennsylvania, where he served with distinction as Chairman of the Department of Medicine. He recently served as President of the American College of Physicians and is internationally recognized as a specialist of liver diseases.

2. U. T. Health Science Center - Houston: Recommendation to Establish a General Use Fee Effective for the 1995-1996 Academic Year (Catalog Change).--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Low that the U. T. Board of Regents approve the establishment of a General Use Fee at the U. T. Health Science Center - Houston effective with the 1995-1996 academic year to be assessed students at the rate of \$12 per semester credit hour for students enrolled on that basis and \$450 per academic year for medical and dental students as authorized by Section 55.16 of the Texas Education Code.

Upon Regental approval, the Minute Order will reflect that the next appropriate catalog published at the U. T. Health Science Center - Houston will be amended to conform to this action.

### BACKGROUND INFORMATION

Section 55.16 of the Texas Education Code authorizes the collection of a student use fee not to exceed \$12 per semester credit hour. Proceeds from this fee will be devoted to capital renewal and deferred maintenance projects as reviewed and approved by the Executive Council at the U. T. Health Science Center - Houston.

The proposed fee has been reviewed and approved by the Executive Council and the Student Intercouncil.

3. U. T. Health Science Center - San Antonio: Request for Permission for Individuals to Serve (a) on the Statewide Health Coordinating Council and (b) as Administrator of the Health Resources and Services Administration (HRSA) [Regents' Rules and Regulations, Part One, Chapter III, Section 13, Subsections 13.(10) and 13.(11)].--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs that approval be given for the following individuals at the U. T. Health Science Center - San Antonio to serve as indicated:

- a. John P. Howe, III, M.D., President, to serve on the Statewide Health Coordinating Council
- b. Ciro V. Sumaya, M.D., Professor, Department of Pediatrics, to serve as Administrator of the Health Resources and Services Administration (HRSA).

It is further recommended that the U. T. Board of Regents find that: (1) the holding of these positions by the individuals is of benefit to the State of Texas and (2) there is no conflict between their positions at the U. T. Health Science Center - San Antonio and service in these positions.

### BACKGROUND INFORMATION

Governor Richards has appointed Dr. Howe to serve on the Statewide Health Coordinating Council pursuant to House Bill 1510, 73rd Texas Legislature. The Council is charged with preparation and review of a proposed state health plan to identify major statewide health concerns and the availability and use of resources, including those resources associated with state-supported institutions of higher education, for the correction of deficiencies in the health delivery system. The Council will provide direction for the Legislature and executive decision-making processes to implement the strategies proposed by the plan. Dr. Howe will receive no compensation for this service.

Dr. Sumaya has been appointed by President Clinton to serve as Administrator of the Health Resources and Services Administration (HRSA). HRSA is one of the agencies of the Public Health Service under the overall direction of the Assistant Secretary of Health with leadership responsibilities related to the access, equity, and quality of health care at the national level. HRSA will be a pivotal federal health agency addressing the health care concerns of the nation through Health Care Reform. Dr. Sumaya's service as Administrator of the Health Resources and Services Administration will serve the nation's needs as well as provide ultimate benefit to The University of Texas System and the State of Texas.

This recommendation is in accordance with approval requirements for positions of honor, trust, or profit provided in Article 6252-9a of Vernon's Texas Civil Statutes and the Regents' Rules and Regulations, Part One, Chapter III, Section 13, Subsections 13.(10) and 13.(11).

4. U. T. Health Science Center - San Antonio: Proposed Appointment to the Thomas Walthall Folbre, M.D. Endowed Professorship in Otolaryngology Effective Immediately.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Howe that Robert A. Dobie, M.D., be appointed as initial holder of the Thomas Walthall Folbre, M.D. Endowed Professorship in Otolaryngology at the U. T. Health Science Center - San Antonio effective immediately.

#### BACKGROUND INFORMATION

Dr. Dobie, Professor and Chairman of the Department of Otolaryngology-Head and Neck Surgery at the U. T. Health Science Center - San Antonio, is a nationally recognized leader in communicative disorders. Throughout his career he has enjoyed support for his research from the National Institute of Neurological and Communicative Diseases and Stroke and has frequently been recognized for his work as an educator, scholar, and physician.

The Thomas Walthall Folbre, M.D. Endowed Professorship in Otolaryngology was established by the U. T. Board of Regents at the December 1993 meeting.

5. U. T. Health Science Center - San Antonio (U. T. Nursing School - San Antonio): Recommendation to Establish Three Departments and to Submit the Proposal to the Coordinating Board for Approval (Catalog Change).--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Howe that approval be granted to establish the following three departments within the U. T. Nursing School - San Antonio at the U. T. Health Science Center - San Antonio: (1) Department of Acute Nursing Care, (2) Department of Chronic Nursing Care, and (3) Department of Family Nursing Care. Upon approval by the U. T. Board of Regents, the proposal will be submitted to the Texas Higher Education Coordinating Board for approval.

#### BACKGROUND INFORMATION

The establishment of departments in the U. T. Nursing School - San Antonio is an administrative change only. The School currently functions as a faculty of the whole with Coordinators serving in leadership roles. The proposed reorganization will change the Coordinator title to Department Chair and will establish three departments: (1) Department of Acute Nursing Care, (2) Department of Chronic Nursing Care, and (3) Department of Family Nursing Care. The proposed structure is the same as that used in other Schools within the U. T. Health Science Center - San Antonio and will strengthen the School by clearly defining duties and responsibilities of faculty in leadership roles. Moreover, this proposed change is consistent with state and national trends.

This reorganization will require no new state funds. Resources currently available in the U. T. Nursing School - San Antonio will fund the new structure.

Upon approval by the Coordinating Board, the next appropriate catalog published at the U. T. Health Science Center - San Antonio will be amended to reflect this action.

A copy of the proposal is on file in the Office of Health Affairs.

6. U. T. M.D. Anderson Cancer Center: Proposed Appointments to Endowed Academic Positions Effective as Indicated.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President LeMaistre that the following initial appointments to endowed academic positions at the U. T. M.D. Anderson Cancer Center be effective as indicated:

<u>Name of Proposed Appointee</u>	<u>Endowed Academic Position</u>
Mark A. Schusterman, M.D. Associate Professor and Chairman, Department of Reconstructive and Plastic Surgery	Charles M. McBride Professorship in Surgical Oncology; established December 1992; effective September 1, 1994
Christopher J. Logothetis, M.D. Professor and Chairman, Depart- ment of Genitourinary Medical Oncology	Bessie McGoldrick Profes- sorship in Clinical Cancer Research; established August 1991; effective immediately

BACKGROUND INFORMATION

Dr. Schusterman joined the faculty of the U. T. M.D. Anderson Cancer Center in 1988 as an Assistant Professor of Plastic Surgery. In 1993, he was appointed Director of the Microvascular Surgical Unit and recently was appointed Chairman of the newly created Department of Reconstructive and Plastic Surgery.

Dr. Logothetis was appointed a fellow at U. T. M.D. Anderson Cancer Center in 1977. In 1979, he was appointed Instructor in Medicine and was promoted to full Professor in 1992. He enjoys an international reputation as a leader in Genitourinary Medicine and is an invited lecturer at many scientific and medical conferences and symposia.

7. U. T. M.D. Anderson Cancer Center: Recommendation to Name Facility in the Houston Main Building (Regents' Rules and Regulations, Part One, Chapter VIII, Section 1, Subsection 1.2, Naming of Facilities Other Than Buildings).--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President LeMaistre that the Radiologic-Pathologic Institute which is located on the 15th floor of the Houston Main Building at the U. T. M.D. Anderson Cancer Center be named the Levit Radiologic-Pathologic Institute. This recommendation

is in accordance with the Regents' Rules and Regulations, Part One, Chapter VIII, Section 1, Subsection 1.2, relating to the naming of facilities other than buildings.

#### BACKGROUND INFORMATION

The proposed naming of the facility is in recognition of a \$500,000 contribution toward a pledge of \$2 million from the Joe Levit Family Foundation. The gift, made in honor of Joe and Dora Levit by their sons, Max and Milton Levit, was designated for the capital campaign and will be used to support the construction of the Magnetic Resonance Imaging Suite which will be located on the second floor of the Clinical Services Facility now under construction.

8. U. T. Health Center - Tyler: Proposed Appointment to the Dr. and Mrs. Sam Topperman Professorship in Medical Education Effective Immediately.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and Director Hurst that Wilbur G. Avery, M.D., be appointed as initial holder of the Dr. and Mrs. Sam Topperman Professorship in Medical Education at the U. T. Health Center - Tyler effective immediately.

#### BACKGROUND INFORMATION

Dr. Avery has served as Professor of Medicine and Associate Director for Continuing Medical Education at the U. T. Health Center - Tyler since 1980. He has been instrumental in developing an outstanding continuing medical education program for faculty, residents, and East Texas physicians as well as working with the family practice residency program.

See Item 55 on Page AMC - 45 related to the redesignation of the Doctor and Mrs. Sam Topperman Lectureship as the Dr. and Mrs. Sam Topperman Professorship in Medical Education.

9. U. T. Southwestern Medical Center - Dallas, U. T. Medical Branch - Galveston, U. T. Health Science Center - Houston, U. T. Health Science Center - San Antonio, U. T. M.D. Anderson Cancer Center, and U. T. Health Center - Tyler: Recommendation to Authorize the Establishment of Certified Nonprofit Health Corporations.--

This item will be the subject of a Board briefing prior to the meeting.

HEALTH AFFAIRS COMMITTEE

SUPPLEMENTAL MATERIAL

APRIL 14, 1994

9. U. T. Southwestern Medical Center - Dallas, U. T. Medical Branch - Galveston, U. T. Health Science Center - Houston, U. T. Health Science Center - San Antonio, U. T. M.D. Anderson Cancer Center, and U. T. Health Center - Tyler: Recommendation to Authorize the Establishment of Certified Nonprofit Health Corporations.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and the Office of General Counsel that each U. T. System health component be authorized to establish a certified nonprofit health corporation pursuant to the Texas Medical Practice Act, Section 5.01, Article 4495b, V.T.C.S. Such corporations shall be established in accordance with the model articles of incorporation and the model bylaws developed by the Office of General Counsel as set forth on Pages HAC 8b - 8u. A health component that elects to establish such corporation must submit a business plan for approval by the Office of Health Affairs and the Office of General Counsel.

BACKGROUND INFORMATION

As a way to ensure (1) an adequate referral base of patients to meet the medical education needs of the institution and (2) the continued fiscal viability of their Medical Service, Research and Development Plans (MSRDP), the health components have each requested authority to establish a certified nonprofit corporation to engage in managed care contracting. These corporations are designed to provide the health components with the necessary capability to react to market demands.

Certification by the Board of Medical Examiners as a nonprofit health corporation offers an alternative to statutory licensure as a health maintenance organization (HMO). That is, the Texas Health Maintenance Organization Act contains a specific exception that allows nonprofit health corporations to accept risk contracts for physician services without being licensed as a HMO.

ARTICLES OF INCORPORATION OF  
[UT NON-PROFIT HEALTH CORPORATION]

I, the undersigned natural person of eighteen (18) years or more, acting as incorporator of a corporation under the Texas Non-Profit Corporation Act, do hereby adopt the following Articles of Incorporation for such corporation:

ARTICLE ONE

The name of the corporation is [UT Non-Profit Health Corporation].

ARTICLE TWO

The corporation is a non-profit corporation.

ARTICLE THREE

The period of its duration is perpetual.

ARTICLE FOUR

This corporation is organized exclusively for charitable, scientific, and educational purposes. More specifically, the corporation is organized and shall be operated exclusively to carry out the following purposes:

- (a) Providing health care to the public, including but not limited to the delivery of physician medical services and other health care services to persons who are entitled to health care benefits through policies of health insurance, employer self-funded health benefit plans, Medicare/Medicaid, Health Maintenance Organizations, Preferred Provider Organizations, managed care contracts, as well as to private pay patients, and billing and collecting for such services. The physician medical services and other health care services may be provided either through employees and facilities of the corporation, through contracts with qualified providers of such services, or both. The corporation may negotiate

and execute third party payor contracts and network health care provider contracts in which the corporation agrees to provide and/or contract for the provision of health care services of all types to persons in exchange for various compensation arrangements.

- (b) Supporting health care education through grants to The University of Texas \_\_\_\_\_ to be used for educating students in health care programs; for scholarships and loans to such students; for programs to enhance the capabilities of faculty of The University of Texas \_\_\_\_\_ to educate students in the delivery of health care to the public; and for programs developed and implemented by The University of Texas \_\_\_\_\_ to inform and instruct the general public in the areas of medical science, public health, hygiene, and other health related subjects that are beneficial to individuals and the community.
- (c) Providing grants to The University of Texas \_\_\_\_\_ to conduct research and develop educational programs to further and improve the ability of health care professionals and facilities to provide health care services to the public.
- (d) Other activities useful or appropriate to the accomplishment of the foregoing purposes.

No part of the corporation's net earnings shall inure to the benefit of, or be distributable to, any director, officer or other private person, *provided*, that the corporation shall be authorized and empowered to employ or contract for the services of administrators, physicians, surgeons and other health care personnel and to own and operate hospitals, clinics and health care facilities or to contract with hospitals, clinics and health care facilities as necessary or useful in the accomplishment of the foregoing purposes and shall be authorized and empowered to pay reasonable compensation for services rendered by such personnel and facilities and to make payments and distributions in furtherance of such purposes. No substantial part of the activities of the corporation shall be carrying on propaganda, or otherwise attempting to influence

legislation, and it shall not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office.

#### ARTICLE FIVE

The street address of the registered office of the corporation is [insert street address], and the name of its initial registered agent at such address is [insert name].

#### ARTICLE SIX

The direction and management of the affairs of the corporation and the control and disposition of its assets shall be vested in a board of directors (the "Board of Directors") composed of such number of persons (not less than three) as may be fixed by the By-laws of the corporation. The number of directors presently constituting the Board of Directors is \_\_\_\_\_ (\_\_\_). The names and addresses of the persons who shall serve as the initial directors of the corporation are as follows:

Name

Address

[insert names and addresses]

Each director shall hold office for the term for which he or she is elected, except that the initial directors of the corporation named in these articles shall hold office for the terms specified in the By-laws of the corporation to be held by such directors, and until his or her successor shall have been duly elected and qualified unless such director is sooner removed in the manner provided in the By-laws of the corporation or he or she resigns.

Each director and successor director shall at all times be a physician duly licensed to practice medicine by the Texas State Board of Medical Examiners and actively engaged in the practice of medicine as a full-time member of the faculty of The University of Texas \_\_\_\_\_. For purposes of these Articles of Incorporation, the term "actively engaged in the practice of medicine" means that the physician is engaged in full-time service of diagnosing or treating medical or physical ailments of human beings at least forty (40) hours per week.

#### ARTICLE SEVEN

The corporation shall have members. The membership of the corporation shall be determined as provided in the By-laws of the corporation, and such By-laws shall define the voting rights, powers and privileges of the members.

#### ARTICLE EIGHT

The initial By-laws of the corporation shall be adopted by the Board of Directors. The power to alter, amend or repeal such By-laws or to adopt new By-laws shall be vested in the members of the corporation.

#### ARTICLE NINE

The power to alter, amend or repeal these Articles of Incorporation shall be vested in the members of the corporation.

#### ARTICLE TEN

Notwithstanding any other provision of these articles, the corporation shall not engage, participate or intervene in any activity or transaction which would result in the loss by the corporation of its status as an organization exempt from federal income taxation under section 501(a) of the Internal Revenue Code of 1986, as amended (the "Code"), or corresponding provisions hereafter in effect, and the use, directly or

indirectly, of any part of the assets of the corporation in any such activity or transaction is hereby expressly prohibited.

#### ARTICLE ELEVEN

In the event of the dissolution of the corporation, by lapse of time or otherwise, when it has, or is entitled to, any interest in any funds or property of any kind, real, personal or mixed, such funds or property or rights thereto shall not be transferred to private ownership, but upon such dissolution, the Board of Directors shall, after paying or making provision for the payment of all liabilities of the corporation, transfer and set over such funds or property or rights thereto to The University of Texas \_\_\_\_\_; provided, that at the time of dissolution, The University of Texas \_\_\_\_\_ is qualified as an organization exempt from federal income taxation under the Internal Revenue Code. In the event that, at the time of dissolution, The University of Texas \_\_\_\_\_ is not in existence, such funds or property or rights thereto shall be transferred and set over to such organization (or organizations) which qualifies (or qualify) for exemption from federal income taxation under section 170(b)(1)(A)(v) or 501(c)(3) of the Internal Revenue Code, as directed by the Board of Regents of the UT System.

#### ARTICLE TWELVE

A director of the corporation shall not be liable to the corporation for monetary damages for an act or omission in the director's capacity as a director, except that this Article Twelve does not eliminate or limit the liability of a director of the corporation to the extent the director is found liable for: (i) a breach of the director's duty of loyalty to the corporation or its members; (ii) an act or omission not in good faith that constitutes a breach of duty of the director to the corporation or an act or

omission that involves intentional misconduct or a knowing violation of the law; (iii) a transaction from which the director received an improper benefit, whether or not the benefit resulted from an action taken within the scope of the director's office; or (iv) an act or omission for which the liability of a director is expressly provided by an applicable statute. If the Texas Miscellaneous Corporation Laws Act or any other statute of the State of Texas hereafter is amended to authorize the further elimination or limitation of the liability of directors of the corporation, then the liability of a director of the corporation shall be limited to the fullest extent permitted by the statutes of the State of Texas, as so amended, and such elimination or limitation of liability shall be in addition to, and not in lieu of, the limitation on the liability of a director of the corporation provided by the foregoing provisions of this Article Twelve. Any repeal of or amendment to this Article Twelve shall be prospective only and shall not adversely affect any limitation on the liability of a director of the corporation existing at the time of such repeal or amendment.

#### ARTICLE THIRTEEN

The name and business address of the incorporator is:

Name

Address

[Insert Name and Address]

IN WITNESS WHEREOF, I have hereunto set my hand on this \_\_\_\_\_ day  
of \_\_\_\_\_, 1994.

By \_\_\_\_\_  
[Insert Name]

BY-LAWS  
OF  
[UT NON-PROFIT HEALTH CORPORATION]

ARTICLE 1

NAME AND PURPOSE

1.1 Name. The name of the corporation is [UT Non-Profit Health Corporation].

1.2 Purpose. This corporation is organized exclusively for charitable, scientific, and educational purposes. More specifically, the corporation is organized and shall be operated exclusively to carry out the following purposes:

(a) Providing health care to the public, including but not limited to the delivery of physician medical services and other health care services to persons who are entitled to health care benefits through policies of health insurance, employer self-funded health benefit plans, Medicare/Medicaid, Health Maintenance Organizations, Preferred Provider Organizations, managed care contracts, as well as to private pay patients, and billing and collecting for such services. The physician medical services and other health care services may be provided either through employees and facilities of the corporation, through contracts with qualified providers of such services, or both. The corporation may negotiate and execute third party payor contracts and network health care provider contracts in which the contracting party agrees to provide and/or contract for the provision of health care services of all types to persons in exchange for various compensation arrangements.

(b) Supporting health care education through grants to The University of Texas \_\_\_\_\_ to be used for educating students in health care programs; for scholarships and loans to such students; for programs to enhance the capabilities of faculty of The University of Texas \_\_\_\_\_ to educate students in the delivery of health care to the public; and for programs developed and implemented by The University of Texas \_\_\_\_\_ to inform and instruct the general public in the areas of medical science, public health, hygiene, and other health related subjects that are beneficial to individuals and the community.

(c) Providing grants to The University of Texas \_\_\_\_\_ to conduct research and develop educational programs to further and improve the ability of health care professionals and facilities to provide health care services to the public.

(d) Other activities useful or appropriate to the accomplishment of the foregoing purposes.

No part of the corporation's net earnings shall inure to the benefit of, or be distributable to, any director, officer or other private person, *provided*, that the corporation shall be authorized and empowered to employ or contract for the services of administrators, physicians, surgeons and other health care personnel and to own and operate hospitals, clinics and health care facilities or to contract with hospitals, clinics and health care facilities as necessary or useful in the accomplishment of the foregoing purposes and shall be authorized and empowered to pay reasonable compensation for services rendered by such personnel and facilities and to make payments and distributions in furtherance of such purposes. No substantial part of the activities of the corporation shall be carrying on propaganda, or otherwise attempting to influence legislation, and it shall not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office.

## ARTICLE 2

### MEMBERS

2.1 Number, Powers and Duties. This corporation shall have members, and, until changed by amendment to these By-laws, the number of members constituting the membership of the corporation shall be one (1), which member shall exercise such

rights and perform such duties of members as may be provided by law, the corporation's Articles of Incorporation, or these By-laws.

**2.2 Identity.** The member of this corporation shall be The University of Texas  
\_\_\_\_\_.

**2.3 Annual Meeting.** The annual meeting of the member shall be held at such date and time as shall be designated from time to time by the member, for the election of directors of the corporation and the transaction of such other business as may lawfully come before the meeting. No notice of the annual meeting shall be required to be given to the member.

**2.4 Special Meetings.** Special meetings of the member shall be called by or at the request of the president of the corporation or the member. [\_\_\_\_\_ (\_\_\_\_) days notice of the time, place, date and purpose or purposes for which the meeting is called shall be given to the member.]

**2.5 Action Reserved by Member.** The member shall have the sole power to alter, amend, or repeal the Articles of Incorporation and By-laws of the corporation. In addition, the following matters shall require the approval of the member:

- (a) The annual operating and capital budgets of the corporation;
- (b) Material (\$\_\_\_\_\_) deviations from annual operating and capital budgets.
- (c) The purchase or acquisition of any property, real, personal, or mixed, by the corporation exceeding \$\_\_\_\_\_;
- (d) The sale, gift, or other disposition of any property, real, personal, or mixed, of the corporation exceeding \$\_\_\_\_\_;
- (e) The mortgage or other encumbrance of any property, real, personal, or mixed, of the corporation in excess of \$\_\_\_\_\_;
- (f) The merger, dissolution, or consolidation of the corporation; and

(g) The creation of or investment in any subsidiary entity.

2.6 Action by Written Consent. Any action required or permitted to be taken at any meeting of the member may be taken without a meeting if a consent in writing, setting forth the action to be taken, shall be signed by the member, and such consent shall have the same force and effect as a unanimous vote at a meeting.

2.7 Action by The University of Texas \_\_\_\_\_. Any action which may be required by law, the corporation's Articles of Incorporation, or these By-laws to be taken by The University of Texas \_\_\_\_\_ as a member shall be evidenced in writing, signed by the president of The University of Texas \_\_\_\_\_ for and on behalf of The University of Texas \_\_\_\_\_ and shall be filed in the minute book of the corporation as part of the permanent records of the corporation.

2.8 Non-Liability of Member. The member shall not be liable for the debts, liabilities, or obligations of the corporation.

### ARTICLE 3

#### BOARD OF DIRECTORS

3.1 Number, Tenure, Qualifications, Removal, Resignation and Vacancies.

(a) Number. Except as otherwise provided in these By-laws, the direction and management of the affairs of the corporation and the control and disposition of its assets shall be vested in a board of directors (the "Board of Directors") which shall consist of not less than three persons. Such number of directors shall from time to time be fixed and determined by the member and shall be set forth in the notice of any meeting of the member held for the purposes of appointing directors.

(b) Tenure. Each director shall serve for his or her term of office and until his or her successor shall have been duly appointed and qualified unless he or she is sooner removed in the manner specified in subparagraph (d) of this paragraph 3.1 of these By-laws or until the earlier of the failure of such director to be eligible to serve in accordance with subparagraph (c) of this paragraph 3.1

of these By-laws as director of the corporation or his or her death or resignation. [Provides staggered terms for directors; alternative would provide for annual election of all directors.] Directors constituting the initial Board of Directors shall serve original terms of office as follows:

(i) \_\_\_\_\_ shall serve an original term of office commencing upon the inception of the corporation and ending upon the date of the 199\_\_ annual meeting of the member;

(ii) \_\_\_\_\_ shall serve an original term of office commencing upon the inception of the corporation and ending upon the date of the 199\_\_ annual meeting of the member; and

(iii) \_\_\_\_\_ shall serve an original term of office commencing upon the inception of the corporation and ending upon the date of the 199\_\_ annual meeting of the member.

The determination of which directors named as initial directors in the Articles of Incorporation of the corporation shall serve original terms of office as set forth hereinabove shall be determined by the initial Board of Directors at the organizational meeting thereof. Each successor to a director whose term has expired shall be appointed in the manner specified in paragraph 3.2 of these By-laws and each such successor shall hold office for a term commencing upon the date of his or her appointment and ending upon the date of the third annual meeting of the member following the date of his or her election, except that, in the case of an appointment to fill a vacancy in a seat on the Board of Directors, the term of the successor shall be for the unexpired term of the former occupant thereof.

(c) Qualifications. Each director shall at all times be a physician duly licensed to practice medicine by the Texas State Board of Medical Examiners and actively engaged in the practice of medicine as a full-time member of the faculty of The University of Texas \_\_\_\_\_. For purposes of these By-laws, the term "actively engaged in the practice of medicine" means that the physician is engaged in full-time service of diagnosing or treating mental or physical ailments of human beings at least 40 hours per week.

(d) Removal. The member may remove at any time any director from the Board of Directors.

(e) Resignation. Each director shall have the right to resign at any time upon written notice thereof to the president or secretary of the corporation. Unless otherwise specified in the notice, the resignation shall take effect upon receipt thereof, and the acceptance of such resignation shall not be necessary to make it effective.

(f) Vacancies. A vacancy shall be declared in any seat on the Board of Directors upon the death, resignation or removal of the occupant thereof, upon the disability of the occupant rendering him or her permanently incapacitated (as defined in paragraph 10.4 of these By-laws), or at such time that the occupant is no longer qualified under subparagraph (c) of this paragraph 3.1 to serve as a director of the corporation.

**3.2 Appointment.** Each successor to a director whose term shall have expired shall be appointed at the annual meeting of the member for the year in which the term of such director expired or at a meeting of the member called for that purpose. Any director whose term of office shall have expired may be appointed to succeed himself or herself. In the event that the number of directors constituting the Board of Directors is increased in accordance with these By-laws, any directorship to be filled by reason of said increase shall be filled by the member.

**3.3 Annual Meeting.** The annual meeting of the Board of Directors shall be held at such date and time as shall be designated from time to time by the Board of Directors and stated in the notice of meeting, for the election of officers and the transaction of such other business as may lawfully come before the meeting. [It shall be the duty of the secretary of the corporation to give at least \_\_\_\_\_ (\_\_\_) days notice of the time, place and date of the annual meeting to each director.]

**3.4 Regular Meetings.** Regular meetings of the Board of Directors shall be held on such dates and at such times and places as the Board of Directors shall from time to time determine, for the transaction of such business as may lawfully come before each meeting. [Regular meetings may be held without notice.]

**3.5 Special Meetings.** Special meetings of the Board of Directors shall be held whenever called by or at the request of the president of the corporation, any two directors, or the member. Except in the case of an emergency, ten (10) days notice of

the date, time and place of each such special meeting shall be given to each director and the member.

3.6 Quorum for Meetings. The presence of a majority of the number of directors fixed by these By-laws as constituting the Board of Directors shall be a quorum for the transaction of business at all meetings convened according to these By-laws.

3.7 Voting. The affirmative vote of a majority of the directors present (in person or by proxy) at a meeting at which a quorum is present shall be the act of the Board of Directors, except as may be otherwise specifically provided by law, the corporation's Articles of Incorporation, or these By-laws.

3.8 Proxies. A director may vote at a meeting of the Board of Directors by proxy executed in writing by such director and delivered to the secretary of the corporation at or prior to such meeting; however, a director present by proxy at any meeting of the Board of Directors may not be counted to determine whether a quorum is present at such meeting. No proxy shall be valid after three months from the date of its execution and shall be revocable at any time unless otherwise made irrevocable by law.

3.9 Action by Written Consent. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee designated by the Board of Directors may be taken without a meeting if a consent in writing, setting forth the action to be taken, shall be signed by all members of the Board of Directors or of such committee, and such consent shall have the same force and effect as a unanimous vote at a meeting.

## ARTICLE 4

### NOTICES

4.1 Form of Notice. Whenever under the provisions of these By-laws, notice is required to be given to any member, director or committee member, and no provision is made as to how such notice shall be given, it shall not be construed to mean personal notice, but any such notice may be given in writing, by mail, postage prepaid, addressed to such member, director or committee member at such address as appears on the books of the corporation. Any notice required or permitted to be given by mail shall be deemed to be given at the time the notice is deposited, postage prepaid, in the United States mail.

4.2 Waiver. Whenever any notice is required to be given to any member, director or committee member under the provisions of these By-laws, a waiver thereof in writing signed by the member or the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

## ARTICLE 5

### GENERAL OFFICERS

5.1 Number, Election and Tenure, Resignation, and Removal.

(a) Number. The officers of this corporation shall be a chairman and a vice chairman of the Board of Directors and a president, one or more vice presidents, a secretary and a treasurer and such other officers as may be determined and selected by the Board of Directors from time to time.

(b) Election and Tenure. At the organizational meeting, and thereafter at each annual meeting, the Board of Directors shall elect the officers. Each officer so elected shall take office on the date of his or her election and shall hold such office until the earlier of the date of the next annual meeting of the Board of Directors following the date of his or her election, and thereafter, until his or her successor shall have been duly elected and qualified, or the date such officer

resigns or is removed. Any two or more offices may be held by the same person, except that the offices of president and secretary may not be held by the same person.

(c) Resignation. Any officer may resign at any time by giving written notice thereof to the president or secretary of the corporation. Unless otherwise specified in the notice, the resignation shall take effect upon receipt thereof, and the acceptance of the resignation shall not be necessary to make it effective.

(d) Removal. Any officer elected by the Board of Directors may be removed at any time by the Board of Directors with or without cause.

5.2 Attendance at Meetings. The chairman, and in his or her absence the vice chairman, shall call meetings of the Board of Directors to order, and shall act as chairman of such meetings, and the secretary of the corporation shall act as secretary of all such meetings, but in the absence of the secretary the chairman may appoint any person present to act as secretary of the meeting.

5.3 Duties. The principal duties of the several officers are as follows:

(a) Chairman. The chairman shall preside at all meetings of the Board of Directors, shall be the principal officer of the Board of Directors and shall perform such other duties as may be assigned to him or her by the Board of Directors.

(b) Vice Chairman. The vice chairman shall discharge the duties of the chairman in the event of the chairman's absence or disability for any cause whatever, and shall perform such additional duties as may be prescribed from time to time by the Board of Directors.

(c) President. The president shall be the chief executive officer of the corporation, and subject to the control of the Board of Directors, shall have general charge and supervision of the administration of the activities and affairs of the corporation. The president shall see that all orders and resolutions of the Board of Directors are carried into effect. The president shall sign and execute all legal documents and instruments in the name of the corporation when authorized so to do by the Board of Directors, prepare an annual budget showing expected receipts and expenditures for consideration by the Board of Directors, and shall perform such other duties as may be prescribed from time to time by the Board of Directors. The president shall also have the power to appoint and remove subordinate employees. The president shall submit to the Board of Directors plans and suggestions for the activities of the corporation, shall direct its general correspondence and shall present recommendations in each case to

the Board of Directors for decision. The president shall also submit a report of the activities and affairs of the corporation at each annual meeting of the Board of Directors and at other times when called upon so to do by the Board of Directors.

(d) Vice Presidents. The vice presidents, in order of rank, shall discharge the duties of the president in the event of the president's absence or disability for any cause whatever. They shall also perform such additional duties as may be prescribed from time to time by the Board of Directors.

(e) Secretary. The secretary shall have charge of the records and correspondence of the corporation under the direction of the president, and shall be the custodian of the seal of the corporation, if any. The secretary shall attend all meetings of the Board of Directors and give such notice of meetings as is required by these By-laws. The secretary shall take and keep true minutes of all meetings of the Board of Directors of which, ex officio, but without vote, the secretary shall be the secretary. The secretary shall discharge such other duties as shall be prescribed from time to time by the president or the Board of Directors. In case of the absence or disability of the secretary, the Board of Directors may appoint an assistant secretary to perform the duties of the secretary during such absence or disability.

(f) Treasurer. The treasurer shall keep account of all moneys, credits and property of the corporation which shall come into the treasurer's hands and keep an accurate account of all moneys received and discharged. Except as otherwise ordered by the Board of Directors, the treasurer shall have the custody of all the funds and securities of the corporation and shall deposit the same in such banks or depositories as the Board of Directors shall designate. The treasurer shall keep proper books of account and other books showing at all times the amount of the funds and other property belonging to the corporation, all of which books shall be open at all times to the inspection of the Board of Directors. The treasurer shall also submit a report of the accounts and financial condition of the corporation at each annual meeting of the Board of Directors. The treasurer shall, under the direction of the Board of Directors, disburse all moneys and sign all checks and other instruments drawn on or payable out of the funds of the corporation, unless the Board of Directors authorizes other officers, employees or agents of the corporation to sign checks without the counter signature of the Treasurer, which checks, however, may also be required by the Board of Directors to be signed by the president or one of the vice presidents. The treasurer shall also make such transfers and alterations in the securities of the corporation as may be ordered by the Board of Directors. In general, the treasurer shall perform all the duties which are incident to the office of treasurer, subject to the Board of Directors, and shall perform such additional duties as may be prescribed from time to time by the Board of Directors or the president. The treasurer shall give bond only if required by the Board of Directors. In case of absence or disability of the treasurer, the Board of

Directors may appoint an assistant treasurer to perform the duties of the treasurer during such absence or disability.

5.4 Vacancies. Whenever a vacancy shall occur in any general office of the corporation, such vacancy shall be filled by the Board of Directors by the election of a new officer who shall take office on the date of his or her election and shall hold such office until the earlier of the date of the next annual meeting of the Board of Directors following the date of his or her election, and thereafter, until his or her successor shall have been duly elected and qualified, or the date such officer resigns or is removed.

## ARTICLE 6

### APPOINTIVE OFFICERS AND AGENTS

6.1 Appointive Officers and Agents. The Board of Directors may appoint such officers and agents in addition to those provided for in Article 5 of these By-laws, as the Board of Directors may deem necessary. Such persons shall have such authority and perform such duties as shall from time to time be prescribed by the Board of Directors. All appointive officers and agents shall hold their respective offices or positions at the pleasure of the Board of Directors, and may be removed from office or discharged at any time with or without cause.

## ARTICLE 7

### STANDING AND SPECIAL COMMITTEES

7.1 Standing Committees. The Board of Directors may designate one or more standing committees as are necessary and which are not in conflict with other provisions of these By-laws, and the duties of any such standing committees shall be prescribed by the Board of Directors upon their designation. Each such standing committee shall consist of two or more persons, who may, but need not be, directors of

the corporation. Appointments of persons to such standing committees shall be for terms prescribed by the Board of Directors upon their appointment by such Board.

**7.2 Special Committees.** The Board of Directors may designate one or more special committees as are necessary and which are not in conflict with other provisions of these By-laws, and the duties of any such special committees shall be prescribed by the Board of Directors upon their designation. Each such special committee shall consist of two or more persons appointed by the Chairman of the Board of Directors, who may, but need not be, directors of the corporation. A special committee shall limit its activities to the accomplishment of the tasks for which it is designated and shall have no power to act except as specifically conferred by action of the Board of Directors. Upon the completion of the task for which designated, such special committee shall stand dissolved.

**7.3 Quorum and Voting.** A majority of the members of a committee shall constitute a quorum for the transaction of business at any meeting of such committee and the act of a majority of the committee members present at a meeting at which a quorum is present shall be the act of the committee.

**7.4 Meetings and Notices.** Meetings of a committee may be called by the president or the chairman of the committee. Each committee shall meet as often as is necessary to perform its duties. Notice may be given at any time and in any manner reasonably designed to inform the committee members of the time and place of the meetings. Each committee shall keep minutes of its proceedings.

**7.5 Resignations and Removals.** Any member of a committee may resign at any time by giving notice to the chairman of the committee or the secretary of the corporation. Unless otherwise specified in the notice, such resignation shall take effect

upon receipt thereof, and the acceptance of such resignation shall not be necessary to make it effective. The Board of Directors may remove at any time with or without cause any member of any committee who was originally appointed thereto by the Board of Directors as provided in these By-laws.

7.6 Vacancies. A vacancy on a committee shall be filled for the unexpired portion of the term of the former occupant in the same manner in which an original appointment to such committee is made.

#### ARTICLE 8 AMENDMENTS

8.1 Amendments. These By-laws may be altered, amended or repealed or new By-laws may be adopted solely by the member at a meeting called for that purpose.

#### ARTICLE 9 INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS

9.1 Indemnification. The corporation shall indemnify directors, officers, employees, and agents of the corporation to the fullest extent required by Article 2.22A of the Texas Non-Profit Corporation Act and may indemnify such persons to the fullest extent permitted by Article 2.22A of the Texas Non-Profit Corporation Act, subject in each case to restrictions, if any, in the corporation's Articles of Incorporation. The corporation shall have the power to purchase and maintain at its cost and expense insurance on behalf of such persons to the fullest extent permitted by Article 2.22A of the Texas Non-Profit Corporation Act.

ARTICLE 10  
GENERAL PROVISIONS

10.1 Fiscal Year. The fiscal year of the corporation shall end on \_\_\_\_\_ of each calendar year.

10.2 Books and Records. The corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of the meetings of the member, Board of Directors, and committees, standing or special.

10.3 Seal. The Board of Directors may adopt a corporate seal to be in such form and to be used in such manner as the Board of Directors shall direct.

10.4 Permanent Incapacity. Any member of the Board of Directors who shall be incapable of participating in the management and affairs of the corporation for a continuous period of six months shall be deemed to be "permanently incapacitated" within the meaning of that term as used in these By-laws.

10.5 Checks. All checks or demands for money and notes of the corporation shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate.

10.6 Contracts. The Board of Directors may authorize any officer or officers or agent or agents of the corporation to enter into any contract or execute and deliver any instrument in the name and on behalf of the corporation. Such authority may be general or confined to specific instances.

10.7 Deposits. All funds of the corporation shall be deposited from time to time to the credit of the corporation in such banks, trust companies, or other depositaries as the board of directors may from time to time select.

Fac. Plan. & Const. Com.

FACILITIES PLANNING AND CONSTRUCTION COMMITTEE  
Committee Chairman Temple

Date: April 14, 1994  
Time: Following the meeting of the Health Affairs  
Committee  
Place: Auditorium (Room 119), Biomedical Research  
Building, U. T. Health Center - Tyler

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FPCC

1. U. T. Arlington - Maverick Stadium - Addition of Athletic Offices (Project No. 301-804): Request for Approval of Final Plans and Specifications; Authorization to Advertise for Bids and for the Executive Committee to Award Contracts; and Additional Appropriation Therefor 3
2. U. T. Austin - University Interscholastic League Building (Project No. 102-803): Presentation of Preliminary Plans; Authorization to Prepare Final Plans and Specifications; Submission of the Project to the Coordinating Board; Advertisement for Bids; Executive Committee Award of Contracts; and Appropriation Therefor 4
3. U. T. El Paso - Liberal Arts/Science Renovation Projects - Old Main Building Renovation (Project No. 201-819): Request for Approval of Preliminary Plans; Authorization to Prepare Final Plans and Specifications; Submission of the Project to the Coordinating Board; and Appropriation Therefor 5
4. U. T. Pan American - Engineering Building (Project No. 901-809): Request for Approval to Increase Total Project Cost; Presentation of Preliminary Plans; Authorization to Prepare Final Plans and Specifications; Submission of the Project to the Coordinating Board; and Additional Appropriation Therefor 6
5. U. T. San Antonio - Engineering/Biotechnology Building - Phase II (Project No. 401-747): Request for Additional Appropriation 7
6. U. T. Medical Branch - Galveston - Open Gates Conference Center Renovation: Request for Project Authorization; Appointment of Project Architect to Prepare Final Plans and Specifications; Submission of the Project to the Coordinating Board; and Appropriation Therefor 8

7. U. T. Health Science Center - Houston - Renovation of the Speech and Hearing Institute Building for the Institute of Molecular Medicine: Request for Project Authorization; Appointment of Project Architect to Prepare Final Plans and Specifications; Submission of the Project to the Coordinating Board; Advertisement for Bids; Executive Committee Award of Contracts; and Appropriation Therefor 9
8. U. T. Health Science Center - San Antonio - Health Sciences Building Program - School of Nursing Addition and Renovation (Project No. 402-823): Presentation of Preliminary Plans; Approval of Evaluation of Solar Energy Economic Feasibility; Authorization to Prepare Final Plans and Specifications; Submission of the Project to the Coordinating Board; Advertisement for Bids; Executive Committee Award of Contracts; and Additional Appropriation Therefor 12
9. U. T. M.D. Anderson Cancer Center - Holcombe Boulevard Linear Park Plaza - Phases II, III, and IV Project: Request for Project Authorization; Appointment of Project Landscape Architect to Prepare Final Plans and Specifications; Request for Authorization to Acquire Property; Submission of the Project to the Coordinating Board; Advertisement for Bids; Executive Committee Award of Contracts; Approval to Name as the Wortham Linear Park; and Appropriation Therefor 13

1. U. T. Arlington - Maverick Stadium - Addition of Athletic Offices (Project No. 301-804): Request for Approval of Final Plans and Specifications; Authorization to Advertise for Bids and for the Executive Committee to Award Contracts; and Additional Appropriation Therefor.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Amacher that the U. T. Board of Regents:

- a. Approve the final plans and specifications for the U. T. Arlington - Maverick Stadium - Addition of Athletic Offices within the authorized total project cost of \$854,700
- b. Authorize the Office of Facilities Planning and Construction to advertise for bids upon completion of final review and the Executive Committee to award all contracts associated with this project within the authorized total project cost
- c. Appropriate an additional \$779,700 from Unexpended Plant Fund Balances, along with \$75,000 previously appropriated for total project funding of \$854,700.

#### BACKGROUND INFORMATION

In accordance with the authorization of the U. T. Board of Regents in October 1993, final plans, specifications, and a cost estimate for U. T. Arlington - Maverick Stadium - Addition of Athletic Offices have been prepared by the Project Engineer, Schrickel, Rollins and Associates, Inc., Arlington, Texas.

The U. T. Arlington athletic offices are presently housed in an approximately thirty-year old reconstructed metal building in need of replacement. This project will add approximately 9,286 gross square feet of athletic office space adjacent to Maverick Stadium and will replace the existing deteriorated metal building. Construction cost, including site preparation and contingencies, is approximately \$753,400 providing a unit price in the range of \$81.00 per square foot.

This project is included in the FY 1994-1999 Capital Improvement Plan and the FY 1994 Capital Budget. Total project funding is \$854,700 from Interest Earned on Unexpended Plant Funds.

This project was approved by the Texas Higher Education Coordinating Board in October 1993.

2. U. T. Austin - University Interscholastic League Building (Project No. 102-803): Presentation of Preliminary Plans; Authorization to Prepare Final Plans and Specifications; Submission of the Project to the Coordinating Board; Advertisement for Bids; Executive Committee Award of Contracts; and Appropriation Therefor.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Berdahl that the U. T. Board of Regents:

- a. Approve preliminary plans and specifications for the University Interscholastic League Building at U. T. Austin at an estimated total project cost of \$3,225,000
- b. Authorize preparation of final plans and specifications
- c. Authorize submission of the project to the Texas Higher Education Coordinating Board
- d. Upon completion of final review, authorize the Office of Facilities Planning and Construction to advertise for bids
- e. Upon approval of the Coordinating Board, authorize the Executive Committee to award all contracts associated with this project within the authorized total project cost
- f. Appropriate \$3,160,000 from University Interscholastic League reserves for total project funding. Previous appropriations have been \$65,000 from the same source.

#### BACKGROUND INFORMATION

In accordance with the authorization of the U. T. Board of Regents at the June 1993 meeting, preliminary plans, specifications, and a cost estimate for the University Interscholastic League Building have been prepared by the Project Architect, Cotera, Kolar & Negrete Architects, Austin, Texas.

The University Interscholastic League (UIL) is currently housed as a tenant in a temporary building which was acquired by U. T. Austin in 1968. This new facility will be constructed on U. T. Austin property located east of IH 35 at the corner of Manor Road. It will contain approximately 31,000 gross square feet to house UIL staff and meet program needs.

The total project cost of \$3,225,000 will be funded from UIL reserves. Construction cost, including site development, is estimated at approximately \$2,650,000 providing a unit price in the range of \$86 per square foot. This project is included in the FY 1994 Capital Budget and the FY 1994-1999 Capital Improvement Plan.

3. U. T. El Paso - Liberal Arts/Science Renovation Projects - Old Main Building Renovation (Project No. 201-819): Request for Approval of Preliminary Plans; Authorization to Prepare Final Plans and Specifications; Submission of the Project to the Coordinating Board; and Appropriation Therefor.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Natalicio that the U. T. Board of Regents:

- a. Approve preliminary plans and specifications for the Liberal Arts/Science Renovation Projects - Old Main Building Renovation at U. T. El Paso at an estimated total project cost of \$1,689,000 to be funded from Tuition Revenue Bonds
- b. Authorize preparation of final plans and specifications
- c. Authorize submission of the project to the Texas Higher Education Coordinating Board
- d. Appropriate \$35,000 from Tuition Revenue Bonds and Notes issued under the Revenue Financing System for fees and administrative expenses through completion of final plans. Previous appropriations have been \$65,000 from Unexpended Plant Funds which will be reimbursed from Tuition Revenue Bond Proceeds when issued.

#### BACKGROUND INFORMATION

In accordance with the authorization by the U. T. Board of Regents at the October 1993 meeting, preliminary plans, specifications, and a cost estimate for the Old Main Building Renovation, as part of the Liberal Arts/Science Renovation Projects at U. T. El Paso, have been prepared by the Project Architect, Fouts Gomez Architects, El Paso, Texas.

The 73rd Session of the Texas Legislature authorized the financing of the Liberal Arts/Science Renovation Projects through Tuition Revenue Bonds in the amount of \$8,000,000 as a part of the South Texas/Border Initiative. The \$8,000,000 will be divided among five campus buildings housing Liberal Arts and Science programs. The Old Main Building contains approximately 22,645 gross square feet and houses Liberal Arts programs in Sociology and Anthropology. The work will include complete interior and exterior renovation of this 1917 building. Old Main was the first building constructed on the campus and is a registered Historic Landmark.

The estimated total project cost for the Old Main Building Renovation is \$1,689,000. Construction cost is estimated at \$1,200,000 providing a unit price in the range of \$53 per gross square foot.

The project is included in the FY 1994-1999 Capital Improvement Plan and FY 1994 Capital Budget to be funded by Tuition Revenue Bonds.

4. U. T. Pan American - Engineering Building (Project No. 901-809); Request for Approval to Increase Total Project Cost; Presentation of Preliminary Plans; Authorization to Prepare Final Plans and Specifications; Submission of the Project to the Coordinating Board; and Additional Appropriation Therefor.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Nevarez that the U. T. Board of Regents:

- a. Approve an increase in the authorized total project cost for the Engineering Building at U. T. Pan American from \$20,000,000 to \$23,800,000 to include the cost of equipment as approved in the FY 1994-1999 Capital Improvement Plan to be funded by Tuition Revenue Bond Proceeds
- b. Approve preliminary plans and specifications for the Engineering Building at U. T. Pan American at an estimated total project cost of \$23,800,000
- c. Authorize the Project Architect to prepare final plans and specifications to be presented to the U. T. Board of Regents for consideration at a future meeting
- d. Authorize submission of the project to the Texas Higher Education Coordinating Board
- e. Appropriate an additional \$500,000 from Tuition Revenue Bonds and Notes issued under the Revenue Financing System for fees and administrative expenses through completion of final plans. Previous appropriations have been \$400,000 from Unexpended Plant Funds to be reimbursed from Tuition Revenue Bond Proceeds when issued.

#### BACKGROUND INFORMATION

In accordance with the authorization by the U. T. Board of Regents at the August 1993 meeting, preliminary plans, specifications, and a cost estimate for the Engineering Building at U. T. Pan American have been prepared by the Project Architect, Kell Muñoz Wigodsky, San Antonio, Texas.

The Engineering Building will contain approximately 122,000 gross square feet to house laboratories, classrooms, faculty offices, and support space for programs in Electrical Engineering, Mechanical Engineering, and Manufacturing Engineering. Construction cost, including site preparation and contingencies, is approximately \$15,000,000 providing a unit price in the range of \$123 per square foot. The total project cost, including equipment, is \$23,800,000.

This project is included in the FY 1994-1999 Capital Improvement Plan and the FY 1994 Capital Budget. Funding for the project is \$23,800,000 in Tuition Revenue Bonds authorized by the 73rd Session of the Texas Legislature as a part of the South Texas/Border Initiative.

5. U. T. San Antonio - Engineering/Biotechnology Building - Phase II (Project No. 401-747): Request for Additional Appropriation.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Kirkpatrick that the U. T. Board of Regents appropriate an additional \$850,000 from Tuition Revenue Bonds and Notes issued under the Revenue Financing System for the Engineering/Biotechnology Building - Phase II at U. T. San Antonio. This additional appropriation combined with the previous appropriation of \$750,000 from the same source will complete the \$1,600,000 funding approved in the FY 1994 Capital Budget.

#### BACKGROUND INFORMATION

In October 1993, the U. T. Board of Regents authorized a revised total project cost of \$17,000,000 for the Engineering/Biotechnology Building - Phase II at U. T. San Antonio, authorized the Project Architect to revise preliminary plans to be presented to the U. T. Board of Regents for consideration at a future meeting, and appropriated \$750,000 from Tuition Revenue Bonds and Notes issued under the Revenue Financing System for fees and administrative expenses through completion of preliminary plans and for renovation and equipment for life sciences laboratories.

In an initial phase of work, U. T. San Antonio Administration wishes to renovate and equip the life sciences laboratories scheduled for completion later this summer. Therefore, the institution wishes to have the remaining \$850,000 appropriated from the \$1,600,000 in Tuition Revenue Bonds included in the FY 1994 Capital Budget for projected FY 1994 expenditures. Previous appropriations have been \$750,000 from the same source. This appropriation will fund additional fees and administrative expenses for the Phase II project and the project managed by U. T. San Antonio Administration to renovate and equip existing life sciences laboratories in support of the U. T. San Antonio commitment to build doctoral capacity for the Biosciences and Engineering Initiative.

This project is included in the FY 1994-1999 Capital Improvement Plan and the FY 1994 Capital Budget. Funding for the project is \$17,000,000 in Tuition Revenue Bonds authorized by the 73rd Session of the Texas Legislature as a part of the South Texas/Border Initiative.

6. U. T. Medical Branch - Galveston - Open Gates Conference Center Renovation: Request for Project Authorization; Appointment of Project Architect to Prepare Final Plans and Specifications; Submission of the Project to the Coordinating Board; and Appropriation Therefor.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President James that the U. T. Board of Regents:

- a. Authorize a project for the Open Gates Conference Center Renovation at the U. T. Medical Branch - Galveston at an estimated total project cost of \$5,350,000 to be funded from Gifts and Grants
- b. Appoint the firm of The Mathes Group, Houston, Texas, as Project Architect with authorization to prepare final plans, specifications, and a detailed cost estimate for consideration by the U. T. Board of Regents at a future meeting
- c. Authorize submission of the project to the Texas Higher Education Coordinating Board
- d. Appropriate \$350,000 from Gifts and Grants for fees and administrative expenses through completion of final plans.

#### BACKGROUND INFORMATION

The Open Gates Conference Center was home to the George Sealy family for ninety years until the death of Robert Sealy in 1979. At that time, the mansion passed to the U. T. Medical Branch - Galveston as a gift complete with grounds and some furnishings. The institution plans to use the Open Gates Conference Center as a primary site for emerging teleconference and telemedicine initiatives with flexible meeting room facilities for groups ranging from ten to one hundred people. There will be as many as ten separate meeting rooms, all furnished and equipped with the very latest in audio and video technology. The facility will serve as a site for receipt and emanation of teleconference programming from around the nation and the world. There will also be kitchen facilities designed to serve groups of up to one hundred people and permanent office space in support of the center.

An institution the size and stature of the U. T. Medical Branch - Galveston is the focal point for a large volume of information creation, dissemination, and exchange. In 1976, a Learning Center was constructed on campus with three auditoria, dining facilities, and offices. This facility no longer serves the total needs for conferences, meetings, continuing education, and professional meetings.

The U. T. Medical Branch - Galveston recommends that the firm The Mathes Group, Houston, Texas, be appointed as Project Architect because of its knowledge of the building and expertise in adaptive reuse and historical restoration projects on Galveston Island.

This project is included in the FY 1994-1999 Capital Improvement Plan and FY 1994 Capital Budget with funding in the amount of \$5,350,000 from Gifts and Grants.

7. U. T. Health Science Center - Houston - Renovation of the Speech and Hearing Institute Building for the Institute of Molecular Medicine; Request for Project Authorization; Appointment of Project Architect to Prepare Final Plans and Specifications; Submission of the Project to the Coordinating Board; Advertisement for Bids; Executive Committee Award of Contracts; and Appropriation Therefor.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Low that the U. T. Board of Regents:

- a. Authorize a project for the Renovation of the Speech and Hearing Institute Building for the Institute of Molecular Medicine at the U. T. Health Science Center - Houston at an estimated total project cost of \$2,500,000
- b. Appoint a Project Architect from the list set forth on Page FPCC - 11 to prepare final plans, specifications, and detailed cost estimates
- c. Authorize submission of the project to the Texas Higher Education Coordinating Board
- d. Upon completion of final review, authorize the Office of Facilities Planning and Construction to advertise for bids
- e. Upon approval of the Coordinating Board, authorize the Executive Committee to award all contracts associated with this project within the authorized total project cost of \$2,500,000

- f. Appropriate \$2,500,000 from Permanent University Fund Bond Proceeds in accordance with the March 9, 1994, Memorandum of Understanding for total project funding and waive requirements for reporting under the Available University Fund Spending Policy.

This item requires the concurrence of the Health Affairs Committee.

#### BACKGROUND INFORMATION

The U. T. Health Science Center - Houston desires to initiate programmatic activities of the Institute for Molecular Medicine (IMM). A director has been identified, and the U. T. Health Science Center - Houston, its Development Board, and individual donors wish to see the Institute begin its activities soon.

The Speech and Hearing Institute Building provides readily available space to renovate for the new IMM. No other suitable space is available on campus to house this activity. This project will update the building's heating, ventilating and air-conditioning system, address life safety issues, exterior building maintenance, and construct appropriate laboratories through adaptive reuse of presently underutilized space. The existing building is architecturally sound and well located. Once renovated, it will provide quality research space for many years.

The total project cost of \$2,500,000 will be funded from Permanent University Fund Bond Proceeds. Under a Memorandum of Understanding dated March 9, 1994, the U. T. Board of Regents accepted the proposal of the U. T. Health Science Center - Houston to provide to the U. T. Board of Regents an amount of funds equal to the debt service on Permanent University Fund (PUF) Bond Proceeds issued to provide the allocated PUF support of the project. Payment of these funds is contingent upon the annual income results of the Permanent University Fund.

Approval of this item will amend the FY 1994-1999 Capital Improvement Plan and the FY 1994 Capital Budget accordingly.

List of Firms for Consideration

<u>Project Architect</u>	<u>Representative Projects</u>
Watkins Carter Hamilton Architects, Inc. Houston, Texas	U. T. M.D. Anderson Cancer Center: R. E. "Bob" Smith Research Building
	U. T. M.D. Anderson Cancer Center: Laboratory Facility, The Woodlands, Texas
	Argus Pharmaceutical: Laboratory Facilities, The Woodlands, Texas
The Office of Pierce Goodwin Alexander & Linville Alexandria, Virginia	Houston Biotechnology, Incorporated: Biomedical Technology Research Laboratory Expansion, The Woodlands, Texas
	City of Houston: Public Health Engineering Office and Laboratory, Houston, Texas
	U. T. M.D. Anderson Cancer Center: Clark Clinic
3D/International, Inc. Houston, Texas	U. T. Medical Branch - Galveston: Medical Research Building - Phases I & II
	Texas Biotechnology Corporation: Texas Biotechnology Laboratory, Houston, Texas
Page Southerland Page Houston, Texas	Texas A&M University: Medical Sciences Building, College Station, Texas
	U. T. Austin: Centers for Electromechanics and Energy Studies, Austin, Texas
	U. S. Air Force: Genetics Laboratory, Keesler Medical Center, Keesler Air Force Base, Mississippi

8. U. T. Health Science Center - San Antonio - Health Sciences Building Program - School of Nursing Addition and Renovation (Project No. 402-823): Presentation of Preliminary Plans; Approval of Evaluation of Solar Energy Economic Feasibility; Authorization to Prepare Final Plans and Specifications; Submission of the Project to the Coordinating Board; Advertisement for Bids; Executive Committee Award of Contracts; and Additional Appropriation Therefor.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Howe that the U. T. Board of Regents:

- a. Approve preliminary plans and specifications for the School of Nursing Addition and Renovation as part of the Health Sciences Building Program at the U. T. Health Science Center - San Antonio at an estimated total project cost of \$6,500,000
- b. Approve the evaluation of solar energy economic feasibility
- c. Authorize preparation of final plans and specifications
- d. Authorize submission of the project to the Texas Higher Education Coordinating Board
- e. Upon completion of final review, authorize the Office of Facilities Planning and Construction to advertise for bids
- f. Upon approval of the Coordinating Board, authorize the Executive Committee to award all contracts associated with this project within the authorized total project cost
- g. Appropriate an additional \$5,800,000 from Tuition Revenue Bonds and Notes issued under the Revenue Financing System and \$500,000 from Gifts and Grants to complete the total project funding of \$6,500,000. Previous appropriations have been \$200,000 from Tuition Revenue Bonds and Notes issued under the Revenue Financing System.

#### BACKGROUND INFORMATION

In accordance with authorization by the U. T. Board of Regents at the December 1993 meeting, preliminary plans, specifications, and a cost estimate for the School of Nursing Addition and Renovation as part of the Health Sciences Building Program at the U. T. Health Science Center - San Antonio have been prepared by the Project Architect, Garza/Bomberger & Associates, San Antonio, Texas.

The U. T. Health Science Center - San Antonio is an emerging national and international health-care institution. In addition to serving the San Antonio community, the Health Science Center has a strong commitment in the Rio Grande Valley. The Health Science Center offers family practice residency training and nursing, dental, and emergency care programs to the unmet needs of South Texas.

The project will be the first significant construction for the U. T. Nursing School - San Antonio since the structure was built in 1974. The new addition will contain approximately 44,000 gross square feet for student learning laboratory demonstration areas, faculty research space, and faculty and student computer expansion. Faculty offices will be added along with expansion of space for staff, administration, and student locker/lounge areas.

House Bill 2626, 73rd Session of the Texas Legislature, requires the governing body of the appropriate state agency to verify in an open meeting the economic feasibility of incorporating solar energy devices into new state buildings. Therefore, the Project Architect has prepared an evaluation for this project in accordance with instructions from the State Energy Conservation Office of the General Services Commission. This evaluation has determined that a solar-generated domestic hot water system for the project is not economically feasible since steam for this purpose is available at more competitive costs. The payback for a solar-generated domestic hot water system for this project is estimated to be thirty-six years.

This project is included in the FY 1994-1999 Capital Improvement Plan and the FY 1994 Capital Budget at a total project cost of \$6,500,000 to be funded with \$6,000,000 from Tuition Revenue Bonds and \$500,000 from Gifts and Grants.

9. U. T. M.D. Anderson Cancer Center - Holcombe Boulevard Linear Park Plaza - Phases II, III, and IV Project; Request for Project Authorization; Appointment of Project Landscape Architect to Prepare Final Plans and Specifications; Request for Authorization to Acquire Property; Submission of the Project to the Coordinating Board; Advertisement for Bids; Executive Committee Award of Contracts; Approval to Name as the Wortham Linear Park; and Appropriation Therefor.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President LeMaistre that the U. T. Board of Regents:

- a. Authorize a project for Phases II, III, and IV of the Holcombe Boulevard Linear Park Plaza at the U. T. M.D. Anderson Cancer Center at an estimated total project cost of \$2,100,000, including \$525,000 previously expended on Phase I

- b. Appoint the firm of Clark/Condon Associates, Inc., Bellaire, Texas, as Project Landscape Architect to prepare final plans and specifications for Phases II, III, and IV
- c. Authorize the acquisition of 1.2517 acres out of the P. W. Rose Survey, Abstract No. 645, Harris County, Texas, through condemnation proceedings if required
- d. Authorize submission of the Phases II, III, and IV project to the Texas Higher Education Coordinating Board
- e. Upon completion of final review, authorize the Office of Facilities Planning and Construction to advertise for bids
- f. Upon approval of the Coordinating Board, authorize the Executive Committee to award all contracts associated with this project within the authorized total project cost
- g. Approve the naming of the U. T. M.D. Anderson Cancer Center - Holcombe Boulevard Linear Park Plaza as the Wortham Linear Park in accordance with the Regents' Rules and Regulations, Part One, Chapter VIII, Section 1, Subsection 1.2, relating to the naming of facilities other than buildings
- h. Appropriate \$2,100,000 in gifts received from the Wortham Foundation for total project funding, including the previous expenditures on Phase I. Previous appropriations for Phase I in the amount of \$525,000 will be refunded with the return of \$75,000 to U. T. M.D. Anderson Cancer Center Capital Reserves and the return of \$450,000 to Gifts and Grants.

#### BACKGROUND INFORMATION

The U. T. Board of Regents authorized a master plan and Phase I project for the Holcombe Boulevard Linear Park Plaza at U. T. M.D. Anderson Cancer Center in December 1991 at a total project cost of \$525,000. The Wortham Foundation of Houston has now committed \$2,100,000 for the completion of the Linear Park Plaza project, including reimbursement of the Gifts and Grants and Institutional Reserve accounts which funded Phase I.

The remainder of the Linear Park Plaza project will be completed in three phases. Phase II will begin at Fannin Street and continue on the south side of Holcombe Boulevard to Bertner Avenue. Phase III will begin at Bertner Avenue and extend to the Jesse H. Jones Rotary House International. Phase IV will begin at Braeswood Boulevard and end at Braes Bayou.

Phase III includes a parcel of land which is privately owned and which the U. T. Board of Regents authorized the component to purchase in October 1989. Attempts to contact the owners of this tract to negotiate a purchase have proven futile. While efforts to negotiate for the acquisition of this tract will continue, it is recommended that the U. T. Board of Regents authorize the Executive Vice President for Administration and Finance, on behalf of U. T. M.D. Anderson Cancer Center, to initiate a condemnation suit through the Office of General Counsel to acquire the property described as 1.2517 acres out of the P. W. Rose Survey, Abstract No. 645, Harris County, Texas. It is further requested that the Executive Vice President for Administration and Finance at U. T. M.D. Anderson Cancer Center be authorized to execute all documents required to purchase and secure good title to the property after approval of such documents by the Office of General Counsel.

Phase I has been completed. It is recommended that the same firm, which was the Project Landscape Architect for the Master Plan and Phase I project, Clark/Condon Associates, Inc., Bellaire, Texas, be appointed the Project Landscape Architect for the Phases II, III, and IV project due to the firm's familiarity with the Master Plan and the project.

The U. T. M.D. Anderson Cancer Center Administration wishes to name the Holcombe Boulevard Linear Park Plaza as the "Wortham Linear Park" in recognition of the Wortham Foundation of Houston and its generous gift of \$2,100,000, which will allow completion of the park.

This project is included in the FY 1994-1999 Capital Improvement Plan and the FY 1994 Capital Budget with total project funding in the amount of \$2,100,000 from Gifts and Grants.

# Asset Management Com.

ASSET MANAGEMENT COMMITTEE  
Committee Chairman Cruikshank

Date: April 14, 1994  
Time: Following the meeting of the Facilities Planning  
and Construction Committee  
Place: Auditorium (Room 119), Biomedical Research  
Building, U. T. Health Center - Tyler

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U. T. SYSTEM

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I. PERMANENT UNIVERSITY FUND

INVESTMENT MATTER

Report on Clearance of Monies to the Permanent University Fund for January and February 1994 and Report on Oil and Gas Development as of February 28, 1994.--The following reports with respect to (a) certain monies cleared to the Permanent University Fund for January and February 1994 and (b) Oil and Gas Development as of February 28, 1994, are submitted by the Executive Vice Chancellor for Business Affairs:

Permanent University Fund	January 1994	February 1994	Cumulative Through February of this Fiscal Year (1993-1994)	Cumulative Through February of Preceding Fiscal Year (1992-1993)	Percent Change
Royalty					
Oil	\$ 2,902,012.40	\$2,666,572.37	\$18,485,574.56	\$23,975,416.01	-22.90%
Gas	1,372,853.21	1,471,024.17	8,587,144.44	9,035,124.57	-4.96%
Sulphur	0.00	0.00	0.00	0.00	--
Water	102,542.98	78,414.03	482,796.38	389,702.78	23.89%
Brine	6,679.45	4,196.65	40,089.90	35,466.30	13.04%
Trace Minerals	0.00	0.00	0.00	0.00	--
Rental					
Oil and Gas Lease	1,410.70	3,676.22	183,817.12	297,705.48	-38.26%
Other	1,756.31	100.00	(1,851.69)	(3,746.99)	50.58%
Sale of Sand, Gravel, Etc.	0.00	0.00	0.00	0.00	--
Total University Lands Receipts Before Bonuses	4,387,255.05	4,223,983.44	27,777,570.71	33,729,668.15	-17.65%
Bonuses					
Oil and Gas Lease Sales	0.00	0.00	3,480,202.48	69,887.70	--
Amendments and Extensions to Mineral Leases	1,340.87	1,260.57	40,843.58	10.00	--
Total University Lands Receipts	4,388,595.92	4,225,244.01	31,298,616.77	33,799,565.85	-7.40%
Gain or (Loss) on Sale of Securities	37,746,984.77	4,585,223.52	58,216,362.41	22,332,596.20	160.68%
<b>TOTAL CLEARANCES</b>	<b>\$42,135,580.69</b>	<b>\$8,810,467.53</b>	<b>\$89,514,979.18</b>	<b>\$56,132,162.05</b>	<b>59.47%</b>

Oil and Gas Development - February 28, 1994  
Acreage Under Lease - 753,837

Number of Producing Acres - 522,726

Number of Active Leases - 2,447

## II. TRUST AND SPECIAL FUNDS

### Gifts, Bequests and Estates

1. U. T. Arlington: Recommendation to Accept Bequest from the Estate of Frances Bennett Barnes, Arlington, Texas, and Transfer of Funds to Establish the Barney C. Barnes Memorial Scholarship in Accounting and the Frances and Barney C. Barnes Memorial Endowed Scholarship in Nursing.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Amacher that a \$30,000 specific bequest from the Estate of Frances Bennett Barnes, Arlington, Texas, and a \$7,200 transfer of previously reported gifts for a total of \$37,200 be accepted for the benefit of U. T. Arlington.

It is further recommended that \$10,000 of the bequest and the \$7,200 transfer of previously reported gifts for a total of \$17,200 be used to establish the Barney C. Barnes Memorial Scholarship in Accounting at U. T. Arlington. Income earned from the endowment will be used to award scholarships to students in the Department of Accounting.

Additionally, it is recommended that \$20,000 of the bequest be used to establish the Frances and Barney C. Barnes Memorial Endowed Scholarship in Nursing at U. T. Arlington. Income earned from the endowment will be used to provide scholarships for deserving students pursuing an academic degree offered by the School of Nursing at U. T. Arlington.

#### BACKGROUND INFORMATION

Mrs. Frances Bennett Barnes, Arlington, Texas, was a successful businesswoman in Arlington. Her husband, Barney C. Barnes, served U. T. Arlington for more than 40 years beginning in 1929. He held several positions with U. T. Arlington including Registrar, Accounting faculty member, Head of the Business Department, and Vice President for Fiscal Affairs. Mr. Barnes was also a distinguished community leader in Arlington serving as Mayor from 1947 to 1951.

2. U. T. Arlington: Recommendation to Accept Gift to Establish the Ellen Sue Barnes Scholarship for Students of Nursing.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Amacher that a \$15,000 gift from Mr. Buddy Barnes, Keller, Texas, be accepted to establish the Ellen Sue Barnes Scholarship for Students of Nursing at U. T. Arlington.

Income earned from the endowment will be used to award scholarships to students enrolled in the Family Nurse Practitioners Program, a Masters level degree program offered by the School of Nursing at U. T. Arlington.

#### BACKGROUND INFORMATION

Mr. Buddy Barnes, Keller, Texas, is funding this endowment in memory of his wife, Dr. Ellen Sue Barnes. Dr. Barnes joined the faculty of the U. T. System School of Nursing in Fort Worth in 1972 and joined the faculty at U. T. Arlington when the U. T. System School of Nursing in Fort Worth was merged with U. T. Arlington in 1976. During her tenure with U. T. Arlington, Dr. Barnes played a major role in helping shape the undergraduate and graduate curriculum of the School of Nursing. As her faculty career progressed, she became increasingly interested in applying her talents to the full development of the Masters level Family Nurse Practitioners Program.

3. U. T. Arlington: Recommendation to Accept Gift to Establish the William L. and Martha Hughes Award for the Study of Biology.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Amacher that a \$12,000 gift from Mr. and Mrs. William L. (Barbara) Hughes, Jr., Arlington, Texas, be accepted to establish the William L. and Martha Hughes Award for the Study of Biology at U. T. Arlington.

Income earned from the endowment will be used to provide scholarship support to students in the Department of Biology in the College of Science.

### BACKGROUND INFORMATION

This endowment is being funded in memory of Mr. and Mrs. William L. (Martha) Hughes, Sr., Arlington, Texas, by their son, Mr. William L. Hughes, Jr., and his wife, Barbara, Arlington, Texas. Mr. William L. Hughes, Sr., Professor Emeritus of the Department of Biology, retired in 1965 after a long and distinguished career at U. T. Arlington. Mrs. Martha Hughes served as a member of the Physical Education and Chemistry Departments at U. T. Arlington early in her career as an educator. She later served as a science teacher in the Arlington Independent School District for nearly 20 years, until her retirement in 1965.

4. U. T. Austin: Recommendation to Accept Bequests from the Estate of Hilda Norman Barnard, Seattle, Washington, for Addition to Three Endowments and to Establish the Hilda Barnard Undergraduate Library Collection and Services Endowment in the General Libraries.--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Berdahl that a \$5,000 specific bequest and a bequest of one-half of the residue of the Estate of Hilda Norman Barnard, Seattle, Washington, valued at approximately \$161,000, with \$150,000 received to date, for a total of approximately \$166,000 be accepted for the benefit of U. T. Austin.

It is further recommended that the \$5,000 specific bequest and \$100,000 of the residual bequest for a total of \$105,000 be used to increase the endowment principal of the Nettie Lee Benson Library Fund in the General Libraries.

It is also recommended that \$50,000 of the residual bequest be used to increase the endowment principal of the Joseph C. and Elizabeth C. Walter, Jr. Geology Library Fund and the Barrow Periodical Fund in the Department of Geological Sciences, College of Natural Sciences, at U. T. Austin at \$25,000 each.

Additionally, it is recommended that the remaining approximately \$11,000 of the residual bequest be used to establish a quasi-endowment in the General Libraries at U. T. Austin to be named the Hilda Barnard Undergraduate Library Collection and Services Endowment.

Income earned from the endowment will be dedicated to maintaining and improving library collections and services to undergraduates, including those with visual and hearing disabilities.

### BACKGROUND INFORMATION

Mrs. Hilda Norman Barnard, Seattle, Washington, received her B.A. and her M.A. in Spanish and Portuguese from U. T. Austin in 1913 and 1915, respectively.

5. U. T. Austin: Hal P. Bybee Memorial Fund in the College of Natural Sciences - Recommendation to Redesignate as a Permanent Endowment.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Berdahl that the Hal P. Bybee Memorial Fund in the Department of Geological Sciences, College of Natural Sciences, at U. T. Austin be redesignated as a permanent endowment.

This recommendation is being made with the concurrence of the donors and is permissible under Section 163.008(a) of the Texas Property Code and Section 65.36(f) of the Texas Education Code.

Income earned from the endowment will continue to be dedicated for any and all uses of the faculty of the Department of Geological Sciences consistent with the donor's original intent.

#### BACKGROUND INFORMATION

The Hal P. Bybee Memorial Fund was established at the October 1957 meeting of the U. T. Board of Regents as a term endowment to exist for 50 years. After the expiration of the 50-year term, the Geology Foundation Advisory Council could recommend that the term be extended for another 50 years or be merged into the General Fund of the Geology Foundation.

Mr. Thomas D. Barrow, Houston, Texas, on behalf of his mother Mrs. L. T. Barrow, Houston, Texas, one of the primary donors, and the Geology Foundation Advisory Council request that the Hal P. Bybee Memorial Fund now be redesignated as a permanent endowment.

6. U. T. Austin: Recommendation to Accept Gifts and Transfer of Funds to Establish the John B. Connally Memorial Endowed Presidential Scholarship in Law in the School of Law and Eligibility for Matching Funds Under The Brackenridge Matching Program #2.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Berdahl that a \$50,000 gift from the Houston Livestock Show and Rodeo, Houston, Texas, \$500 in gifts from various donors, and a \$50,000 transfer of funds from The University of Texas Law School Foundation (an external foundation) for a total of \$100,500 be accepted to establish the John B. Connally Memorial Endowed Presidential Scholarship in Law in the School of Law at U. T. Austin.

It is further recommended that matching funds in the amount of \$50,000 be allocated under The Brackenridge Matching Program #2 and used to increase the endowment to a total of \$150,500.

Ninety percent of the income earned from the endowment will be used to provide scholarships for students in the School of Law, with preference given to those with an undergraduate degree in some field of agriculture prior to matriculation in law school. The remaining ten percent of income earned will be reinvested in the endowment corpus.

#### BACKGROUND INFORMATION

This endowment is being funded in memory of former Governor John B. Connally, Jr. by The Houston Livestock Show and Rodeo, Houston, Texas, and various donors. Governor Connally received his LL.B. from U. T. Austin in 1941. He had a distinguished career in public service including election as Governor of Texas and appointment as Secretary of the U. S. Treasury and the U. S. Navy. He was a former member of the U. T. Board of Regents, The Chancellor's Council, The President's Associates, and the Littlefield Society.

The Houston Livestock Show and Rodeo is a member of the Littlefield Society.

7. U. T. Austin: Ruth Denney Endowed Scholarship in the College of Fine Arts - Recommendation to Accept Additional Gifts and Transfer of Funds and Redesignate as the Ruth Denney Endowed Presidential Scholarship in Theatre.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Berdahl that \$26,325 in gifts from various donors and a \$12,500 transfer of President's discretionary funds for a total of \$38,825 be accepted for addition to the Ruth Denney Endowed Scholarship in the Department of Theatre and Dance, College of Fine Arts, at U. T. Austin for a total endowment of \$50,224 and that the Scholarship be redesignated as the Ruth Denney Endowed Presidential Scholarship in Theatre.

#### BACKGROUND INFORMATION

At the February 1989 meeting, the U. T. Board of Regents accepted \$10,065 in gifts from various donors and established the Ruth Denney Endowed Scholarship. Mrs. Ruth Denney, Austin, Texas, Professor Emeritus, was a member of the faculty of the Department of Drama from 1976 until her retirement in 1988. From 1984 to 1986, she held the Frank C. Erwin, Jr. Centennial Professorship in Drama.

Through a benefit performance by Broadway star and U. T. Austin alumnus Mr. Tommy Tune, the College of Fine Arts raised an additional \$26,325 in gifts for the Department of Theatre and Dance. The Benefit Gala Committee has requested that to honor Mr. Tune's mentor and teacher, Ruth Denney, these funds be used to increase the Ruth Denney Endowed Scholarship and redesignate it as the Ruth Denney Endowed Presidential Scholarship in Theatre.

8. U. T. Austin: Recommendation to Accept Gifts to Establish the Whit Dudley Endowed Memorial Scholarship in Harp in the College of Fine Arts.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Berdahl that \$10,327 in gifts from various donors be accepted to establish the Whit Dudley Endowed Memorial Scholarship in Harp in the Department of Music, College of Fine Arts, at U. T. Austin.

Income earned from the endowment will be used for the benefit and development of exceptionally talented harp students in the Department of Music.

#### BACKGROUND INFORMATION

This endowment is being funded in memory of Mr. Whit Dudley, Austin, Texas, with gifts solicited by the Department of Music at U. T. Austin through the sale of Whit Dudley Memorial Audio and Video Cassettes. Mr. Dudley, an orchestral harpist with the Austin Symphony Orchestra and the Austin Lyric Opera prior to his death in 1992, attended U. T. Austin from 1976 to 1978 and was the first candidate for a Doctor of Musical Arts Degree in harp at U. T. Austin.

9. U. T. Austin: Recommendation to Designate Pledge to Establish the Faculty Fellowship Research Fund for the Texas Institute for Computational and Applied Mathematics.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Berdahl that a previously accepted \$2,000,000 pledge, which has now been paid in cash and securities, from an anonymous donor be designated to establish the Faculty Fellowship Research Fund for the Texas Institute for Computational and Applied Mathematics at U. T. Austin.

Income earned from the endowment will be used to support education and research activities of the Computational and Applied Mathematics Program.

## BACKGROUND INFORMATION

These funds have been donated to support the Computational and Applied Mathematics (CAM) Program, which is a joint academic and research effort between the College of Engineering and the College of Natural Sciences at U. T. Austin. At the October 1993 meeting, the U. T. Board of Regents accepted an anonymous gift and established endowments to support faculty and graduate students involved in the CAM Program. It was noted that the donor also pledged an additional \$2,000,000 to the CAM Program, the use of which would be outlined at a later date.

10. U. T. Austin: Recommendation to Accept Gifts, Pledge, and Transfer of Funds to Establish The Louis Jules Hexter Endowed Presidential Scholarship in Theatre Arts in the College of Fine Arts and Eligibility for Matching Funds Under The Brackenridge Matching Program #2.--

## RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Berdahl that gifts, comprised of \$59,340.50 in cash and a \$50,000 ITT Financial Corporation debenture, valued at \$46,343.67 (\$45,314.50 principal and \$1,029.17 accrued interest) and a \$32,042.65 pledge, payable by August 31, 1996, from The Margaret B. Hexter Trust, Berkeley, California, and a \$54,670.25 transfer of President's discretionary funds for a total of \$192,397.07 be accepted to establish The Louis Jules Hexter Endowed Presidential Scholarship in Theatre Arts in the Department of Theatre and Dance, College of Fine Arts, at U. T. Austin.

It is further recommended that matching funds in the amount of \$16,021 be reserved under The Brackenridge Matching Program #2 to be allocated proportionately as gifts are received to increase the endowment to a total of \$208,418.07.

Income earned from the endowment will be used to provide scholarship support for theatre arts students who have demonstrated high standards, academic excellence, unusual promise, and exceptional talent.

## BACKGROUND INFORMATION

This endowment is being funded in memory of Mr. Louis Jules Hexter, Dallas, Texas, who received a B.A. from U. T. Austin in 1919 and was dedicated to education, the theatre, and the arts throughout his life. In the selection of scholarship recipients for this endowment, preference will be given to African American students, in recognition of Mr. Hexter's promotion of theatre in the Black community.

11. U. T. Austin: J. E. Hickman Scholarship Fund in Law in the School of Law - Recommendation to Redesignate as the Lena and John Edward Hickman Endowed Presidential Scholarship in Law.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Berdahl that the J. E. Hickman Scholarship Fund in Law in the School of Law at U. T. Austin be redesignated as the Lena and John Edward Hickman Endowed Presidential Scholarship in Law.

BACKGROUND INFORMATION

The J. E. Hickman Scholarship Fund in Law was established at the October 1988 meeting of the U. T. Board of Regents with a transfer of \$1,977 in previously reported gifts and a report that the Law School Foundation had received \$8,023 in gifts for a total of \$10,000. To date, the total amount in the Scholarship Fund is \$14,290. The Law School Foundation has pledged matching funds of \$10,710 to the amount it currently holds to create a total corpus of \$25,000. Judge John Edward Hickman received his LL.B. from U. T. Austin in 1910. In honor of Mrs. Lena Hickman's (Judge Hickman's widow) 100th birthday, the Scholarship is being redesignated as the Lena and John Edward Hickman Endowed Presidential Scholarship in Law.

12. U. T. Austin: Elton M. Hyder, Jr. and Martha R. Hyder Centennial Professorship in the School of Law - Recommendation to Redesignate as the Elton M. Hyder, Jr. and Martha Rowan Hyder Faculty Fellowship in Law.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Berdahl that the Elton M. Hyder, Jr. and Martha R. Hyder Centennial Professorship in the School of Law at U. T. Austin be redesignated as the Elton M. Hyder, Jr. and Martha Rowan Hyder Faculty Fellowship in Law.

This recommendation is being made with the concurrence of the donors.

BACKGROUND INFORMATION

The Elton M. Hyder, Jr. and Martha R. Hyder Centennial Professorship was established at the December 1983 meeting of the U. T. Board of Regents with a gift and pledge totaling \$100,000 from Mr. and Mrs. Elton M. (Martha R.) Hyder, Jr., Fort Worth, Texas, to be held and administered by The University of Texas Law School Foundation (an external

foundation). Matching funds of \$100,000 from The Regents' Endowed Teachers and Scholars Program were approved to be held by the U. T. Board of Regents. Gift funding for this endowment has reached \$50,000 and is not expected to increase. Therefore, the U. T. Law School Foundation requests that the Professorship be redesignated. The gift funds will continue to be held by the U. T. Law School Foundation and the \$50,000 in matching funds will continue to be held by the U. T. Board of Regents.

13. U. T. Austin: Recommendation to Accept Bequest from the Estate of Marjorie Ice Irwin, Austin, Texas, for the Archer M. Huntington Art Gallery in the College of Fine Arts.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Berdahl that a specific bequest of a Frederic M. Grant painting entitled "Venetian Procession" valued at \$2,500 from the Estate of Marjorie Ice Irwin, Austin, Texas, be accepted for addition to the Archer M. Huntington Art Gallery in the College of Fine Arts at U. T. Austin.

#### BACKGROUND INFORMATION

Mrs. Marjorie Ice Irwin, Austin, Texas, received her M.A. in History from U. T. Austin in 1944. In addition to this bequest, the U. T. Board of Regents is named in Mrs. Irwin's Will as a contingent beneficiary of The Stephanie Elizabeth Thompson Trust and The Judith Lee Anderson Trust. In the event either contingency is met, the funds will be used to create The Donald E. Irwin Drama Scholarship Fund in the Department of Drama, College of Fine Arts, at U. T. Austin.

14. U. T. Austin: Recommendation to Accept Bequests from the Estate of Joe J. King, Houston, Texas, and Remainder Interest in the Joe J. King Testamentary Trust, Houston, Texas, to Establish the Joe J. King Chair of Engineering in the College of Engineering.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Berdahl that a bequest, consisting of the "Kendleton Meteorite," valued at \$8,000 be accepted for the benefit of the Texas Memorial Museum at U. T. Austin.

It is further recommended that a one-half interest in the residue of the Estate of Joe J. King, Houston, Texas, comprised of cash, securities, and real estate, for an anticipated total of \$576,471.24 and the remainder interest in the Joe J. King Testamentary Trust, Houston, Texas (to be held by

Texas Commerce Bank, N.A.), initially funded with approximately \$688,000 be accepted to establish the Joe J. King Chair of Engineering in the College of Engineering at U. T. Austin.

Income earned from the endowment will be used to support the Chair.

#### BACKGROUND INFORMATION

Mr. Joe J. King, Houston, Texas, received his B.S. from U. T. Austin in 1925. Mr. King was a very loyal friend of the College of Engineering at U. T. Austin, having endowed a professorship and a scholarship in the College of Engineering. The U. T. Austin McDonald Observatory, the College of Natural Sciences, and the School of Law at U. T. Austin also benefitted from Mr. King's generosity.

#### 15. U. T. Austin: Recommendation to Establish Thirteen Endowments in the School of Law.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Berdahl that thirteen endowments in the School of Law at U. T. Austin be established as set out below. The funds for the endowments will be held and administered by The University of Texas Law School Foundation (an external foundation) in accordance with the Regents' Rules and Regulations.

ENDOWMENT:	Linda and Max Addison
	Endowed Presidential
	Scholarship in Law
Donor:	Mr. and Mrs. Max (Linda)
	Addison, Houston, Texas
Gift Amount:	\$12,500
Law School Fdn.	
Matching:	\$12,500
Total Endowment:	\$25,000
ENDOWMENT:	Class of 1967 Endowed Presi-
	dential Scholarship in Law
Donors:	Members of the Class of 1967
Gift Amount:	\$12,500
Law School Fdn.	
Matching:	\$12,500
Total Endowment:	\$25,000
ENDOWMENT:	Class of 1980 Endowed Presi-
	dential Scholarship in Law
Donors:	Members of the Class of 1980
Gift Amount:	\$12,500
Law School Fdn.	
Matching:	\$12,500
Total Endowment:	\$25,000

ENDOWMENT:	Jack and Susan Hawkins Endowed Presidential Scholarship in Law
Donors:	Mr. and Mrs. Jack W. (Susan) Hawkins, Dallas, Texas
Gifts and Pledges Amount:	\$15,000
Law School Fdn. Matching:	\$15,000
Total Endowment:	\$30,000
ENDOWMENT:	Tom Long Endowed Presidential Scholarship in Law
Donors:	Various Donors
Gift Amount:	\$12,500
Law School Fdn. Matching:	\$12,500
Total Endowment:	\$25,000
ENDOWMENT:	Nick C. Nichols Endowed Presi- dential Scholarship in Advocacy Student Aid Foundation
Donors:	Enterprises (SAFE) Houston, Texas
Gift Amount:	\$12,500
Pledge Amount:	\$12,500 payable by August 31, 1994
Law School Fdn. Matching:	\$25,000
Total Endowment:	\$50,000
ENDOWMENT:	Dudley and Judy White Oldham Endowed Presidential Scholar- ship in Law
Donors:	Mr. and Mrs. D. Dudley (Judy White) Oldham, Houston, Texas
Gifts and Pledges Amount:	\$12,500
Law School Fdn. Matching:	\$12,500
Total Endowment:	\$25,000
ENDOWMENT:	Melvin W. Parse, Jr. Endowed Presidential Scholarship in Law
Donors:	Various Donors
Gifts and Pledges Amount:	\$12,500
Law School Fdn. Matching:	\$12,500
Total Endowment:	\$25,000
ENDOWMENT:	John Brandon Pope Endowed Presi- dential Scholarship in Law
Donor:	Mrs. Dorothy Ball Pope Abilene, Texas
Gift Amount:	\$102,000
Law School Fdn. Matching:	\$102,000
Total Endowment:	\$204,000
ENDOWMENT:	Judge Harold Barefoot Sanders, Jr. Endowed Presi- dential Scholarship in Law
Donors:	Various Donors
Gifts and Pledges Amount:	\$12,500
Law School Fdn. Matching:	\$12,500
Total Endowment:	\$25,000

ENDOWMENT: Ernest E. Smith Endowed Presidential Scholarship in Law  
Donor: Mr. Jack Magids  
Memphis, Tennessee  
Gift Amount: \$12,500  
Law School Fdn.  
Matching: \$12,500  
Total Endowment: \$25,000

ENDOWMENT: Robert A. Webb Endowed Presidential Scholarship in Law  
Donor: Mr. Robert A. Webb  
Austin, Texas  
Gift Amount: \$12,500  
Law School Fdn.  
Matching: \$12,500  
Total Endowment: \$25,000

ENDOWMENT: R. Kinnan Golemon Endowed Presidential Scholarship in Environmental Law  
Donor: Brown McCarroll & Oaks Hartline  
Austin, Texas  
Gift Amount: \$12,500  
Law School Fdn.  
Matching: \$12,500  
Total Endowment: \$25,000

Income earned from the thirteen endowments will be used to award scholarships to law students.

#### BACKGROUND INFORMATION

Of the individual donors and honorees of the thirteen endowments, most are alumni of the School of Law at U. T. Austin.

16. U. T. Austin: Recommendation to Accept Gift and Transfer of Funds to Establish the Kenneth Leventhal & Company Endowed Scholarship in the College of Business Administration and the Graduate School of Business.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Berdahl that a \$10,000 gift from Kenneth Leventhal & Company, Dallas, Texas, and a \$5,000 transfer of funds from Dean's discretionary funds for a total of \$15,000 be accepted to establish the Kenneth Leventhal & Company Endowed Scholarship in the College of Business Administration and the Graduate School of Business at U. T. Austin.

Income earned from the endowment will be used to provide scholarships for students enrolled in the College of Business Administration and the Graduate School of Business, with preference given to students enrolled in the Professional Program in Accounting with a concentration in audit.

### BACKGROUND INFORMATION

Kenneth Leventhal & Company, Dallas, Texas, is a certified public accounting firm based in Los Angeles, California, with offices in several metropolitan areas within the United States.

17. U. T. Austin: Recommendation to Accept Gift to Establish the Kay and Joel Levy Family Endowed Scholarship in the Department of Intercollegiate Athletics for Men.--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Berdahl that a \$25,000 gift from Mr. Joel Levy, Houston, Texas, through his company, Rice Food Markets, Inc., Houston, Texas, and a \$12,500 transfer of Second Century Fund matching funds for a total of \$37,500 be accepted to establish the Kay and Joel Levy Family Endowed Scholarship in the Department of Intercollegiate Athletics for Men at U. T. Austin.

Income earned from the endowment will be used to provide scholarship support to student athletes participating in the men's athletics program.

### BACKGROUND INFORMATION

Mr. Joel Levy, Houston, Texas, has been a loyal supporter of Longhorn athletics for many years. He is presently chairman of the Longhorn Foundation for Men's Athletics Advisory Council and has been very active in coordinating Careers Day for student athletes. Mr. Levy and his wife, Kay, are members of The Chancellor's Council, The President's Associates, and the Littlefield Society.

The Departments of Intercollegiate Athletics for Women and Intercollegiate Athletics for Men have jointly initiated a \$10,000,000 scholarship fund raising effort known as The Second Century Fund which was authorized at the April 1993 meeting of the U. T. Board of Regents. Within The Second Century Fund, the Departments have adopted a program to match private gifts designated for student support endowments. Matching funds are being generated from gifts and other unrestricted funds available to the Departments.

18. U. T. Austin: Recommendation to Accept Grant to Establish The Trammell Scholarship Endowment in Music in the College of Fine Arts.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Berdahl that a \$25,000 grant from The Trammell Foundation, Houston, Texas, be accepted to establish The Trammell Scholarship Endowment in Music in the Department of Music, College of Fine Arts, at U. T. Austin.

Income earned from the endowment will be used for the benefit and development of promising orchestra students. Recipients will be appointed each year from among the most outstanding students in music, with preference given to string students who have demonstrated academic excellence, unusual promise, and exceptional talent.

BACKGROUND INFORMATION

Mrs. Sue Trammell Whitfield, Houston, Texas, a trustee of The Trammell Foundation, Houston, Texas, was instrumental in making this gift possible. The Trammell Foundation has made previous contributions to the College of Fine Arts at U. T. Austin and the U. T. System.

19. U. T. Austin: Recommendation to Accept Transfer of Funds to Establish the Louis and Mary Lou Williams Endowed Scholarship in Community College Leadership in the College of Education.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Berdahl that a \$10,000 transfer of designated funds be accepted to establish a quasi-endowment in the College of Education at U. T. Austin to be named the Louis and Mary Lou Williams Endowed Scholarship in Community College Leadership.

Income earned from the endowment will be used to support students in the Community College Leadership Program in the College of Education.

BACKGROUND INFORMATION

This endowment is being funded to honor Dr. and Mrs. Louis (Mary Lou) Williams, Paris, Texas. Dr. Williams, President Emeritus of Paris Junior College, Paris, Texas, is widely respected as a leader in community college education in Texas. He spearheaded a fund raising campaign in the early 1980s

which resulted in the creation of two endowed chairs at U. T. Austin in honor of Senator A. M. Aikin, a champion of public education in Texas. Dr. Williams received his B.B.A. from U. T. Austin in 1951 and Mrs. Williams did graduate work at U. T. Austin in 1937.

20. U. T. El Paso: Estate of Frederick Louise Etter, El Paso, Texas - Final Report.--

#### REPORT

The Chancellor, the Executive Vice Chancellor for Academic Affairs, and President Natalicio report that the final distribution from the Estate of Frederick Louise Etter, El Paso, Texas, comprised of cash and a personal residence, has been received for a total bequest of \$76,409.92. These funds have been used to establish a quasi-endowment at U. T. El Paso named the Miss Frederick Louise Etter Memorial Library Fund.

#### BACKGROUND INFORMATION

The Miss Frederick Louise Etter Memorial Library Fund was established at the June 1988 meeting of the U. T. Board of Regents with a bequest of 25% of Miss Etter's residuary estate. Income earned from the endowment is used by the university librarian to purchase technical books and periodicals, serials on technical subjects, special journals and abstracts of any field.

21. U. T. El Paso: Recommendation to Accept Gift to Establish the Freedom Forum Endowed Hispanic Scholarship Fund for Journalism Students.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Natalicio that a \$10,000 gift from the Freedom Forum, Arlington, Virginia, be accepted to establish the Freedom Forum Endowed Hispanic Scholarship Fund for Journalism Students at U. T. El Paso.

Income earned from the endowment will be used to provide an annual scholarship to a journalism student who meets the minimum academic requirements established by the U. T. El Paso Scholarship Office.

### BACKGROUND INFORMATION

The Freedom Forum, Arlington, Virginia, formerly known as the Gannett Foundation, provides journalism education, professional programs, support for minority journalism students, free press initiatives in Eastern and Central Europe, and exchanges, internships and fellowships in Asia, Latin America, and other regions of the world. The Freedom Forum is supported by an endowment established by its founder, Mr. Frank E. Gannett.

U. T. El Paso has received this \$10,000 gift from the Freedom Forum through the efforts of its senior trustee, Mrs. Josefina A. Salas-Porras, El Paso, Texas. Mrs. Salas-Porras received her B.A. in English in 1946 from the Texas College of Mines and Metallurgy (now U. T. El Paso). She has served on the College of Communication Foundation Advisory Council at U. T. Austin and numerous civic boards.

In selecting recipients for the scholarships awarded from this endowment, preference will be given to Hispanic students.

22. U. T. El Paso: Recommendation to Accept Gift to Establish the Reese Rowling Endowed Fund for Geology.--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Natalicio that a \$10,000 gift from Mr. Reese M. Rowling, Corpus Christi, Texas, be accepted to establish the Reese Rowling Endowed Fund for Geology at U. T. El Paso.

Income earned from the endowment will be used to provide scholarship support to a graduate or undergraduate student in the field of geology at U. T. El Paso, based primarily on financial need.

### BACKGROUND INFORMATION

Mr. Reese M. Rowling, Corpus Christi, Texas, received his B.S. in Geology from Texas College of Mines & Metallurgy (now U. T. El Paso) in 1951. Mr. Rowling was the founder/owner of Tana Oil & Gas which was sold to Texaco in 1989. The 1993 recipient of the U. T. El Paso College of Science Gold Nugget award, Mr. Rowling has shown his commitment to his alma mater through membership in the Matrix Society and President's Associates and has been a member of the U. T. El Paso Alumni Association since 1975.

23. U. T. El Paso: Recommendation to Accept Gift to Establish the Anthony J. Tarquin Endowed Scholarship in Civil Engineering.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Natalicio that a \$10,000 gift, contributed in part by Mr. and Mrs. Peter (Mei) Chan, El Paso, Texas, and matched by their respective employers, Parkhill, Smith & Cooper, El Paso, Texas, and Sierra Medical Center, El Paso, Texas, be accepted to establish the Anthony J. Tarquin Endowed Scholarship in Civil Engineering at U. T. El Paso.

Ninety percent of the income earned from the endowment will be used to award scholarships to engineering students, for student travel to professional meetings or competitions, equipment purchase or rental, stipends to support students' research or advanced study, and/or library materials and publications. The remaining ten percent of income earned will be reinvested in the corpus of the endowment.

BACKGROUND INFORMATION

Mr. and Mrs. Peter (Mei) Chan, El Paso, Texas, are funding this endowment in honor of Dr. Anthony J. Tarquin, El Paso, Texas, a civil engineering professor at U. T. El Paso. Mr. Chan received his B.S.C.E. in 1989 and his M.S. in Physics in 1990 from U. T. El Paso.

24. U. T. San Antonio: Recommendation to Accept Gifts and Transfer of Funds to Establish the James C. Gifford Memorial Scholarship.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Kirkpatrick that \$6,500 in gifts from various donors and accumulated income and a \$3,500 transfer of unrestricted gifts for a total of \$10,000 be accepted to establish an endowment at U. T. San Antonio to be named the James C. Gifford Memorial Scholarship.

Income earned from the endowment will be used to provide scholarships for graduate students in archaeology or anthropology.

#### BACKGROUND INFORMATION

This endowment is being funded in memory of Dr. James C. Gifford by his wife, Mrs. Carol Gifford, Tucson, Arizona, other family members, and various donors. Dr. Gifford was an academician specializing in Mayan architecture and was acquainted with Dr. Richard E. W. Adams, a U. T. San Antonio Professor of Anthropology, through their common interest and studies in ceramic analysis. After Dr. Gifford's death, U. T. San Antonio purchased his library on Mayan archaeology.

25. U. T. San Antonio: Recommendation to Accept Gift to Establish the Steven H. Heath Endowment.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Kirkpatrick that a \$10,000 gift from Mr. and Mrs. Donald A. (Cynthia A.) Heath, San Antonio, Texas, be accepted to establish the Steven H. Heath Endowment at U. T. San Antonio.

Income earned from the endowment will be used to provide scholarships to student athletes.

#### BACKGROUND INFORMATION

This endowment is being funded by Mr. and Mrs. Donald A. (Cynthia A.) Heath, San Antonio, Texas, in memory of their son, Steven, who was a first-year student at U. T. San Antonio at the time of his death in 1990. The Heaths have previously made other gifts to U. T. San Antonio in memory of their son, including funds to establish two ROTC scholarships.

26. U. T. San Antonio: Recommendation to Accept Gifts to Establish the Rhoderick E. Key Memorial Fund.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Kirkpatrick that \$10,000 in gifts from various donors be accepted to establish the Rhoderick E. Key Memorial Fund at U. T. San Antonio.

Income earned from the endowment will be used for support of the College of Fine Arts and Humanities.

### BACKGROUND INFORMATION

Friends and family of Dr. Rhoderick E. Key, former Dean of the College of Fine Arts and Humanities at U. T. San Antonio, are funding this endowment in his memory. Dr. Key came to U. T. San Antonio in 1981, was instrumental in the development of the program in architecture and interior design, and worked to bring to the campus outstanding high school musicians. His leadership in recruiting musical talent to U. T. San Antonio led to the establishment of several endowments. During Dr. Key's tenure at U. T. San Antonio, he continuously demonstrated tremendous dedication not only to U. T. San Antonio but to bringing the San Antonio community and the U. T. San Antonio Fine Arts Program together.

27. U. T. San Antonio: Recommendation to Accept Gift to Establish The North Loop 410 Association, Inc. Endowed Scholarship.--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Kirkpatrick that a \$15,000 gift from The North Loop 410 Association, Inc., San Antonio, Texas, be accepted to establish The North Loop 410 Association, Inc. Endowed Scholarship at U. T. San Antonio.

Income earned from the endowment will be used for scholarships for students in the College of Business, the College of Sciences and Engineering, and Athletics.

### BACKGROUND INFORMATION

The North Loop 410 Association, Inc., San Antonio, Texas, was formed in March 1969 as a civic group whose purpose was focused on the North 410 development. One of their projects was concerned with completion of the North Expressway. Having accomplished many of their goals, the group elected to disband in November 1991 and their accumulated assets were distributed to U. T. San Antonio to fund this Scholarship.

28. U. T. Southwestern Medical Center - Dallas: Recommendation to Accept Gift and Allocate Funds from the Private Fund Development Campaign to Establish the Arnold N. and Carol S. Ablon Professorship in Biomedical Science and Eligibility for Matching Funds Under the Texas Eminent Scholars Program.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Wildenthal that a \$100,000 gift from Mr. and Mrs. Arnold N. Ablon, Dallas, Texas, through The Arnold N. Ablon Fund of the Communities Foundation of Texas, Dallas, Texas, be accepted to establish the Arnold N. and Carol S. Ablon Professorship in Biomedical Science at the U. T. Southwestern Medical Center - Dallas.

It is further recommended that \$100,000 be allocated from the \$12,500,000 challenge fund established with MSRDP funds at the U. T. Southwestern Medical Center - Dallas as part of the Private Fund Development Campaign and used to increase the endowment to a total of \$200,000.

Income earned from the endowment will be used to support the Professorship.

Additionally, it is recommended that the actual income that will be earned on the \$100,000 gift be certified to the appropriate State authorities for matching under the Texas Eminent Scholars Program as set out in Chapter 51, Subchapter I of the Texas Education Code, when matching funds are made available under that act.

#### BACKGROUND INFORMATION

Mr. and Mrs. Arnold N. Ablon, Dallas, Texas, have received medical care at the U. T. Southwestern Medical Center - Dallas and are funding this endowment in appreciation and support of the institution.

See Item 1 on Page HAC - 3 related to a proposed appointment to this Professorship.

29. U. T. Southwestern Medical Center - Dallas: Recommendation to Accept Gift and Allocate Funds from the Private Fund Development Campaign to Establish the Mrs. Gene H. (Kathryne) Bishop Pediatric Research Fund and Eligibility for Matching Funds Under the Texas Eminent Scholars Program (NO PUBLICITY).--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Wildenthal that a gift of 25,000 shares of Life Partners Group, Inc., common stock, valued at \$496,875, from Mr. and Mrs. Gene H. (Kathryne) Bishop, Dallas, Texas, be accepted to establish an endowment at the U. T. Southwestern Medical Center - Dallas to be named the Mrs. Gene H. (Kathryne) Bishop Pediatric Research Fund.

It is further recommended that \$496,875 be allocated from the \$12,500,000 challenge fund established with MSRDP funds at the U. T. Southwestern Medical Center - Dallas as part of the Private Fund Development Campaign and used to increase the endowment to a total of \$993,750.

Income earned from the endowment will be used to support endowed positions for faculty appointed in the Department of Pediatrics at the U. T. Southwestern Medical Center - Dallas.

Additionally, it is recommended that the actual income that will be earned on the \$496,875 gift be certified to the appropriate State authorities for matching under the Texas Eminent Scholars Program as set out in Chapter 51, Subchapter I of the Texas Education Code, when matching funds are made available under that act.

#### BACKGROUND INFORMATION

Mr. and Mrs. Gene H. (Kathryne) Bishop, Dallas, Texas, are longtime supporters of the U. T. Southwestern Medical Center - Dallas. Mrs. Bishop serves on the Board of Children's Medical Center of Dallas and Mr. Bishop is a committee member for the Campaign Fund for Molecular Research at the U. T. Southwestern Medical Center - Dallas.

NO PUBLICITY

30. U. T. Southwestern Medical Center - Dallas: Recommendation to Accept Grant and Allocate Funds from the Private Fund Development Campaign to Establish the David Bruton, Jr. Professorship in Clinical Cancer Research and Eligibility for Matching Funds Under the Texas Eminent Scholars Program.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Wildenthal that a \$50,000 grant from The David Bruton, Jr. Charitable Trust, Dallas, Texas, be accepted to establish the David Bruton, Jr. Professorship in Clinical Cancer Research at the U. T. Southwestern Medical Center - Dallas.

It is further recommended that \$50,000 be allocated from the \$25,000,000 challenge fund established by an anonymous donor as part of the Private Fund Development Campaign and used to increase the endowment to a total of \$100,000.

Income earned from the endowment will be used to support the Professorship.

Additionally, it is recommended that the actual income that will be earned on the \$50,000 grant and the \$50,000 in challenge funds be certified to the appropriate State authorities for matching under the Texas Eminent Scholars Program as set out in Chapter 51, Subchapter I of the Texas Education Code, when matching funds are made available under that act.

#### BACKGROUND INFORMATION

The Trustees of The David Bruton, Jr. Charitable Trust, founded by Mr. David Bruton, Jr., Dallas, Texas, are funding this endowment as a tribute to Mr. David Bruton, Jr., and to help fulfill the role of private philanthropy in meeting educational needs.

31. U. T. Southwestern Medical Center - Dallas: Distinguished Chair in the Area of Basic Neurobiology - Recommendation to Redesignate as the Southwestern Ball Distinguished Chair in Basic Neuroscience Research.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Wildenthal that the Distinguished Chair in the Area of Basic Neurobiology at the U. T. Southwestern Medical Center - Dallas be redesignated as the Southwestern Ball Distinguished Chair in Basic Neuroscience Research.

## BACKGROUND INFORMATION

The Distinguished Chair in the Area of Basic Neurobiology was established at the June 1990 meeting of the U. T. Board of Regents. At the time the Chair was established, the U. T. Southwestern Medical Center - Dallas reserved the opportunity to rename the Chair at a later date to honor special friends. This redesignation is intended to recognize the annual "Southwestern Ball," sponsored by The Kent Waldrep National Paralysis Foundation, Dallas, Texas, through which Dallas civic leaders contribute funds for basic neuroscience research at the U. T. Southwestern Medical Center - Dallas.

32. U. T. Southwestern Medical Center - Dallas: Dixon Endowment Fund for Multiple Sclerosis Research - Recommendation to Accept Pledge, Allocate Funds from the Private Fund Development Campaign and Redesignate as the Kenney Marie Dixon Pickens Distinguished Professorship in Multiple Sclerosis Research, and Eligibility for Matching Funds Under the Texas Eminent Scholars Program.--

## RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Wildenthal that a \$75,000 pledge, payable by December 31, 1998, from Mrs. Kenney Marie Dixon Pickens, Dallas, Texas, be accepted for addition to the Dixon Endowment Fund for Multiple Sclerosis Research at the U. T. Southwestern Medical Center - Dallas.

It is further recommended that \$75,000 be allocated from the \$25,000,000 challenge fund established by an anonymous donor as part of the Private Fund Development Campaign and be used to increase the endowment to a total of \$253,943 and that the endowment be redesignated as the Kenney Marie Dixon Pickens Distinguished Professorship in Multiple Sclerosis Research.

This recommendation is being made with the concurrence of the donor.

Income earned from the endowment will be used to support the Distinguished Professorship.

Additionally, it is recommended that the actual income that will be earned on the \$75,000 pledge, as received, and the \$75,000 allocation of challenge funds be certified to the appropriate State authorities for matching under the Texas Eminent Scholars Program as set out in Chapter 51, Subchapter I of the Texas Education Code, when matching funds are made available under that act.

### BACKGROUND INFORMATION

The Dixon Endowment Fund was established by the U. T. Board of Regents at the April 1992 meeting with a \$5,000 gift from Mrs. Kenney Marie Dixon Pickens, Dallas, Texas, and a \$5,000 gift from Mrs. T. K. Dixon, Jr., Brenham, Texas, for a total of \$10,000. A \$10,000 allocation from the Private Fund Development Campaign Challenge Fund increased the endowment to a total of \$20,000.

The U. T. Southwestern Medical Center - Dallas had reserved the opportunity to redesignate the Fund to an endowed academic position when subsequent funds were received.

33. U. T. Southwestern Medical Center - Dallas: Recommendation to Accept Gifts to Establish the Alfred and Mabel Gilman Memorial Scholarship Fund.--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Wildenthal that \$20,000 in gifts from various donors be accepted to establish an endowment at the U. T. Southwestern Medical Center - Dallas to be named the Alfred and Mabel Gilman Memorial Scholarship Fund.

Income earned from the endowment will be used to support research awards for graduate students in the Department of Pharmacology.

### BACKGROUND INFORMATION

Dr. Alfred Gilman coauthored The Pharmacological Basis of Therapeutics over fifty years ago. The responsibility for the classic textbook was assumed by Dr. Gilman's son, Alfred G. Gilman, M.D., Dallas, Texas, and is now in its eighth edition. Dr. Alfred G. Gilman is currently the Chairman of the Department of Pharmacology at the U. T. Southwestern Medical Center - Dallas.

34. U. T. Southwestern Medical Center - Dallas: Recommendation to Rescind Regental Action of February 1994 Regarding the Establishment of The Doctor Charles F. Gregory Chair in Orthopaedic Surgery; Accept Gifts and Pledges and Allocate Funds from the Private Fund Development Campaign to Redesignate the Dr. Charles F. Gregory Fund as The Doctor Charles F. Gregory Chair in Orthopaedic Surgery; and Eligibility for Matching Funds Under the Texas Eminent Scholars Program.--

#### RECOMMENDATION

In order to clarify the endowment records, the Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Wildenthal that:

- a. The Regental action of February 1994 regarding the establishment of The Doctor Charles F. Gregory Chair in Orthopaedic Surgery at the U. T. Southwestern Medical Center - Dallas be rescinded
- b. Gifts in the amount of \$250,000 and pledges in the amount of \$139,250, payable by December 31, 1997, from various donors for a total of \$389,250 be accepted to redesignate the Dr. Charles F. Gregory Fund as The Doctor Charles F. Gregory Chair in Orthopaedic Surgery
- c. The amount of \$389,250 be allocated from the \$12,500,000 challenge fund established with MSRDP funds at the U. T. Southwestern Medical Center - Dallas as part of the Private Fund Development Campaign and used to increase the endowment to a total of \$778,500.
- d. The actual income that will be earned on the \$389,250 in gifts and pledges, as received, be certified to the appropriate State authorities for matching under the Texas Eminent Scholars Program as set out in Chapter 51, Subchapter I of the Texas Education Code, when matching funds are made available under that act.

#### BACKGROUND INFORMATION

The Regental action of February 1994 is being rescinded and the recommendation amended to be certain that the endowment records are clear regarding the redesignation of the Dr. Charles F. Gregory Fund which was established at the April 1992 meeting.

This endowed academic position is being funded in memory of Charles F. Gregory, M.D., who was recruited by the U. T. Southwestern Medical Center - Dallas in 1956 and served as Professor and Chairman of the Division of Orthopaedic Surgery until his death in 1976.

The Regental action of February 1994 appointing Robert W. Bucholz, M.D., as initial holder of this Chair will remain in full force and effect.

35. U. T. Southwestern Medical Center - Dallas: Lou and Ellen McGinley Lectureship in Psychiatric Research - Recommendation to Accept Bequest from the Estate of Ellen Adelle McGinley, Dallas, Texas, for Addition to the Lectureship and Redesignation as the Lou and Ellen McGinley Chair in Psychiatric Research and Eligibility for Matching Funds Under the Texas Eminent Scholars Program.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Wildenthal that a \$450,000 bequest from the Estate of Ellen Adelle McGinley, Dallas, Texas, be accepted for addition to the Lou and Ellen McGinley Lectureship in Psychiatric Research at the U. T. Southwestern Medical Center - Dallas for a total of \$500,000 and that the Lectureship be redesignated as the Lou and Ellen McGinley Chair in Psychiatric Research.

Income earned from the endowment will be used to support the Chair.

It is further recommended that the actual income that will be earned on the \$450,000 gift be certified to the appropriate State authorities for matching under the Texas Eminent Scholars Program as set out in Chapter 51, Subchapter I of the Texas Education Code, when matching funds are made available under that act.

#### BACKGROUND INFORMATION

The Lou and Ellen McGinley Lectureship in Psychiatric Research was established at the February 1985 meeting of the U. T. Board of Regents with a \$50,000 gift from Mrs. Lou Ellen McGinley O'Kennon, Dallas, Texas, the daughter of Mr. and Mrs. Lou (Ellen) McGinley.

The U. T. Southwestern Medical Center - Dallas had reserved the opportunity to redesignate the Lectureship to a Chair when subsequent funds were received.

36. U. T. Southwestern Medical Center - Dallas: Recommendation to Accept Gift to Establish The Orthopedic Resident Research Fund.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Wildenthal that a \$500,000 gift from Aaron A. Hofmann, M.D., Salt Lake City, Utah, be accepted to establish an endowment at the U. T. Southwestern Medical Center - Dallas to be named The Orthopedic Resident Research Fund.

Income earned from the endowment will be used to provide funding for the research projects of residents in the Department of Orthopaedic Surgery at the U. T. Southwestern Medical Center - Dallas.

BACKGROUND INFORMATION

This endowment is being funded by Aaron A. Hofmann, M.D., Salt Lake City, Utah, a 1976 graduate of the U. T. Southwestern Medical School - Dallas, in appreciation of the training he received in its Department of Orthopaedic Surgery.

37. U. T. Southwestern Medical Center - Dallas: Recommendation to Accept Gift and Allocate Funds from the Private Fund Development Campaign to Establish the J. Fred Schoellkopf, Jr. Chair in Cardiology and Eligibility for Matching Funds Under the Texas Eminent Scholars Program.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Wildenthal that a \$250,000 gift from Mrs. J. Fred (Anne C.) Schoellkopf, Jr., Dallas, Texas, be accepted to establish the J. Fred Schoellkopf, Jr. Chair in Cardiology at the U. T. Southwestern Medical Center - Dallas.

It is further recommended that \$250,000 be allocated from the \$12,500,000 challenge fund established with MSRDP funds at the U. T. Southwestern Medical Center - Dallas as part of the Private Fund Development Campaign and used to increase the endowment to a total of \$500,000.

Income earned from the endowment will be used to support the Chair.

It is further recommended that the actual income that will be earned on the \$250,000 gift be certified to the appropriate State authorities for matching under the Texas Eminent Scholars Program as set out in Chapter 51, Subchapter I of the Texas Education Code, when matching funds are made available under that act.

### BACKGROUND INFORMATION

This endowment is being funded by Mrs. J. Fred (Anne C.) Schoellkopf, Jr. in memory of her husband, J. Fred, who suffered from heart disease. This Chair is a fitting tribute to Mr. Schoellkopf, a longtime and highly respected member of the Dallas community.

38. U. T. Southwestern Medical Center - Dallas: Recommendation to Accept Gift and Pledge and Allocate Funds from the Private Fund Development Campaign to Establish the Gifford O. Touchstone, Jr. and Randolph G. Touchstone Chair in Diabetes Research and Eligibility for Matching Funds Under the Texas Eminent Scholars Program.--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Wildenthal that a \$30,000 gift and a \$220,000 pledge, payable by January 31, 1997, from Mr. and Mrs. Lucian Touchstone and Mr. and Mrs. Gifford O. Touchstone, all of Dallas, Texas, for a total of \$250,000 be accepted to establish the Gifford O. Touchstone, Jr. and Randolph G. Touchstone Chair in Diabetes Research at the U. T. Southwestern Medical Center - Dallas.

It is further recommended that \$250,000 be allocated from the \$25,000,000 challenge fund established by an anonymous donor as part of the Private Fund Development Campaign and used to increase the endowment to a total of \$500,000.

Income earned from the endowment will be used to support the Chair.

It is further recommended that the actual income that will be earned on the \$30,000 gift and \$220,000 pledge, as received, and the \$250,000 in challenge funds be certified to the appropriate State authorities for matching under the Texas Eminent Scholars Program as set out in Chapter 51, Subchapter I of the Texas Education Code, when matching funds are made available under that act.

### BACKGROUND INFORMATION

This endowment is being funded in honor of Gifford O. Touchstone, Jr. and Randolph G. Touchstone, the grandsons of Mr. and Mrs. Lucian Touchstone and the sons of Mr. and Mrs. Gifford O. Touchstone, all of Dallas, Texas. The Touchstone families have generously supported diabetes research programs at the U. T. Southwestern Medical Center - Dallas for many years.

39. U. T. Southwestern Medical Center - Dallas: Recommendation to Establish the Kent Waldrep Center for Basic Neuroscience Research; Specify Use of Income for Three Endowments and Eligibility for Matching Funds Under the Texas Eminent Scholars Program.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Wildenthal that the Kent Waldrep Center for Basic Neuroscience Research be established at the U. T. Southwestern Medical Center - Dallas.

It is further recommended that income from the Nerve Regeneration Endowment Fund, the Nerve Regeneration Endowment Fund No. 2, and the Southwestern Ball 1993 Endowment Fund at the U. T. Southwestern Medical Center - Dallas be specified to support basic research related to nerve growth, function, and regeneration by faculty appointed to endowed positions at the Kent Waldrep Center for Basic Neuroscience Research.

It is further recommended that the actual income earned from the Nerve Regeneration Endowment Fund, the Nerve Regeneration Endowment Fund No. 2, and the Southwestern Ball 1993 Endowment Fund be certified to the appropriate State authorities for matching under the Texas Eminent Scholars Program as set out in Chapter 51, Subchapter I of the Texas Education Code, when matching funds are made available under that act.

#### BACKGROUND INFORMATION

The Nerve Regeneration Endowment Fund, the Nerve Regeneration Endowment Fund No. 2, and the Southwestern Ball 1993 Endowment Fund were established by the U. T. Board of Regents at the April 1992, June 1992, and June 1993 meetings, respectively. The combined current value of all three endowments is over \$3,000,000.

The Kent Waldrep National Paralysis Foundation, Dallas, Texas, has raised money for basic research in nerve growth, function, and regeneration through its annual Southwestern Balls.

40. U. T. Medical Branch - Galveston: Recommendation to Accept Gifts to Establish the E. Burke Evans Orthopaedic Research Fund.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President James that gifts totalling \$276,500, comprised of \$32,000 cash and three parcels of real estate valued at \$244,500, as described on Page AMC - 38, from E. Burke Evans, M.D., Galveston, Texas, be accepted to establish an endowment at the U. T. Medical Branch - Galveston to be named the E. Burke Evans Orthopaedic Research Fund.

- a. Lot Ten (10), in Block 271, of Texas City Third Addition, a subdivision in Galveston County, Texas, according to the map or plat thereof recorded in Volume 254A, Page 24, in the Office of the County Clerk of Galveston County, Texas, valued at \$2,500.
- b. Lots Seventy-Six (76) and Seventy-Seven (77) and the Surface Only of Lot Thirty-Eight (38) of Amburn Boat Basin, a subdivision in Galveston County, Texas, according to the map or plat thereof recorded in Volume 254A, Page 55, in the Office of the County Clerk of Galveston County, Texas, valued at \$97,000.
- c. Lots Four (4) and Five (5) of Lauer Subdivision, a subdivision in Galveston County, Texas, according to the map or plat thereof recorded in Volume 254A, Page 67, in the Office of the County Clerk of Galveston County, Texas, valued at \$145,000.

Income earned from the endowment will be reinvested in the corpus of the endowment until it reaches \$300,000, at which time the income earned will be used to support research projects of orthopaedic residents and faculty, with priority given to residents' projects.

#### BACKGROUND INFORMATION

E. Burke Evans, M.D., Galveston, Texas, joined the U. T. Medical Branch - Galveston faculty in orthopaedic surgery in 1953 and served as Chief of the Division of Orthopaedic Surgery from 1965 to 1992. Dr. Evans has been nationally prominent in the educational, political, and scientific arenas of his profession. He is world-renowned as an authority on the orthopaedic management of the severely burned and is recognized for his long-term interest and publication in cerebral palsy.

41. U. T. Medical Branch - Galveston: Recommendation to Accept Bequest from the Estate of Ivalee Lucille Holtz, San Antonio, Texas, to Establish the Ivalee Lucille Holtz Scholarship Fund.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President James that a bequest comprised of certificates of deposit totaling \$58,686.80 be accepted from the Estate of Ivalee Lucille Holtz, San Antonio, Texas, and be used to establish an endowment at the U. T. Medical Branch - Galveston to be named the Ivalee Lucille Holtz Scholarship Fund.

Income earned from the endowment will be used to support scholarships for students at the U. T. Nursing School - Galveston.

#### BACKGROUND INFORMATION

Miss Ivalee Lucille Holtz graduated from the U. T. Nursing School - Galveston in 1938. It was Miss Holtz's dream to help aspiring nursing students.

42. U. T. Medical Branch - Galveston: The John Sealy Centennial Chair in Neonatology and The John Sealy Centennial Chair in Cardiology in the Department of Medicine - Recommendation to Accept Additional Grants, Redesignate Two Endowments, and Eligibility for Matching Funds Under the Texas Eminent Scholars Program.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President James that a \$1,000,000 grant from The Sealy & Smith Foundation for the John Sealy Hospital, Galveston, Texas, be accepted. Of the grant, \$500,000 will be added to The John Sealy Centennial Chair in Neonatology for a total endowment of \$1,000,000 and \$500,000 will be added to The John Sealy Centennial Chair in Cardiology in the Department of Medicine for a total endowment of \$1,000,000 at the U. T. Medical Branch - Galveston.

It is further recommended that the Chairs be redesignated as the John Sealy Distinguished Centennial Chair in Neonatology and the John Sealy Distinguished Centennial Chair in Cardiology in the Department of Medicine, respectively.

It is further recommended that the actual income that will be earned on the \$1,000,000 grant, as received, be certified to the appropriate State authorities for matching under the Texas Eminent Scholars Program as set out in Chapter 51, Subchapter I of the Texas Education Code, when matching funds are made available under that act.

#### BACKGROUND INFORMATION

The John Sealy Centennial Chair in Neonatology and The John Sealy Centennial Chair in Cardiology in the Department of Medicine were established at the April 1990 meeting of the U. T. Board of Regents, each being funded with a \$500,000 grant from The Sealy & Smith Foundation for the John Sealy Hospital, Galveston, Texas.

43. U. T. Health Science Center - San Antonio: Alfred Schenker Lectureship Program in Gastroenterology - Recommendation to Dissolve Endowment.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Howe that the Alfred Schenker Lectureship Program in Gastroenterology at the U. T. Health Science Center - San Antonio be dissolved and the funds returned to the institution.

#### BACKGROUND INFORMATION

The Alfred Schenker Lectureship Program in Gastroenterology was established as a quasi-endowment by the U. T. Board of Regents at the April 1989 meeting with a \$10,000 gift from Mrs. Alfred Schenker, Lakewood, New Jersey, for use by the Division of Gastroenterology and Nutrition in the Department of Medicine at the U. T. Health Science Center - San Antonio.

44. U. T. M.D. Anderson Cancer Center: Hal E. and Annie B. Adams Unitrust, Midland, Texas - Final Report.--

#### REPORT

The Chancellor reports that the final distribution from the Hal E. and Annie B. Adams Unitrust, Midland, Texas (held in trust by First City National Bank of Midland), comprised of cash and royalty payments, has been received for a total in excess of \$500,000 for the unrestricted use of the U. T. M.D. Anderson Cancer Center.

#### BACKGROUND INFORMATION

At the December 1987 meeting, the U. T. Board of Regents accepted a distribution of \$435,296.95 from the Hal E. and Annie B. Adams Unitrust, Midland, Texas, with a designated use of funds to be made at a later date.

The U. T. M.D. Anderson Cancer Center reports that the funds have been used to fund special programs and activities which the institution was unable to budget through the normal educational and general budgeting process, including the Volunteer Recognition Program, the Anderson Network Publication, and the publication of the Conquest magazine.

Mr. Hal E. Adams was an independent oil operator in Midland, Texas, and a former patient at the U. T. M.D. Anderson Cancer Center.

45. U. T. M.D. Anderson Cancer Center: Estate of Esther Clark Daviss, Houston, Texas - Final Report.--

#### REPORT

The Chancellor reports that the final distribution from the Estate of Esther Clark Daviss, Houston, Texas, comprised of cash and a note receivable, has been received for a total bequest of \$19,291.26 to be used to support research programs at the U. T. M.D. Anderson Cancer Center.

#### BACKGROUND INFORMATION

At the August 1983 meeting, the U. T. Board of Regents accepted a bequest in the amount of \$19,291.26 from the Estate of Esther Clark Daviss, Houston, Texas, with a designated use of the funds to be made at a later date.

The U. T. M.D. Anderson Cancer Center reports that the funds were utilized in a research program by a faculty member in the Division of Medicine.

46. U. T. M.D. Anderson Cancer Center: Recommendation to Accept Gifts, Pledges, and Transfer of Funds to Establish the Gilbert H. Fletcher Memorial Chair.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President LeMaistre that \$344,297.71 in gifts and \$155,702.29 in pledges, payable by August 31, 1999, from various donors and up to a \$500,000 transfer of designated funds for a total of \$1,000,000 be accepted to establish the Gilbert H. Fletcher Memorial Chair at the U. T. M.D. Anderson Cancer Center.

Income earned from the endowment will be used to support the Chair.

#### BACKGROUND INFORMATION

Gilbert H. Fletcher, M.D., Houston, Texas, was Chairman of the Department of Radiotherapy at the U. T. M.D. Anderson Cancer Center. He is considered by many to have been the leading authority in the world on the clinical treatment of tumors using radiation therapy. He authored several textbooks on the subject of radiotherapy and was recognized as an outstanding teacher. Many of those who benefitted from Dr. Fletcher's teaching have contributed to the establishment of a chair in recognition of his legacy to the U. T. M.D. Anderson Cancer Center and to the discipline of radiotherapy.

47. U. T. M.D. Anderson Cancer Center: Recommendation to Accept Bequest from the Estate of Floyd L. Haar, New York, New York.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President LeMaistre that a \$75,000 specific bequest from the Estate of Floyd L. Haar, New York, New York, be accepted for use in research and/or education on chronic lymphocytic leukemia at the U. T. M.D. Anderson Cancer Center.

BACKGROUND INFORMATION

Mr. Floyd L. Haar was formerly a patient at the U. T. M.D. Anderson Cancer Center.

48. U. T. M.D. Anderson Cancer Center: Recommendation to Accept Bequest from the Estate of Ralph E. Hays, Dallas, Texas.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President LeMaistre that a \$60,000 specific bequest from the Estate of Ralph E. Hays, Dallas, Texas, be accepted for use in general support of the U. T. M.D. Anderson Cancer Center.

BACKGROUND INFORMATION

Although Mr. Ralph E. Hays had no known affiliation with the U. T. M.D. Anderson Cancer Center, both he and his wife were cancer patients.

49. U. T. M.D. Anderson Cancer Center: Recommendation to Accept Trust Distribution from the Mamie F. Twyman Martel Trust, Houston, Texas, to Establish the William Gaines Twyman Endowment Fund.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President LeMaistre that a \$20,000 distribution from the Mamie F. Twyman Martel Trust, Houston, Texas, be accepted to establish the William Gaines Twyman Endowment Fund at the U. T. M.D. Anderson Cancer Center.

Income earned from the endowment will be used to relieve cancer sufferers.

#### BACKGROUND INFORMATION

The Mamie F. Twyman Martel Trust, Houston, Texas, was established under the Last Will and Testament of Mrs. Martel. Pursuant to a Judgment dated November 18, 1993, the Trust was terminated and the assets were distributed in accordance with the terms of the Judgment.

50. U. T. M.D. Anderson Cancer Center: Estate of Mary Sue Edmondson McConnell, Sherman, Texas - Final Report.--

#### REPORT

The Chancellor reports that the final distribution from the Estate of Mary Sue Edmondson McConnell, Sherman, Texas, comprised of cash and a mortgage note, has been received for a total bequest of \$119,602 to be used to support lung and cancer research at the U. T. M.D. Anderson Cancer Center.

#### BACKGROUND INFORMATION

At the February 1988 meeting, the U. T. Board of Regents accepted a \$100,000 bequest from the Estate of Mary Sue Edmondson McConnell. The funds received from the Estate of Mary Sue Edmondson McConnell are being used as stated in her Last Will and Testament. The Will stated that one-half of her residuary estate be used to support lung research and one-half for cancer research.

51. U. T. M.D. Anderson Cancer Center: Recommendation to Accept Bequest from the Estate of I. D. Rodgers, Jr., Lubbock, Texas.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President LeMaistre that a bequest from the Estate of I. D. Rodgers, Jr., Lubbock, Texas, comprised of a .0625 royalty interest in approximately 600 acres in Kent County, Texas, valued at \$18,105 and \$5,531 in accumulated royalty payments for a total of \$23,636 be accepted to support research programs at the U. T. M.D. Anderson Cancer Center.

BACKGROUND INFORMATION

Mr. I. D. Rodgers, Jr., Lubbock, Texas, named the U. T. M.D. Anderson Cancer Center as the remainder beneficiary of his estate, upon the termination of his wife's life interest in his estate.

52. U. T. M.D. Anderson Cancer Center: Recommendation to Accept Transfer of Funds to Establish the Hubert L. and Olive Stringer Professorship for Cancer Treatment and Research.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President LeMaistre that a \$250,000 transfer of current restricted funds be accepted to establish a quasi-endowment at the U. T. M.D. Anderson Cancer Center to be named the Hubert L. and Olive Stringer Professorship for Cancer Treatment and Research.

Income earned from the endowment will be used to support the Professorship.

BACKGROUND INFORMATION

This endowment is being funded with current restricted funds received as distributions from the Hubert L. Stringer Trust. Texas Commerce Bank, N.A., Wichita Falls, Texas, Trustee of the Hubert L. Stringer Trust, is currently in the process of liquidating the assets of the Trust.

At the August 1991 meeting of the U. T. Board of Regents, distributions from the Trust were designated for the current restricted use of the U. T. M.D. Anderson Cancer Center.

53. U. T. M.D. Anderson Cancer Center: Recommendation to Accept Bequest from the Estate of Nell Wilson, Alvin, Texas.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President LeMaistre that a one-seventh interest in the residue of the Estate of Nell Wilson, Alvin, Texas, in the amount of \$19,582.94 be accepted to support cancer research at the U. T. M.D. Anderson Cancer Center.

#### BACKGROUND INFORMATION

Miss Nell Wilson, Alvin, Texas, had no known affiliation with the U. T. M.D. Anderson Cancer Center. However, the Cancer Center has designated the bequest from Miss Wilson's Estate to be used in the furtherance of breast cancer research.

54. U. T. Health Center - Tyler: Recommendation to Accept Gift and Transfer of Funds to Establish the Clemmie Hurst Cobb Memorial Endowment.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and Director Hurst that a \$5,000 gift from the family of Mrs. Clemmie Hurst Cobb, and a \$5,000 transfer of institutional funds for a total of \$10,000 be accepted to establish the Clemmie Hurst Cobb Memorial Endowment at the U. T. Health Center - Tyler.

Ninety percent of the income earned from the endowment will be used to sponsor guest lecturers at the U. T. Health Center - Tyler. The remaining ten percent of income earned will be reinvested in the corpus of the endowment.

#### BACKGROUND INFORMATION

This endowment is being funded in memory of Mrs. Clemmie Hurst Cobb, sister of George A. Hurst, M.D., Tyler, Texas, Director of the U. T. Health Center - Tyler.

55. U. T. Health Center - Tyler: Doctor and Mrs. Sam Topperman Lectureship - Recommendation to Accept Transfer of Funds to Redesignate as the Dr. and Mrs. Sam Topperman Professorship in Medical Education.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and Director Hurst that a \$50,000 transfer of institutional funds be accepted for addition to the Doctor and Mrs. Sam Topperman Lectureship at the U. T. Health Center - Tyler for a total endowment of \$100,000 and that the Lectureship be redesignated as the Dr. and Mrs. Sam Topperman Professorship in Medical Education.

Ninety percent of the income earned from the endowment will be used to support the Professorship. The remaining ten percent of income earned will be reinvested in the corpus of the endowment.

### BACKGROUND INFORMATION

The Doctor and Mrs. Sam Topperman Lectureship was established at the October 1981 meeting of the U. T. Board of Regents with a \$25,000 transfer of MSRDP funds. Dr. Topperman, a pediatric chest specialist, served as the chief executive officer of the East Texas Tuberculosis Hospital, which was the predecessor to the U. T. Health Center - Tyler, from 1952 until his retirement in 1970.

See Item 8 on Page HAC - 8 related to a proposed appointment to this Professorship.

56. U. T. Health Center - Tyler: Recommendation to Accept Gift, Pledge, and Transfer of Funds to Establish The Dr. and Mrs. Jim Vaughn Professorship in Biomedical Research.--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and Director Hurst that a \$10,000 gift and a \$40,000 pledge, payable by August 31, 1999, from the Vaughn Foundation, Tyler, Texas, and a \$50,000 transfer of institutional funds for a total of \$100,000 be accepted to establish The Dr. and Mrs. Jim Vaughn Professorship in Biomedical Research at the U. T. Health Center - Tyler.

Ninety percent of the income earned from the endowment will be used to support the Professorship. The remaining ten percent of income earned will be reinvested in the corpus of the endowment.

### BACKGROUND INFORMATION

James Vaughn, M.D., Tyler, Texas, is a charter member of the U. T. Health Center - Tyler Director's Associates and a member of The Chancellor's Council. Dr. Vaughn also serves on the Education Foundation Board of U. T. Tyler.

57. U. T. Health Center - Tyler: Recommendation to Accept Gift to Establish the Watson and Emma Wise Medical Research Journal Endowment.--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and Director Hurst that a \$10,000 gift from the Watson W. Wise Foundation, Tyler, Texas, be accepted to establish the Watson and Emma Wise Medical Research Journal Endowment at the U. T. Health Center - Tyler.

Ninety percent of the income earned from the endowment will be used to purchase books, journals, and other research-related literature for the Watson W. Wise Medical Research Library at the U. T. Health Center - Tyler. The remaining ten percent of income earned will be reinvested in the corpus of the endowment.

#### BACKGROUND INFORMATION

This endowment is being funded by Mrs. Watson (Emma) Wise, Tyler, Texas, through the Watson W. Wise Foundation, Tyler, Texas, in memory of her husband. Mr. Watson Wise was a noted East Texas oilman and philanthropist who supported many medically-related causes. His support of the U. T. Health Center - Tyler resulted in the naming of the library in his honor in 1984. Mrs. Wise, a trustee of the Watson W. Wise Foundation, is a member of the U. T. Health Center - Tyler Development Board and an active community leader.

#### III. INTELLECTUAL PROPERTY MATTER

U. T. Health Science Center - San Antonio: Recommendation for (a) Approval of a Patent License Agreement with Entoptic Percepts, Inc., San Antonio, Texas, and (b) Approval for Individual to Acquire Equity in and Serve as an Officer and Director of Entoptic Percepts, Inc.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Howe that the U. T. Board of Regents:

- a. Approve the Patent License Agreement set out on Pages AMC 49 - 58 between the U. T. Board of Regents, for and on behalf of the U. T. Health Science Center - San Antonio, and Entoptic Percepts, Inc., San Antonio, Texas
- b. Approve the acquisition of equity in and service as an officer and director of Entoptic Percepts, Inc. by Dr. Raymond A. Applegate, Associate Professor in the Department of Ophthalmology in the U. T. Medical School - San Antonio at the U. T. Health Science Center - San Antonio.

## BACKGROUND INFORMATION

Dr. Raymond A. Applegate and Dr. Arthur Bradley of the U. T. Health Science Center - San Antonio have created an invention entitled "Vascular Entoptoscope" for which U. S. Patent No. 5,016,643 was granted on May 21, 1991, and assigned to the U. T. Board of Regents.

Under the proposed Patent License Agreement, Entoptic Percepts, Inc. is granted a royalty-bearing, exclusive, worldwide license under U. S. Patent No. 5,016,643 to manufacture, have manufactured, and/or sell licensed subject matter. Entoptic Percepts, Inc. will pay the U. T. Board of Regents (1) a running royalty of three percent (3%) of net sales and (2) one-half of gross revenues received from any sublicensee. Entoptic Percepts, Inc. also will make periodic payments to reimburse the University for all of its out-of-pocket expenses incurred in obtaining the patent.

Dr. Applegate formed Entoptic Percepts, Inc. for the purpose of commercializing the licensed technology and is the owner of and an officer and director of the company. The licensed subject matter is a device that can be used by an individual to visualize his own eye on the premise that individuals with diseases such as diabetes who are at a high risk of vision problems can monitor any vision changes between scheduled eye appointments. The University has been unable to license this invention to any established company that makes or distributes optical devices. Entoptic Percepts, Inc. will attempt to obtain funding through a small business grant in order to develop and market the product.

The proposed arrangement is consistent with Section 51.912 of the Texas Education Code and corresponding provisions of the U. T. System Intellectual Property Policy. Pursuant to Subsections 6.2 and 7.1, Chapter XII, Part Two of the Regents' Rules and Regulations, approval by the U. T. Board of Regents is necessary for Dr. Applegate to acquire equity in and serve as an officer and director of Entoptic Percepts, Inc. concurrent with approval of the proposed patent license agreement with such company.

## PATENT LICENSE AGREEMENT

THIS AGREEMENT is made by and between the BOARD OF REGENTS (BOARD) OF THE UNIVERSITY OF TEXAS SYSTEM (SYSTEM), an agency of the State of Texas, whose address is 201 West Seventh Street, Austin, Texas 78701, and ENTOPTIC PERCEPTS, INC. (LICENSEE), a Texas corporation having a principal place of business located at 3427 Hopecrest, San Antonio, Texas 78230.

### W I T N E S S E T H :

Whereas BOARD owns certain PATENT RIGHTS and TECHNOLOGY RIGHTS related to LICENSED SUBJECT MATTER, which were developed at The University of Texas Health Science Center at San Antonio, a component institution of The University of Texas System;

Whereas BOARD desires to have the LICENSED SUBJECT MATTER developed and used for the benefit of LICENSEE, the inventor, BOARD, and the public as outlined in the Intellectual Property Policy promulgated by the BOARD; and

Whereas LICENSEE wishes to obtain a license from BOARD to practice LICENSED SUBJECT MATTER;

NOW, THEREFORE, in consideration of the mutual covenants and premises herein contained, the parties hereto agree as follows:

#### I. EFFECTIVE DATE

This agreement shall be effective as of January 1, 1994, subject to approval by BOARD.

#### II. DEFINITIONS

As used in this Agreement, the following terms shall have the meanings indicated:

2.1 LICENSED SUBJECT MATTER shall mean inventions and discoveries covered by PATENT RIGHTS or TECHNOLOGY RIGHTS which is within LICENSED FIELD.

2.2 PATENT RIGHTS shall mean BOARD'S rights in information or discoveries covered by patents and/or patent applications, whether domestic or foreign, and all divisions, continuations, continuations-in-part, reissues, reexaminations or extensions thereof, and any letters patent that issue thereon, which name Dr. Raymond A. Applegate and Dr. Arthur Bradley as either sole or joint inventor and which relate to the manufacture, use, or sale of "Vascular Entoptoscope" as described in U.S. Patent No. 5,016,643 issued May 21, 1991.

2.3 TECHNOLOGY RIGHTS shall mean BOARD'S rights in any technical information, know-how, process, procedure, composition, device, method, formula, protocol, technique, software, design, drawing or data relating to "Vascular Entoptoscope" which is not covered by PATENT RIGHTS but which is necessary for practicing the invention at any time covered by PATENT RIGHTS.

2.4 LICENSED FIELD shall mean all fields of possible use.

2.5 LICENSED TERRITORY shall mean the world.

2.6 LICENSED PRODUCT shall mean any product SOLD by LICENSEE comprising LICENSED SUBJECT MATTER pursuant to this Agreement.

2.7 SALE or SOLD shall mean the transfer or disposition of a LICENSED PRODUCT for value to a party other than LICENSEE or a SUBSIDIARY.

2.8 SUBSIDIARY shall mean any business entity more than 50% owned by LICENSEE, any business entity which owns more than 50% of LICENSEE, or any business entity that is more than 50% owned by a business entity that owns more than 50% of LICENSEE.

2.9 NET SALES shall mean the gross revenues received by LICENSEE from the SALE of LICENSED PRODUCTS less sales and/or use tax actually paid, import and/or export duties actually paid, outbound transportation prepaid or allowed, commissions and discounts and amounts allowed or credited due to returns (not to exceed the original billing or invoice amount).

### III. WARRANTY; SUPERIOR-RIGHTS

BOARD represents and warrants its belief that it is the owner of the entire right, title, and interest in and to LICENSED SUBJECT MATTER, and that it has the sole right to grant licenses thereunder, and that it has not knowingly granted licenses thereunder to any other entity that would restrict rights granted hereunder except as stated herein.

### IV. LICENSE

4.1 BOARD hereby grants to LICENSEE a royalty-bearing, exclusive license under LICENSED SUBJECT MATTER to manufacture, have manufactured, and/or sell LICENSED PRODUCTS within LICENSED TERRITORY for use within LICENSED FIELD. This grant shall be subject to the payment by LICENSEE to BOARD of all consideration as provided in this Agreement, and shall be further subject to rights retained by BOARD to:

(a) Publish the general scientific findings from research related to LICENSED SUBJECT MATTER; and

(b) Use any information contained in LICENSED SUBJECT MATTER for research, teaching, and other non-commercial educationally-related purposes.

4.2 LICENSEE shall have the right to extend the license granted herein to any SUBSIDIARY provided that such SUBSIDIARY consents to be bound by this Agreement to the same extent as LICENSEE.

4.3 LICENSEE shall have the right to grant sublicenses consistent with this Agreement provided that LICENSEE shall be responsible for the operations of its sublicensee relevant to this Agreement as if such operations were carried out by LICENSEE, including the payment of royalties whether or not paid to LICENSEE by the sublicensee. LICENSEE further agrees to deliver to BOARD a true and correct copy of each sublicense granted by LICENSEE, and any modification or termination thereof, within thirty (30) days after execution, modification, or termination. Upon termination of this Agreement, any and all existing sublicenses granted by LICENSEE shall be assigned to BOARD.

4.4 BOARD shall have the right at any time after four (4) years from the date of this Agreement in the United States, and eight (8) years for the remaining LICENSED TERRITORY, to terminate the exclusivity of the license granted herein in any national political jurisdiction within LICENSED TERRITORY if LICENSEE, within ninety (90) days after written notice from BOARD as to such intended termination of exclusivity, fails to provide written evidence that it has commercialized or is actively attempting to commercialize an invention hereunder within such jurisdiction. BOARD agrees to negotiate in good faith with LICENSEE for adjusting terms under such a non-exclusive arrangement. BOARD shall have the right at any time after five (5) years from the date of this Agreement to terminate the license completely in any national political jurisdiction if LICENSEE, within ninety (90) days after written notice from BOARD of such intended termination, fails to provide written evidence that it has commercialized or is actively attempting to commercialize an invention licensed hereunder within such jurisdiction. Evidence provided by LICENSEE that it has an ongoing and active research, development, manufacturing, marketing, or licensing program as appropriate, directed toward production and sale of products based on the invention disclosed and claimed in PATENTS or incorporating TECHNOLOGY within such jurisdiction shall be deemed satisfactory evidence.

#### V. PAYMENTS AND REPORTS

5.1 In consideration of rights granted by BOARD to LICENSEE under this Agreement, LICENSEE agrees to pay BOARD the following:

(a) A running royalty equal to three percent (3%) of NET SALES for LICENSED PRODUCTS;

(b) One half of the gross revenues received by LICENSEE from any sublicensee.

5.2 During the Term of this Agreement and for one (1) year thereafter, LICENSEE shall keep complete and accurate records of its and its sublicensee's SALES and NET SALES of LICENSED PRODUCTS under the license granted in this Agreement in sufficient detail to enable the royalties payable hereunder to be determined. LICENSEE shall permit BOARD or its representatives, at BOARD'S expense, to periodically examine its books, ledgers, and records during regular business hours for the purpose of and to the extent necessary to verify any report required under this Agreement. The results of such examinations will be held in confidence. In the event that the amounts due to BOARD are determined to have been underpaid by more than five percent (5%) calculated on an annual basis, LICENSEE shall pay the cost of such examination, and accrued simple interest on the unpaid amount at the current Federal Reserve prime rate plus 3 percent adjusted annually on the anniversary date of discovery until paid.

5.3 Once per year LICENSEE shall deliver to BOARD a true and accurate report, giving such particulars of the business conducted by LICENSEE and its sublicensees, if any exist, during the preceding twelve (12) calendar months under this Agreement as are pertinent to an account for payments hereunder. Such report shall include at least (a) the quantities of LICENSED SUBJECT MATTER that it has produced; (b) the total SALES; (c) the calculation of royalties thereon; and (d) the total royalties so computed and due BOARD. Simultaneously with the delivery of each such report, LICENSEE shall pay to BOARD the amount, if any, due for the period of such report. If no payments are due, it shall be so reported.

5.4 Upon the request of BOARD but not more often than once per calendar year, LICENSEE shall deliver to BOARD written report as to LICENSEE'S efforts and accomplishments during the preceding year in commercializing LICENSED SUBJECT MATTER in various parts of the LICENSED TERRITORY and its commercialization plans for the upcoming year.

5.5 All amounts payable hereunder by LICENSEE shall be payable in United States funds without deductions for taxes, assessments, fees, or charges of any kind other than elsewhere provided in this Agreement. Checks shall be made payable to BOARD OF REGENTS, The University of Texas System.

5.6 BOARD shall have the responsibility for prosecuting and maintaining any and all patents or patent applications included in PATENT RIGHTS in the United States and any additional patents or patent applications deemed advisable by BOARD covering all or part of the LICENSED SUBJECT MATTER.

5.7 LICENSEE may also request that BOARD obtain patent protection on the LICENSED SUBJECT MATTER in foreign countries. LICENSEE must notify BOARD within ten (10) months (or within four (4) months in the case of design applications) of the filing of the corresponding United States application of its decision to request foreign patents. The absence of a decision in writing from the LICENSEE to BOARD shall be considered an election not to secure foreign rights. Nothing herein shall be construed as to require BOARD to prosecute or maintain patent protection outside the United States.

5.8 LICENSEE shall reimburse BOARD for all its out-of-pocket expenses thus far incurred in filing, prosecuting, enforcing and maintaining PATENT RIGHTS exclusively licensed hereunder and shall pay all such future expenses so long as and in such countries as its license remains exclusive. LICENSEE shall pay three percent (3%) of NET SALES for LICENSED PRODUCTS or \$2,000, whichever is greater, (in addition to the royalty detailed in 5.1a) until all out-of-pocket expenses are recovered by the BOARD. The first payment shall be due six (6) months from the date of the first sale. If LICENSEE notifies BOARD that it does not wish to pay the continuing costs of an application or patent, then BOARD may continue such payment at BOARD'S expense, and LICENSEE shall have no further rights therein.

5.9 Board shall keep complete and accurate records of its out-of-pocket expenses for the filing, prosecuting and maintenance/annuity of all patent applications and patents in sufficient detail to enable the out-of-pocket costs to be determined. BOARD shall permit LICENSEE or its representatives, at LICENSEE'S expense, to periodically examine its books, ledgers, and records during regular business hours for the purpose of and to the extent necessary to verify any report required under this Agreement. Such books and records will be preserved for not less than three (3) years from the date of the out-of-pocket expenses were paid to which they pertain. The results of such examinations will be held in confidence.

5.10 Once per year and once prior to the signing of this Agreement BOARD shall deliver to LICENSEE a true and accurate report, giving particulars of the current balance of out-of-pocket expenses incurred by the BOARD for the filing, prosecuting and maintenance/annuity of all patent applications and patents pertinent to this Agreement. Such reports shall include at least (a) the date, to whom, the dollar amount, for what purpose each out-of-pocket expenses was paid and the current total balance of out-of-pocket expenses due the BOARD from LICENSEE. If no new out-of-pocket expenses were incurred in any given year, it shall be so reported. Such report shall also include copies of all invoices received by BOARD upon which such report is based.

## VI. TERM AND TERMINATION

6.1 The Term of this Agreement shall extend from the Effective Date set forth hereinabove to the full end of the term or terms for which PATENT RIGHTS have not expired and if only TECHNOLOGY RIGHTS are licensed and no PATENT RIGHTS are applicable, for a term of fifteen (15) years.

6.2 This Agreement will earlier terminate:

(a) automatically if LICENSEE shall become bankrupt or insolvent and/or if the business of LICENSEE shall be placed in the hands of a receiver, assignee, or trustee, whether by voluntary act of LICENSEE or otherwise, and such receiver or trustee is not dismissed within ninety (90) days;

(b) upon ninety (90) days' written notice if LICENSEE shall breach or default on any obligation under this License Agreement; provided, however, LICENSEE may avoid such termination if before the end of such period LICENSEE notifies BOARD that such breach has been cured and states the manner of such cure;

(c) under the provisions of paragraph 4.4 if invoked.

6.3 Upon termination of this Agreement for any cause, nothing herein shall be construed to release either party of any obligation matured prior to the effective date of such termination. LICENSEE may, after the effective date of such termination, sell all LICENSED PRODUCT and parts therefor that it may have on hand at the date of termination, provided that it pays earned royalty thereon as provided in this Agreement.

## VII. INFRINGEMENT BY THIRD PARTIES

7.1 LICENSEE shall have the obligation of enforcing at its expense any patent exclusively licensed hereunder against infringement by third parties and shall be entitled to retain recovery from such enforcement. Provided BOARD provides assistance covered in paragraph 7.2 below at no cost to LICENSEE, LICENSEE shall pay BOARD royalty as provided in paragraph 5.1(a) on any monetary recovery to the extent that such monetary recovery by LICENSEE is calculated on the basis of reasonable royalty or actual damages paid by the infringer for unauthorized making, using or selling of LICENSED PRODUCT. In the event that LICENSEE does not file suit against a substantial infringer of such patents within six (6) months of knowledge thereof, then BOARD shall have the right to enforce any patent licensed hereunder on behalf of itself and LICENSEE. At Board's election should it exercise its right to enforce a patent licensed hereunder against a substantial infringer, and upon written notice to LICENSEE, the running royalty rate set forth in Section 5.1(a) shall be doubled, and Board's

share of gross proceeds received by LICENSEE from any sublicense pursuant to Section 5.1(b) shall be increased to three-fourths. Such increases in the amounts payable under Sections 5.1(a) and (b) shall continue until Board has recouped its out-of-pocket expenses (e.g., attorneys' fees, court costs and other costs of litigation) not otherwise recovered in the suit in enforcing the patent in question plus interest thereon at the current Federal Reserve prime rate plus 3 percent adjusted annually on the anniversary date of suit settlement. After recovery of all out-of-pocket expenses, and provided LICENSEE provides assistance covered in paragraph 7.2 below at no cost to the BOARD, LICENSEE is entitled to one-half of the monetary recovery. Thereafter, the amounts set forth in Sections 5.1(a) and (b) shall be paid.

7.2 In any suit or dispute involving an infringer, the parties shall cooperate fully, and upon the request of the party bringing suit, the other party shall make available to the party bringing suit at reasonable times and under appropriate conditions all relevant personnel, records, papers, information, samples, specimens, and the like which are in its possession.

#### VIII. ASSIGNMENT

This Agreement may not be assigned by LICENSEE without the prior written consent of BOARD.

#### IX. PATENT MARKING

LICENSEE agrees to mark permanently and legibly all products and documentation manufactured or sold by it under this Agreement with such patent notice as may be permitted or required under Title 35, United States Code.

#### X. INDEMNIFICATION

LICENSEE shall hold harmless and indemnify BOARD, SYSTEM, UNIVERSITY, its Regents, officers, employees and agents from and against any claims, demands, or causes of action whatsoever, including without limitation those arising on account of any injury or death of persons or damage to property caused by, or arising out of, or resulting from, the exercise or practice of the license granted hereunder by LICENSEE or its officers, employees, agents, or representatives, except for claims, demands or causes of action arising due to the BOARD'S, SYSTEM'S or UNIVERSITY'S own actions or misrepresentations or the negligence or actions of its officers, employees or agents other than officers, employees or agents of LICENSEE.

#### XI. USE OF BOARD AND COMPONENT'S NAME

LICENSEE shall not use the name of UNIVERSITY, SYSTEM, BOARD, or Regents without express written consent.

#### XII. CONFIDENTIAL INFORMATION

12.1 BOARD and LICENSEE each agree that all information contained in documents marked "confidential" which are forwarded to one by the other shall be received in strict confidence, used only for the purposes of this Agreement, and not disclosed by the recipient party (except as required by law or court order), its agents or employees without the prior written consent of the other party, unless such information (a) was in the public domain at the time of disclosure, (b) later became part of the public domain through no act or omission of the recipient party, its employees, agents, successors, or assigns, (c) was lawfully disclosed to the recipient party by third party having the right to disclose it, (d) was already known by the recipient party at the time of disclosure, (e) was independently developed or (f) is required to be submitted to a government agency pursuant to any preexisting obligation.

12.2 Each party's obligation of confidence hereunder shall be fulfilled by using at least the same degree of care with the other party's confidential information it uses to protect its own confidential information. This obligation shall exist while this agreement is in force and for a period of three (3) years thereafter.

#### XIII. PATENTS AND INVENTIONS

LICENSEE shall reimburse BOARD in accordance with Section 5.8 for all expenses incurred by BOARD in searching, preparing, filing, prosecuting and maintaining patent applications and patents relating to PATENT RIGHTS. If after consultation with LICENSEE it is agreed by BOARD and LICENSEE that a patent application should be filed for LICENSED SUBJECT MATTER, BOARD will prepare and file appropriate patent applications, and LICENSEE will pay the cost of searching, preparing, filing, prosecuting and maintaining same. If LICENSEE notifies BOARD that it does not intend to pay the cost of an application, or if LICENSEE does not respond or make an effort to agree with BOARD on the disposition of rights of the subject invention, then BOARD may file such application at its own expense and LICENSEE shall have no rights to such invention. BOARD shall provide LICENSEE with a copy of the application filed for which LICENSEE has paid the cost of filing, as well as copies of any documents received or filed during prosecution thereof.

#### XIV. GENERAL

14.1 This Agreement constitutes the entire and only agreement between the parties for LICENSED SUBJECT MATTER and all other prior

negotiations, representations, agreements, and under-standings are superseded hereby. No agreements altering or supplementing the terms hereof may be made except by means of a written document signed by the duly authorized representatives of the parties.

14.2 Any notice required by this License Agreement shall be given by prepaid, first class, certified mail, return receipt requested, addressed in the case of BOARD to:

BOARD OF REGENTS  
The University of Texas System  
201 West 7th Street  
Austin, TX 78701  
ATTENTION: System Intellectual Property Office

or in the case of LICENSEE to:

Entoptic Percepts, Inc.  
3427 Hopecrest  
San Antonio, TX 78230  
ATTENTION: Raymond A. Applegate, O.D., Ph.D.

or such other addresses as may be given from time to time under the terms of this notice provision.

14.3 All royalty payments shall be made payable to BOARD OF REGENTS, THE UNIVERSITY OF TEXAS SYSTEM, and shall be delivered to:

Executive Vice President for  
Administration and Business Affairs  
The University of Texas Health  
Science Center at San Antonio  
7703 Floyd Curl Drive  
San Antonio, Texas 78284-7862

14.4 LICENSEE shall comply with all applicable federal, state and local laws and regulations in connection with its activities pursuant to this Agreement.

14.5 This License Agreement shall be construed and enforced in accordance with the laws of the United States of America and of the State of Texas.

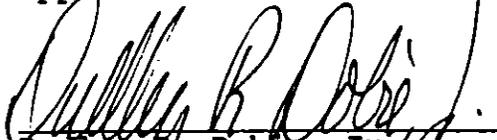
14.6 Failure of either party to enforce a right under this Agreement shall not act as a waiver of that right or the ability to later assert that right relative to the particular situation involved.

14.7 Headings included herein are for convenience only and shall not be used to construe this Agreement.

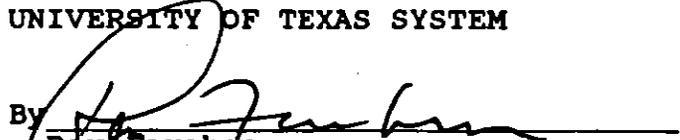
14.8 If any provision of this Agreement shall be found by a court to be void, invalid or unenforceable, the same shall be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity or enforceability of this Agreement.

IN WITNESS WHEREOF, parties hereto have caused their duly authorized representatives to execute this AGREEMENT.

Approved as to form:

  
Dudley R. Dobie, Jr.  
Office of General Counsel

BOARD OF REGENTS OF THE  
UNIVERSITY OF TEXAS SYSTEM

By   
Ray Farabee  
Vice Chancellor and General Counsel

APPROVED AS TO CONTENT:

By   
R. B. Price  
Executive Vice President  
for Administration and  
Business Affairs

ENTOPTIC PERCEPTS, INC.

By   
Raymond A. Applegate, O.D., Ph.D.  
President

#### IV. OTHER MATTER

U. T. System: Proposed Amendments to the Investment Guidelines Section of the Permanent University Fund Investment Policy Statement, Common Trust Fund Investment Policy Statement, and Medical Liability Self-Insurance Fund Investment Policy Statement.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Vice Chancellor for Asset Management that the Investment Guidelines section of the Permanent University Fund Investment Policy Statement, Common Trust Fund Investment Policy Statement, and Medical Liability Self-Insurance Fund Investment Policy Statement be amended as set forth below in congressional style:

#### PERMANENT UNIVERSITY FUND INVESTMENT POLICY STATEMENT

#### INVESTMENT GUIDELINES

The Fund must be invested at all times in strict compliance with the State Constitution and other applicable law. The primary and constant standard for making investment decisions is the "Prudent Person Rule."

Investment restrictions include the following:

- All investments must be U. S. dollar denominated unless held by an investment manager retained to manage an international portfolio.
- No investments may be made in securities of the South African government, its government agencies, or firms headquartered in South Africa.
- Commercial paper must be rated in the two highest quality classes by Moody's Investors Service, Inc. (P1 or P2) or Standard & Poor's Corporation (A1 or A2).
- Negotiable certificates of deposit must be with a bank that is associated with a holding company meeting the commercial paper rating criteria specified above or that has a certificate of deposit rating of 1 or better by Duff & Phelps.
- Bankers' Acceptances must be guaranteed by an accepting bank with a minimum certificate of deposit rating of 1 by Duff & Phelps.
- Repurchase Agreements and Reverse Repurchase Agreements must be with a domestic dealer selected by the Federal Reserve as a primary dealer in U. S. Treasury securities; or a bank that is associated with a holding company meeting the commercial paper rating criteria specified above or that has a certificate of deposit rating of 1 or better by Duff & Phelps.
- Investment policies of any unaffiliated liquid investment fund must be reviewed and approved by the Vice Chancellor for Asset Management prior to investment of Fund monies in such liquid investment fund. No requirement exists that such funds conform to the above restrictions on money market instruments.

- Corporate bonds and preferred stocks must be rated a minimum of Baa3 by Moody's Investors Service, Inc. or BBB- by Standard & Poor's Corporation, respectively, when purchased unless approved by the Vice Chancellor for Asset Management. Bonds rated below A3 or A- shall not constitute an excessive portion of the total bond portfolio. Unrated bonds or preferred stocks may be purchased prior to review by the Asset Management Committee if, in the opinion of the System's investment staff, they are at least equal in quality to publicly offered securities eligible for purchase. The cost of bonds or preferred stocks rated below Baa3 or BBB-, unrated bonds, and unrated preferred stocks which have been purchased but have not been reviewed by the Asset Management Committee may not exceed 1% of the book value of the Fund.
- The weighted average maturity of the fixed income portfolio shall not exceed 17.5 years.
- Less than five percent of the voting securities of a corporation may be owned unless additional ownership is specifically authorized by the Vice Chancellor for Asset Management.
- No securities may be purchased or held which would jeopardize the Fund's tax-exempt status.
- No securities may be purchased on margin or leverage.
- No transactions in short sales will be made.
- Transactions in derivative instruments [financial futures-and-options] (other than those received as part of an investment unit) must be authorized by the Vice Chancellor for Asset Management and may only occur only as part of a hedging, asset allocation, or other program authorized by the Asset Management Committee. For purposes of this policy, derivatives shall be defined as any instrument whose value is derived, in whole or part, from the value of any one or more underlying assets, or index of assets (such as stocks, bonds, commodities, interest rates, and currencies) and evidenced by forward, futures, swap, cap, floor, option, and other applicable contracts.
- Unaffiliated investment managers transacting solely within their assigned assets:
  - shall hold no more than 25% of their managed portfolio in any one industry at cost unless the manager was retained to concentrate in an industry or industries.
  - shall hold no more than 10% of their managed portfolio in the securities of one corporation at cost.
  - shall not hold investment in real estate, partnerships, and other such illiquid assets unless retained to manage this type of asset and shall hold no more than 10% of their managed portfolio at cost in any other asset category different than the type they were retained to manage. Short-term liquid investments are excluded from this limitation. Convertible securities are considered to be equity equivalents for purposes of this restriction.
  - shall hold no securities traded only in foreign markets unless they were retained to manage an international portfolio.

COMMON TRUST FUND  
INVESTMENT POLICY STATEMENT

INVESTMENT GUIDELINES

The Fund must be invested at all times in strict compliance with the Texas Trust Code (Subtitle B, Title 9, Texas Property Code) and other applicable law. The primary and constant standard for making investment decisions is the "Prudent Person Rule."

Investment restrictions include the following:

- All investments must be U. S. dollar denominated unless held by an investment manager retained to manage an international portfolio.
- No investments may be made in securities of the South African government, its government agencies, or firms headquartered in South Africa.
- Commercial paper must be rated in the two highest quality classes by Moody's Investors Service, Inc. (P1 or P2) or Standard & Poor's Corporation (A1 or A2).
- Negotiable certificates of deposit must be with a bank that is associated with a holding company meeting the commercial paper rating criteria specified above or that has a certificate of deposit rating of 1 or better by Duff & Phelps.
- Bankers' Acceptances must be guaranteed by an accepting bank with a minimum certificate of deposit rating of 1 by Duff & Phelps.
- Repurchase Agreements and Reverse Repurchase Agreements must be with a domestic dealer selected by the Federal Reserve as a primary dealer in U. S. Treasury securities; or a bank that is associated with a holding company meeting the commercial paper rating criteria specified above or that has a certificate of deposit rating of 1 or better by Duff & Phelps.
- Investment policies of any unaffiliated liquid investment fund must be reviewed and approved by the [Executive] Vice Chancellor for Asset Management prior to investment of Fund monies in such liquid investment fund. No requirement exists that such funds conform to the above restrictions on money market instruments.
- Corporate bonds and preferred stocks must be rated a minimum of Baa3 by Moody's Investors Service, Inc. or BBB- by Standard & Poor's Corporation, respectively, when purchased unless approved by the [Executive] Vice Chancellor for Asset Management. Bonds rated below A3 or A- shall not constitute an excessive portion of the total bond portfolio. Unrated bonds or preferred stocks may be purchased prior to review by the Asset Management Committee if, in the opinion of the System's investment staff, they are at least equal in quality to publicly offered securities eligible for purchase. The cost of bonds or preferred stocks rated below Baa3 or BBB-, unrated bonds, and unrated preferred stocks which have been purchased but have not been reviewed by the Asset Management Committee may not exceed 1% of the book value of the Fund.
- Less than five percent of the voting securities of a corporation may be owned unless additional ownership is specifically authorized by the [Executive] Vice Chancellor for Asset Management.

- No securities may be purchased or held which would jeopardize the Fund's tax-exempt status.
- No securities may be purchased on margin or leverage.
- No transactions in short sales will be made.
- Transactions in derivative instruments [financial futures-and-options] (other than those received as part of an investment unit) must be authorized by the Vice Chancellor for Asset Management and may only occur only as part of a hedging, asset allocation, or other program authorized by the Asset Management Committee. For purposes of this policy, derivatives shall be defined as any instrument whose value is derived, in whole or part, from the value of any one or more underlying assets, or index of assets (such as stocks, bonds, commodities, interest rates, and currencies) and evidenced by forward, futures, swap, cap, floor, option, and other applicable contracts.
- Unaffiliated investment managers transacting solely within their assigned assets:
  - shall hold no more than 25% of their managed portfolio in any one industry at cost unless the manager was retained to concentrate in an industry or industries.
  - shall hold no more than 10% of their managed portfolio in the securities of one corporation at cost.
  - shall not hold investment in real estate, partnerships, and other such illiquid assets unless retained to manage this type of asset and shall hold no more than 10% of their managed portfolio at cost in any other asset category different than the type they were retained to manage. Short-term liquid investments are excluded from this limitation. Convertible securities are considered to be equity equivalents for purposes of this restriction.
  - shall hold no securities traded only in foreign markets unless they were retained to manage an international portfolio.

MEDICAL LIABILITY SELF-INSURANCE FUND  
INVESTMENT POLICY STATEMENT

INVESTMENT GUIDELINES

The Fund must be invested at all times in strict compliance with the Texas Trust Code (Subtitle B, Title 9, Texas Property Code) and other applicable law. The primary and constant standard for making investment decisions is the "Prudent Person Rule."

Investment restrictions include the following:

- All investments must be U. S. dollar denominated unless held by an investment manager retained to manage an international portfolio.
- No investments may be made in securities of the South African government, its government agencies, or firms headquartered in South Africa.

- Commercial paper must be rated in the two highest quality classes by Moody's Investors Service, Inc. (P1 or P2) or Standard & Poor's Corporation (A1 or A2).
- Negotiable certificates of deposit must be with a bank that is associated with a holding company meeting the commercial paper rating criteria specified above or that has a certificate of deposit rating of 1 or better by Duff & Phelps.
- Bankers' Acceptances must be guaranteed by an accepting bank with a minimum certificate of deposit rating of 1 by Duff & Phelps.
- Repurchase Agreements and Reverse Repurchase Agreements must be with a domestic dealer selected by the Federal Reserve as a primary dealer in U. S. Treasury securities; or a bank that is associated with a holding company meeting the commercial paper rating criteria specified above or that has a certificate of deposit rating of 1 or better by Duff & Phelps.
- Investment policies of any unaffiliated liquid investment fund must be reviewed and approved by the [Executive] Vice Chancellor for Asset Management prior to investment of Fund monies in such liquid investment fund. No requirement exists that such funds conform to the above restrictions on money market instruments.
- Corporate bonds and preferred stocks must be rated a minimum of Baa3 by Moody's Investors Service, Inc. or BBB- by Standard & Poor's Corporation, respectively, when purchased unless approved by the [Executive] Vice Chancellor for Asset Management. Bonds rated below A3 or A- shall not constitute an excessive portion of the total bond portfolio. Unrated bonds or preferred stocks may be purchased prior to review by the Asset Management Committee if, in the opinion of the System's investment staff, they are at least equal in quality to publicly offered securities eligible for purchase. The cost of bonds or preferred stocks rated below Baa3 or BBB-, unrated bonds, and unrated preferred stocks which have been purchased but have not been reviewed by the Asset Management Committee may not exceed 1% of the book value of the Fund.
- Less than five percent of the voting securities of a corporation may be owned unless additional ownership is specifically authorized by the Vice Chancellor for Asset Management.
- No securities may be purchased or held which would jeopardize the Fund's tax-exempt status.
- No securities may be purchased on margin or leverage.
- No transactions in short sales will be made.
- Transactions in derivative instruments [financial futures-and-options] (other than those received as part of an investment unit) must be authorized by the Vice Chancellor for Asset Management and may only occur only as part of a hedging, asset allocation, or other program authorized by the Asset Management Committee. For purposes of this policy, derivatives shall be defined as any instrument whose value is derived, in whole or part, from the value of any one or more underlying assets, or index of assets (such as stocks, bonds, commodities, interest rates, and currencies) and evidenced by forward, futures, swap, cap, floor, option, and other applicable contracts.

- Unaffiliated investment managers transacting solely within their assigned assets:
  - shall hold no more than 25% of their managed portfolio in any one industry at cost unless the manager was retained to concentrate in an industry or industries.
  - shall hold no more than 10% of their managed portfolio in the securities of one corporation at cost.
  - shall not hold investment in real estate, partnerships, and other such illiquid assets unless retained to manage this type of asset and shall hold no more than 10% of their managed portfolio at cost in any other asset category different than the type they were retained to manage. Short-term liquid investments are excluded from this limitation. Convertible securities are considered to be equity equivalents for purposes of this restriction.
  - shall hold no securities traded only in foreign markets unless they were retained to manage an international portfolio.

#### BACKGROUND INFORMATION

The Permanent University Fund Investment Policy Statement and the Common Trust Fund Investment Policy Statement were initially adopted by the U. T. Board of Regents on April 10, 1986. The Permanent University Fund Investment Policy Statement was last amended on December 2, 1993, and the Common Trust Fund Investment Policy Statement was last amended on February 13, 1992. The Medical Liability Self-Insurance Fund Investment Policy Statement was initially adopted by the U. T. Board of Regents on August 14, 1986, and was last amended on February 13, 1992.

These amendments to the Permanent University Fund Investment Policy Statement, Common Trust Fund Investment Policy Statement, and the Medical Liability Self-Insurance Fund Investment Policy Statement are proposed to allow for the use of derivative instruments in the management of Permanent University Fund, Common Trust Fund, and Medical Liability Self-Insurance Fund investments. Derivatives are defined as any instrument whose value is derived, in whole or part, from the value of any one or more underlying asset (such as stocks, bonds, commodities, interest rates, and currencies) and evidenced by forward, futures, swap, cap, floor, option, and other applicable contracts. Amendment of the policies will provide the Asset Management Committee with access to better financial tools with which to manage investment risk and execute asset allocation strategies at reduced costs. Other nonsubstantive changes are shown to conform to personnel titles currently in use.

# Executive Session of the Board

BOARD OF REGENTS  
EXECUTIVE SESSION  
Pursuant to Vernon's Texas Civil Statutes  
Article 6252-17, Sections 2(e), (f) and (g)

Date: April 14, 1994

Time: Following the meeting of the Asset Management  
Committee

Place: Auditorium (Room 119) (Open Session)  
and Room 116 (Executive Session),  
Biomedical Research Building  
U. T. Health Center - Tyler

1. Pending and/or Contemplated Litigation - Section 2(e)
  - a. U. T. Health Science Center - Houston:  
Proposed Settlement of Medical Liability  
Litigation
  - b. U. T. Health Science Center - San Antonio:  
Proposed Settlement of Medical Liability  
Litigation
2. Land Acquisition, Purchase, Exchange, Lease or Value of  
Real Property and Negotiated Contracts for Prospective  
Gifts or Donations - Section 2(f)
3. Personnel Matters [Section 2(g)] Relating to Appointment,  
Employment, Evaluation, Assignment, Duties, Discipline,  
or Dismissal of Officers or Employees