

# OMISSION

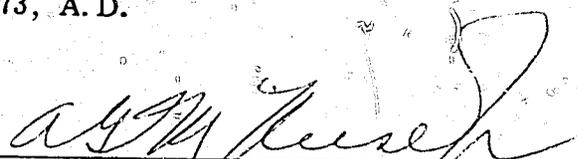
Pages 3510 - 4037

*A. Ruth Baker*

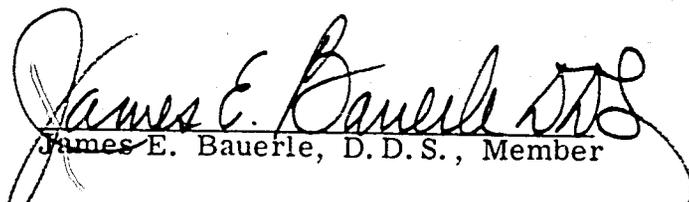
SIGNATURE OF OPERATOR

We, the undersigned members of the Board of Regents of The University of Texas System, hereby ratify and approve all actions taken at this meeting (July 27, 1973) to be reflected in the Minutes.

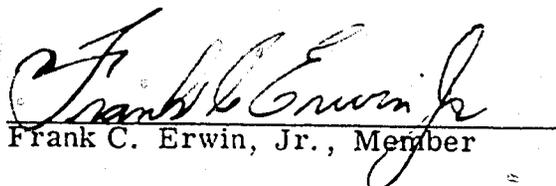
Signed this the 27th day of July, 1973, A. D.

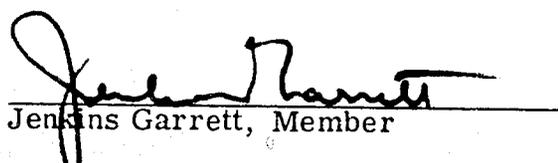
  
A. G. McNeese, Jr., Chairman

  
Dan C. Williams, Vice-Chairman

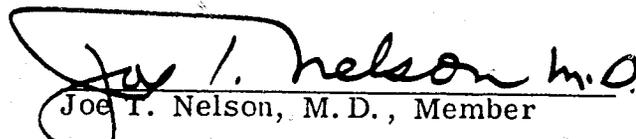
  
James E. Bauerle, D. D. S., Member

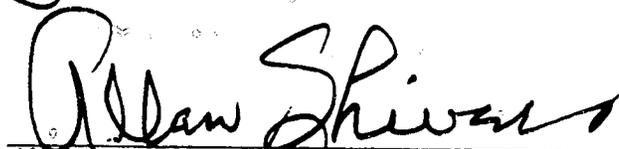
  
Edward Clark, Member

  
Frank C. Erwin, Jr., Member

  
Jenkins Garrett, Member

Mrs. Lyndon B. Johnson, Member

  
Joe I. Nelson, M. D., Member

  
Allan Shivers, Member

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## MEETING NO. 715

FRIDAY, JULY 27, 1973. --The Board of Regents of The University of Texas System convened in regular session at 9:00 a. m. on Friday, July 27, 1973, in the Main Building, Room 212, The University of Texas at Austin, Austin, Texas.

## ATTENDANCE. --

Present

Chairman McNeese, Presiding  
Vice-Chairman Williams  
Regent Bauerle  
Regent Clark  
Regent Erwin  
Regent Garrett  
Regent Nelson  
Regent Shivers

Absent

Regent (Mrs.) Johnson - excused

## Secretary Thedford

Chancellor LeMaistre  
Chancellor Emeritus Ransom  
Deputy Chancellor Walker

The meeting was called to order by Chairman McNeese.

APPROVAL OF MINUTES OF JUNE 1, 1973. --The Minutes of the regular meeting of the Board of Regents of The University of Texas System held in Galveston on June 1, 1973, were unanimously approved in the form distributed by the Secretary and recorded in the Permanent Minutes, Volume XX, beginning with Page 2935, upon motion of Regent Nelson duly seconded.

U. T. SYSTEM: (1) RESOLUTION AUTHORIZING THE ISSUANCE OF BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM PERMANENT UNIVERSITY FUND BONDS, NEW SERIES 1973, IN THE AMOUNT OF \$11,000,000 AND AWARDED THE SALE OF THE BONDS TO DREXEL BURNHAM & CO., INCORPORATED, (2) DESIGNATION OF BANK OF THE SOUTHWEST NATIONAL ASSOCIATION, HOUSTON, HOUSTON, TEXAS, OR MANUFACTURERS HANOVER TRUST, NEW YORK, NEW YORK, OR CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, CHICAGO, ILLINOIS, AS THE PAYING AGENTS AND (3) AWARD OF CONTRACT TO PRINT BONDS TO STECK-WARLICK COMPANY, THE STECK DIVISION, AUSTIN, TEXAS. --The resolution set out on Pages 2 - 13 was duly introduced for the consideration of said Board and read in full. It was then duly

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moved by Regent Clark and seconded by Regent Shivers that said resolution be adopted; and, after due discussion, said motion carrying with it the adoption of said resolution, prevailed and carried by the following vote:

AYES: All members of said Board shown present on Page 1 voted "Aye."

NOES: None.

The adoption of this resolution authorized issuance of Board of Regents of The University of Texas System Permanent University Fund Bonds, New Series 1973, in the amount of \$11,000,000 and awarded the sale of the bonds to Drexel Burnham & Co., Incorporated, for the principal amount thereof and accrued interest thereon to date of delivery plus a premium of \$1,032.90 (Page 13) and at the interest rates reflected on Page 7. The effective interest rate is 5.13859%.

Upon motion of Regent Clark, seconded by Regent Shivers, the bid of Bank of the Southwest National Association, Houston, Houston, Texas, to serve as Paying Agent for the Board of Regents of The University of Texas System Permanent University Fund Bonds, New Series 1973, in the amount of \$11,000,000, was accepted. The Co-paying Agents designated were Manufacturers Hanover Trust, New York, New York, and Continental Illinois National Bank and Trust Company of Chicago, Chicago, Illinois (Pages 8, 10). The Paying Agent will pay the Board of Regents the sum of \$1,479 to act as the agent and will make no charge for payment of bonds and coupons. In reply to Chairman McNeese's request of Mr. W. R. Long, Trust Officer in the Office of Investments, Trusts and Lands, to assure him that the bid of the Bank of the Southwest National Association was the best bid received (since Chairman McNeese is connected with the Bank of the Southwest), Mr. Long assured him that the Bank of the Southwest National Association was the only bidder that offered to pay to be the paying agent. Chairman McNeese abstained from voting.

It was duly moved by Regent Clark, seconded by Regent Shivers and unanimously approved, that the printing contract for Board of Regents of The University of Texas System Permanent University Fund Bonds, New Series 1973, in the amount of \$11,000,000 be awarded to Steck-Warlick Company, The Steck Division, Austin, Texas. These bonds are to be printed according to specifications with lithographed borders for the sum of \$864, there being 5 interest rates.

#### RESOLUTION

BY THE BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM AUTHORIZING THE ISSUANCE OF BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM PERMANENT UNIVERSITY FUND BONDS, NEW SERIES 1973, IN THE AMOUNT OF \$11,000,000

WHEREAS, the Board of Regents of The University of Texas System (hereinafter sometimes called the "Board") heretofore has authorized, issued, and delivered that issue of Board of Regents of The University of Texas Permanent University Fund Refunding Bonds, Series 1958, dated July 1, 1958, said bonds having been authorized pursuant to the provisions of Section 18, Article VII of the Texas Constitution; and

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WHEREAS, said Refunding Bonds, Series 1958, were payable from and secured by a first lien on and pledge of the Interest of The University of Texas System in the income from the Permanent University Fund, in the manner and to the extent provided in the resolution authorizing said Refunding Bonds, Series 1958; and

WHEREAS, the resolution adopted on July 23, 1958, authorizing the issuance of said Refunding Bonds, Series 1958, reserved the right and power in the Board to issue, under certain conditions, Additional Parity Bonds and Notes for the purposes and to the extent provided in Section 18, Article VII of the Texas Constitution, said Additional Parity Bonds and Notes to be on a parity with the aforesaid Refunding Bonds, Series 1958, and equally and ratably secured by and payable from a first lien on and pledge of the Interest of The University of Texas System in the income from the Permanent University Fund, in the same manner and to the same extent as are said Refunding Bonds, Series 1958; and

WHEREAS, Section 18, Article VII of the Texas Constitution provides that the Board is authorized to issue negotiable bonds and notes for the purpose of constructing, equipping, or acquiring buildings or other permanent improvements for The University of Texas System, in a total amount not to exceed two-thirds ( $2/3$ ) of Twenty per cent (20%) of the value of the Permanent University Fund, exclusive of real estate, at the time of any issuance thereof; and

WHEREAS, the Board heretofore has authorized, issued, sold and delivered its Permanent University Fund Bonds, Series 1959, Series 1960, Series 1961, Series 1962, Series 1963, Series 1964, Series 1965, and Series 1966, as installments or issues of such Additional Parity Bonds; and

WHEREAS, the Board has deemed it necessary and advisable that no more of said Additional Parity Bonds shall be issued because of the excessively restrictive Permanent University Fund investment covenants made in connection with all of the aforesaid Permanent University Fund Bonds heretofore issued; and

WHEREAS, the Board is required by law to keep said investment covenants in full force and effect as to all of the aforesaid Permanent University Fund Bonds heretofore issued and to affirm the first lien on and pledge accruing to said outstanding Permanent University Fund Bonds heretofore issued on the Interest of The University of Texas System in the income from the Permanent University Fund; and

WHEREAS, pursuant to a resolution adopted on June 16, 1967, the Board authorized, issued, sold, and delivered an installment or issue of negotiable bonds designated as the Board of Regents of The University of Texas System Permanent University Fund Bonds, New Series 1967, dated July 1, 1967 (hereinafter sometimes called the "New Series 1967 Bonds"), in the principal amount of \$14,000,000, payable from and secured by a lien on and

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pledge of the Interest of The University of Texas System in the Permanent University Fund, subject only and subordinate to the first lien on and pledge of said Interest heretofore created in connection with the aforesaid outstanding Permanent University Fund Bonds; and

WHEREAS, in said resolution adopted on June 16, 1967, the Board set forth the terms and conditions under which additional bonds may be issued to be on a parity with the aforesaid New Series 1967 subordinate lien bonds, and the Board has issued its Permanent University Fund Bonds, New Series 1968, New Series 1969, New Series 1970, New Series 1971, and New Series 1972, in accordance therewith; and

WHEREAS, the Board has determined to authorize, issue, sell, and deliver another installment or issue of such subordinate lien parity New Series Bonds in the principal amount of \$11,000,000; and

WHEREAS, the Board hereby officially finds and determines that the value of the Permanent University Fund, exclusive of real estate, is in excess of \$661,000,000.

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

1. Throughout this resolution the following terms and expressions as used herein shall have the meanings set forth below:

The term "Permanent University Fund," "Permanent Fund," and "Fund" used interchangeably herein shall mean the Permanent University Fund as created by Article VII, Section 11 of the Texas Constitution, further implemented by the provisions of Title 49, Chapter 1, of the Revised Civil Statutes of Texas, 1925, as amended and supplemented.

The expression "Interest of the University" in the Permanent University Fund shall mean all of the income to such Fund from grazing leases on University lands, and all of the other income from such Fund, after making provision for the payment of the University's proportion of the expenses of administering such Fund, excepting one-third of the income arising and accruing to The Texas A&M University from the 1,000,000 acres of land appropriated by the Constitution of 1876 and the land appropriated by the Act of 1883, as more particularly defined by Chapter 42, Acts of the Forty-second Legislature, Regular Session, 1931 (Article 2592, Vernon's Annotated Civil Statutes of Texas).

The term "Resolution" as used herein and in the Bonds shall mean this resolution authorizing the Bonds.

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The term "Bonds" or "New Series 1973 Bonds" shall mean the New Series 1973 Bonds authorized in this Resolution, unless the context clearly indicates otherwise.

The term "Old Series Outstanding Bonds" shall mean the outstanding bonds of the following issues:

Board of Regents of The University of Texas Permanent University Fund Bonds, Series 1959, dated July 1, 1959, originally issued in the amount of \$4,000,000, pursuant to a resolution adopted on July 9, 1959.

Board of Regents of The University of Texas Permanent University Fund Bonds, Series 1960, dated July 1, 1960, originally issued in the amount of \$5,000,000, pursuant to a resolution adopted on July 13, 1960.

Board of Regents of The University of Texas Permanent University Fund Bonds, Series 1961, dated July 1, 1961, originally issued in the amount \$6,000,000, pursuant to a resolution adopted on July 11, 1961.

Board of Regents of The University of Texas Permanent University Fund Bonds, Series 1962, dated July 1, 1962, originally issued in the amount of \$5,000,000, pursuant to a resolution adopted on June 29, 1962.

Board of Regents of The University of Texas Permanent University Fund Bonds, Series 1963, dated July 1, 1963, originally issued in the amount of \$4,000,000, pursuant to a resolution adopted on July 12, 1963.

Board of Regents of The University of Texas Permanent University Fund Bonds, Series 1964, dated July 1, 1964, originally issued in the amount of \$4,000,000, pursuant to a resolution adopted on June 26, 1964.

Board of Regents of The University of Texas Permanent University Fund Bonds, Series 1965, dated July 1, 1965, originally issued in the amount of \$6,000,000, pursuant to a resolution adopted on July 16, 1965.

Board of Regents of The University of Texas Permanent University Fund Bonds, Series 1966, dated July 1, 1966, originally issued in the amount of \$11,000,000, pursuant to a resolution adopted on July 8, 1966.

The term "New Series Additional Parity Bonds and Notes and "Additional Parity Bonds and Notes" shall mean the additional parity bonds and the additional parity notes permitted to be issued pursuant to Section 11 of the Resolution adopted on June 16, 1967, authorizing the issuance of Board of Regents of The University of Texas System Permanent University Fund Bonds, New Series 1967, dated July 1, 1967.

The term "New Series Outstanding Bonds" shall mean the outstanding bonds of the following issues:

Board of Regents of The University of Texas System  
Permanent University Fund Bonds, New Series 1967, dated July 1,  
1967, originally issued in the amount of \$14,000,000, pursuant  
to a resolution adopted on June 16, 1967.

Board of Regents of The University of Texas System  
Permanent University Fund Bonds, New Series 1968, dated July 1,  
1968, originally issued in the amount of \$15,000,000, pursuant  
to a resolution adopted on June 25, 1968.

Board of Regents of The University of Texas System  
Permanent University Fund Bonds, New Series 1969, dated July 1,  
1969, originally issued in the amount of \$7,000,000, pursuant  
to a resolution adopted on June 20, 1969.

Board of Regents of The University of Texas System  
Permanent University Fund Bonds, New Series 1970, dated July 1,  
1970, originally issued in the amount of \$7,500,000, pursuant  
to a resolution adopted on July 10, 1970.

Board of Regents of The University of Texas System  
Permanent University Fund Bonds, New Series 1971, dated July 1,  
1971, originally issued in the amount of \$9,000,000, pursuant  
to a resolution adopted on June 4, 1971.

Board of Regents of The University of Texas System  
Permanent University Fund Bonds, New Series 1972, dated July 1,  
1972, originally issued in the amount of \$9,000,000, pursuant  
to a resolution adopted on June 9, 1972.

The term "Board" shall mean the Board of Regents of  
The University of Texas System.

2. That said Board's negotiable coupon bonds, to be  
designated the "BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS  
SYSTEM PERMANENT UNIVERSITY FUND BONDS, NEW SERIES 1973", are  
hereby authorized to be issued and delivered in accordance with  
the Constitution and laws of the State of Texas in the principal  
amount of \$11,000,000 FOR THE PURPOSE OF CONSTRUCTING, EQUIPPING,  
OR ACQUIRING BUILDINGS OR OTHER PERMANENT IMPROVEMENTS FOR THE  
UNIVERSITY OF TEXAS SYSTEM, to the extent and in the manner pro-  
vided by law.

3. That said bonds shall be dated JULY 1, 1973, shall  
be in the denomination of \$5,000 EACH, shall be numbered con-  
secutively from 1 THROUGH 2200, and shall mature serially on  
JULY 1 in each of the years, and in the amounts, respectively,  
as set forth in the following schedule:

<u>YEARS</u>	<u>AMOUNTS</u>	<u>YEARS</u>	<u>AMOUNTS</u>	<u>YEARS</u>	<u>AMOUNTS</u>
1974	\$440,000	1981	\$495,000	1988	\$605,000
1975	440,000	1982	550,000	1989	605,000
1976	440,000	1983	550,000	1990	660,000
1977	440,000	1984	550,000	1991	660,000
1978	495,000	1985	550,000	1992	660,000
1979	495,000	1986	605,000	1993	660,000
1980	495,000	1987	605,000		

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Said bonds may be redeemed prior to their scheduled maturities, at the option of said Board, on the dates stated, for the prices, and in the manner provided, in the FORM OF BOND set forth in this Resolution; and further, said bonds shall be registrable as to principal only, at the option of the owner, in the manner provided in said FORM OF BOND.

4. That the bonds scheduled to mature during the years, respectively, set forth below shall bear interest from their date, until maturity or redemption, at the following rates per annum:

maturities 1974 through 1977,	<u>6.00 %</u>
maturities 1978 through 1987,	<u>5.00 %</u>
maturities 1988 through 1989,	<u>5.10 %</u>
maturities 1990 through 1991,	<u>5.20 %</u>
maturities 1992 through 1993,	<u>5.25 %</u>

Said interest shall be evidenced by interest coupons which shall appertain to said bonds, and which shall be payable on the dates stated in the FORM OF BOND set forth in this Resolution.

5. That said bonds and interest coupons shall be payable, shall have the characteristics, and shall be signed and executed (and said bonds shall be sealed), all as provided, and in the manner indicated, in the FORM OF BOND set forth in this Resolution.

6. That the form of said bonds, including the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be printed and endorsed on each of said bonds, the form of the aforesaid interest coupons which shall appertain and be attached initially to each of said bonds, and the form of endorsement for registration as to principal, shall be, respectively, substantially as follows:

FORM OF BOND:

NO. \_\_\_\_\_

\$5,000

UNITED STATES OF AMERICA  
STATE OF TEXAS  
BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM  
PERMANENT UNIVERSITY FUND BOND  
NEW SERIES 1973

ON JULY 1, 19\_\_\_, the BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM promises to pay to bearer, or if this bond be registered as to principal, then to the registered owner hereof, the principal amount of

FIVE THOUSAND DOLLARS

and to pay interest thereon, from the date hereof, at the rate of \_\_\_\_\_% per annum, evidenced by interest coupons payable JANUARY 1, 1974, and semi-annually thereafter on each JULY 1 and JANUARY 1 while this bond is outstanding. The principal of this bond and the interest coupons appertaining hereto shall be payable to bearer, in lawful money of the United States of America, without exchange or collection charges to the bearer, upon presentation

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and surrender of this bond or proper interest coupon, at Bank of the Southwest National Association, Houston, Houston, Texas, or at the option of the bearer, at Manufacturers Hanover Trust, New York, New York, or at Continental Illinois National Bank and Trust Company of Chicago, Chicago, Illinois, which places shall be the paying agents for this Series of bonds.

THIS BOND is one of a Series of negotiable coupon bonds dated JULY 1, 1973, issued in the principal amount of \$11,000,000 FOR THE PURPOSE OF CONSTRUCTING, EQUIPPING, OR ACQUIRING BUILDINGS OR OTHER PERMANENT IMPROVEMENTS FOR THE UNIVERSITY OF TEXAS SYSTEM, to the extent and in the manner provided by law, in accordance with the provisions of the Amendments to Section 18, Article VII of the Texas Constitution, adopted by a vote of the people of Texas on November 6, 1956, and on November 8, 1966.

ON JULY 1, 1983, OR ON ANY INTEREST PAYMENT DATE THEREAFTER, any outstanding bonds of this Series may be redeemed prior to their scheduled maturities, at the option of said Board, IN WHOLE, OR IN PART IN INVERSE NUMERICAL ORDER, for the price of par and accrued interest to the date fixed for redemption, plus a premium of 2% of the par value if redeemed on or prior to JANUARY 1, 1988, with such premium to be reduced on and after JULY 1, 1988, to 1%. At least thirty days before the date fixed for any such redemption the Board shall cause a written notice of such redemption to be published at least once in a financial publication published in the City of New York, New York. By the date fixed for any such redemption, due provision shall be made with the paying agents for the payment of par and accrued interest to the date fixed for redemption of the Bonds to be redeemed, plus the required premium. If the written notice of redemption is published, and if due provision for such payment is made, all as provided above, the bonds, which are to be so redeemed, thereby automatically shall be redeemed prior to maturity, and they shall not bear interest after the date fixed for redemption, and shall not be regarded as being outstanding except for the purpose of being paid by the paying agents with the funds so provided for such payment.

IT IS HEREBY certified, recited, and covenanted that this bond has been duly and validly issued and delivered; that all acts, conditions, and things required or proper to be performed, exist, and be done precedent to or in the issuance and delivery of this bond have been performed, existed, and been done in accordance with law; and that the interest on and principal of this bond, and the Series of which it is a part, together with other New Series Outstanding Bonds, are equally and ratably secured by and payable from a lien on and pledge of the Interest of The University of Texas System in the income from the Permanent University Fund, as such Interest is apportioned by Chapter 42 of the Acts of the Regular Session of the 42nd Legislature of Texas, subject only and subordinate to the first lien on and pledge of said Interest heretofore created in connection with the Old Series Outstanding Bonds (as such terms are defined in the Resolution authorizing this Series of bonds).

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SAID BOARD has reserved the right, subject to the restrictions referred to in the Resolution authorizing this Series of bonds, to issue additional parity bonds and notes which also may be secured by and made payable from a lien on and pledge of the aforesaid Interest of The University of Texas System in the income from the Permanent University Fund, in the same manner and to the same extent as this Series of bonds.

THIS BOND, at the option of the owner hereof, is registrable as to principal only on the books of the Registrar. For such purpose the Comptroller of The University of Texas System shall be the Registrar. If registered, the fact of registration shall be noted on the back hereof and thereafter no transfer of this bond shall be valid unless made on the books of the Registrar at the instance of the registered owner and similarly noted hereon. Registration as to principal may be discharged by transfer to bearer, after which this bond again may be registered as before. The registration of this bond as to principal shall not affect or impair the negotiability of the interest coupons appertaining hereto, which shall continue to be negotiable by delivery merely. Subject to said provisions for the registration of this bond as to principal only, nothing contained herein shall affect or impair the negotiability of this bond, and this bond shall constitute a negotiable instrument within the meaning of the laws of the State of Texas.

IN WITNESS WHEREOF, this bond and the interest coupons appertaining hereto have been signed with the facsimile signature of the Chairman of said Board and countersigned with the facsimile signature of the Secretary of said Board, and the official seal of said Board has been duly impressed, or placed in facsimile, on this bond.

BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Chairman

FORM OF REGISTRATION CERTIFICATE:

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO.

I hereby certify that this bond has been examined, certified as to validity, and approved by the Attorney General of the State of Texas, and that this bond has been registered by the Comptroller of Public Accounts of the State of Texas.

Witness my signature and seal this

\_\_\_\_\_  
Comptroller of Public Accounts of  
the State of Texas.

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FORM OF INTEREST COUPON:

NO. \_\_\_\_\_

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

ON \_\_\_\_\_ 1, 19\_\_\_\_, THE BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM, promises to pay to bearer the amount shown on this interest coupon, in lawful money of the United States of America, without exchange or collection charges to the bearer, unless due provision has been made for the redemption prior to maturity of the bond to which this interest coupon appertains, upon presentation and surrender of this interest coupon, at Bank of the Southwest National Association, Houston, Houston, Texas, or, at the option of the bearer, at Manufacturers Hanover Trust, New York, New York, or at Continental Illinois National Bank and Trust Company of Chicago, Chicago, Illinois, said amount being interest due that day on the bond, bearing the number hereinafter designated, of that issue of BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM PERMANENT UNIVERSITY FUND BONDS, NEW SERIES 1973, DATED JULY 1, 1973, BOND NO. \_\_\_\_\_.

BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Chairman

FORM OF ENDORSEMENT FOR REGISTRATION AS TO PRINCIPAL:

ENDORSEMENT FOR REGISTRATION AS TO PRINCIPAL

(NO WRITING TO BE MADE HEREON EXCEPT BY THE REGISTRAR DESIGNATED FOR THIS ISSUE OF BONDS)

It is hereby certified that, at the request of the owner of the within bond, I have this day registered it as to principal in the name of such owner, as indicated in the registration blank below, on the books kept by me for such purpose. The principal of this bond shall be payable only to the registered owner hereof named in the registration blank below, or his legal representatives, and this bond shall be transferable only on the books of the Registrar and by an appropriate notation in such registration blank. If the last transfer recorded on the books of the Registrar and in the registration blank below shall be to bearer, the principal of this bond shall be payable to bearer and it shall be in all respects negotiable. In no case shall negotiability of the interest coupons appertaining hereto be affected or impaired by any registration as to principal.

NAME OF REGISTERED OWNER

DATE OF REGISTRATION

SIGNATURE OF REGISTRAR

\_\_\_\_\_  
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7. (a) It is hereby certified and recited that the Bonds authorized in this Resolution are Additional Parity Bonds permitted to be issued under Section 11 of the resolution of the Board adopted on June 16, 1967, authorizing the issuance of Board of Regents of The University of Texas System Permanent University Fund Bonds, New Series 1967, dated July 1, 1967, and that all conditions and requirements of said Section 11 have been or will be met prior to the delivery of the New Series 1973 Bonds herein authorized. The New Series 1973 Bonds and the New Series Outstanding Bonds are and shall be on a parity and in all respects of equal dignity.

(b) Pursuant to the provisions of the Amendments to Section 18 of Article VII of the Texas Constitution, approved by vote of the people of Texas on November 6, 1956, and on November 8, 1966, the New Series 1973 Bonds, the New Series Outstanding Bonds, and any other New Series Additional Parity Bonds and Notes hereafter issued, and the interest thereon, shall be and are hereby equally and ratably secured by and payable from a lien on and pledge of the Interest of the University in the income from the Permanent University Fund, as such Interest is defined in Section 1 of this Resolution, subject only and subordinate to the first lien on and pledge of said Interest heretofore created in connection with the Old Series Outstanding Bonds.

8. (a) The aforesaid resolution adopted June 16, 1967, authorizing the issuance of the Permanent University Fund Bonds, New Series 1967, has provided that the Comptroller of Public Accounts of the State of Texas shall establish in the State Treasury a fund to be known as "Board of Regents of The University of Texas System New Series Permanent University Fund Interest and Sinking Fund" (hereinafter called the "Interest and Sinking Fund"). In addition to the moneys required to be transferred to the credit of the Interest and Sinking Fund in connection with the New Series Outstanding Bonds, the Comptroller of Public Accounts of the State of Texas shall, for the benefit of the New Series 1973 Bonds, transfer to the Interest and Sinking Fund, out of The University of Texas System Available University Fund (the fund in the State Treasury to which is deposited the Interest of the University), on or before November 15, 1973, and semi-annually thereafter on or before May 15 and November 15 of each year while the New Series 1973 Bonds, or interest thereon, are outstanding and unpaid, the amount of interest or principal and interest which will become due on the New Series 1973 Bonds on the January 1 or July 1 next following. It is hereby recognized that the amounts necessary for the payment of principal and interest on the Old Series Outstanding Bonds will have been transferred on or before May 1 and November 1 of each year from the aforesaid Available University Fund to the interest and sinking fund heretofore created for the benefit of the Old Series Outstanding Bonds.

(b) To the end that money will be available at the places of payment in ample time to pay the principal of and interest on the Bonds as such principal and interest respectively

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mature, on or before November 15, 1973, and semi-annually thereafter on or before May 15 and November 15 of each year while any of the New Series 1973 Bonds, or interest thereon, are outstanding and unpaid, the Comptroller of The University of Texas System, or such officer as may hereafter be designated by the Board to perform the duties now vested in such officer, shall perform the following duties:

(1) Prepare and file with the Comptroller of Public Accounts of the State of Texas (hereinafter called the "Comptroller of Public Accounts") a voucher based on which the Comptroller of Public Accounts shall draw a warrant against the Interest and Sinking Fund in the amount of the interest or principal and interest (when both are scheduled to accrue and mature) which will become due on the January 1 or July 1 next following.

(2) In the event New Series 1973 Bonds shall have been called for redemption on January 1 or July 1 next following of any year, prepare and file with the Comptroller of Public Accounts a voucher based on which the Comptroller of Public Accounts shall draw a warrant against funds of The University of Texas System legally available for such purpose in an amount sufficient to redeem the New Series 1973 Bonds thus called.

(c) Whenever a voucher is so filed with the Comptroller of Public Accounts, he shall make the warrant based thereon payable to the order of the paying agent situated in the State of Texas, specified in Section 6 hereof, and shall deliver such warrant to such paying agent on or before the December 1 or June 1 next following.

(d) The paying agent situated in the State of Texas, designated in Section 6 hereof, shall, out of moneys remitted to it under the provisions of this Section 8 hereof, and not otherwise, make available at the other paying agents specified in Section 6 hereof, funds sufficient to pay such of the New Series 1973 Bonds (whether payable to the bearer or payable to the registered owner thereof) and such of the coupons as are presented for payment, and said paying agent situated in the State of Texas by accepting designation as such paying agent agrees and is obligated to perform such service.

(e) The paying agents shall totally destroy all paid New Series 1973 Bonds and coupons, and shall furnish the Board with an appropriate certificate of destruction covering the New Series 1973 Bonds and coupons thus destroyed.

(f) The Board shall make provision with the paying agents for the rendition of a statement to The University of Texas System for any sums due such paying agents for services rendered in connection with the payment of the New Series 1973 Bonds and coupons by such paying agents, and the amount of such charges shall be paid by the Board from funds available for such purpose.

9. That all of the language, terms, provisions, covenants, and agreements of Sections 7 through 13, both inclusive, of the aforesaid resolution adopted June 16, 1967, authorizing the issuance of the Permanent University Fund Bonds, New Series 1967, are hereby referred to, adopted, and made applicable to the New Series 1973 Bonds authorized by this Resolution, for all purposes.

10. That after said New Series 1973 Bonds shall have been executed, it shall be the duty of the Chairman of the Board or some officer of the Board acting under his authority, to deliver said Bonds and all necessary records and proceedings to the Attorney General of Texas, for examination and approval by the Attorney General. After said Bonds shall have been approved by the Attorney General, they shall be delivered to the Comptroller of Public Accounts of the State of Texas for registration. Upon registration of said Bonds, the Comptroller of Public Accounts (or a deputy lawfully designated in writing to act for the Comptroller) shall manually sign the Comptroller's Registration Certificate prescribed herein to be printed and endorsed on each of said Bonds, and the seal of said Comptroller shall be impressed, or placed in facsimile, on each of said Bonds.

11. That said New Series 1973 Bonds are hereby sold and shall be delivered to a syndicate headed by Drexel Burnham & Co., Incorporated, for the principal amount thereof and accrued interest to date of delivery, plus a premium of \$1,032.90.

12. That the Board covenants to and with the purchaser of the New Series 1973 Bonds that it will make no use of the proceeds of the bonds at any time throughout the term of this issue of bonds which, if such use had been reasonably expected on the date of delivery of the bonds to and payment for the bonds by the purchasers, would have caused the bonds to be arbitrage bonds within the meaning of Section 103(d) of the Internal Revenue Code of 1954, as amended, or any regulations or rulings pertaining thereto; and by this covenant the Board is obligated to comply with the requirements of the aforesaid Section 103(d) and all applicable and pertinent Department of the Treasury regulations relating to arbitrage bonds. The Board further covenants that the proceeds of the bonds will not otherwise be used directly or indirectly so as to cause all or any part of the bonds to be or become arbitrage bonds within the meaning of the aforesaid Section 103(d), or any regulations or rulings pertaining thereto.

13. That it is hereby officially found and determined that the meeting at which this Resolution was adopted was open to the public, and public notice of the time, place, and purpose of said meeting was given, all as required by Vernon's Ann. Civ. St. Article 6252-17.

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GALVESTON MEDICAL BRANCH: (1) RESOLUTION AUTHORIZING EXECUTION OF FOUNDATION AGREEMENT WITH THE BOARD OF DIRECTORS OF THE SEALY & SMITH FOUNDATION FOR THE JOHN SEALY HOSPITAL, (2) RESOLUTION AUTHORIZING THE ISSUANCE OF BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM, THE UNIVERSITY OF TEXAS MEDICAL BRANCH AT GALVESTON, ENDOWMENT AND HOSPITAL REVENUE BONDS, SERIES 1973, \$34,500,000 (ADDITION TO JOHN SEALY HOSPITAL, CHILD HEALTH CENTER AND CENTRAL FOOD SERVICE FACILITY), AND AWARDED SALE OF BONDS TO A SYNDICATE HEADED BY WHITE, WELD & CO. INCORPORATED FOR THE MANAGERS & ASSOCIATES, (3) DESIGNATION OF BANK OF THE SOUTHWEST NATIONAL ASSOCIATION, HOUSTON, HOUSTON, TEXAS, OR MANUFACTURERS HANOVER TRUST, NEW YORK, NEW YORK, AS THE PAYING AGENTS AND (4) AWARDED OF CONTRACT TO STECK-WARLICK COMPANY, THE STECK DIVISION, AUSTIN, TEXAS, FOR THE PRINTING OF THE BONDS. --(1) Upon motion of Regent Clark, seconded by Regent Nelson, the agreement set out on Pages 15 - 19 between the Board of Directors of The Sealy & Smith Foundation for the John Sealy Hospital and the Board of Regents of The University of Texas System was unanimously approved, and the Chairman of the Board of Regents was authorized to execute this agreement and the Secretary was authorized to attest the signature of the Chairman:

RESOLUTION AUTHORIZING A FOUNDATION AGREEMENT

WHEREAS, it is necessary and advisable that The University of Texas System enter into the Foundation Agreement hereinafter authorized.

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

Section 1. That the Chairman and the Secretary of the Board of Regents of The University of Texas System are authorized and directed, for and on behalf of The University of Texas System, to sign, seal, and otherwise execute a Foundation Agreement in substantially the form and substance set forth in "Exhibit 1", which is attached hereto and made a part hereof.\*

Section 2. That upon execution of said Foundation Agreement it shall be binding upon the Board and The University of Texas System for all purposes.

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\* Pages 15 - 19

"EXHIBIT 1"

THE STATE OF TEXAS :

COUNTY OF GALVESTON :

FOUNDATION AGREEMENT

WHEREAS, under the terms of the Charter of The Sealy & Smith Foundation for The John Sealy Hospital (the "Foundation"), a Texas non-profit corporation incorporated as of March 10, 1922, the Foundation was formed for the purpose of supporting a charitable undertaking in the City and County of Galveston, State of Texas, for the construction, remodeling, enlarging, equipping, and furnishing of The John Sealy Hospital and other hospital building or buildings in the City of Galveston, Texas, in connection with The John Sealy Hospital in said City and the endowment thereof; and

WHEREAS, the Board of Regents of The University of Texas System (the "Board") owns and operates The John Sealy Hospital and other hospital buildings in connection with The John Sealy Hospital, as an integral part of The University of Texas Medical Branch at Galveston; and

WHEREAS, the Board proposes to issue, pursuant to Chapter 55, Texas Education Code, its negotiable bonds to be designated the "Board of Regents of The University of Texas System, The University of Texas Medical Branch at Galveston, Endowment and Hospital Revenue Bonds, Series 1973", in the principal amount of \$34,500,000 (the "Bonds"), for the purpose of providing funds to acquire, construct, and equip an approximately 528 bed 12-story tower southside hospital addition to The John Sealy Hospital and facilities appurtenant thereto, and a 2-story northside addition to The John Sealy Hospital and facilities appurtenant thereto, and new central food service facilities and other improvements to and remodeling of The John Sealy Hospital and other hospital buildings in connection with The John Sealy Hospital, for and on behalf of The University of Texas Medical Branch at Galveston (the "Project"); and

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WHEREAS, a copy of the resolution (the "Bond Resolution") proposed to be adopted by the Board authorizing the issuance of the Bonds, with the exception of the interest rates, the Paying Agent, the purchaser, and the premium, if any, is attached hereto, marked "Exhibit A", and made a part hereof for all purposes; and

WHEREAS, a copy of the Official Notice of Sale and Prospectus to be distributed to prospective purchasers of the Bonds is attached hereto, marked "Exhibit B", and made a part hereof for all purposes; and

WHEREAS, the "Pledged Foundation and Special Fund Income" as defined in the Bond Resolution is pledged to the payment of the principal of and interest on the Bonds and any Additional Bonds by the terms of the Bond Resolution; and

WHEREAS, the Foundation finds and agrees that the support of the Project and similar facilities constitutes a purpose for which the Foundation exists, and that the support of the Project and similar facilities is the specific furtherance of the corporate purpose of the Foundation; and

WHEREAS, the Foundation has determined to support the Project and similar facilities by helping the Board to finance the Project and similar facilities as provided in the Bond Resolution and this Foundation Agreement; and

WHEREAS, it is recognized and agreed by the Foundation and the Board that without the execution of this Foundation Agreement it would not be feasible for the Board to market and sell the Bonds and finance the Project and similar facilities, and that the Bondholders will, and shall be entitled to, rely on this Foundation Agreement for all purposes, and that this Foundation Agreement shall not be changed or amended in any manner while the Bonds and any Additional Bonds are outstanding and unpaid.

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NOW THEREFORE, in consideration of the mutual benefits to the parties hereto, it is hereby agreed as follows:

Section 1. That the Project, and the authorization, sale, and delivery of the Bonds substantially in the manner set forth in the Bond Resolution and the Official Notice of Sale and Prospectus, and the method of financing provided therein, are approved by the Foundation and the Board.

Section 2. That following the authorization, sale, and delivery of the Bonds as aforesaid, the Board agrees and obligates itself to commence and complete the Project as soon as practicable; provided specifically, however, that after the sale and delivery of the Bonds to the purchaser or purchasers thereof, any delaying or failure to commence or complete the Project shall in no way affect the absolute and unconditional lien on and pledge of the Pledged Foundation and Special Fund Income created in favor of the holders of the Bonds and Additional Bonds by the Bond Resolution and this Foundation Agreement, and in all events the Pledged Foundation and Special Fund Income shall be used to pay the principal of and interest on the Bonds and Additional Bonds as provided in the Bond Resolution and this Foundation Agreement.

Section 3. That the Foundation agrees to pay over directly to the Board, on or before March 1, 1974, 80% of the net income of the Foundation from all resources and assets of the Foundation during the calendar year 1973; and on or before March 1, 1975, and on or before March 1 of each year thereafter while any of the Bonds or Additional Bonds are outstanding and unpaid, the Foundation shall pay over directly to the Board 80% of the net income of the Foundation from all resources and assets of the Foundation during the preceding calendar year. Said amounts shall not be reduced or offset by any advance payments or overpayments heretofore made; and for the purposes of

this Section the income from the Special Fund described in Section 4 of this Foundation Agreement shall not be regarded as income of the Foundation. The Foundation covenants that it will not sell, convey, mortgage, encumber, or otherwise dispose of the resources and assets of the Foundation, except in the normal course of managing, investing, and reinvesting such resources and assets, and that the Foundation will use its best efforts to the end that the net income of the Foundation will be as great as can be reasonably expected under ordinarily prudent management. The Board agrees that it will deposit all net income received pursuant to this Section to the credit of the Interest and Sinking Fund created by the Bond Resolution, immediately upon receipt.

Section 4. That a Special Fund was created as of January 31, 1927, in the custody of the Trust Department of the First Hutchings-Sealy National Bank of Galveston, as agent or custodian for the Foundation and the Board jointly, pursuant to the provisions of Chapter 4, Acts of the First Called Session of the Thirty Ninth Texas Legislature. The Foundation and the Board agree that on or before March 1, 1974, they will jointly cause to be deposited to the credit of the Interest and Sinking Fund created pursuant to the Bond Resolution 100% of the actual net income which accrued to or was earned by the Special Fund during the calendar year 1973; and on or before March 1, 1975, and on or before March 1 of each year thereafter while any of the Bonds or Additional Bonds are outstanding, the Foundation and the Board agree that they will jointly cause to be deposited to the credit of the Interest and Sinking Fund created by the Bond Resolution 100% of the net income which accrued to or was earned by the Special Fund during the preceding calendar year. Said amounts shall not be reduced or offset by any advance payments or overpayments heretofore made; and it is agreed and under-

stood that the net income herein referred to includes the net income from the current resources and assets of the Special Fund and also all future additional resources and assets of the Special Fund. The Foundation and the Board jointly covenant that they will not sell, convey, mortgage, encumber, or otherwise dispose of the resources and assets of the Special Fund, except in the normal course of managing, investing, and re-investing such resources and assets, and that the Foundation and the Board jointly will use their best efforts to the end that the net income of the Special Fund will be as great as can be reasonably expected under ordinarily prudent management.

IN WITNESS WHEREOF, the parties hereto, acting under authority of their respective governing bodies, have caused this Foundation Agreement to be duly executed in several counterparts, each of which shall constitute an original, all as of the 1st day of July, 1973, being the date of the Bonds.

THE SEALY & SMITH FOUNDATION FOR  
THE JOHN SEALY HOSPITAL

BY \_\_\_\_\_  
Chairman, Board of Directors

ATTEST:

\_\_\_\_\_  
Secretary

(SEAL)

BOARD OF REGENTS OF THE UNIVERSITY  
OF TEXAS SYSTEM

BY \_\_\_\_\_  
Chairman, Board of Regents

ATTEST:

\_\_\_\_\_  
Secretary

(SEAL)

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- (2) The resolution set out on Pages 21-35 was duly introduced for the consideration of said Board and read in full. It was then duly moved by Regent Clark and seconded by Vice-Chairman Williams that said resolution be adopted; and, after due discussion, said motion, carrying with it the adoption of said resolution, prevailed and carried by the following vote:

AYES: All members of said Board shown present on Page 1 voted "Aye."

NOES: None.

The adoption of this resolution authorized issuance of Board of Regents of The University of Texas System, The University of Texas Medical Branch at Galveston, Endowment and Hospital Revenue Bonds, Series 1973, in the amount of \$34,500,000, and awarded the sale of the bonds to a syndicate headed by White, Weld & Co. Incorporated for The Managers & Associates for cash for the par value thereof and accrued interest thereon to date of delivery plus a premium of \$9,025.90 (Page 35) and at the interest rates reflected on Page 21. The effective interest rate is 5.68134%. These bonds are to be used for the purpose of providing funds to acquire, construct, and equip an approximately 528 bed 12-story tower southside hospital addition to the John Sealy Hospital and facilities appurtenant thereto, and a 2-story northside addition to the John Sealy Hospital (Chilo Health Center) and facilities appurtenant thereto, and new central food service facilities and other improvements to and remodelling of the John Sealy Hospital and other hospital buildings in connection with the John Sealy Hospital, for and on behalf of The University of Texas Medical Branch at Galveston.

- (3) Upon motion of Regent Clark, seconded by Vice-Chairman Williams, the bid of Bank of the Southwest National Association, Houston, Houston, Texas, to serve as Paying Agent for the Board of Regents of The University of Texas System, The University of Texas Medical Branch at Galveston, Endowment and Hospital Revenue Bonds, Series 1973, in the amount of \$34,500,000, was accepted. The Co-paying Agent designated was Manufacturers Hanover Trust, New York, New York (Pages 22, 24). The Paying Agent will charge five cents (\$0.05) per coupon and forty-five (\$0.45) per bond paid. Chairman McNeese abstained from voting.
- (4) The Steck-Warlick Company, The Steck Division, Austin, Texas, was awarded by unanimous vote the contract to print the Board of Regents of The University of Texas System, The University of Texas Medical Branch at Galveston, Endowment and Hospital Revenue Bonds, Series 1973, in the amount of \$34,500,000, upon motion of Regent Clark, seconded by Vice-Chairman Williams. These bonds are to be printed according to specifications with lithographed borders for the sum of \$2,652.50, there being 7 interest rates.

RESOLUTION AUTHORIZING THE ISSUANCE OF BOARD OF REGENTS  
OF THE UNIVERSITY OF TEXAS SYSTEM, THE UNIVERSITY OF  
TEXAS MEDICAL BRANCH AT GALVESTON, ENDOWMENT AND HOSPITAL  
REVENUE BONDS, SERIES 1973, \$34,500,000

WHEREAS, the Board of Regents of The University of Texas System is authorized to issue the Bonds hereinafter authorized pursuant to Chapter 55, Texas Education Code.

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

Section 1. That said Board's negotiable, serial, coupon Bonds to be designated "BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM, THE UNIVERSITY OF TEXAS MEDICAL BRANCH AT GALVESTON, ENDOWMENT AND HOSPITAL REVENUE BONDS, SERIES 1973", are hereby authorized to be issued, sold, and delivered in the principal amount of \$34,500,000, FOR THE PURPOSE OF PROVIDING FUNDS TO ACQUIRE, CONSTRUCT, AND EQUIP AN APPROXIMATELY 528 BED 12-STORY TOWER SOUTHSIDE HOSPITAL ADDITION TO THE JOHN SEALY HOSPITAL AND FACILITIES APPURTENANT THERETO, AND A 2-STORY NORTH-SIDE ADDITION TO THE JOHN SEALY HOSPITAL AND FACILITIES APPURTENANT THERETO, AND NEW CENTRAL FOOD SERVICE FACILITIES AND OTHER IMPROVEMENTS TO AND REMODELLING OF THE JOHN SEALY HOSPITAL AND OTHER HOSPITAL BUILDINGS IN CONNECTION WITH THE JOHN SEALY HOSPITAL, FOR AND ON BEHALF OF THE UNIVERSITY OF TEXAS MEDICAL BRANCH AT GALVESTON.

Section 2. That said Bonds shall be dated JULY 1, 1973, shall be numbered consecutively from 1 THROUGH 6,900, shall be in the denomination of \$5,000 EACH, and shall mature and become due and payable serially on JULY 1 in each of the years, and in the amounts, respectively, as set forth in the following schedule:

<u>YEARS</u>	<u>AMOUNTS</u>	<u>YEARS</u>	<u>AMOUNTS</u>
1977	\$ 760,000	1988	\$1,400,000
1978	800,000	1989	1,480,000
1979	850,000	1990	1,565,000
1980	900,000	1991	1,655,000
1981	950,000	1992	1,755,000
1982	1,000,000	1993	1,855,000
1983	1,060,000	1994	1,960,000
1984	1,120,000	1995	2,075,000
1985	1,185,000	1996	2,190,000
1986	1,255,000	1997	2,320,000
1987	1,325,000	1998	2,450,000
		1999	2,590,000

Said Bonds may be redeemed prior to their scheduled maturities, at the option of said Board, on the dates stated, and in the manner provided, in the FORM OF BOND set forth in this Resolution.

Section 3. That said Bonds scheduled to mature during the years, respectively, set forth below shall bear interest at the following rates per annum:

maturities 1977 through 1985,	6.25%
maturities 1986,	5.70%
maturities 1987 through 1993,	5.60%
maturities 1994,	5.70%
maturities 1995 through 1996,	5.80%
maturities 1997 through 1998,	5.90%
maturities 1999,	4.75%

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Said interest shall be evidenced by interest coupons which shall appertain to said Bonds, and which shall be payable on the dates stated in the FORM OF BOND set forth in this Resolution.

Section 4. That said Bonds, and the interest coupons appertaining thereto, shall be payable, shall have the characteristics, may be redeemed prior to their scheduled maturities, and shall be signed and executed (and said Bonds shall be sealed), all as provided, and in the manner indicated, in the FORM OF BOND set forth in this Resolution.

Section 5. That the form of said Bonds, including the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be printed and endorsed on each of said Bonds, and the form of the aforesaid interest coupons which shall appertain and be attached initially to each of said Bonds, shall be, respectively, substantially as follows:

FORM OF BOND:

NO. \_\_\_\_\_

\$5,000

UNITED STATES OF AMERICA  
STATE OF TEXAS  
BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM,  
THE UNIVERSITY OF TEXAS MEDICAL BRANCH AT GALVESTON,  
ENDOWMENT AND HOSPITAL REVENUE BOND,  
SERIES 1973

ON JULY 1, 19\_\_\_, the BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM promises to pay to bearer the principal amount of

FIVE THOUSAND DOLLARS

and to pay interest thereon, from the date hereof, at the rate of \_\_\_\_\_% per annum, evidenced by interest coupons payable JANUARY 1, 1974, and semi-annually thereafter on each JULY 1 and JANUARY 1 while this Bond is outstanding.

THE PRINCIPAL of this Bond and the interest coupons appertaining hereto shall be payable to bearer, in lawful money of the United States of America, without exchange or collection charges to the bearer, upon presentation and surrender of this Bond or proper interest coupon, at the following, which shall constitute and be defined as the "Paying Agent" for this Series of Bonds:

BANK OF THE SOUTHWEST NATIONAL ASSOCIATION, HOUSTON, HOUSTON, TEXAS,  
OR, AT THE OPTION OF THE BEARER, AT  
MANUFACTURERS HANOVER TRUST, NEW YORK, NEW YORK.

THIS BOND is one of a Series of negotiable, serial, coupon Bonds, dated JULY 1, 1973, issued in the principal amount of \$34,500,000, FOR THE PURPOSE OF PROVIDING FUNDS TO ACQUIRE, CONSTRUCT, AND EQUIP AN APPROXIMATELY 528 BED 12-STORY TOWER SOUTHSIDE HOSPITAL ADDITION TO THE JOHN SEALY HOSPITAL AND FACILITIES APPURTENANT THERETO, AND A 2-STORY NORTHSIDE ADDITION TO THE JOHN SEALY HOSPITAL AND FACILITIES APPURTENANT THERETO, AND NEW CENTRAL FOOD SERVICE FACILITIES AND OTHER IMPROVEMENTS TO AND REMODELLING OF THE JOHN SEALY HOSPITAL AND OTHER HOSPITAL BUILDINGS IN CONNECTION WITH THE JOHN SEALY HOSPITAL, FOR AND ON BEHALF OF THE UNIVERSITY OF TEXAS MEDICAL BRANCH AT GALVESTON.

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ON JULY 1, 1983, OR ON ANY INTEREST PAYMENT DATE THEREAFTER, the outstanding Bonds of this Series may be redeemed prior to their scheduled maturities, at the option of said Board, IN WHOLE, OR IN PART, for the principal amount thereof and accrued interest thereon to the date fixed for redemption, plus a premium on the principal amount of each such Bond as follows:

- 3% if redeemed July 1, 1983 through January 1, 1987
- 2% if redeemed July 1, 1987 through January 1, 1990
- 1% if redeemed July 1, 1990 through January 1, 1993
- 0% if redeemed July 1, 1993 or thereafter.

AT LEAST thirty days prior to the date fixed for any such redemption said Board shall cause a written notice of such redemption to be published at least once in a financial publication published in the City of New York, New York, or in the City of Austin, Texas. By the date fixed for any such redemption due provision shall be made with the "Paying Agent" for the payment of the required redemption price. If such written notice of redemption is published and if due provision for such payment is made, all as provided above, the Bonds which are to be so redeemed thereby automatically shall be redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the purpose of being paid by the "Paying Agent" with the funds so provided for such payment.

IT IS HEREBY certified, recited, and covenanted that this Bond has been duly and validly issued and delivered; that all acts, conditions, and things required or proper to be performed, exist, and be done precedent to or in the issuance and delivery of this Bond have been performed, existed, and been done in accordance with law; and that the interest on and principal of this Bond and the Series of which it is a part, are secured by and payable from an irrevocable first lien on and pledge of the "Pledged Revenues", as defined and described in the Resolution authorizing this Series of Bonds, which include the "Gross Revenues of the Hospital Facilities" of The University of Texas Medical Branch at Galveston, the "Gross Proceeds from the Conveyance of Endowment Land", the "Pledged Foundation and Special Fund Income", and other specified revenues.

SAID BOARD has reserved the right, subject to the restrictions stated in said Resolution authorizing this Series of Bonds, to issue additional parity revenue bonds which also may be secured by and made payable from an irrevocable first lien on and pledge of the aforesaid Pledged Revenues.

THE HOLDER HEREOF shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation.

IN WITNESS WHEREOF, this Bond and the interest coupons appertaining hereto have been signed with the facsimile signature of the Chairman of said Board, and countersigned with the facsimile signature of the Secretary of said Board, and the official seal of said Board has been duly impressed, or placed in facsimile, on this Bond.

XXXXXXXXX  
 \_\_\_\_\_  
 Secretary, Board of Regents,  
 The University of Texas System

XXXXXXXXX  
 \_\_\_\_\_  
 Chairman, Board of Regents,  
 The University of Texas System

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FORM OF REGISTRATION CERTIFICATE:

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO.

I hereby certify that this Bond has been examined, certified as to validity, and approved by the Attorney General of the State of Texas, and that this Bond has been registered by the Comptroller of Public Accounts of the State of Texas.

Witness my signature and seal this

XXXXXXXXXX  
Comptroller of Public Accounts of  
the State of Texas.

FORM OF INTEREST COUPON:

NO. \_\_\_\_\_ \$ \_\_\_\_\_

ON \_\_\_\_\_ 1, 19\_\_

THE BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM promises to pay to bearer the amount shown on this interest coupon, in lawful money of the United States of America, without exchange or collection charges to the bearer, unless due provision has been made for the redemption prior to maturity of the Bond to which this interest coupon appertains, upon presentation and surrender of this interest coupon, at the BANK OF THE SOUTHWEST NATIONAL ASSOCIATION, HOUSTON, HOUSTON, TEXAS OR, AT THE OPTION OF THE BEARER, AT MANUFACTURERS HANOVER TRUST, NEW YORK, NEW YORK, said amount being interest due that day on the Bond, bearing the number hereinafter designated, of that issue of BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM, THE UNIVERSITY OF TEXAS MEDICAL BRANCH AT GALVESTON, ENDOWMENT AND HOSPITAL REVENUE BONDS, SERIES 1973, DATED JULY 1, 1973. The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation. Bond No. \_\_\_\_\_.

XXXXXXXXXX  
Secretary, Board of Regents

XXXXXXXXXX  
Chairman, Board of Regents

Section 6. That as used in this Resolution the following terms shall have the meanings set forth below, unless the text hereof specifically indicates otherwise:

The term "Board" shall mean the Board of Regents of The University of Texas System.

The term "Bonds" shall mean the Board of Regents of The University of Texas System, The University of Texas Medical Branch at Galveston, Endowment and Hospital Revenue Bonds, Series 1973, authorized by this Resolution.

The term "Additional Bonds" shall mean the additional parity revenue bonds permitted to be authorized in this Resolution.

The term "Medical Branch at Galveston" shall mean The University of Texas Medical Branch at Galveston, as defined and provided for in Section 74.001, Texas Education Code.

The term "Project" shall mean and include the following facilities which will be acquired, constructed, equipped, and improved with the proceeds from the sale of the Bonds:

(a) The approximately 528 bed 12-story tower south-side hospital addition to the existing John Sealy Hospital and facilities appurtenant thereto, which will replace the patient beds in the existing John Sealy Hospital;

(b) The 2-story northside addition to the existing John Sealy Hospital and facilities appurtenant thereto, including pharmacy, central supply, bulk stores, and an expanded surgical suite; and

(c) The new central food service facilities and other improvements to and remodeling of The John Sealy Hospital and other hospital buildings in connection with The John Sealy Hospital, for and on behalf of the Medical Branch at Galveston.

The term "Hospital Facilities" shall mean all of the land, hospitals, clinics, substations, buildings, structures, equipment, services, and other facilities of every nature owned and operated by the Medical Branch at Galveston, or by the Board, or The University of Texas System, for and on behalf of the Medical Branch at Galveston, which are used for or related to the diagnosis and/or treatment of patients, including specifically the following:

(a) The existing facilities operated by The Medical Branch at Galveston and known as:

(1) Marvin L. Graves Psychiatric Hospital with approximately 116 beds;

(2) Randall Pavilion Psychiatric Hospital with approximately 57 beds;

(3) Rosa and Henry Ziegler Hospital with approximately 74 beds;

(4) Children's Hospital with approximately 19 beds and clinic facilities;

(5) John Sealy Hospital with approximately 593 beds and clinic facilities;

(6) John W. McCullough Outpatient Clinic and the clinic facilities therein;

(7) Clinical Sciences Building and the clinic facilities therein;

(b) The Project;

(c) All buildings, facilities, and services of all of the foregoing, together with all future improvements, enlargements, and additions thereto, and replacements thereof, acquired or constructed from any sources including the issuance of the Bonds and any Additional Bonds.

The term "Gross Revenues of the Hospital Facilities" shall mean all of the revenues, income, rentals, rates, fees, and charges of every nature derived by the Medical Branch at Galveston, or by the Board, or The University of Texas System, from the operation and/or ownership of the Hospital Facilities (but specifically excluding any legislative General Revenue Fund appropriations from the State Treasury).

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The term "Current Expenses of the Hospital Facilities" shall mean all necessary operating expenses, current maintenance charges, expenses of reasonable upkeep and repairs, properly allocated share of charges for insurance and all other expenses incident to the operation and maintenance of the Hospital Facilities, but shall exclude depreciation and all general administrative, overhead, teaching, study, and research expenses of the Medical Branch at Galveston.

The term "Endowment Land" shall mean the approximately 7,602.557 acres of land, including a 1/2 undivided interest in and to the oil, gas, sulphur, and other minerals contained in and under and that may be produced or mined therefrom, located in Montgomery County, Texas, which land has been conveyed by the Board of Regents of The University of Texas System to Mitchell Development Corporation of the Southwest, a Texas Corporation, and which land is described in the deed recorded in Volume 808, beginning at page 273, of the official Deed Records of Montgomery County, Texas, to which deed reference is hereby made for all purposes and additional details and conditions.

The term "Gross Proceeds from the Conveyance of Endowment Land" shall mean all of the gross income, payments, royalties, proceeds, and receipts of every nature derived, coming due to, or received by, the Board or The University of Texas System, from any sale, lease, rental, or other conveyance of any nature of the Endowment Land, including specifically the gross proceeds and receipts from the payments to be made to the Board by Mitchell Development Corporation of the Southwest, a Texas Corporation, pursuant to that certain Note dated March 12, 1973, in the principal amount of \$11,443,821.36, with interest on the unpaid balance at the rate of 7% per annum, secured by a Vendor's Lien and Superior Title retained and reserved in favor of the Board, and additionally secured by a Deed of Trust, which Vendor's Lien and Deed of Trust are recorded in Volume 261, beginning at page 22, of the official Deed of Trust Records of Montgomery County, Texas, to which records reference is hereby made for all purposes and additional details and conditions; and also including the gross proceeds and receipts from any other sale, lease, rental, or conveyance of any nature of the Endowment Land made by the Board due to any foreclosure or sale under the aforesaid Vendor's Lien and Deed of Trust, or otherwise. It is further specifically covenanted and agreed by the Board that it will enforce and collect the aforesaid Note, and foreclose or sell under the aforesaid Vendor's Lien and Deed of Trust, if necessary; and that in such event it will sell and convey the Endowment Land as soon as practicable at the best price or prices reasonably obtainable.

The term "Foundation" shall mean The Sealy & Smith Foundation For The John Sealy Hospital, Galveston, Texas, a Texas non-profit corporation, incorporated as of March 10, 1922.

The term "Special Fund" shall mean that Special Fund created as of January 31, 1927, in the custody of the Trust Department of the First Hutchings-Sealy National Bank of Galveston as agent for the Foundation and the Board of Regents, jointly, pursuant to the provisions of Chapter 4, Acts of the First Called Session of the Thirty Ninth Texas Legislature.

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The term "Pledged Foundation and Special Fund Income" shall mean all of the amounts derived by, coming due to, or received by the Board pursuant to the "Foundation Agreement" between the Board and the Foundation. The Foundation Agreement, dated as of July 1, 1973, provides that, commencing with the calendar year 1973, the Foundation shall pay over or cause to be paid over to the Board 80% of the net income of the Foundation and 100% of the net income from the Special Fund for each calendar year while any of the Bonds or Additional Bonds are outstanding.

The term "Pledged Revenues" shall mean collectively (a) the Gross Revenues of the Hospital Facilities, (b) the Gross Proceeds from the Conveyance of Endowment Land, (c) the Pledged Foundation and Special Fund Income, and (d) any additional revenues, income, receipts, or other resources, including, without limitation, any grants, donations, or income received or to be received from the United States Government, or any other public or private source, whether pursuant to an agreement or otherwise, which hereafter may be pledged to the payment of the Bonds or the Additional Bonds.

Section 7. That the Bonds and any Additional Bonds, and the interest thereon, are and shall be secured by and payable from an irrevocable first lien on and pledge of the Pledged Revenues, and the Pledged Revenues are further pledged to the establishment and maintenance of the Interest and Sinking Fund and the Reserve Fund as provided in this Resolution.

Section 8. That there is hereby created and there shall be established on the books of the Board a separate account or accounts which individually or collectively shall be known as the "Endowment and Hospital Revenue Bonds Revenue Fund" (herein called the "Revenue Fund"). All collections of the Gross Revenues of the Hospital Facilities shall be credited to the Revenue Fund immediately upon receipt.

Section 9. That to pay the principal of and interest on all outstanding Bonds and any Additional Bonds, as the same come due, there is hereby created and there shall be established at an official depository of the Board (which must be a member of the Federal Deposit Insurance Corporation) a separate fund to be entitled the "Endowment and Hospital Revenue Bonds Interest and Sinking Fund" (herein called the "Interest and Sinking Fund").

Section 10. That there is hereby created and there shall be established at an official depository of the Board (which must be a member of the Federal Deposit Insurance Corporation) a separate fund to be entitled the "Endowment and Hospital Revenue Bonds Reserve Fund" (herein called the "Reserve Fund"). The Reserve Fund shall be used finally in retiring the last of the outstanding Bonds and Additional Bonds, or for paying principal of and interest on any outstanding Bonds and Additional Bonds, when and to the extent the amount in the Interest and Sinking Fund is insufficient for such purpose.

Section 11. That money in any Fund established pursuant to this Resolution may, at the option of the Board, be placed in time deposits or be invested in direct obligations of the United States of America, obligations guaranteed or insured by the United States of America, which, in the opinion of the Attorney General of the United States, are backed by its full faith and credit or represent its general obligations, including, but not limited to, evidences of indebtedness issued, insured, or guaranteed by such governmental agencies as the Federal Land Banks, Federal Intermediate Credit Banks, Banks for Cooperatives, Federal Home Loan Banks, Government National Mortgage Association, United

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States Postal Service, Farmers Home Administration, Federal Home Loan Mortgage Association, Small Business Administration, Federal Housing Association, or Participation Certificates in the Federal Assets Financing Trust; provided that all such deposits and investments shall be made in such manner that the money required to be expended from any Fund will be available at the proper time or times. Such investments shall be valued in terms of current market value as of the last day of February and August of each year. Interest and income derived from such deposits and investments shall be credited to the Fund from which the deposit or investment was made and shall be used only for the purpose or purposes for which such Fund is required or permitted to be used. Such investments shall be sold promptly when necessary to prevent any default in connection with the Bonds or Additional Bonds.

Section 12. That money in all Funds created by this Resolution, to the extent not invested, shall be secured in the manner prescribed by law for securing funds of the Board, in principal amounts at all times not less than the amounts of money credited to such Funds, respectively.

Section 13. (a) That immediately after the delivery of the Bonds the Board shall deposit the amount of \$350,000 which is now on hand and available for such purpose, together with all accrued interest and any premium received from the sale and delivery of the Bonds, to the credit of the Interest and Sinking Fund.

(b) That the Board shall deposit all Gross Proceeds from the Conveyance of Endowment Land and all Pledged Foundation and Special Fund Income hereafter received, immediately upon receipt, directly to the credit of the Interest and Sinking Fund.

(c) That the Board shall transfer from the Gross Revenues of the Hospital Facilities in the Revenue Fund, or from any other available Pledged Revenues, and deposit to the credit of the Interest and Sinking Fund the amounts, at the times, as follows:

(1) on or before December 20, 1973, and semi-annually on or before each June 20th and December 20th thereafter, an amount which will be sufficient, together with other amounts, if any, then on hand in the Interest and Sinking Fund and available for such purpose, to pay the interest scheduled to accrue and come due on the Bonds on the next succeeding interest payment date; and

(2) on or before December 20, 1976, and semi-annually on or before each June 20th and December 20th thereafter, an amount sufficient, together with other amounts, if any, then on hand in the Interest and Sinking Fund and available for such purpose, to pay one-half of the principal scheduled to mature and come due on the Bonds on the next succeeding July 1.

(d) That if at any time there is on deposit in the Interest and Sinking Fund an amount in excess of that required to pay all principal of and interest on the Bonds and any Additional Bonds through the next succeeding July 1, the Board first shall use such excess to make any deposit required to be made into the Reserve Fund as provided in Section 14 hereof, and then the Board may use such excess to purchase and cancel Bonds or Addi-

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tional Bonds at a price not exceeding the redemption price on the next succeeding date upon which any Bonds or Additional Bonds are subject to redemption prior to maturity, or, if any Bonds or Additional Bonds are subject to redemption on the next succeeding interest payment date, the Board may use such excess to redeem Bonds or Additional Bonds on the next succeeding interest payment date.

Section 14. That immediately after the delivery of the Bonds the Board shall deposit the amount of \$3,000,000, which is now on hand and available for such purpose, to the credit of the Reserve Fund. So long as the money and investments in the Reserve Fund are not less in market value than a required amount equal to the average annual principal and interest requirements of all then outstanding Bonds and Additional Bonds, no additional deposits need be made into the Reserve Fund; but if the Reserve Fund should be depleted to less than said required amount in market value, then, subject to making the required deposits to the credit of the Interest and Sinking Fund, the Board shall transfer from the Gross Revenues of the Hospital Facilities or any other Pledged Revenues in the Revenue Fund (or from any excess in the Interest and Sinking Fund as provided by Section 13(d) hereof), and deposit to the credit of the Reserve Fund, semi-annually, on or before each December 20th and June 20th thereafter, a sum at least equal to 1/10th of the average annual principal and interest requirements of all then outstanding Bonds and Additional Bonds, until the Reserve Fund is restored to said required amount. So long as the Reserve Fund contains said required amount, any surplus in the Reserve Fund over said required amount may be transferred and deposited into the Interest and Sinking Fund.

Section 15. (a) That if on any occasion there shall not be sufficient Pledged Revenues to make the required deposits into the Interest and Sinking Fund and the Reserve Fund, then such deficiency shall be made up as soon as possible from the next available Pledged Revenues, or from any other sources available for such purpose.

(b) That, subject to making the required deposits to the credit of the Interest and Sinking Fund and the Reserve Fund, when and as required by this Resolution, or any resolution authorizing the issuance of Additional Bonds, any surplus Gross Revenues of the Hospital Facilities or any other Pledged Revenues in the Revenue Fund shall be used by the Board for paying, to the extent not paid from other sources, the Current Expenses of the Hospital Facilities, and any remaining balance may be used for any other lawful purpose.

Section 16. On or before the last day of December, 1973, and semi-annually on or before the last day of each June and of each December thereafter while any of the Bonds or Additional Bonds are outstanding and unpaid, the Board shall make available to the paying agents therefor, out of the Interest and Sinking Fund, and/or the Reserve Fund, if necessary, money sufficient to pay such interest on and such principal of the Bonds and Additional Bonds as will accrue or mature on the January 1st or July 1st immediately following. The paying agents shall totally destroy all paid Bonds and Additional Bonds, and the coupons appertaining thereto, and shall furnish the Board with an appropriate certificate of destruction.

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Section 17. That at such times as the aggregate amount of money and investments in the Interest and Sinking Fund and the Reserve Fund are at least equal in market value to (1) the aggregate principal amount of all unpaid (unmatured and matured) outstanding Bonds and Additional Bonds, plus (2) the aggregate amount of all unpaid (unmatured and matured) outstanding interest coupons appertaining to such Bonds and Additional Bonds, no further deposits need be made into the Interest and Sinking Fund or Reserve Fund. In determining the amount of such Bonds and Additional Bonds, and interest coupons appertaining thereto, outstanding at any time, there shall be subtracted and excluded the amount of any such Bonds and Additional Bonds, and interest coupons appertaining thereto, which shall have been duly called for redemption and for which funds shall have been deposited with the paying agents therefor sufficient, including any required redemption premium, for such redemption.

Section 18. That the Bonds and any Additional Bonds, and the interest coupons appertaining thereto, will constitute special obligations of the Board payable solely from the Pledged Revenues, and the holders of the Bonds and Additional Bonds, and the coupons appertaining thereto, shall never have the right to demand payment out of funds raised or to be raised by taxation.

Section 19. That the Board shall have the right and power at any time and from time to time, and in one or more Series or issues, to authorize, issue, and deliver additional parity revenue bonds (herein called "Additional Bonds"), in any amounts, for any lawful purpose relating to The John Sealy Hospital or other hospital buildings in connection with The John Sealy Hospital, and to refund any Bonds or Additional Bonds. Such Additional Bonds, if and when authorized, issued, and delivered in accordance with this Resolution, shall be secured and payable equally and ratably on a parity with the Bonds, and all other outstanding Additional Bonds, by an irrevocable first lien on and pledge of the Pledged Revenues.

Section 20. (a) The Interest and Sinking Fund and the Reserve Fund established by this Resolution shall secure and be used to pay all Additional Bonds as well as the Bonds. However, each resolution under which Additional Bonds are issued shall provide and require that, in addition to the amounts required by the provisions of this Resolution and the provisions of any other resolution or resolutions authorizing Additional Bonds to be deposited to the credit of the Interest and Sinking Fund, the Board shall transfer from the Pledged Revenues and deposit to the credit of the Interest and Sinking Fund at least such amounts as are required for the payment of all principal of and interest on said Additional Bonds then being issued, as the same comes due; and that the aggregate amount to be accumulated and maintained in the Reserve Fund shall be increased (if and to the extent necessary) to an amount not less than the average annual principal and interest requirements of all Bonds and Additional Bonds which will be outstanding after the issuance and delivery of the then proposed Additional Bonds; and that the required additional amount shall be so accumulated by the deposit in the Reserve Fund of all or any part of said required additional amount in cash immediately after the delivery of the then proposed Additional Bonds, or, at the option of the Board, by the deposit, from Pledged Revenues, of said required additional amount (or any balance of said required additional amount not deposited in cash as permitted above) in semi-annual installments, made on or before the 20th day of each December and June following the adoption of the resolution authorizing the issuance of the then proposed Additional Bonds, of not less than 1/10th of said required additional amount (or 1/10th of the balance of said required additional amount not deposited in cash as permitted above).

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(b) All calculations of average annual principal and interest requirements made pursuant to this Section are made as of and from the date of the Additional Bonds then proposed to be issued.

(c) The principal of all Additional Bonds must be scheduled to be paid or mature on July 1 of the years in which such principal is scheduled to be paid or mature; and all interest thereon must be payable on January 1 and July 1.

Section 21. Additional Bonds shall be issued only in accordance with this Resolution, but notwithstanding any provisions of this Resolution to the contrary, no installment, Series, or issue of Additional Bonds shall be issued or delivered unless:

(a) The senior financial officer of the Medical Branch at Galveston signs a written certificate to the effect that the Board is not in default as to any covenant, condition, or obligation in connection with all outstanding Bonds and Additional Bonds, and the resolutions authorizing same, and that the Interest and Sinking Fund and the Reserve Fund each contains the amount then required to be therein.

(b) The State Auditor of the State of Texas, or any certified public accountant, signs a written certificate to the effect that, during either the next preceding University of Texas System fiscal year, or any twelve consecutive calendar month period ending not more than ninety days prior to the adoption of the resolution authorizing the issuance of the then proposed Additional Bonds, the Pledged Revenues, excluding and excepting the Gross Proceeds from the Conveyance of Endowment Land and the Pledged Foundation and Special Fund Income, were at least equal to four times the average annual principal and interest requirements of all Bonds and Additional Bonds to be outstanding after the issuance of the then proposed Additional Bonds.

Section 22. The Board further covenants and agrees that:

(a) It will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Resolution and each resolution authorizing the issuance of Additional Bonds, and in each and every Bond and Additional Bond; that it will promptly pay or cause to be paid from the Pledged Revenues the principal of and interest on every Bond and Additional Bond, on the dates and in the places and manner prescribed in such resolutions and Bonds or Additional Bonds; and that it will, at the times and in the manner prescribed, deposit or cause to be deposited from the Pledged Revenues the amounts required to be deposited into the Interest and Sinking Fund and the Reserve Fund; and any holder of the Bonds or Additional Bonds may require the Board, its officials and employees, and any appropriate official of the State of Texas, to carry out, respect, or enforce the covenants and obligations of this Resolution or any resolution authorizing the issuance of Additional Bonds, by all legal and equitable means, including specifically, but without limitation, the use and filing of mandamus proceedings, in any court of competent jurisdiction, against the Board, its officials and employees, or any appropriate official of the State of Texas.

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(b) It is duly authorized under the laws of the State of Texas to create and issue the Bonds; that all action on its part for the creation and issuance of the Bonds has been duly and effectively taken, and that the Bonds in the hands of the holders and owners thereof are and will be valid and enforceable special obligations of the Board in accordance with their terms.

(c) It lawfully owns and is lawfully possessed of the lands, buildings, and facilities constituting the Hospital Facilities, and has a good and indefeasible estate in such lands, buildings, and facilities in fee simple, that it warrants that it has, and will defend, the title to all the aforesaid lands, buildings, and facilities, and every part thereof, for the benefit of the holders and owners of the Bonds and Additional Bonds against the claims and demands of all persons whomsoever, that it is lawfully qualified to pledge the Pledged Revenues to the payment of the Bonds and Additional Bonds in the manner prescribed herein, and has lawfully exercised such rights.

(d) It will from time to time and before the same become delinquent pay and discharge all taxes, assessments, and governmental charges, if any, which shall be lawfully imposed upon it, or the campus, buildings, and facilities of the Hospital Facilities, that it will pay all lawful claims for rents, royalties, labor, materials, and supplies which if unpaid might by law become a lien or charge thereon, the lien of which would be prior to or interfere with the liens hereof, so that the priority of the liens granted hereunder shall be fully preserved in the manner provided herein, and that it will not create or suffer to be created any mechanic's, laborer's, materialman's or other lien or charge which might or could be prior to the liens hereof, or do or suffer any matter or thing whereby the liens hereof might or could be impaired; provided, however, that no such tax, assessment, or charge, and that no such claims which might be used as the basis of a mechanic's, laborer's, materialman's or other lien or charge, shall be required to be paid so long as the validity of the same shall be contested in good faith by the Board.

(e) That while the Bonds or any Additional Bonds are outstanding and unpaid it will continuously and efficiently operate and maintain the Hospital Facilities in good condition, repair, and working order, and at a reasonable cost. The Board also covenants and agrees that the Current Expenses of the Hospital Facilities shall be paid from surplus Gross Revenues of the Hospital Facilities or any other Pledged Revenues in the Revenue Fund, as provided by Section 15(b) hereof, to the extent such surplus Pledged Revenues are available, or paid from the general funds of the Medical Branch at Galveston in the same manner as the expenses of operation and maintenance of general facilities of the Medical Branch at Galveston, or paid from any other sources or funds lawfully available to the Medical Branch at Galveston.

(f) That while the Bonds or any Additional Bonds are outstanding and unpaid, the Board shall not additionally encumber the Pledged Revenues in any manner, except as permitted in this Resolution in connection with Additional Bonds, unless said encumbrance is made junior and subordinate in all respects to the liens, pledges, covenants, and agreements of this Resolution.

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(g) That while the Bonds or any Additional Bonds, are outstanding and unpaid, the Board shall not sell, convey, mortgage, or in any manner transfer title to, or lease, or otherwise dispose of the Hospital Facilities, or any significant or substantial part thereof; provided that whenever the Board deems it necessary to dispose of any furnishings and equipment, it may sell or otherwise dispose of such furnishings and equipment when it has made arrangements to replace the same or provide substitutes therefor.

(h) That at all times hereafter the Board shall cause to be procured boiler explosion insurance on all boilers servicing the Hospital Facilities in an amount not less than \$50,000 against loss suffered by reason of a boiler explosion. Further, at all times hereafter the Board shall procure fire and extended coverage insurance on the Hospital Facilities. The foregoing boiler explosion and fire and extended coverage insurance shall be maintained so long as Bonds or Additional Bonds are outstanding and such fire and extended coverage insurance shall be in amounts at least sufficient to provide for full recovery to the extent that the damage does not exceed 80% of full insurable value. Such insurance shall be carried with a reliable insurance company or companies. In lieu of providing fire and extended coverage insurance as required above, the Board may, at its option, provide the equivalent of such insurance under its general System-wide Fire and Extended Coverage Insurance policy, subject to a deductible provision which is reasonable in amount, provided the Board establishes and maintains a special account containing funds which are at least sufficient to offset said deductible amount and which are immediately available for such purpose. Upon the happening of any loss or damage covered by such insurance from one or more of said causes, the Board shall make due proof of loss and shall do all things necessary or desirable to cause the insuring companies to make payment in full directly to the Board. The proceeds of insurance covering such property, together with any other funds necessary and available for such purpose, shall be used forthwith by the Board for repairing the property damaged or replacing the property destroyed; provided, however, that if said insurance proceeds and other funds are insufficient for such purpose, then said insurance proceeds pertaining to the Hospital Facilities shall be used promptly as follows:

(1) for the redemption prior to maturity of the Bonds and Additional Bonds, if any, ratably in the proportion that the outstanding principal of each Series or issue of Bonds or Additional Bonds bears to the total outstanding principal of all Bonds and Additional Bonds; provided that if on any such occasion the principal of any such Series or issue is not subject to redemption, it shall not be regarded as outstanding in making the foregoing computation; or

(2) if none of the outstanding Bonds or Additional Bonds is subject to redemption, then for the purchase on the open market and retirement of said Bonds and Additional Bonds, in the same proportion as prescribed in the foregoing clause (1), to the extent practicable; provided that the purchase price for any such Bond or Additional Bonds shall not exceed the redemption price of such Bond or Additional Bond on the first date upon which it becomes subject to redemption; or

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(3) to the extent that the foregoing clauses (1) and (2) cannot be complied with at the time, the insurance proceeds, or the remainder thereof, shall be deposited in a special and separate trust fund, at an official depository of the Board, to be designated the Insurance Account. The Insurance Account shall be held until such time as the foregoing clauses (1) and/or (2) can be complied with, or until other funds become available which, together with the Insurance Account, will be sufficient to make the repairs or replacements originally required, whichever of said events occurs first.

(i) At all times when the Reserve Fund does not contain the maximum aggregate amount required to be on deposit therein, the Board shall procure and maintain use and occupancy insurance on all the facilities, buildings, and structures of the Hospital Facilities, to the extent obtainable, in an amount sufficient to enable the Board to deposit into the Interest and Sinking Fund and the Reserve Fund, out of the proceeds of such insurance, an amount equal to the sums that are required to be deposited into said Funds from the Pledged Revenues during the time the Hospital Facilities are wholly or partially unusable, as a result of loss of use or occupancy caused by the perils covered by fire and extended coverage insurance.

(j) The annual audit hereinafter required shall contain a section commenting on whether or not the Board has complied with the requirements of this Section with respect to the maintenance of insurance, and listing all policies carried, and whether or not all insurance premiums upon the insurance policies to which reference is hereinbefore made have been paid.

(k) The Board will fix, establish, maintain, and collect such rentals, rates, charges, and fees for the use and availability of the Hospital Facilities as are necessary to produce Gross Revenues of the Hospital Facilities sufficient, together with any other available resources, to pay all Current Expenses of the Hospital Facilities, and sufficient, together with other Pledged Revenues, to make all payments and deposits required to be made into the Interest and Sinking Fund, and to maintain the Reserve Fund, in connection with all Bonds and Additional Bonds.

(l) Proper books of record and account will be kept in which full, true, and correct entries will be made of all dealings, activities, and transactions relating to the Pledged Revenues, and all books, documents, and vouchers relating thereto shall at all reasonable times be made available for inspection upon request of any bondholder.

(m) That each year while any of the Bonds or Additional Bonds are outstanding, an audit will be made of its books and accounts relating to the Pledged Revenues by the State Auditor of the State of Texas, or any certified public accountant, such audit to be based on the fiscal year of The University of Texas System. As soon as practicable after the close of each such fiscal year, and when said audit has been completed and made available to the Board, a copy of such audit for the preceding fiscal year shall be mailed to all bondholders who shall so request in writing. Such annual audit reports shall be open to the inspection of the bondholders and their agents and representatives at all reasonable times.

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(n) That the Board covenants that it will not permit to be deposited to the credit of any of the Funds created by this Resolution, or applied to the payment of the principal of or interest on the Bonds or any Additional Bonds, any proceeds from any grant, subsidy, donation, or income received from the United States Government, whether pursuant to agreement or otherwise, if such deposit or application would result in interest payable on the Bonds or Additional Bonds being includable in whole or in part in gross income for Federal income tax purposes.

(o) That the Board covenants that it will comply with all of the terms and conditions of any and all grant or subsidy agreements applicable to the Bonds or Additional Bonds entered into between the Board and any governmental agency in connection with any grant or debt service subsidy; and the Board will take all action necessary to enforce said terms and conditions.

(p) That the Board covenants to and with the purchasers of the bonds that it will make no use of the proceeds of the bonds at any time throughout the term of this issue of bonds which, if such use had been reasonably expected on the date of delivery of the bonds to and payment for the bonds by the purchasers, would have caused the bonds to be arbitrage bonds within the meaning of Section 103(d) of the Internal Revenue Code of 1954, as amended, or any regulations or rulings pertaining thereto; and by this covenant the Board is obligated to comply with the requirements of the aforesaid Section 103(d) and all applicable and pertinent Department of the Treasury regulations relating to arbitrage bonds. The Board further covenants that the proceeds of the bonds will not otherwise be used directly or indirectly so as to cause all or any part of the bonds to be or become arbitrage bonds within the meaning of the aforesaid Section 103(d), or any regulations or rulings pertaining thereto.

Section 23. That the Chairman of the Board is hereby authorized to have control of the Bonds and all necessary records and proceedings pertaining to the Bonds pending their delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Bonds, said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate printed and endorsed on each of the Bonds, and the seal of said Comptroller shall be impressed, or placed in facsimile, on each of the Bonds.

Section 24. That it is hereby officially found and determined: that a case of emergency or urgent public necessity exists which requires the holding of the meeting at which this Resolution is adopted, such emergency or urgent public necessity being that the proceeds from the sale of said Bonds are required as soon as possible and without delay for necessary and urgently needed public improvements; and that said meeting was open to the public, and public notice of the time, place, and purpose of said meeting was given, all as required by Vernon's Ann. Civ. St. Article 6252-17.

Section 25. That said Bonds are hereby sold and shall be delivered to a Syndicate headed by White, Weld & Co.  
Incorporated  
for cash for the par value thereof and accrued interest thereon to date of delivery, plus a premium of \$9,025.90.

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GALVESTON MEDICAL BRANCH: RESOLUTION WITH RESPECT TO COMMITMENTS TO THE JOHN SEALY HOSPITAL BY THE SEALY & SMITH FOUNDATION FOR THE JOHN SEALY HOSPITAL. --Upon motion of Regent Clark duly seconded, the following resolution with respect to commitments for the John Sealy Hospital at The University of Texas Medical Branch at Galveston was adopted:

WHEREAS, The Board of Regents of The University of Texas System and The Sealy & Smith Foundation for the John Sealy Hospital have entered into an agreement dated July 1, 1973, pertaining to the Foundation's participation in the funding of \$34,500,000 Board of Regents of The University of Texas System, The University of Texas Medical Branch at Galveston, Endowment and Hospital Revenue Bonds, Series 1973, which are proposed to be issued by the Board for the construction of a new five hundred twenty-eight bed hospital in connection with the John Sealy Hospital in Galveston, Texas, to which agreement reference is made for all purposes, and

WHEREAS, The Board of Regents and the Board of Directors of The Sealy & Smith Foundation are desirous of entering into an agreement to clarify certain matters with regard to prior commitments of the Foundation which are left uncertain or unresolved by virtue of such agreement dated July 1, 1973;

NOW, THEREFORE, BE IT RESOLVED, That the Board of Regents of The University of Texas System does hereby agree with The Sealy & Smith Foundation for the John Sealy Hospital as follows:

- (1) That in the event the \$34,500,000 Board of Regents of The University of Texas System, The University of Texas Medical Branch at Galveston, Endowment and Hospital Revenue Bonds, Series 1973, are not sold and delivered, The Sealy & Smith Foundation will not be required to contribute funds for such purpose.
- (2) That with regard to certain commitments made by The Sealy & Smith Foundation for financial payments to the Board of Regents, that in the event these payments will cause The Sealy & Smith Foundation to exceed 20% of its annual net income (80% of the annual net income of the Foundation having been pledged to the above described bonds), then in that event the Foundation may make payment of such prior commitments in the next succeeding year or years in order that the total of such payments during any fiscal year will not exceed 20% of the Foundation's annual net income.
- (3) That the Board of Regents agrees that it has received certain advances from The Sealy & Smith Foundation in the approximate amount of \$440,000, which advances were supposed to be repaid out of the annual net income of the Special Fund held under the joint management and control of the Board of Regents and The Sealy & Smith Foundation, which "Special Fund" income has been

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pledged to the payment of the above described bonds, and does further agree to repay to The Sealy & Smith Foundation the amount of said advances out of the income from such Special Fund, when and in the event that said above described bonds have been paid off in their entirety.

BE IT FURTHER RESOLVED, That the Chairman of the Board of Regents be and he is hereby authorized to execute an agreement with The Sealy & Smith Foundation for the John Sealy Hospital setting forth the agreements set out herein and to do any and all things necessary and desirable for and on behalf of the Board of Regents of The University of Texas System in connection therewith.

RECESS. --The Board of Regents recessed at 9:15 a. m. to reconvene promptly after the Standing Committees and the Committee of the Whole completed their meetings.

REASSEMBLY. --At 5:05 p. m. on Friday, July 27, 1973, the Board of Regents reassembled in the same room and with the same attendance as at the morning session to receive the reports of the Committees.

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## REPORTS OF STANDING COMMITTEES

Set out below are reports of meetings of the Standing Committees which were conducted in open session:

REPORT OF SYSTEM ADMINISTRATION COMMITTEE (Pages 38-39). -- The following Report of the System Administration Committee was filed by Vice-Chairman Williams and adopted without objection, and the recommendations therein were approved:

Since the last report of the System Administration Committee on June 1, 1973, the following recommendations of the Administration were circulated to the members of the System Administration Committee and no exceptions were registered. These recommendations are herewith submitted for formal approval by the System Administration Committee:

U. T. Austin, U. T. San Antonio and San Antonio Health Science Center (San Antonio Medical School): Amendments to the 1972-73 Budgets (5-B-73). -- It is recommended by the appropriate institutional heads, concurred in by System Administration, that the following amendments to the 1972-73 budgets for The University of Texas at Austin, The University of Texas at San Antonio and The University of Texas Health Science Center at San Antonio (San Antonio Medical School), be approved (Pages 38-39).

Unless otherwise indicated, the sources of funds for these amendments are departmental appropriations.

All rates are full time rates: salary rate indicates a 12 months' full time rate and academic rate indicates a 9 months' full time rate:

The University of Texas at Austin

Item No.	Explanation	Present Status	Proposed Status	Effective Dates
1.	David T. Gibson (Tenure) Microbiology	Associate Professor	Associate Professor	
	Salary Rate (12 mos.)	\$ 22,667	\$ 25,000	5/1/73
	Source of Funds: U.S.P.H.S. Career Development Award			
2.	Extension Teaching and Field Service Bureau Transfer of Funds	From: Unappropriated Balance via Estimated Income	To: Extension Teaching and Field Service Bureau - Extension Classes and Consultant Services \$100,000 Travel 5,000	
	Amount of Transfer	\$105,000	\$105,000	---

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The University of Texas at Austin (Continued)

Item No.	Explanation	Present Status	Proposed Status	Effective Dates
3.	Auxiliary Enterprises - Jester Center Store Transfer of Funds	From: Jester Center Store Unappropriated Balance via Estimated Income	To: Jester Center Store - Other Expenses	
	Amount of Transfer	\$ 60,000	\$ 60,000	---
4.	Auxiliary Enterprises - Texas Student Publications Transfer of Funds	From: TSP Unappropriated Balance via Estimated Income	To: <u>The Summer Texan</u> - Other Operating Expense (Summer Directory) \$ 1,750 Allocation for Budget Adjustments 50	
	Amount of Transfer	\$ 1,800	\$ 1,800	

The University of Texas at San Antonio

1.	Auxiliary Enterprises - Bookstore and Vending Machines Transfer of Funds	From: Estimated Income - Bookstore and Vending Machines	To: Bookstore and Vending Machines - Maintenance, Operation and Equipment \$ 1,000 Purchase of Materials for Resale 1,000	
	Amount of Transfer	\$ 2,000	\$ 2,000	---

The University of Texas Health Science Center at San Antonio (San Antonio Medical School)

1.	George E. Webb (Non-tenure) Anesthesiology	Assistant Professor	Assistant Professor	
	Salary Rate	\$ 23,000	\$ 26,000	5/1/73
	Source of Funds: Unallocated Faculty Salaries			

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REPORT OF ACADEMIC AND DEVELOPMENTAL AFFAIRS COMMITTEE (Pages 40 - 62). --In the absence of Regent (Mrs.) Johnson, Chairman of the Academic and Developmental Affairs Committee, Board Chairman McNeese filed the following report of the committee which was unanimously adopted upon motion duly made and seconded:

1. U. T. System: Chancellor's Docket No. 65. --Chancellor's Docket No. 65 was approved in the form distributed by the Secretary prior to the meeting. It is attached (Attachment No. 1) following Page 217 and made a part of these Minutes.
2. U. T. Arlington: Authorization to Request Coordinating Board for Permission to Establish a Master of Science Degree in Computer Science. --Upon recommendation of Acting President Nedderman, concurred in by Chancellor LeMaistre, authorization was given to request the Coordinating Board, Texas College and University System for permission to establish a Master of Science Degree in Computer Science at The University of Texas at Arlington.
3. U. T. Arlington, U. T. Austin, and U. T. El Paso: Appearance of Student Representatives and Adoption of Building Use Fee and Student Services Fee (Required) Effective with 1973 Fall Semester. --Prior to authorizing Building Use Fees and Student Services Fees (Required) for The University of Texas at Arlington, The University of Texas at Austin and The University of Texas at El Paso, the following student representatives from U. T. El Paso and U. T. Austin appeared before the Committee to present their views on this matter. These students had prepared and presented written statements to the Academic and Developmental Affairs Committee prior to the meeting:
  - a. Russell Autrey and Francis Pinario, President and Treasurer of the U. T. El Paso Student Association, respectively, appeared and asked that the Committee reconsider and lower the Building Use Fee to \$4.50 per semester. Most of the students at U. T. El Paso come from low income families and to lower the fee would aid those students. Mr. Pinario suggested that if it is necessary to raise the fee that it be done gradually.
  - b. Sandy Kress and Cappy McGarr, President and Vice-President of the U. T. Austin Students' Association, respectively, and Marian Bentley, a student, appeared in the interest of U. T. Austin. Mr. McGarr recommended that the Board of Regents review the action it took on June 1 with respect to raising the Building Use Fee while Mr. Kress pointed out that even with the 5% provision excusing financially disadvantaged students from paying fees the majority would have to pay the increased fees. Miss Bentley also requested that the fee increase be on a gradual basis in order to aid those who had to work part time, seek financial help and cope with the rising cost of living.

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Following the appearance of these students, Board Chairman McNeese expressed his personal appreciation and appreciation on behalf of the Board of Regents to these student representatives for their type of presentation, brevity and courtesy. He said, "It was a pleasure to hear from you."

At the request of Regent Clark, Chairman McNeese called on Regent Erwin to speak to these statements and point out whether the Committee could accommodate the request to either lower or postpone action on the fees. In essence, his remarks are set forth in the following letter (Pages 42 - 51) to members of the Board of Regents reviewing the historical, legal, and financial background of the proposed Building Use Fees.

Following the statement by Regent Erwin, Regent Shivers commented that there is one simple fact: the bonds issued by the System cannot be allowed to be in default. When the passage of House Bill No. 83 reduced fees for part time students, it was necessary to get the money to meet the bond commitments in some other way. He said, "I don't think there is a member of this Board that favors an increase but because of House Bill No. 83 we have no choice."

Following the detailed discussion that ensued, Regent Erwin moved that the following mandatory Building Use Fees and Student Services Fees (Required) for each semester and for each summer session effective with the beginning of the 1973 Fall Semester be authorized to be levied and collected for The University of Texas at Arlington, The University of Texas at Austin, and The University of Texas at El Paso:

	<u>Building Use Fee</u>	<u>Student Services Fee</u>
U. T. Arlington	\$8.00 plus \$5.00 per semester credit hour	\$2.00 per semester credit hour, not to exceed a total of \$30.00
U. T. Austin	\$9.00 plus \$6.00 per semester credit hour	\$3.50 per semester credit hour, not to exceed a total of \$30.00
U. T. El Paso	\$6.50 per semester credit hour	\$2.00 per semester credit hour, not to exceed a total of \$30.00

Vice-Chairman Williams seconded the motion which was unanimously adopted.

This action repeals and replaces any and all contrary action heretofore taken by the Board of Regents.



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THE UNIVERSITY OF TEXAS SYSTEM  
BOARD OF REGENTS

FRANK C. ERWIN, JR.  
622 BROWN BUILDING  
AUSTIN, TEXAS 78701

June 25, 1973

To the Members of the Board of Regents:

Dear Mrs. Johnson and Gentlemen:

Since there has been some discussion in the Austin press in recent days regarding the student building use fees at U. T. Austin, U. T. Arlington, and U. T. El Paso for the 1973-74 school year, you might like to have the following relevant information readily available:

1. The need for student building use fees arises from the fact that the Texas Constitution expressly prohibits the Legislature from appropriating General Revenue funds for the construction of buildings at U. T. Austin, U. T. Arlington, U. T. El Paso and certain other named institutions of higher education.
2. In lieu of General Revenue funds for construction, the Texas Constitution authorizes the Board of Regents to issue Permanent University Fund bonds (up to 13.3% of the value of the Fund) for buildings at U. T. Austin and U. T. El Paso and to issue Constitutional Tax bonds for buildings at U. T. Arlington. However, U. T. Austin and U. T. El Paso must share the proceeds of the P. U. F. bonds with Galveston Medical Branch, Dallas Medical School, Houston Dental Branch, M. D. Anderson Hospital, Houston Graduate School of Biomedical Sciences, Houston School of Public Health, McDonald Observatory, and the Marine Science Institute, and there simply are not enough P. U. F. bond proceeds to meet the building needs of all of those institutions - particularly in light of the tremendous enrollment increases that occurred in the late 1960's. Similarly,

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U. T. Arlington must share the proceeds of the Constitutional Tax bonds with 16 other State colleges and universities, and similarly, there simply are not enough Constitutional Tax bond proceeds to meet the building needs of all of those institutions.

3. Recognizing that no General Revenue can be appropriated for buildings at the above mentioned institutions and recognizing that the P. U. F. bond proceeds and the Constitutional Tax bond proceeds are inadequate for the purpose, several years ago the Legislature authorized the several governing boards of institutions of higher education to levy mandatory student fees with which to finance the issuance of bonds for the construction of buildings to be used by the students. These fees are appropriately known as "student building use fees."

4. As of the 1972-73 school year just completed, the student building use fees at U. T. Austin, U. T. Arlington, and U. T. El Paso were all a flat charge of \$50 per student per semester - without regard to the number of semester credit hours for which the student was registered. For comparison, during the 1972-73 school year the student building use fees at some of the other large state universities in Texas were:

- (1) North Texas State University - \$61.00 per semester  
per student
- (2) East Texas State University - \$59.00 per semester  
per student
- (3) University of Houston - \$50.00 per semester  
per student
- (4) Texas Tech University - \$50.00 per semester  
per student
- (5) Texas A&M University - \$38.50 per semester  
per student

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5. During the past several months, the U. T. System Administration has conducted a careful study of the next 5-years' building needs at each institution in the U. T. System, together with a study of the possible sources of funding for those projects. One of the results of that study was the conclusion that in order to fund the construction projects that have been approved by the Regents and that are presently either in the architects' offices or under construction, it will be necessary to issue the following amounts of additional student building use fee bonds within the next few months:

U. T. Austin - \$34 million

U. T. Arlington - \$7-1/2 million

U. T. El Paso - \$5 million

6. It should be emphasized that the above mentioned new bonds are required after all other available funds - including all available Constitutional bond proceeds - have been applied and exhausted. It should also be recalled that at the last Regents' meeting, a new and innovative plan of construction financing was approved which over the next several years will provide about \$53 million for construction at U. T. Austin without any economic burden whatever on the students. This demonstrates that we have resorted to every possible means of minimizing the impact of the needed construction on the students.

7. If the student building use fee had been left on a flat per capita basis and if all other factors had remained the same, in order to service the presently outstanding student building use fee bonds and the new student building use fee bonds described above, the student general building use fees for 1973-74 would have been approximately as follows:

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U. T. Austin - \$72 per semester per student

U. T. Arlington - \$64 per semester per student

U. T. El Paso - \$69 per semester per student

8. However, during the just concluded session of the Legislature, there was considerable pressure to give some relief to part-time students in the payment of mandatory fees. A simple example can best point up the problem. At U. T. Austin in 1972-73, a full-time student enrolled for 15 semester credit hours paid approximately \$133.50 per semester in mandatory fees (consisting of tuition, student building use fee, and student services fee) while a part-time student holding an outside job and taking only one 3-semester credit-hour course, was required to pay approximately \$123.50 per semester in mandatory fees. To correct this seeming inequity, a number of bills were introduced to require that all mandatory fees be levied on a "per semester credit hour" formula in order that each student would pay the mandatory fees on the basis of the relative amount of work for which he or she registers - and, presumably, on the relative amount of use he or she makes of the institution's physical facilities. Without tracing in detail the legislative history of that legislation, H. B. 83 has now become law, and its effect is that all major mandatory fees must now be collected on a "per semester credit hour" basis, with a \$50 per semester minimum for tuition and a \$30 per semester maximum for student services fee. It should be emphasized, however, that with respect to each of the major mandatory fees, there is provision in the law for relief for students who can show that the payment of the full fee would create an undue economic hardship. In proper instances, the institution is permitted to grant a \$25 per semester tuition scholarship, to excuse up to 10% of the students from the payment of all or

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any part of the student services fee, and to excuse up to 5% of the students from the payment of all or any part of the student general building use fee. While H. B. 83 did not achieve all of the relief for part-time students that its advocates desired, using the example mentioned earlier in this paragraph, the part-time student registered for only 3 semester credit hours at U. T. Austin in 1972-73 would have had his or her mandatory fees reduced from \$123.50 per semester to about \$74.00 per semester.

9. However, in granting relief to part-time students, H. B. 83 increased the economic burden on full-time students, and this result was made abundantly clear in advance by me to the advocates of the legislation, to the House Education Committee, and to numerous members of the Senate. Another simple example will demonstrate the necessary consequences of the legislation. At U. T. Austin approximately \$6,731,142 per year will be required to service the presently outstanding general student building use fee bonds and the \$34 million of new bonds to be issued later this year. Therefore, if the total bond service requirement of \$6,731,142 is divided equally on a flat fee per capita basis among 93,854 students (i. e., 39,900 in Fall, 1972; 37,813 in Spring, 1973; and 16,141 in Summer, 1972), each student will be required to pay a student general building use fee of about \$72 per semester. However, if that total bond service requirement of \$6,731,142 is divided by 1,127,508 semester credit hours (i. e., 535,370 in Fall, 1972; 495,039 in Spring, 1973; and 156,442 in Summer, 1973; less 5% for excused payments due to undue economic hardship), with the result that \$5.96 is charged for each semester credit hour, the full-time student enrolled for 15 semester credit hours would have his or her student general building use fee increased from \$72 per semester to \$89.40 per semester as a direct result of the enactment of H. B. 83. (In the resolution adopted at the last Regents' meeting,

the overall student building use fee was set at \$6.50 per semester credit hour, but that will probably have to be modified as indicated later in this letter.)

10. It should probably be specially noted that at U. T. El Paso the economic impact of H. B. 83 on full-time students is exaggerated and multiplied by the presence of three factors which are peculiar to U. T. El Paso and are not present at the other two institutions. First, about \$274,000 per year of student building use fees have to be diverted to service dormitory bonds which were intended to be serviced by dormitory income, but the present high percentage of dormitory vacancies renders that impossible. Every effort is being made to correct that situation by trying to increase the occupancy of the dorms. Second, there is a relatively high percentage of part-time students at U. T. El Paso, and the conversion to "per semester credit hour" fees is, therefore, relatively more burdensome to full-time students at El Paso than elsewhere. Third, with the opening of the new community college in El Paso, there has been what is hoped - and thought - to be a temporary decline in enrollment, but, nevertheless, without the issuance of any new bonds, the reduction in the number of semester credit hours would require an increase in the per semester credit hour fee if the same amount of revenue from that source is to be maintained. Finally, although it almost goes without saying, while it costs as much in El Paso as it does in Austin to service one million dollars of bonds, an increase in the "per semester credit hour" fee at U. T. El Paso does not produce nearly as much revenue as the same increase produces at one of the larger schools. For example, an increase of one dollar per semester credit hour in the student building use fee at U. T. El Paso produces about \$313,669 annually, while the same increase produces \$1,186,851 at U. T. Austin.

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11. Although at the last Regents' meeting the student building use fees for 1973-74 were set at \$6.50 per semester credit hour at U. T. Austin and U. T. El Paso and \$5.50 per semester credit hour at U. T. Arlington, subsequent discussions with the University's bond counsel indicate that some of the older student building use fee statutes were not amended by H.B. 83, and, therefore, at U. T. Arlington instead of a \$5.50 per semester credit hour fee, there will be an \$8 per capita fee and a \$5.00 per semester credit hour fee. Thus, a full-time 15 hour student at U. T. Arlington will pay a total of \$83 per semester (i. e., 15 hours x \$5 plus \$8) instead of \$82.50 (i. e., 15 hours x \$5.50). Similarly, at U. T. Austin instead of a \$6.50 per semester credit hour fee, there will be a \$9 per capita fee and a \$6.00 per semester credit hour fee. Thus, a full-time 15 hour student at U. T. Austin will pay a total of \$99 per semester (i. e., 15 hours x \$6 plus \$9) instead of \$97.50 (i. e., 15 hours x \$6.50). There are no unamended statutes that affect the fee at U. T. El Paso so that a full-time 15 hour student there will pay \$97.50 per semester (i. e., 15 hours x \$6.50).

12. Finally, but most importantly, it is essential to put this whole matter in the proper context and perspective by knowing - and being reminded from time to time - that even after H. B. 83 is fully implemented and all major mandatory fees are assessed and collected on a "per semester credit hour" basis, the total mandatory fees at U. T. Arlington, U. T. El Paso, and U. T. Austin will continue to be substantially below similar fees at comparable public colleges and universities in the other 49 states. The October 2, 1972 issue of "The Chronicle of Higher Education" published a compilation of the mandatory fees for 1972-73 at 327 state institutions in

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the United States. That compilation shows that when the 1973-74 mandatory fees for a full-time resident student at U. T. El Paso are compared with the 1972-73 mandatory fees charged a full-time resident student at U. T. El Paso's fellow members of the Western Athletic Conference, the following results appear:

1.	Colorado State	-	\$285.00 per semester
2.	U. of Utah	-	240.00 per semester
3.	New Mexico State	-	233.00 per semester
4.	U. of New Mexico	-	228.00 per semester
5.	Utah State	-	219.00 per semester
6.	U. of Wyoming	-	205.50 per semester
7.	U. of Arizona	-	205.50 per semester
8.	<u>U. T. El Paso</u>	-	<u>187.50 per semester</u>

Moreover, The Chronicle's compilation shows that when the 1973-74 mandatory fees for a full-time resident student at U. T. Arlington and U. T. Austin are compared with the 1972-73 mandatory fees for a full-time resident student at the leading state universities in the country, the results are even more revealing:

1.	U. of Pittsburg	\$491 per semester
2.	Ohio State	375 per semester
3.	U. of Michigan	348 per semester
4.	U. of Illinois	343 per semester
5.	Michigan State	337 per semester
6.	St. U. of New York	337 per semester
7.	U. of Indiana	325 per semester
8.	Cal Berkeley	322 per semester
9.	U. C. L. A.	322 per semester
10.	U. of Minnesota	320 per semester
11.	U. of Maryland	319 per semester
12.	U. of Iowa	310 per semester
13.	U. of Virginia	298 per semester
14.	U. of Colorado	288 per semester
15.	U. of Florida	285 per semester
16.	U. of Washington	282 per semester
17.	U. of Wisconsin	279 per semester
18.	U. of Nebraska	267 per semester
19.	U. of Georgia	259 per semester
20.	U. of Mississippi	258 per semester
21.	U. of Alabama	255 per semester
22.	U. of Kansas	243 per semester
23.	Oklahoma State	242 per semester
24.	Auburn U.	225 per semester
25.	U. of North Carolina	211 per semester
26.	U. of Kentucky	202 per semester
27.	U. of Arkansas	200 per semester
28.	U. of Tennessee	199 per semester
29.	U. T. Austin	189 per semester
30.	<u>U. T. Arlington</u>	<u>173 per semester</u>

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Summary

For a full-time student registered for 15 semester credit hours, the student building use fee is as follows:

	1972-73 (Actual)	1973-74 (Would have been without H. B. 83)	1973-74 (Will be with H. B. 83)
U. T. Austin	\$50 (\$41 + \$9)	\$81 (\$72 + \$9)	\$99 (15 x \$6 + \$9)
U. T. Arlington	\$50 (\$42 + \$8)	\$72 (\$64 + \$8)	\$83 (15 x \$5 + \$8)
U. T. El Paso	\$50	\$69	\$97.50 (15 X \$6.50)

For a part-time student registered for 3 semester credit hours, the student building use fee is as follows:

	1972-73 (Actual)	1973-74 (Would have been without H. B. 83)	1973-74 (Will be with H. B. 83)
U. T. Austin	\$50	\$81	\$27 (3 x \$6 + \$9)
U. T. Arlington	\$50	\$72	\$23 (3 x \$5 + \$8)
U. T. El Paso	\$50	\$69	\$19.50 (3 x \$6.50)

Finally, the new student building use fee arrangement has at least four great strengths:

1. Together with P. U. F. bond proceeds and the new innovative plan of construction financing approved at the last Regents' meeting, the new student building use fees will permit the Regents to build badly-needed support facilities for the greatly increased enrollments that the U. T. System's general academic institutions experienced from 1965-71 and which they will continue to have.
2. The amended student building use fee statute gives much-needed relief to the part-time student who has outside employment and is unable to enroll for more than one or two courses a semester, as well as to the graduate student who regularly enrolls for substantially less than the "full-time" 15 semester credit hours.
3. For the first time, the amended student building use fee statute affords relief for the economically-disadvantaged student, in that it

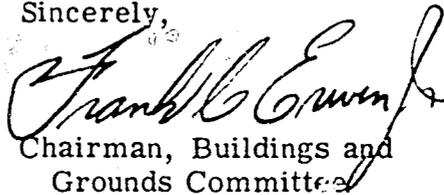
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authorizes the institution to excuse up to 5% of the students from the payment of all or any part of the student general building use fee if it is demonstrated that the payment of the full fee would create an undue economic hardship.

4. Even after the new student building use fees are placed in effect, the total mandatory fees at U. T. Austin, U. T. Arlington, and U. T. El Paso will continue to be well below similar fees at comparable public colleges and universities in the other 49 states.

I apologize for the undue length of this letter, but I hope that it contains all of the factual information that is needed to understand and dispose of any question that may arise in connection with our recent action regarding the mandatory student fees.

Sincerely,



Chairman, Buildings and  
Grounds Committee

4. U. T. Arlington, U. T. Dallas and Dallas Health Science Center: Authorization to Request Coordinating Board for Permission to Establish Joint Doctor of Philosophy Degree in Mathematical Sciences. --Upon recommendation of Acting President Nedderman, President Jordan and President Sprague, concurred in by Chancellor LeMaistre, authorization was given to request the Coordinating Board, Texas College and University System for permission to establish a joint degree program leading to the Doctor of Philosophy Degree in Mathematical Sciences at The University of Texas at Arlington, The University of Texas at Dallas and The University of Texas Health Science Center at Dallas.

This program will draw on faculty, courses, and library holdings from the three institutions and will provide the graduate student with a strong professional-level background in one or more of the following fields: probability and statistics, computer science, applied mathematics, biometry, and abstract mathematics. It was noted that the cooperative nature of this program will save duplication of effort and funds at each institution and enable students to draw on the unique strengths of each unit.

The program will be administered by an Administrative Committee composed of one representative from each institution which will advise on the appointment of new faculty, joint appointments, library acquisitions, teaching and research assignments, joint faculty meetings, and other functions. A student will matriculate at the institution at which he intends to take the major portion of his work. Registration for all course work will be at the institution of his matriculation, and diplomas presented will state that the degree was jointly awarded by the three institutions.

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5. U. T. Austin: Approval of Endowed Presidential Scholarship Program. --Approval was given to establish and implement an Endowed Presidential Scholarship Program at The University of Texas at Austin for the purpose of raising scholarship fund endowments in \$25,000 increments. The details of the operation and administration of this program are set out below:

Proposal

The first recipients of these scholarships would be selected during the spring of 1974 to receive the aid during scholastic year 1974-75.

Method of Selection

Scholarship recipients shall be chosen by the President of the University or by a committee which he selects. Qualifications shall include scholastic aptitude, financial need, and such other qualifications as the donor might desire to stipulate and which are acceptable to the University. Scholarships will be on an annual basis, but renewable if the student maintains acceptable standards.

Recognition

Recognition of the donor or honoree is most important and will consist of three distinct phases.

- A. Permanent Campus Recognition. --This would consist of a bronze plaque approximately 15 x 19 inches which would be permanently affixed in a prominent campus location. These plaques would include appropriate wording about the honoree and the permanency of the gift. It would also include a likeness of the honoree either in bas-relief or etched.
- B. Presentation Piece for Donor. --An artist's rendition of the plaque suitably framed will be presented to the donor.
- C. Banquet. --Early in the fall a banquet will be held honoring the donors, announcing new scholarships, introducing the scholarship recipients and serving as a cultivation event for prospective donors.

Method of Endowing a Scholarship

- A. A donor may endow a Presidential Scholarship with a one time only gift of \$25,000 or more.
- B. A donor may endow a Presidential Scholarship for \$6,250 per year for five years, which provides \$1,250 per year for a scholarship in addition to the \$5,000 annual increment.

Who May Endow a Scholarship

A Presidential Scholarship may be endowed by an individual, corporation, foundation or group. An honoree can be named.

Who May Be Honored

A Presidential Scholarship may honor any individual, living or deceased.

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6. U. T. Dallas: 1973-74 Students Services Fees (Required). -- Pursuant to House Bill No. 83, 63rd Legislature, Regular Session, the following Student Services Fees (Required) for The University of Texas at Dallas were approved to be effective at the beginning of the 1973 Fall Semester:

\$3.00 per semester credit hour for each semester of the long session not to exceed \$10.00 per semester.

\$3.00 per semester credit hour for the 12 week summer term not to exceed \$10.00.

\$1.50 per semester credit hour in each 6 week summer session not to exceed \$5.00 per 6 weeks session, not to exceed \$10.00 for any combination of summer enrollments.

7. U. T. El Paso: Authorization to Request Coordinating Board for Permission to Establish an Industrial Engineering Program Leading to a Bachelor of Science Degree. -- Authorization was given to request the Coordinating Board, Texas College and University System for permission to establish an Industrial Engineering Program leading to a Bachelor of Science Degree in that field at The University of Texas at El Paso.

This program will be administered by a director reporting to the Mechanical Engineering Department and Chairman. The purpose of the degree is to provide knowledge in the design, management, and control of production operations and engineer-manager decision assistance procedures. The degree is designed to meet the need for bilingual industrial engineers in Juarez and El Paso and in the garment industry, utility generation and distribution industry, and other operations. It was pointed out that the program is expected to attract Mexican citizens due to the need for the engineer-manager in Mexican industry.

8. U. T. El Paso: Revised Student Association Constitution. -- The Constitution of the Student Association at The University of Texas at El Paso was approved as amended in Subsections 4 and 6 of Section 2, Article II, and as set out below. This version is a complete revision of the U. T. El Paso Student Association Constitution that was last revised on March 8, 1972:

Constitution of The Student Association

of

The University of Texas at El Paso

1973

PREAMBLE

We, the students of The University of Texas at El Paso, in order to establish a democratic student government, representing all students regardless of race, sex, religion, and political or social belief, in providing the official voice through which student opinion may be expressed, encouraging the development of student participation in the overall policies in the decision making process of

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the University and in providing means for responsible and effective participation in the organizations of student affairs and in the planning of its activities and in defending the rights of each student of the University, do hereby establish this Constitution.

## ARTICLE I

- Section 1. The students of The University of Texas at El Paso shall be known as the Student Association of The University of Texas at El Paso.
- Section 2. Each student enrolled at this institution shall be a member of the Student Association and shall have a vote in Student Association elections and referenda.
- Section 3. The Student Association shall contain a governing body and that body shall be organized into three branches: The Executive, the Legislative and the Judicial.
- Section 4. Each student duly elected or appointed to office in the Student Association shall, before assuming the duties of that office, take the following oath administered by the Vice-President for Student Affairs or his representative or by the Secretary of the Student Senate in open session in the absence of the representative of the Vice-President for Student Affairs, "I (officer repeats full name) do solemnly swear (or affirm) that I will to the best of my abilities, fulfill, defend and further the purpose and goals of the Student Association, of The University of Texas at El Paso, as stated in the Constitution."

## ARTICLE II

- Section 1. The President, Executive Vice-President, and Activities Vice-President shall be elected by the Student Association as set forth in the Constitution, by a majority of those voting.
- Section 2. The Chief Executive powers shall be vested in the President of the Student Association. The President shall have the following powers and duties in the administration of the Executive branch of the Student Association:
1. To enforce this Constitution and the legislation of the Student Senate with the aid of the Executive Vice-President through actions, programs and policies.
  2. To formulate the budget for the following year with the other members of the Executive branch of the Student Association and the chairman of the Student Senate Finance Committee, and to submit the proposed budget to the Senate within one (1) month following receipt of the allocation for the budget and the commencement of the Fall semester for approval by 2/3 vote.
  3. To appoint an Attorney General, with two thirds approval of the Student Senate, to represent the Student Association in the University Judicial System and to prosecute violations of the Constitution, legislation of the Senate, or other student regulations within the jurisdiction of the Student Association.
  4. To appoint Public Defenders, with two thirds approval of the Student Senate, to represent members of the Student Association when their rights as students are violated; provided that no such Public Defender shall act as counsel of record nor represent any student or combination of students (1) in any manner that requires an administrative decision to be made by any officer, committee, board, or agency of a component institution of The University of Texas System, The University of Texas System, or the

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Board of Regents of The University of Texas System, (2) at any stage of any criminal proceeding in any federal, state, county, or local court, and (3) at any stage of any civil proceeding in any federal, state, county, or local court where such proceeding is directly or indirectly against or antagonistic to the interest of The University of Texas System or any component institution thereof, or against or antagonistic to the interests of any person who is sued in his official capacity as an officer of the System or any component institution thereof.

Any contract or agreement for legal services entered into by a Students' Association or other agency of student government with an attorney whose remuneration will be paid from funds under the control or management of the Board of Regents of The University of Texas System, including funds from student fees, whether mandatory or permissive, is expressly subject to the applicable provisions of the Regents' Rules and Regulations, including, but are not limited to, the provisions of Section 11 of Chapter X of Part Two and the following:

Section 8.8 of Chapter I of Part One;  
 Section 1.1 of Chapter III of Part One;  
 Section 1.3 of Chapter III of Part One;  
 Section 11 of Chapter III of Part One;  
 Section 5.15 of Chapter VI of Part One; and  
 Section 5.21 of Chapter VI of Part One.

5. To fill student vacancies in the University Judicial System, and the office of Treasurer with two thirds (2/3) Senate approval.
6. To appoint student members of standing faculty and administrative committees and boards with majority Senate approval; with student members to serve for one (1) year unless removed by the President, with majority Senate approval. Students may be reappointed.
7. To call special sessions of the Student Senate whenever he deems it to be in the interest of the Student Association or upon petition of one third (1/3) of the roll of the Student Senate.
8. To form, define, and dissolve ad hoc student committees.
9. To veto acts, but not resolutions of the Student Senate, which he may sign if he so desires.
10. To veto an act in totality, but not in item.
11. To recommend for approval to the Student Senate by a 2/3 vote the transfer of monies to or from accounts within the S.A. budget when the Senate is in session or by a 2/3 vote of the Student Senate Finance Committee when the Student Senate is not in session.

Section 3. The Executive Vice-President shall have the following powers and duties:

1. To preside over the sessions of the Student Senate if not acting as President of the Student Association.

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2. To become President of the Student Association if the office becomes vacant, and to assume the office of the President if the President is absent or disabled.
3. To implement the administration of the Executive branch, under the direction of the President.
4. To perform such other duties as may be assigned by the President.
5. To call sessions or special sessions of the Student Senate whenever he deems it to be in the interest of the Student Association or upon petition of one third of the roll of the Student Senate.

Section 4. The Activities Vice-President shall have the following powers and duties:

1. To plan, coordinate, and carry out Student Association activities with the consent of the President when using money allocated to the Student Association.
2. To appoint committees and chairmen of such to carry out the activity functions.
3. To perform such other duties as may be assigned by the Student Association President.
4. To preside as permanent chairman over an Activities Council which will aid the Activities Vice-President in planning and coordinating campus activities.
5. The Activities Vice-President may spend, contract or arbitrate the use of Student Association funds, allocated to the Activities Vice-President.
6. To chair the cheerleader Selection Committee and to assist the committee, in conjunction with the Director of Student Activities Office, in the naming of members of the Cheerleader Selection Committee and providing the means for the selection of the Cheerleaders.

Section 5. The Treasurer shall have the following duties:

1. To aid the Student Association President in preparation of the Student Association budget request.
2. To advise the Student Association President in areas concerning financial policy matters.
3. To prepare monthly financial reports.
4. To meet monthly with the Senate Finance Committee to discuss financial matters and present a monthly financial report to the Senate.
5. To perform such other duties as may be assigned by the Student Association President.

Section 6. The salaries for the officers of the Student Association shall be recommended by a Conference Committee composed of three (3) senators selected by a majority vote of the Student Senate and one (1) representative from the office of Student Affairs and must not be altered during the term of office.

Section 7. The Activities Council shall be appointed by the Activities Vice-President. The Activities Board, within the Council, shall consist of the chairmen of the following standing committees: Films, Concert, Lyceum, Recreation and Art, and the Chairman of any other

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committee designated by the Activities Vice-President. Each member of the Activities Board shall be approved by a majority vote of the Student Senate. The tenure for each member of the Council shall begin on June 1st and end on the last day of May of the following year, unless reappointed. The powers and duties of the Activities Council shall be as follows:

1. The Activities Board is to elect a Vice-Chairman, from the board, who will preside over Activity Council and Board meetings, and student activity events in the absence of the Activities Vice-President. This Vice-Chairman shall become the Activities Vice-President should a vacancy occur in that office. The Vice-Chairman of the Council shall be approved by a 2/3 vote in the Student Senate.
2. The Chairman of each committee: Films, Lyceums, Special Projects, and Concerts, shall work with the Activities Vice-President in coordinating activities relating to each respective committee.
3. The chairman of each committee shall call said committee meetings and make a report to the entire Council on its proceedings.
4. The chairman of the Film and Lyceum committees shall automatically be members of the Student Faculty Film and Lyceum Committee.
5. Committee members will help the Activities Vice-President and the chairman of his committee in carrying out the duties of respective committees.
6. The Student Activities Council shall meet at least twice a month at a time and place set forth by the Council Board.
7. The Activities Council will create any activities committee it deems necessary.

#### ARTICLE III

- Section 1. All legislative power shall be vested in a Student Senate whose membership shall be apportioned among six representative areas: Science, Liberal Arts, Education, Business, Engineering and the Graduate School. Membership will be based on their respective enrollments in the Spring Semester preceding the Spring Elections. Apportionment and total membership will be determined by the Student Senate each year prior to the general elections. There will be no more than fifty (50) nor less than thirty-five (35) members of the Senate.
- Section 2. The Student Senate shall appoint an Election Commission to compile an election code to set forth all necessary regulations for Student Association elections. The election code shall then be submitted to the Student Senate for approval by a 2/3 vote.
- Section 3. The Senators will hold office until the installation of the Senate that will succeed them is accomplished.
- Section 4. The Senate, by a 2/3 roll call vote will approve all rules and regulations necessary to its proper and expedient operation.
- Section 5. A majority of the roll call of the Senate will constitute a quorum thereof for the transaction of business, and shall be called a Session of the Student Senate.
- Section 6. The Senate will elect on or before its fourth session a President Pro-Tempore and all other officers of the Senate, who shall preside over the Senate in the absence of the President of the Senate.

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The President Pro-Tempore of the Senate shall become Executive Vice-President of the Student Association should the office become vacant, and shall assume the office of Executive Vice-President should the Executive Vice-President be absent, ill or disabled.

- Section 7. The Senate will have the sole power of impeachment by a 2/3 roll call vote. The Chief Justice of the Student Association Supreme Court will preside over the Senate in impeachment proceedings, except in those cases concerning members of the Judiciary in which case the President of the Senate will preside.
- Section 8. Any new college recognized at The University of Texas at El Paso shall automatically be included in Article III, Section 1 without the necessity of amendment.
- Section 9. All Student Senate Sessions shall be open.
- Section 10. Upon consideration of the proposed budget as submitted by the President, the Senate shall pass a finance bill by two thirds (2/3) vote and this shall be known as the Student Association budget.

## ARTICLE IV

- Section 1. All Judicial powers shall be vested in a Student Supreme Court and such inferior courts as may be established by the Student Senate. The Supreme Court shall consist of nine (9) students appointed by the Student Association President from those students submitting petitions and with 2/3 Student Senate approval. Those Justices shall remain in their positions unless they are disqualified (under section 2) impeached and convicted, or resign.
- Section 2. To qualify for the position of Justice a student must have completed forty-five (45) semester hours, thirty (30) of which must have been in resident at The University of Texas at El Paso prior to his appointment. He must have a 2.5 cumulative average or better, and must carry at least twelve semester hours during his tenure, six if a graduate student, and must not be on disciplinary or administrative probation of any kind.
- Section 3. The Student Supreme Court shall have original jurisdiction over cases involving the Constitution, passed pursuant thereof and the statutes of the Student Association and any other case referred to it by the Student Senate, as stipulated by the Constitution, and/or Vice-President for Student Affairs.
- Section 4. If any statute, of the Student Association, in part or in its entirety be found contrary to the Constitution said statute shall be declared null and void by the Student Supreme Court.
- Section 5. The Student Supreme Court may make recommendations, at the request of the defendant, on those cases taken on appeal to the Faculty Council Committee on Student Conduct by the defendant.
- Section 6. The Student Supreme Court shall have appellate jurisdiction over inferior court decisions.
- Section 7. The Student Supreme Court shall, by 3/4 majority of its membership approve all procedures necessary for the proper and expedient operation of the Judicial Branch. The Student Association President shall designate a Chief Justice with 2/3 approval of the Senate in the event that position becomes vacant.

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Section 8. The Student Supreme Court shall publish four (4) bound copies of its proceedings at the end of each calendar year, to be permanently located at the following places:

1. Office of the Student Association.
2. Office of the Vice-President for Student Affairs.
3. Office of the University Librarian.
4. Office of the Student Legal Association.

#### ARTICLE V

Section 1. A student of The University of Texas at El Paso shall be eligible to hold the office of Student Association President after he has completed sixty (60) hours, the last thirty (30) of which must have been in residency at The University of Texas at El Paso prior to his election. He must have a 2.0 cumulative average, must be enrolled during his tenure and must not be on disciplinary or administrative probation of any kind during his tenure. Should any Student Association officer: President, Executive Vice-President, Activities Vice-President, Treasurer, or Senator be placed on probation other than scholastic, he shall retain his office until the charge(s) against him is (are) proven.

Section 2. A student of The University of Texas at El Paso shall be eligible to hold the office of Executive Vice-President or Activities Vice-President after he has completed sixty (60) hours, the last thirty (30) of which must have been in residence at The University of Texas at El Paso. He must have a 2.0 cumulative average, must be enrolled during his tenure, must not be on disciplinary or administrative probation of any kind.

Section 3. The Student Association offices shall be filled by candidates who receive the majority of the votes cast in a general election or run-off election if a majority was not attained previously. The Student Senate seats shall be filled by the required number of candidates receiving the greatest number of votes. Those occupying Senate seats must be enrolled and must not be on disciplinary or administrative probation.

Section 4. A student of The University of Texas at El Paso shall be eligible to hold the office of Attorney General after he has completed forty-five (45) hours, the last thirty (30) of which must have been in residence at The University of Texas at El Paso. He must have and maintain a 2.5 cumulative average, must be enrolled during his tenure, and must not be on disciplinary or administrative probation of any kind during his tenure.

Section 5. A student of The University of Texas at El Paso shall be eligible to hold the office of Public Defender after he has completed forty-five (45) hours, the last thirty (30) of which must have been in residence at The University of Texas at El Paso. He must have and maintain a 2.5 cumulative average, must be enrolled during his tenure, and must not be on disciplinary or administrative probation of any kind during his tenure.

Section 6. Any office holder of The Student Association shall be removed from office upon conviction or impeachment for neglect of Constitutional duties or upon suspension for improper conduct.

#### ARTICLE VI

Section 1. Legislation may be initiated by the following means:

1. By petition of fifty (50) members of the student body at large to the Student Senate.
2. By a member of the Student Senate.
3. By S. A. presidential recommendation to the Student Senate.

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Section 2. The S. A. presidential veto of an act passed by the Student Senate may be overridden by a 2/3 vote of the Student Senate.

1. All legislation passed by the Student Senate and signed by the Student Association President shall be embodied in the law of the Student Association.
2. If the Student Association President does not sign an act of the Legislature within ten (10) calendar days of its passage by the Student Senate, the act shall become law.

Section 3. All records, orders, journals, and proceedings of the Executive, Legislative, and Judicial branches shall become an official record of the University and shall be distributed as follows:

1. The University Library.
2. The Student Association Office.
3. Office of Vice President for Student Affairs.
4. Office of the Student Legal Association.

#### ARTICLE VII

Section 1. An amendment to the Constitution may be initiated by the Constitution Committee of the Student Senate, or by petition of fifty (50) members of the Student Association.

Section 2. If a proposed amendment receives the support of a majority of the roll of the Student Senate in regular session, it shall be submitted to the student electorate for a vote. Proposed amendments must be presented to the University newspaper in full text, requesting that it be printed in two (2) issues immediately preceding its presentation to the student electorate for approval. Full texts must be made available to all Student Association members.

Section 3. A majority of the ballots cast upon an amendment shall be necessary for the said amendment to become part of this Constitution.

Section 4. All amendments to the Constitution shall be placed in the amendment section of the Constitution.

#### ARTICLE VIII

#### AMENDMENTS

#### ARTICLE IX

Section 1. This Constitution and all amendments thereof shall be approved according to the Board of Regents procedures upon receiving a favorable vote of a majority of the ballots cast upon it in a special or general election.

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9. U. T. Permian Basin: 1973-74 Student Services Fee (Required) and Student Spouse Services Fee (Optional). --The following Student Services Fee (Required) and Student Spouse Services Fee (Optional) for The University of Texas of the Permian Basin were approved to be effective at the beginning of the 1973 Fall Semester. The first Student Services Fee (Required) and Student Services Fee (Optional) were first approved when the catalog for U. T. Permian Basin was approved, and this change in the fees is pursuant to House Bill No. 83, 63rd Legislature, Regular Session:

Student Services Fee (Required)

\$2.50 per semester credit hour subject to a maximum charge of \$30.00 per semester for the long session and \$30.00 for the summer session.

Student Spouse Services Fee (Optional)

\$10.00 per semester for the long session.  
\$ 5.00 for each term of the summer session.

10. U. T. San Antonio: Authorization to Abolish the Division of Certificate Programs in Education, to Change the Name of the Division of Advanced Studies in Education to the Division of Education in the College of Multidisciplinary Studies, and to Change the Title of the Master of Arts in Advanced Studies in Education Degree to Master of Arts in Education Degree. --Upon recommendation of President Flawn, concurred in by Chancellor LeMaistre, the following changes were made at The University of Texas at San Antonio with instructions to notify the Coordinating Board, Texas College and University System of the redesignations of title:
- a. The Division of Certificate Programs in Education in the College of Multidisciplinary Studies was abolished. This change was recommended since U. T. San Antonio had two Divisions dealing with teacher education: the Division of Advanced Studies in Education and the Division of Certificate Programs in Education, both within the College of Multidisciplinary Studies. Since only one of these, the Division of Advanced Studies in Education, will have faculty assigned to it who will teach all education courses at both the graduate and undergraduate levels President Flawn proposed that the Division of Certificate Programs in Education be abolished. The coordinating function previously assigned to this Division will be assigned to an Assistant Dean for the Office of Certification and Teacher Placement in the College. The present Director of the Division of Certificate Programs will be appointed Assistant Dean subsequent to approval of these changes.
  - b. The Division of Advanced Studies in Education was redesignated the Division of Education in order to make clear that faculty in that Division teach both graduate and undergraduate students.
  - c. The degree title was changed from the Master of Arts in Advanced Studies in Education Degree to Master of Arts in Education Degree to reflect the organizational redesignation.

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11. U. T. San Antonio: 1973-74 Student Services Fee (Required). --  
The following Student Services Fee (Required) for The University of Texas at San Antonio was approved to be effective with the beginning of the 1973 Fall Semester. The first Student Services Fee (Required) was initially approved when the catalog for U. T. San Antonio was approved, and this change in the fee is pursuant to House Bill No. 83, 63rd Legislature, Regular Session:

\$2.00 per semester credit hour for each long session subject to a maximum charge of \$30.00 per semester.

\$1.00 per semester credit hour for each summer session subject to a maximum charge of \$30.00 for the entire summer.

12. U. T. San Antonio: Authorization for the Associates for Private Fund Development Purposes. -- Upon the recommendation of President Flawn, concurred in by Chancellor LeMaistre, authorization was given to President Flawn to create a new group to be known as "The University of Texas at San Antonio Associates" for private fund development. Below is the plan for this organization:

I. NAME: The University of Texas at San Antonio Associates

II. PURPOSE:

To form an organization of concerned friends of The University of Texas at San Antonio who wish to support the President in developing the University.

III. QUALIFICATIONS FOR MEMBERSHIP:

- A. An annual gift to the President's Office of \$500 or more for unrestricted use by the President.
- B. Membership may be held by an individual, jointly by husband and wife, or by a corporation or foundation (which will name its representative).
- C. A corporation gift matching an individual's qualifying gift will be deposited to UTSA Associates' account and will count toward qualifying the individual for membership.
- D. The matching gift does not qualify a corporation for membership.

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REPORT OF BUILDINGS AND GROUNDS COMMITTEE (Pages 63-143).  
--Committee Chairman Erwin filed the following report of the Buildings and Grounds Committee and moved that it be adopted. The motion was seconded by Regent Clark, and the report was adopted and the action therein ratified:

1. U. T. Arlington - Expansion of Capacity of Central Plant and Extension of Utilities Distribution System for Fine Arts Building: Approval of Final Plans and Specifications and Authorization to Advertise for Bids. --The final plans and specifications for the expansion of the capacity of the Central Plant and the extension of utilities distribution system for the Fine Arts Building at The University of Texas at Arlington were approved. These plans and specifications had been prepared by the firm of Leo L. Landauer and Associates, Inc., Project Engineer, at an estimated total project cost of \$2,995,000 which includes \$90,000 for the installation of two oil storage tanks. The contract was awarded for these two oil storage tanks at the Regents' meeting on June 1, 1973.

The Office of Facilities Planning and Construction was authorized to advertise for bids on this project to be submitted to the Board of Regents at a later date.

2. U. T. Austin: Authorization to Convey Four Parcels of Land Along East 26th Street to the Texas Highway Department for Street Right-of-Way Purposes. --An offer of \$14,102 was accepted from the Texas Highway Department for four (4) parcels of land, containing a total of 3694.4 square feet of land and being located along the north side of East 26th Street between Swisher Street and Interstate 35 of The University of Texas at Austin. Whereupon, Chairman McNeese was authorized to execute any and all necessary documents to convey this property to the Texas Highway Department when the documents have been approved as to content by Deputy Chancellor Walker and as to form by a University attorney. The Texas Highway Department has plans to construct a major interchange at the intersection of East 26th Street and Interstate 35, which interchange requires the purchase of these four parcels of land owned by the Board of Regents of The University of Texas System. There will be an exit ramp from Interstate 35 at this location, which will provide easy access for visitors to the campus of The University of Texas at Austin as well as the Presidential (L.B.J.) Library.
3. U. T. Austin: Chemistry Building and Addition Thereto (1973) Named Robert A. Welch Hall. --The Chemistry Building and the addition thereto (1973) at The University of Texas at Austin, which in some instances has been referred to as the New Chemistry Building, was named Robert A. Welch Hall.

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4. U. T. Austin: Authorization to Chairman to Execute Documents for Claim Settlement with Project Engineers, Lockwood, Andrews and Newnam, Inc., and Osborn-Papesh, for Correction of Defects of Photo-Deck in West Side Expansion of Memorial Stadium and Building to House Physical Education and Defects Resulting Therefrom in Handball Court. -- A report was received from System Administration that pursuant to authorization of the Board of Regents granted on July 30, 1971, negotiations had been carried on with the firms of Lockwood, Andrews and Newnam, Inc., and Osborn-Papesh (both project engineers) for the cost and expenditures incurred in correcting the defects that rendered the photo-deck in West Side Expansion of the Memorial Stadium and Building to House Physical Education at The University of Texas at Austin unusable for the purpose for which it was intended and in this redesign caused necessary changes to be made in the handball courts. It was reported that the insurance company for these two engineering firms will reimburse The University of Texas in full for all expenses incurred in this connection, approximately \$85,000. Whereupon, Chairman McNeese was authorized to execute any and all necessary agreements, releases, and other documents to consummate the settlement for design deficiencies with the firms of Lockwood, Andrews and Newnam, Inc., and Osborn-Papesh when the documents have been approved as to content by Deputy Chancellor Walker and as to form by a University attorney.

5. U. T. Austin - 50 Meter Indoor Swimming Facility: Approval of Final Plans and Specifications; Authorization to Advertise for Bids, and Advance from PUF Bond Proceeds. -- The final plans and specifications for the 50 meter indoor swimming facility to be located north of 19th Street adjacent to the University Junior High School building at The University of Texas at Austin were approved and the Director of the Office of Facilities Planning and Construction was authorized to advertise for bids, subject to completion of final review and sale of Combined Fee Revenue Bonds. These plans and specifications, prepared by the Project Architect, Fisher and Spillman, Inc., provide facilities to accommodate competitive swimming, diving and water polo at an estimated total project cost of \$5,790,000. In addition to the 50 meter swimming pool and separate diving pool, there will be support facilities consisting of locker rooms, shower rooms, training areas and offices; spectator seating provision is provided for a capacity of 2150 arm chair seats and for an additional 520 portable bleacher seats on the pool deck.

It was authorized that the previous appropriation of \$250,000 from Permanent University Fund Bond proceeds for fees and miscellaneous expenses be reflected as an advance.

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6. U. T. Austin - Landscaping San Jacinto Boulevard - 19th Street (Formerly Included in a Previous Project): Approval of Final Plans and Specifications; Authorization to Advertise for Bids, and Authorization for Advance. -- The final plans and specifications for the landscaping of the area at San Jacinto Boulevard and 19th Street at The University of Texas at Austin were approved. The preliminary plans and specifications, prepared by Project Architect, Fisher and Spillman, Inc., had been approved previously in connection with another project. These plans and specifications provide for landscape improvements consisting of retaining walls, sidewalks, sprinkler system and planting at an estimated total project cost of \$360,000.

The Director of the Office of Facilities Planning and Construction was authorized to advertise for bids on this project subject to completion of final review by appropriate University officials.

An advance of \$15,000 was authorized for transfer from the appropriation for the 50 Meter Indoor Swimming Facility for fees and miscellaneous expenses .

7. U. T. Austin - Extension (Formerly Included in a Previous Project) of Utilities from Trinity Street to Red River Street North of 19th Street: Approval of Final Plans and Specifications, and Authorization to Advertise for Bids. -- Final plans and specifications for the extension of utilities from Trinity Street to Red River Street north of 19th Street were approved. The preliminary plans had been previously approved in connection with another project and were prepared by Project Architect, Fisher and Spillman, Inc., at an estimated total cost of \$618,000 which has been appropriated. This expansion of the utilities system "is required to serve projects on the east side of the campus of The University of Texas at Austin."

The Director of the Office of Facilities Planning and Construction was authorized to advertise for bids subject to completion of final review by appropriate University officials.

8. U. T. Austin - Clark Field Baseball Facility: Approval of Final Plans and Specifications and Authorization to Advertise for Bids. -- Final plans and specifications for the Clark Field Baseball Facility at The University of Texas at Austin were approved. These plans and specifications were authorized at the Regents' meeting held on January 26, 1973, and were prepared by the Project Architect, Marmon and Mok Associates, and provide for a covered 5034 seat stadium, with concessions areas, dressing facilities and a lighted, artificially surfaced playing field designed for multi-purpose activities at a total estimated project cost of \$2,500,000, which has been appropriated.

The Director of the Office of Facilities Planning and Construction was authorized to advertise for bids to be presented to the Board of Regents for consideration at a later meeting.

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9. U. T. Austin - Continuation of Redesign of West Exit of Campus Landscape Development: Report of Committee to Award Contract and Ratification of Award of Contract to Stokes Construction Company, and Authorization for Architectural Services of James Keeter and Authorization for Change Orders to Contract. -- The following report of the committee appointed by the Board of Regents at its meeting on June 1, 1973, to award a contract within the allocated funds after negotiation with the low bidder for necessary modification of the landscape development project on the west side of the campus along Guadalupe Street at The University of Texas at Austin was received:

"

July 2, 1973

To the Board of Regents of The University of Texas System:

The Special Committee appointed at the Regents' Meeting held June 1, 1973, has awarded a contract for the continuation of the Redesign of West Exit of Campus Landscape Development at The University of Texas at Austin to the low bidder, Stokes Construction Company, San Marcos, Texas, as follows:

Base Bid	\$273,372.00
Add Alternate No. 1 (Cut stone in lieu of random stone)	2,200.00
Add Negotiated Changes (Foundation change, security devices on electric boxes, and walk widening)	<u>3,773.00</u>
Total Contract Award	<u>\$279,345.00</u>

/s/ Stephen H. Spurr  
Stephen H. Spurr

/s/ R. S. Kristoferson  
R. S. Kristoferson

/s/ E. D. Walker  
E. D. Walker

/s/ Frank C. Erwin, Jr.  
Frank C. Erwin, Jr.

/s/ A. G. McNeese, Jr.  
A. G. McNeese, Jr. "

The foregoing report was received and the action of the committee was ratified. It was noted that before any modifications could be made, the contract must be ratified. In addition thereto, authorization was given to pay James Keeter for architectural services in the preparation of the final plans and specifications, including modifications resulting from negotiated changes with the construction contractor.

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Thereafter, Committee Chairman Erwin stated that prior to the meeting he had met with Mr. McGarr (Acting President of the Students' Association of The University of Texas at Austin in the absence of the President, Sandy Kress) and his associates, who had spent a great deal of time drawing revised plans for the area, and that in substance the Students' Association had requested four changes in the plans and specifications to redesign the West Mall, to-wit:

- a. Delete the fountain in the area between the Architecture Building and Union Building, and restore that area to the planting of seasonal flowers.
- b. Redesign the most westerly of the planter boxes to accommodate space for solicitation tables.
- c. Change the areas on the north of the Architecture Building and south of the Union Building from ground cover to grass.
- d. Change the azaleas in the planter boxes to grass.

Committee Chairman Erwin further stated that at the end of his meeting with Mr. McGarr he had agreed to bring to the Board of Regents a recommendation to modify the plans and specifications of the redesign of the West Mall that would agree to three of the four requested changes.

Committee Chairman Erwin then proposed that the contract with Stokes Construction Company that had just been ratified be modified by authorizing the Office of Facilities Planning and Construction to issue the following change orders after the Project Architect has had an opportunity to revise the plans accordingly:

- a. Delete the fountain. However, install the electrical connections, the pipes, and the drains for the fountain (in accordance with approved plans and specifications) so that if this Board or any future Board of Regents should desire to implement the original plans and install the fountain it would be feasible.
- b. Redesign the east end of the most westerly of the planter boxes to provide a space for solicitation tables so that these solicitation tables will be out of the line of traffic.
- c. Change all ground cover areas in the plan (including the ground cover areas north of the Architecture Building and south of the Union Building) from ground cover to grass.

Upon motion of Vice-Chairman Williams, seconded by Regent Shivers, the modifications suggested by Committee Chairman Erwin were approved and negotiations for the change orders were authorized.

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10. U. T. Austin - Lyndon Baines Johnson Library and East Campus Library and Research Building (Sid W. Richardson Hall): Award of Contract for Repairs to Exterior Travertine and Marble to Stokes Construction Company, and Appropriation Therefor. -- Upon motion of Regent Clark, duly seconded, a contract was awarded to the low bidder, John J. Stokes dba Stokes Construction Company, San Marcos, Texas, in the amount of \$1,773,771. This contract is for the purpose of repairing the exterior travertine and marble cladding on the Lyndon Baines Johnson Library and East Campus Library and Research Building (Sid W. Richardson Hall) at The University of Texas at Austin. The contract provides for the repair or replacement of damaged pieces of stone, and the removal and reinstallation of all exterior travertine and other affected cladding material at the Lyndon Baines Johnson Library and East Campus Library and Research Building.

With respect to this repair project, the following action was taken:

- a. A total project cost of \$2,213,589 was authorized to cover the recommended contract award for repairs, consultants fees, purchase and delivery of replacement cladding, landscaping replacement, inspection services, fees and miscellaneous expenses.
- b. Funds in the same amount were appropriated as an advance from interest on Permanent University Fund Bond proceeds to cover the total project cost, to be repaid from funds recovered in the litigation against T. C. Bateson Construction Company, Dallas, Texas

It was noted that the lawsuit that has been on file for about a year against T. C. Bateson Construction Company (the general contractor for LBJ Library and Sid W. Richardson Hall) and the lawsuit will be prosecuted by the Attorney General. T. C. Bateson bid on this repair job, and that Company's bid was \$385,229 higher than that of the low bidder.

11. U. T. Austin (Marine Science Institute): Award of Contract to Abel Contract Furniture and Equipment Company, Inc., for Furniture and Furnishings for Research Facilities and Headquarters Building and Housing Project (Dormitory). -- The project at the Marine Science Institute of The University of Texas at Austin authorized on September 20, 1968, consisted of an addition to (1) Research Facilities and Headquarters Building (frequently referred to as Laboratory Building), (2) Physical Plant Building, and (3) Housing, the latter project consisting of a dormitory and an apartment building. Contracts for furniture and furnishings for the Physical Plant Building and for a part of Housing - that is, the apartment - were awarded on September 11 and December 8, 1972, respectively.

For furniture and furnishings for the Research Facilities and Headquarters Building and for the dormitory of the Housing Project, a motion was duly made and seconded that a contract be awarded to Abel Contract Furniture and Equipment Company, Inc., Austin, Texas, low bidder, in the amount of \$10,439.24.

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Attention was called to the fact that the bid from Dallas Office Supply Company, Dallas, Texas, was nonresponsive to the call for bids and was not opened since it was not received until the day after the date specified for bid opening. It was further noted that the funds authorized to cover this award are available in the Allotment Account for the project.

12. U. T. Dallas: Easement Authorized to Texas Power and Light Company and Southwestern Bell Telephone Company for Underground Utility Lines. -- Upon motion of Regent Shivers, the recommendation to grant an easement to the Texas Power and Light Company and Southwestern Bell Telephone Company for overhead utility lines across a small portion of land at the extreme southeast corner of The University of Texas at Dallas campus at its boundary line with the Atchison, Topeka and Santa Fe Railway Company right-of-way was amended to require that the utility lines be underground. The easement was authorized as amended, and the Chairman of the Board of Regents was authorized to execute this document when it has been approved as to content by Deputy Chancellor Walker and as to form by a University attorney.
13. U. T. Dallas - Environmental Science Building: Report of Committee to Award Contract and Ratification of Award to La Roe Building Company, Inc., Terrell, Texas. -- A report was received from the committee appointed on March 5, 1973, to award a construction contract for the Environmental Science Building of The University of Texas at Dallas. The committee was composed of President Jordan, Director Kristoferson, Deputy Chancellor Walker, Committee Chairman Erwin and Vice-Chairman Williams. This committee awarded a construction contract for the Environmental Science Building at The University of Texas at Dallas to the low bidder, La Roe Building Company, Inc., Terrell, Texas, as follows:

Base Bid	\$ 819,244
Add Alternates:	
No. 1 (Add Vinyl Wall Covering in Corridors)	2,850
No. 2 (Add Lawn Sprinklers)	1,600
No. 3 (Add Hydromulch Seeding)	1,600
No. 4 (Add Unistrut Inserts)	2,400
No. 5 (Add Transformer, Circuit Breaker, and Electrical Duct)	<u>3,100</u>
Total Contract Award	<u>\$ 830,794</u>

It was noted that the total project cost of \$1,100,000, which has been previously appropriated, is to cover the construction contract award, Architect's fees thereon, estimated cost of furniture and furnishings, air balancing and miscellaneous expenses.

The Buildings and Grounds Committee ratified the action of the special committee to award the contract.

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14. U. T. Dallas - Cecil H. Green Center (Formerly Referred to as Social and Behavioral Sciences Building): Acceptance of Third Revision of Annual Interest Grant No. 5-6-00638-0. --The following resolution was adopted:

WHEREAS, At the Regents' meeting on July 30, 1971, Annual Interest Grant No. 5-6-00638-0 was accepted from the U. S. Department of Health, Education and Welfare for the Cecil H. Green Center (formerly referred to as Social and Behavioral Sciences Building) at The University of Texas at Dallas in the annual amount of \$21,460 for a period of 30 years;

WHEREAS, This grant was for the purpose of paying the difference in the actual interest over and above a 3% interest rate on \$1,000,000 of General Tuition Revenue Bonds to be allocated to the construction of this building and was figured on an estimated interest rate of 6.25% on these bonds;

WHEREAS, On December 2, 1971, Board of Regents of The University of Texas System General Tuition Revenue Bonds, Series 1971, were sold and carried an effective interest rate of 5.4635% and on March 16, 1972, Board of Regents of The University of Texas System General Tuition Revenue Bonds, Series 1972, were sold and carried an effective interest rate of 5.2109%;

WHEREAS, On June 9, 1972, a reduction of Annual Interest Grant No. 5-6-00638-0 was accepted by the Board of Regents which reduced the annual amount to \$14,971 for a period of 30.25 years and reduced the interest rate to 5.3358%;

WHEREAS, On June 1, 1973, a second revision to this grant was accepted which increased the supported loan amount to \$2,440,000 and the annual amount to \$36,529, and

WHEREAS, The Department of Health, Education and Welfare has issued a third revision to this grant to increase the supported loan amount to \$2,758,000 and the annual amount to \$41,290:

BE IT RESOLVED, That the third revision of Annual Interest Grant No. 5-6-00638-0 be accepted.

15. U. T. Dallas - J. Erik Jonsson Center: Name Changed to Erik Jonsson Center. --The Liberal Arts Building at The University of Texas at Dallas on January 26, 1973, was named the J. Erik Jonsson Center. However, since that time, it has been learned that Mr. Jonsson prefers the name of Erik Jonsson rather than J. Erik Jonsson. Thus, it was ordered that the J. Erik Jonsson Center be changed to the Erik Jonsson Center.

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16. U. T. El Paso: Special Events Center and Installation of Artificial Turf in Sun Bowl and Relocation of Sun Bowl Road: Appointment of B. W. Crain, Jr., Project Architect and Authorization to Acquire Approximately 8-Acre Tract Adjacent to Campus. -- Authorization was given for the construction of a Special Events Center, the relocation of Sun Bowl Road and the installation of artificial turf in the Sun Bowl at an estimated project cost of \$8,000,000 at The University of Texas at El Paso. This amount has been previously appropriated for this purpose. This center is to be located on the northern portion of the campus within the area leased from County of El Paso for the Sun Bowl property and adjacent to larger existing parking areas. With the center at this particular location, and in order to make it easily accessible and to preserve existing parking facilities, it will be necessary to relocate a portion of the Sun Bowl Road to the north and west of its present location.

It is planned that this center will provide approximately 12,000 permanent seats for convocations, intercollegiate basketball and popular attractions and that there will be installed artificial turf on the Sun Bowl playing field.

B. W. Crain, Jr., of Longview, Texas, was appointed Project Architect with authorization to prepare preliminary plans and outline specifications to be brought to the Board of Regents for approval at a later date.

Authorization was also given to purchase a tract of approximately eight (8) acres of undeveloped land immediately adjacent to the north side of the U. T. El Paso campus for not more than the appraised price. Funds are appropriated and available in the U. T. El Paso Land Acquisition Account. Details of this acquisition will be reported in the Minutes of a subsequent meeting.

17. U. T. El Paso - Engineering-Science Complex (Formerly Addition to Physical Science Building and New Engineering Building): Appointment of Committee to Approve Final Plans and Specifications and Authorize Advertisement for Bids. --It was reported that the final plans and specifications for the Engineering-Science Complex (formerly Addition to Physical Science Building and New Engineering Building) at The University of Texas at El Paso had been prepared by the Project Architects, Carroll, Daeuble, DuSang, and Rand and Garland and Hilles. However, these plans covering a building of approximately 250,000 gross square feet at a total estimated project cost of \$14,300,000 have not been reviewed by the officials of U. T. El Paso and the Office of Facilities Planning and Construction.

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Since the final plans and specifications will be reviewed by the appropriate University officials in the near future, a committee, consisting of President Templeton, Director Kristoferson, Deputy Chancellor Walker, Buildings and Grounds Committee Chairman Erwin, and Chairman McNeese, was appointed to approve the final plans and specifications and to authorize the Director of the Office of Facilities Planning and Construction to advertise for bids to be presented to the Board of Regents for consideration at a future meeting.

18. U. T. Permian Basin: Authorization for Additional Parking Spaces Adjacent to the South Campus Building and Appropriation Therefor. --Authorization was granted to the Office of Facilities Planning and Construction to do those things necessary to provide additional parking spaces as required for adequate parking adjacent to the South Campus Building of The University of Texas of the Permian Basin. An appropriation of \$9,000 was made from Tuition Revenue Bonds to finance this project.

It was noted that any existing parking spaces adjacent to the South Campus Building were covered in the appropriation for Initial Site Work for Phase One Site Development at the Regents' July 30, 1971 meeting.

19. U. T. San Antonio - Library-Administration Building: Acceptance of Third Revision of Annual Interest Grant No. 5-6-00635-0. -- The following resolution was adopted:

WHEREAS, At the Regents' meeting on July 30, 1971, Annual Interest Grant No. 5-6-00635-0 was accepted from the U. S. Department of Health, Education and Welfare for the Library-Administration Building at The University of Texas at San Antonio in the annual amount of \$21,460 for a period of 30 years;

WHEREAS, This grant was for the purpose of paying the difference in the actual interest over and above a 3% interest rate on \$1,000,000 of General Tuition Revenue Bonds to be allocated to the construction of this building and was figured on an estimated interest rate of 6.25% on these bonds;

WHEREAS, On December 2, 1971, Board of Regents of The University of Texas System General Tuition Revenue Bonds, Series 1971, were sold and carried an effective interest rate of 5.4635% and on March 16, 1972, Board of Regents of The University of Texas System General Tuition Revenue Bonds, Series 1972, were sold and carried an effective interest rate of 5.2109%;

WHEREAS, On June 9, 1972, a reduction of Annual Interest Grant No. 5-6-00635-0 was accepted by the Board of Regents which reduced the annual amount to \$14,971 for a period of 30.25 years and reduced the interest rate to 5.3358%, and

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WHEREAS, On June 1, 1973, a second revision of Annual Interest Grant No. 5-6-00635-0 was accepted by the Board of Regents which increased the supported loan amount from \$1,000,000 to \$2,918,000 and increased the annual amount from \$14,971 to \$43,685, and

WHEREAS, The Department of Health, Education and Welfare has issued a third revision to this grant to increase the principal amount of supported loan from \$2,918,000 to \$3,344,000 and increase the annual amount from \$43,685 to \$50,063:

BE IT RESOLVED, That the third revision of Annual Interest Grant No. 5-6-00635-0 be accepted.

20. Dallas Health Science Center (Dallas Medical School) - Parking Facility: Report of Committee to Award Contract and Ratification of Award to Kugler-Morris, General Contractors, Inc., Dallas, Texas. --In accordance with authorization given at the Regents' meeting on January 26, 1973, a committee, consisting of President Sprague, Director Kristoferson, Deputy Chancellor Walker, Committee Chairman Erwin, and Board Chairman McNeese, awarded a construction contract for a Parking Facility at the Dallas Medical School of The University of Texas Health Science Center at Dallas to the low bidder, Kugler-Morris, General Contractors, Inc., Dallas, Texas, as follows:

Base Bid	\$1,029,500
Add Alternates:	
No. 2 (Add Elevators No. 1 and No. 2)	45,500
No. 3 (Lower and Repave the existing roadway and rework storm sewers under the street	39,700
No. 4 (Add Landscape and Irrigation System)	<u>55,000</u>
Total Contract Award	<u>\$1,169,700</u>

It was noted that the total project cost of \$1,300,000 which has been previously appropriated is to cover the construction contract award, Architect's fees, parking equipment, and miscellaneous expenses.

The Buildings and Grounds Committee ratified the action of the special committee to award the contract.

The \$70,000 appropriated on September 11, 1972, from Southwestern Medical Foundation for a parking garage for fees and miscellaneous expenses is included in the \$1,300,000 previously appropriated. Thus, the total for this project from gifts is \$500,000.

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21. Dallas Health Science Center (Dallas Medical School) - Physical Plant Expansion: Approval of Final Plans and Specifications and Authorization to Advertise for Bids. -- The final plans and specifications for the expansion of the Physical Plant for the Dallas Medical School at The University of Texas Health Science Center at Dallas were approved. These plans and specifications were prepared by Preston M. Geren, Project Architect, and provide for a building of approximately 8,000 gross square feet at an estimated total project cost of \$326,000, which has been appropriated.

The Director of the Office of Facilities Planning and Construction was authorized subject to final review to advertise for bids on this project to be submitted to the Board of Regents at a later date.

22. Galveston Medical Branch - High Rise Parking Facility: Approval of Final Plans and Specifications and Authorization to Advertise for Bids. -- The final plans and specifications for the High Rise Parking Facility at The University of Texas Medical Branch at Galveston were approved. These plans and specifications were prepared by Louis Lloyd Oliver and Tibor Beerman, Project Architect, and provide for a parking structure to accommodate 400 cars at an estimated total project cost of \$1,000,000, which has been appropriated.

The Director of the Office of Facilities Planning and Construction was authorized subject to final review to advertise for bids on this project to be submitted to the Board of Regents at a later date.

23. Galveston Medical Branch (Galveston Medical School) - Conservation of the Ashbel Smith Building (Old Red): Request for Authorization to Prepare Cost Estimate and Preliminary Plans and Appointment of Project Architect Withdrawn. -- The recommendation with respect to the conservation of the Ashbel Smith Building (Old Red) at the Galveston Medical School of The University of Texas Medical Branch at Galveston was deferred until the September 1973 meeting.

24. Houston Health Science Center (Houston Medical School): Authorization to Participate in Paving Costs of Knight Road, and Appropriation Therefor. -- Approval was granted to Houston Medical School of The University of Texas Health Science Center at Houston to participate in the cost of paving Knight Road. An appropriation of \$45,603.06 from proceeds of Tuition Revenue Bonds was made. Knight Road runs along the west boundary line of a 100 acre tract acquired from the Trustees of the Hermann Hospital Estate which is bounded on the south and east by property owned by the Plaza del Oro Corporation.

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25. Houston Health Science Center (Houston Medical School) - Phase II Building: Award of Contract to Blount Brothers Corporation and Authorization for Revised Total Project Cost and Funding. -- For the construction of the Phase II Building at the Houston Medical School of The University of Texas Health Science Center at Houston, a contract was awarded to the low bidder, Blount Brothers Corporation, Houston, Texas, as follows:

Base Bid	\$ 20,678,000
Deduct Alternate No. 1 (Delete vinyl floor covering in Conference Rooms and Classrooms)	<u>6,000</u>
Total Contract Award	<u>\$ 20,672,000</u>

This project provides for a building of approximately 479,660 gross square feet of finished space and 41,220 gross square feet of shelled space. The total project cost of \$27,847,000 previously authorized was reduced to \$25,847,000.

It was noted that this project will be funded with a Legislative Appropriation of \$6,000,000 and with the remainder from Tuition Revenue Bond proceeds. The \$2,000,000 decrease in the total project cost indicated in the preceding paragraph will be deducted from the Tuition Revenue Bond proceeds previously appropriated for this project.

26. University Cancer Center (M. D. Anderson) - Lutheran Hospital Addition and Outpatient Clinic Expansion: Acceptance of National Cancer Institute Grant No. 1 CO6 CA 14591-01 and Appropriation Thereof. -- Grant No. 1 CO6 CA 14591-01 from the National Cancer Institute in the amount of \$3,548,531 was accepted for the completion of the 11th and 12th floors of the Lutheran Hospital and for construction of the Radiotherapy Addition at The University of Texas System Cancer Center at Houston. On June 1, 1973, it was reported by an oral notification that the National Cancer Institute would award a grant in the amount of \$2,661,398 for this proposed grant, and authorization was given to appropriate said amount to the project. Since the grant was in excess of the oral notification, the additional amount of \$887,133 was likewise appropriated for this project.

Reports Received by Buildings and Grounds Committee

27. U. T. Austin - Brackenridge Tract: Regent Erwin's Review of The History of the Tract. -- At the April 24, 1973, meeting of the Board of Regents, Regent Frank C. Erwin, Jr., presented an oral review of the history of the Brackenridge Tract. At the request of the Board of Regents, Regent Erwin thereafter prepared a written review that was distributed in the Material Supporting the Agenda for this meeting. However, he asked that this review not be incorporated in the July 1973 Minutes since there were two or more items on which he wished to get information. The review, however, will appear in the Minutes of a subsequent meeting. Regent Clark congratulated Committee Chairman Erwin on the very fine statement.

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28. U. T. Dallas, U. T. Permian Basin and U. T. San Antonio: Documents Finalizing the Contracts to Win-Sam, Inc., Dallas, Texas. for Central Energy Plants. --At the Regents' meeting on April 24, 1973, contracts were awarded to Win-Sam, Inc., Dallas, Texas, for the construction and operation of three Central Energy Plants: one each at The University of Texas at Dallas, The University of Texas of the Permian Basin and The University of Texas at San Antonio. The Chairman of the Board of Regents was authorized to execute all documents necessary to finalize the leases, agreements and contract awards with the understanding that each of these documents would be incorporated in the Minutes at a subsequent meeting.

Secretary Thedford reported that Chairman McNeese signed these documents on June 22, 1973, all of which are in each official Contract Set, File No. 400, Office of the Secretary. Below are copies of the signed documents, and exhibits thereto are properly referenced. The original copies of the Pre-purchased Equipment Contracts as exhibits to Exhibit "B" have been appropriately taken from the Regents' files and transferred to Win-Sam, Inc., in accordance with Article V, Section E of each of the Service Agreements.

a. The University of Texas at Dallas

(1) PROPOSAL AND SERVICE AGREEMENT (Pages 76-91)

This AGREEMENT is made and entered into this 31 day of May, 1973, by and between WIN-SAM, INC.

DALLAS, TEXAS, hereinafter sometimes referred to as "Thermal Energy Contractor (TEC)," and THE BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM for the use and benefit of The University of Texas at Dallas, Dallas, Texas, hereinafter sometimes referred to as "Board,"

WITNESSETH:

WHEREAS, Board desires that a central plant be constructed and services from these facilities be provided to supply the chilled water and steam requirements of the buildings constituting The University of Texas at Dallas, Dallas, Texas;

WHEREAS, TEC represents to Board that it has the requisite resources, experience, skill, and personnel properly to serve Board in the capacities specified below, and Board, in reliance on such assurances, is willing to provide a land lease; to authorize the construction, operation and maintenance of a central plant; and is willing to contract to obtain chilled water and steam services from TEC;

NOW, THEREFORE, in consideration of the premises and the mutual covenants set forth, the parties agree as follows:

ARTICLE I -- TERMS OF AGREEMENT

A. Authority. The parties represent and warrant that each has legal power to enter into this Agreement and that each has taken all action necessary to authorize its duly authorized officers to execute this Agreement.

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B. Term. TEC shall have the construction so advanced that the plant shall be substantially complete and placed in operation no later than March 15, 1974, and fully completed by August 1, 1974. TEC shall notify Board in writing at this point as well as at the final completion of the plant. This agreement shall be for a primary term of 25 years, ending September 1, 1999, unless purchase options herein described are exercised. Otherwise, at the end of the primary term, the Lease Agreement shall expire and title to the entire plant and improvements shall revert to and vest in Board.

C. Not a Public Utility. In carrying out this Service Agreement, Board and TEC understand and agree that TEC is not now a "public utility"; that TEC has not and will not dedicate any of its property or facilities herein covered to the public use or hold itself out as willing to serve the public; that TEC has heretofore and will continue to assert its right to serve only customers of its selection through negotiated contracts. Board will at no time during the term of this Agreement urge or press any claim or charge that TEC is or should be a public utility, nor will Board urge any such claim after the termination of this Agreement. If at any time, any regulatory body is found to have the right to regulate the rates charged under this Agreement, the Board shall have the right to purchase all facilities on the leased premises at the value stipulated in Paragraph C, Article IV, and paragraph D, Article IX.

D. Notices. All notices and bills hereunder shall be in writing and shall be deemed to have been delivered when deposited in the United States mail, postage prepaid, if properly addressed as follows:

If to Board: Vice President for Business Affairs  
The University of Texas at Dallas, Dallas, Texas

If to TEC: WIN-SAM, INC., SUITE 2280 FIRST NATIONAL  
BANK BUILDING, DALLAS, TEXAS 75202

Either party may, by written notice to the other, change its address for purposes of notices and bills hereunder.

E. Waiver. No failure by any party hereto to enforce any of its rights hereunder shall constitute a waiver or release of any such right or affect the validity of this Agreement. No waiver of any breach of this Agreement shall be deemed a waiver of any other or subsequent breach.

F. Partial Invalidity. If any provision of this Agreement is held to be invalid and not binding on any party hereto, such invalidity shall not affect the validity or enforceability of the remainder of this Agreement.

## ARTICLE II - PAYMENT TO BOARD

Reimbursement. TEC hereby agrees to reimburse Board for the following costs already expended or committed by Board relative to the design of the plant as well as site preparation and other related costs. This amount is to be paid simultaneously with the execution of this Agreement.

The University of Texas at Dallas . . . \$ 250,000.00

TWO HUNDRED FIFTY THOUSAND DOLLARS

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ARTICLE III - OWNERSHIP

Ownership of Central Plant. Ownership of central plant shall be vested in TEC and Board shall not, by virtue of this Agreement during the term hereof, acquire any interest or right in or to the central plant, central plant building, or any other equipment installed by TEC except as otherwise provided in this Agreement and the Lease Agreement attached hereto.

ARTICLE IV - RESPONSIBILITIES AND RIGHTS OF PARTIES

A. Right of Entry. Board agrees that TEC, its agents, representatives and workmen and all persons designated by TEC shall have free ingress and egress at all times to and from the areas within which the central plant building is located. Board shall designate specific parking areas for the sole use of TEC representatives.

TEC further agrees that its agents, representatives and workmen shall fully comply with all reasonable Board security regulations which may be in effect during the term of this Agreement. TEC shall grant to Board right of entry of its representatives at all times, including the right of observation and inspection of all records of plant operation.

B. Inspection of Plant and Systems. Board will cause a semi-annual inspection to be made under the supervision of the Director, Office of Facilities Planning and Construction, of this central plant. TEC will be expected to maintain the integrity of the plant and its systems to a degree compatible with that of the facilities served from the plant.

A written report of the results of such inspection shall be given to TEC. If deficiencies are reported, TEC shall have a mutually agreed time to correct such deficiencies. Continued failure on the part of TEC to satisfactorily complete said repairs shall constitute a breach of contract on the part of TEC.

C. Right of Purchase. On or after the third anniversary date, the Board shall have the option to purchase the plant for such amounts indicated and terminate this contract on contract anniversary dates as follows; or at other times as stipulated below:

\$ 4,250,000.00	on third anniversary date
\$ 3,868,000.00	on fifth anniversary date
\$ 3,066,000.00	on tenth anniversary date
\$ 2,427,000.00	on fifteenth anniversary date
\$ 1,475,000.00	on twentieth anniversary date

At the Board's option, Board may purchase the plant at any time after the third anniversary date on the basis of a straight line pro-rata of elapsed days. This shall be computed using the difference in value between the preceding and the succeeding dates.

D. Notice of Intent to Purchase by Board shall precede purchase date by at least six months.

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E. Right of Audit. TEC agrees that Board shall have the right to audit any and all records of TEC at any time Board may designate. TEC agrees to make available to Board any and all records so requested. The cost of said audit shall be borne by Board.

#### ARTICLE V - CONSTRUCTION

A. Commencement of Construction; Ground Lease. TEC agrees to commence construction of the central plant upon the leased lands of the Board, described herein, within ten days from the date of completion of this Agreement and to continue in an orderly manner to assure substantial completion no later than March 15, 1974. Should TEC permanently abandon the construction of said plant and system, title to all improvements shall vest in Board.

As a part of the consideration of this Agreement, Board agrees to lease to TEC a tract of land within the site and at the location described in Exhibit "C" attached hereto, upon which TEC will erect the central plant building and install the central plant equipment. Board also agrees to provide easements for necessary utilities to the plant. Board further agrees to provide sufficient construction work area as defined in Exhibit "D". The parties hereby agree to execute a Lease Agreement, a copy of which is attached hereto as Exhibit "C", reflecting the terms and conditions under which said land is to be used.

B. Construction of Plant. TEC hereby agrees to construct a central plant to provide chilled water and steam to those buildings constituting The University of Texas at Dallas, Dallas, Texas, described in Exhibit "A" attached hereto and made a part of this Agreement. During the life of this agreement, the Board agrees not to intentionally disconnect from the central energy plant any building enumerated in Exhibit "A". TEC agrees to provide chilled water and steam on a continuous basis in accordance with Board's load requirements up to the capacity of TEC's plant, such capacity being in accordance with plans and specifications defined below.

The central energy plant shall be constructed in strict accordance with the Plans, Specifications and any Addenda thereto, as prepared for Board by B. Segall, Jr. & Associates, Consulting Engineers, Austin, Texas. Copies of these documents, signed by both parties, shall be a part of this agreement as Exhibit "D".

Before any construction is begun or any commitments made as to materials or labor for the central plant, TEC shall submit a 100% Performance and Payment Bond as shown in Exhibit "F", guaranteeing completion of construction in sufficient time to commence providing full services from the plant as stipulated in Article I B.

C. Changes in the Work. TEC stipulates that competent personnel have carefully examined the site and the construction documents. TEC warrants that the site conditions and documents covering the design of the central plant are acceptable and that any changes in the work proposed by TEC, and approved by the Board, will result in no additional cost to or claims against Board. Changes in construction involving any deviation from the approved plans and specifications, either in scope of work or quality of construction, shall be done only with written approval of Board or its duly authorized representative.

Should Board or its representatives require any changes from approved plans involving increased or decreased costs to TEC, this shall constitute a basis of negotiation for an equitable adjustment in the payment for services rates.

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D. Board Representatives. TEC agrees that during all phases of construction up to and including final acceptance by Board, Board representatives shall have free access to the work for purposes of inspection and supervision.

E. Assignment of Prepurchased Equipment Items. TEC hereby agrees to accept from Board assignment of contracts for prepurchased mechanical equipment items which Board has awarded previously. Contracts cover (2) water chilling refrigeration systems, (2) packaged water tube steam boilers, (1) spray type deaerating feedwater heater, (6) chilled water and condenser water pumps and (1) cooling tower. Contracts between Board and the successful equipment vendors, copies of which are attached as Exhibits "B-1-A" through "B-1-E", will be assigned to the TEC, including one change order thereto.

TEC further agrees to coordinate and administer the execution of these contracts in strict accordance with the prepurchase specifications, a copy of which is attached hereto as Exhibit "B-2". Board will provide to TEC complete copies of all submittal data, approved by Board representatives.

All payments to vendors for prepurchased equipment shall be made by TEC in accordance with the terms of the assigned contracts and Board shall be completely absolved of any further liability for subject contracts upon signing of this Agreement and the assignment form included in Exhibit "B" by TEC.

Claims, if any, arising from TEC's inability to receive prepurchased equipment by the dates established in the contracts shall be the full responsibility of TEC.

F. Design Criteria. The central plant is designed and shall be constructed to provide desired chilled water and steam services to buildings constituting The University of Texas at Dallas, Dallas, Texas.

As designed, the central plant has the capability of cooling 4,500 gallons per minute of circulating water from 54° F to 38° F when the outdoor wet bulb temperature is 78° F. The design provides for two chillers to be installed with space and provision to accommodate two additional chillers that will increase the plant cooling capability to 13,500 gpm of circulating water from 54° F to 38° F with an outdoor wet bulb temperature of 78° F. Sufficient standby pumping capacity is included to afford full plant output with any single chilled water pump out of service. The selected chilled water pumps are designed to operate at pressure differentials sufficient to overcome distribution system losses. Plant arrangement and design is suitable for future plant expansions to approximately 9,000 tons capacity without enlarging the building, unless Alternate #1 is accepted.

The central plant design provides for two boilers, each with a capability of delivering 60,000 pounds per hour of 125 psi saturated steam of 99% quality to the delivery point. Superheating will be acceptable at delivery points up to 100° F above saturation temperature.

#### ARTICLE VI - QUANTITY AND QUALITY OF SERVICES

A. Quantity and Quality of Services. Beginning no later than March 15, 1974, chilled water shall be continuously available to the delivery points within the temperature limits of 38° F to 40° F, within pressure limits of 125 psi to 150 psi, and at circulation rates necessary for compatibility with

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building systems designed for 44° F supply water and 10° F to 12° F temperature rise at full load. Chilled water system static pressure will be maintained high enough (up to 85 psig) to prevent draining of lines in highest building in event of temporary loss of pumping pressure. Chilled water return mains shall operate at pressures approximately 20 psig below supply mains. Circulation within buildings shall be the responsibility of Board or its representatives.

Beginning no later than March 15, 1974, steam shall be available continuously at the delivery points between the limits of 125 psig to 150 psig. Superheating will be accepted up to 100° F above saturation temperature.

Water treatment will be maintained for control of scale, corrosion and biological growth. Water treating procedures and records of results shall be submitted monthly to the Director of Physical Plant for review and evaluation.

Water quality shall be strictly maintained by TEC within the prescribed ranges established in the construction document specifications, unless variations are agreed to by both parties and are directed in writing by the Director of Physical Plant. TEC shall take immediate action to correct unsuitable quality conditions when instructed by the Director of Physical Plant. Continued failure on the part of TEC to correct water quality shall constitute a breach of contract.

B. Return of Chilled Water and Steam Condensate. Board shall be responsible for the return to the circulation system of chilled water and condensate from the steam as follows:

Board shall endeavor to return all chilled water delivered.

Board shall endeavor to return steam condensate at a pressure sufficient to enter TEC return lines but not in excess of 50 psig. TEC's return lines shall be maintained and operated so as to permit such entry under all usual operating conditions.

The necessary mixing valves, control systems, pumps, and regulators in the circulation system of the buildings served will be installed by the Board at its sole expense. The design of such equipment shall provide for the automatic return of chilled water and steam condensate within the prescribed limits.

If Board shall fail to return chilled water or steam condensate as herein provided, it shall pay a charge of \$1.25 per thousand gallons for each thousand gallons of steam condensate or chilled water in excess of a total of thirty thousand gallons, not returned to TEC during any month.

C. Metering Equipment; Point of Delivery. Equipment for measuring and metering the chilled water, steam, and steam condensate delivered and returned shall be located in the central plant and shall be accurate within plus or minus 2% at all normal conditions of flow and temperature differential. Metering system shall maintain an hourly typed record of total thermal loads as well as supply and return flow temperature and pressure.

Delivery point(s) shall be as shown on the plans, attached hereto as part of Exhibit "D".

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D. Verification of Metering. Board shall have access at all reasonable times to metering equipment and all instruments used in the measurement of the contract units of chilled water, steam, and steam condensate, but the reading, adjustment and maintenance thereof shall be performed only by representatives of TEC. Upon request of Board, TEC shall submit to Board its records and readings of such meters and measuring equipment, and a representative of Board shall be present when periodic tests or adjustments are made of such meters and measuring equipment; and TEC shall give ten days' notice of its intention to make such tests or adjustments. Board, through a representative, shall have the right at reasonable times to test the accuracy of such meters and measuring equipment, and if upon any test of the meters or measuring equipment by Board or by TEC any of such meters or measuring equipment is found to be inaccurate by more than 2%, such meter or measuring device shall be promptly corrected, and payments based upon such inaccurate registration shall be corrected for the period during which said inaccuracy is known to have existed, but in case such period is not known or agreed upon, then for a period extending back for one-half of the elapsed time since the previous test of the accuracy of such meter or measuring equipment. Adequate plant records will be maintained so that calculations of energy usage by plant records may be used to verify metering or for billing purposes.

#### ARTICLE VII - PAYMENT FOR SERVICES

A. Demand Charge: Board shall pay TEC a monthly demand charge which represents payment for relatively fixed costs (capital recovery, interest, profit, taxes, labor, insurance, etc.) as follows:

\$ 52,584.00 per month

\$ 324.00 adjustment to the monthly demand charge for each full three percent change in the average cost of labor prevailing for manufacturing employees in the Dallas labor market for the month of December of each contract year from the average cost of labor prevailing for manufacturing employees in the Dallas labor market for December, 1973. The average cost of labor prevailing for manufacturing employees in the Dallas labor market shall be determined by reference to and in conformity with the index of Gross Average Hours and Earnings in the Dallas Metropolitan Area published by the Texas Employment Commission in cooperation with the United States Bureau of Labor Statistics.

B. Rate for Chilled Water: Board shall pay TEC a commodity charge which represents payment for variable costs (fuel, electricity, water, maintenance, repair, supplies, etc.) for producing, furnishing and circulating chilled water, as follows:

\$ 0.01083 per ton hour for all ton hours per month.

One ton hour is defined as 12,000 BTU of energy for a period of one hour.

Article VIA notwithstanding, payment for services shall begin only after delivery of chilled water has been directed in writing by the Board. In no event shall this payment for services be delayed longer than 90 days after the date specified in Article VIA, provided TEC is ready to deliver said services. Chilled water rates will be increased or, as the case may be, decreased from time to time as follows:

- (1) For the refrigeration produced by using steam turbine driven chillers, \$ 0.0001616 per ton hour for each full cent by which the average annual

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cost to TEC per one thousand cubic feet of the primary fuel utilized in the central plant systems varies from 30 cents per one thousand cubic feet.

- (2) The electrical cost adjustment shall be \$0.000291 per ton hour for each full one-tenth cent change in the cost of electrical energy, including demand, from \$ .01 per kilowatt hour on an annual basis.
- (3) \$0.0000842 per ton hour for each full two cents by which the average annual cost to TEC per thousand gallons of raw water utilized in the central plant system varies from 40 cents per thousand gallons of water.
- (4) The maintenance and supplies adjustment shall be \$0.000021 per ton hour for each full three percent change in the cost of labor prevailing for manufacturing employees in the Dallas labor market for the month of December of each contract year from the average cost of labor prevailing for manufacturing employees in the Dallas labor market for December 1973. The average cost of labor prevailing for manufacturing employees in the Dallas labor market shall be determined by reference to and in conformity with the index of Gross Average Hours and Earnings in the Dallas Metropolitan Area published by the Texas Employment Commission in cooperation with the United States Bureau of Labor Statistics.

C. Rates for Steam. Board shall pay TEC a commodity charge which represents payment for variable costs for producing and furnishing steam to the delivery point, subject to adjustment as herein provided, as follows:

\$ 0.51 per million BTU for all million BTU per month.

Article VIA notwithstanding, payment for services shall begin only after delivery of steam has been directed in writing by the Board. In no event shall this payment for services be delayed longer than 90 days after the date specified in Article VIA, provided TEC is ready to deliver said services.

Steam rates will be increased or, as the case may be, decreased from time to time as follows:

- (1) \$ 0.01522 per million BTU for each full cent by which the average annual cost to TEC per one thousand cubic feet of the primary fuel utilized in the central plant system allocated to the production of steam for sale varies from 30 cents per one thousand cubic feet.
- (2) \$ 0.00391 per million BTU for each full one-tenth cent by which the average annual cost to TEC per KWH of electrical energy, including demand, varies from \$ .01 per KWH on an annual basis.
- (3) \$ 0.00026 per million BTU for each full two cents by which the average annual cost to TEC per thousand gallons of raw water utilized in the central plant system varies from \$ .40 per thousand gallons of water.

D. Tax Adjustment. An adjustment shall be made to reflect a change in taxes, other than income taxes, occasioned by a change in evaluation, percent assessment, change in tax rate or new taxes. Such adjustment shall be from the base of the first tax year of record under this Agreement. The documented annual increase shall be added to the monthly statement as twelve equal charges.

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E. Notice of Adjustment. When proposing any adjustment to the rates as provided for in this Article, TEC shall give written notice to Board of its computation of such adjustment not later than April 30 of that year. The adjustment shall become effective commencing with the beginning of the next succeeding fiscal year of the Board, which begins September 1.

F. Statements for Charges; Payment. Statements shall be rendered monthly by TEC to Board not later than the fifth business day of each month for the prior month's service, and shall be payable on or before thirty days thereafter.

G. Renegotiation of Rate Schedules. The above rate schedules are constructed on the premise that natural gas is the primary fuel and that fuel oil is the secondary fuel. It is agreed that secondary fuel will be used only for test purposes or during valid interruptions of primary fuel, as outlined in Article IXB, below. In the event that the use of secondary fuel (fuel oil) exceeds 15% of the annual input BTU requirements to the central energy plant for a billing year (April 1 to March 31), the Board will entertain renegotiation of the rates for chilled water and steam. It is agreed that the input measurement shall be calculated on the basis of 1,000 BTU/CF for natural gas consumed and a notarized heat value for fuel oil consumed. Furthermore, in the event that present primary and secondary fuels become unavailable or economically undesirable, the Board will entertain redesign and conversion of the central energy plant and renegotiation of the rates for chilled water and steam.

#### ARTICLE VIII - OPERATION, MAINTENANCE AND REPAIR

A. Pollution. TEC agrees to operate the plant in full compliance with all ordinances related to environmental pollution. Board shall have no liability for claims arising from non-compliance by TEC.

B. Secondary Fuel. TEC agrees to maintain services through the use of secondary fuel at all times when the supply of primary fuel is interrupted. Furthermore, TEC shall operate each boiler for an equal period on secondary fuel for the first week of October of each year.

C. Maintenance and Repairs. TEC shall maintain and repair building, systems and equipment. If any part or all of such facilities shall at any time be destroyed or damaged so that the production and circulation of chilled water and steam is not adequate to maintain the standards herein contained, TEC shall proceed promptly to rebuild, replace and/or repair the same. TEC shall have the right, upon reasonable notice to the Director of Physical Plant, of Board, and with the approval of the Director of Physical Plant, to interrupt the supply of chilled water and steam to Board's facilities for the purposes of making any necessary repairs; but TEC shall in each instance accomplish such work at such times and in such manner as to cause as little interruption or inconvenience to the occupants of the buildings as is reasonably possible and shall restore its facilities to operation as quickly as shall be reasonably possible under the circumstances.

D. Equipment Under Control of Board. TEC will not be responsible for insufficient cooling or heating within any building attributable to defects or inadequacy of air handling, heat exchange or other related equipment not under the exclusive control of TEC.

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E. Force Majeure. TEC will not be responsible for any interruptions of the delivery of chilled water or steam or for the performance of any of the duties assumed hereunder by TEC due to strikes, fires, or governmental interference by order or regulation of or by any governmental authority, or acts of God, but TEC will at all times exercise the highest degree of diligence to have the central plant system furnish an uninterrupted supply of chilled water and steam.

F. Exterior Maintenance. Board shall cause the exterior areas adjacent to plant to be maintained by Board representatives, including landscaping, irrigation and parking areas. TEC shall agree to cause no nuisance in the form of exterior storage or other unsightly acts on property adjacent to the plant building. Should such occur, Board reserves the right to charge the cost of correcting same to TEC.

#### ARTICLE IX - EXPANSION OF PLANT

A. Design of Additional Facilities. At the discretion of Board, expansion plans for additional facilities shall be prepared by Board, after consultation with TEC with respect to design criteria. Major expansion may be in increments or directly to full design capacity of the plant. TEC agrees to construct such additional facilities in strict accordance with documents provided by Board and to have the stipulated additional capacity available when directed by Board. "Additional facilities," as used above, includes not only expansion of plant capacity but also plant conversions caused by changing from present fuels or caused by drastic changes in government regulations such as environmental protection laws.

B. Physical Completion of Expansion. TEC shall notify Board in writing when the Board-specified expansion is to be complete, to include the date TEC requests Board acceptance of completion, and the date the expanded capacity shall be ready to provide the services required. Board shall have seven (7) days to accept completion or notify TEC of deficiencies in the additional capacity. Board shall accept such completion or provide notification of deficiencies in writing. TEC agrees to correct Board enumerated deficiencies without additional cost to Board.

C. Payment of Expanded Services. Upon completion and acceptance by the Board, payment for expanded facilities for furnishing additional chilled water and steam services will be determined. Unless changes in the primary source of energy are involved, basic rates in effect at the time of expansion shall remain in effect. At the time of expansion and at its discretion, the Board will choose one of the three following methods to compensate the TEC for the expansion:

(1) A monthly payment for recovery of added capital investment, to be added to the monthly demand charge and to be calculated as follows:

$$\frac{(CI}{T} + AI + Ins + \%RI)}{12}$$

CI = Documented actual added capital investment for expansion, in dollars

T = Remaining term of agreement, in years

AI = Annual interest cost, based on unamortized CI, in dollars

Ins. = Annual increased insurance premium, based on added CI, in dollars

%RI = Annual return on added CI, in dollars

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TEC agrees that the interest rate related to the cost of financing of added capital investment shall be approved by the Board. Furthermore, TEC agrees that the factor defined above as %RI shall be 3.5 %.

(2) A negotiated lump sum payment for the cost of the added capital improvements, including out-of-pocket costs for engineering and design, construction supervision and inspection, financing, and administration which may have been incurred by the TEC.

(3) Renegotiation of the Service Agreement to include one or more of the following items: the term of the contract, the demand charge and the commodity rates.

D. Right of Purchase After Expansion. Board agrees that in the event the Right of Purchase is exercised subsequent to an expansion, TEC shall be paid for the expanded plant as follows: the modified purchase price shall be the base sum as stipulated in Article IVC - Right of Purchase, plus the unrecovered balance of the adjusted capital investment.

#### ARTICLE X - INDEMNIFICATION AND INSURANCE

A. Indemnification and Insurance. TEC will indemnify and hold Board harmless from any loss, cost, damage or expense proximately resulting from the negligent performance by it of its obligations hereunder or from its violation of the covenants made by it hereunder. TEC shall be promptly notified in writing of any claim or demand for payment made on account of which Board claims that it is entitled to indemnification under this Agreement; and TEC shall have a reasonable opportunity and the right to contest, at its own expense, any such claim or demand asserted against Board.

At all times during the term of this Agreement, TEC shall maintain in full force and effect the following insurance coverage and furnish Board continuing evidence of such coverage:

- (1) Public Liability insurance in an amount not less than \$100,000 per person and \$500,000 for each occurrence.
- (2) Workmen's Compensation in accordance with applicable laws.
- (3) Property Damage Liability insurance, in an amount not less than \$100,000/\$500,000.
- (4) Property Damage upon the building, contents and additions thereto to the extent of the highest insurable value thereof, including coverage against damage by fire, lightning, windstorm, hurricane, hail, explosion, riot, civil commotion, smoke, aircraft, and land vehicles. Coverage shall be based on an annual revaluation and provide for full replacement or repair without regard to depreciation.

#### ARTICLE XI - ENCUMBRANCES AND INDEBTEDNESS

A. Encumbrances and Removal of Property. Except for financing of the initial construction and equipment for the facilities described in this Agreement, TEC agrees not to further encumber any property located on the land described in Exhibit "C" without approval of Board; and TEC further agrees not to remove any of said property without approval of Board.

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B. Equity and Financing. TEC covenants that it shall maintain a clear equity in the initial total construction cost for the facilities described of not less than 20%. TEC shall provide the Board, prior to final execution of this Agreement by the successful bidder, a detailed cost estimate for the entire initial construction phase. Further, TEC covenants that indebtedness of this project will be retired by substantially level annual principal and interest payments in a manner acceptable to the Board.

C. No Indebtedness Created. This Agreement shall not be construed as creating an indebtedness against the State of Texas, and all obligations of the Board hereunder are subject to the availability of appropriations by the Legislature of the State of Texas; provided, however, that the failure by Board to make payments to TEC as contemplated by this Agreement shall relieve TEC of the obligation to perform services hereunder until such failure is corrected, but such failure shall not otherwise terminate the obligations of the parties hereunder.

D. Operation, Maintenance and Repair Costs. TEC shall pay, prior to delinquency, all valid charges related to operation, maintenance and repair of plant.

#### ARTICLE XII - TERMINATION OF CONTRACT

A. Inability to Perform. In the event TEC becomes unable to continue the performance of services as herein provided because of bankruptcy, insolvency, or for any reasons other than those outlined in Article VIII E of this Agreement, Board may either appoint a successor operator or itself to take over the operation of such plant. If TEC is unable to perform, this Agreement will terminate and ownership shall vest in Board, provided, however, Board shall pay current operating and maintenance expenses and retire primary indebtedness from any surplus monies that is the result of plant revenues being in excess of net actual operating and maintenance expense. This obligation to retire primary indebtedness would be secondary to any capital requirement necessary to restore facilities to reasonable operational order, except where this expense is recovered from insurance in effect. The obligation to apply excess monies to the retirement of the primary indebtedness shall only terminate upon full payment of the debt, provided the initial indebtedness of TEC shall not provide for a period of payments in excess of 25 years. However, subject to the foregoing, if at the termination date of the Lease, any portion of the primary indebtedness remains unpaid, the Board shall continue to apply such surplus monies to the payment of such primary indebtedness, until such primary indebtedness and interest thereon, is fully paid. Board, while it is operating such plant, shall have the option to prepay the unpaid primary indebtedness, without penalty.

Plant revenues as used in this paragraph are defined as the revenues which would have been payable to TEC under this Agreement had TEC continued to own and operate the facilities herein described. Primary Indebtedness as referred to above is defined as not more than 80% of capital cost of facilities as reported in the TEC's letter of transmittal, less any payments of principal. If termination takes place after expansion, the unrecovered balance of the additional capital investment, as determined in Article IX C., may be added to the above defined primary indebtedness.

In the event that Board shall allege that TEC has defaulted or is suffering a default to exist in its obligations hereunder, Board shall, by Certified or

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Registered Mail, serve a 10-day notice upon TEC and the holder of the primary indebtedness (Mortgagee) specifying the default or defaults it has alleged to have occurred.

If such default or defaults are cured within the period of said notice, such notice of default shall be of no further force and effect. If such default or defaults are unable, by their nature to be cured within said 10-day period, the notice of default shall likewise be of no further force or effect if TEC or the Mortgagee commences to cure such default or defaults within the 10-day notice period and continues with the curing of such default or defaults, with due diligence.

If such default or defaults are cured or steps are commenced to cure such default or defaults as hereinbefore provided the right granted hereunder to Board to take over the operation of the Plant, shall be of no force and effect.

At any time during the term of this Agreement, the Mortgagee, until the payment in full of the primary indebtedness, shall have the right to succeed to the interest of TEC under this Agreement. If the Mortgagee does so succeed to the interest of TEC, it may appoint a successor operator of such plant. Such successor operator must be approved by the Board which approval shall not be unreasonably withheld.

B. Breach of Contract. Should TEC commit a breach of contract, as hereinbefore defined, and after 15 days written notice to TEC and TEC's lender, Board may appoint a successor operator or itself take over the operation of the plant, exactly as stipulated in paragraph A above.

C. Determination of Restoration Cost. TEC and Board agree that any actual restoration cost to restore the plant to reasonable operational order shall be deducted from the final payment due TEC.

#### ARTICLE XIII - SUCCESSOR AND ASSIGNS

Successor and Assigns. This Agreement shall be binding upon the successors and assigns of the parties hereto. TEC may not sell or assign this Agreement, without prior written consent of Board, which consent shall not be unreasonably withheld.

#### ARTICLE XIV - AMENDMENTS

Amendments. This written Agreement constitutes the whole agreement between the parties hereto, and all prior or contemporaneous commitments or understandings are merged herein.

This Agreement may be modified or amended only by an agreement in writing by each of the parties hereto.

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ARTICLE XV - EXHIBITS

Exhibits constituting an integral part of this agreement are as follows:

- \* Exhibit A - List of Buildings Served and Estimated Chilled Water and Steam Requirements
- \*\* Exhibit B - Form of Assignment of Contracts
  - \*\*\* - Prepurchased Equipment Contracts and Specifications-
    - \*\*\* B-1-A - Water Chilling Refrigeration Systems
    - \*\*\* B-1-B - Packaged Water Tube Steam Boilers [Incl. Change Order #1]
    - \*\*\* B-1-C - Spray Type Deaerating Feedwater Heater
    - \*\*\* B-1-D - Chilled Water and Condenser Water Pumps
    - \*\*\* B-1-E - Cooling Towers
    - \*\*\* B-2 - Specifications for Mechanical Equipment for Three Central Plants at The University of Texas at San Antonio, The University of Texas of the Permian Basin, and The University of Texas at Dallas
- \*\*\* Exhibit C - Lease Agreement and Legal Description
- \*\*\* Exhibit D - Construction Plans (Shts. 1-18) and Specifications (all dated Sept., 1972) including Addenda 1, 2, 3, Less Alternate #1.
- \*\*\* Exhibit E - Contract Administration and Relation of Parties During Construction
- \*\*\* Exhibit F - Payment Bond and Performance Bond

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\* Page 91

\*\* Page 92

\*\*\* In Contract Set

\*\*\*\* Page 94

\*\*\*\*\* Filed in Office of Facilities Planning and Construction

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered as of the date and year first above written.

(Corporate Seal)

WIN-SAM, INC  
(Thermal Energy Contractor)

ATTEST:

Johnson, M. J.  
att. Sec.

By M. J. Smith  
Vice-president  
Title

ATTEST:

BOARD OF REGENTS OF THE  
UNIVERSITY OF TEXAS SYSTEM

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Chairman

APPROVED AS TO LEGAL FORM:

APPROVED AS TO <sup>Content:</sup> ~~FORM:~~

Burmes Walchop  
University Attorney

E. W. Walker  
Deputy Chancellor for Administration

APPROVED AS TO  
TECHNICAL FORM:

R. A. Kustof  
Director, Office of Facilities  
Planning and Construction

ALL.

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EXHIBIT "A"

## THE UNIVERSITY OF TEXAS AT DALLAS

Building	Tons Cooling	Lbs. Steam Heating	Square Feet
Phase II:			
Social and Behavioral Science	420	5,060#/hr	126,500
Liberal Arts	501	8,110#/hr	129,900
Library- Administration	890	9,400#/hr	204,000
Physical Instruction	110	2,500#/hr	13,900
Future:			
Natatorium	60	1,800	9,900
Gymnasium	90	3,000	16,800
Phase I and Existing:			
West Annex (Science Building)	370	4,100	75,000
North Annex	104	1,400	22,000
Founders	600	10,500	135,000
Existing Annex	26	500	9,000
	Maximum Total	41,570	715,300
	Estimated peak load with diversity	37,000	

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(2) ASSIGNMENT (Pages 92-93 )EXHIBIT "B"

This Agreement between the Board of Regents of The University of Texas System, hereinafter called "ASSIGNOR," and WIN - SAM, INC.

\_\_\_\_\_, hereinafter called "ASSIGNEE," WITNESSETH:

WHEREAS, on the 10th of June, 1972, ASSIGNOR entered into those certain agreements, dated June 10, 1972, with the below listed firms or companies, for the delivery and erection of the below specified equipment for the Central Energy Plant, The University of Texas at Dallas \_\_\_\_\_:

<u>Contractor</u>	<u>Equipment Specified</u>
York Division, Borg-Warner Corporation, Houston, Texas	Base Bid A: Two Water Chilling Refrigeration Systems
Erie City Energy Division Zurn Industries, Inc., Erie, Pennsylvania	Base Bid B: Two Packaged Water Tube Steam Boilers
Chicago Heater Company, Inc., Mineola, New York	Base Bid C: One Spray Type Deaerating Feedwater Heaters
Fluid Dynamics Corporation, Dallas, Texas	Base Bid D: Six Chilled Water and Condenser Water Pumps
The Marley Company, Mission, Kansas	Base Bid E: One Cooling Tower

WHEREAS, ASSIGNOR is desirous of assigning its rights, title and interest in the above cited contracts to WIN - SAM, INC. \_\_\_\_\_ for the purchase, delivery and erection of such equipment therein specified;

NOW, THEREFORE, know all men by these presents that the ASSIGNOR for and in consideration of the sum of Ten (\$10.00) Dollars and other good and valuable consideration has sold, assigned and transferred and by these presents does sell, assign and transfer unto WIN - SAM, INC. \_\_\_\_\_, all rights, title and interest in the equipment specified to be delivered and erected, all of which is more specifically described in those certain

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contracts set out above copies of which are attached hereto and which are incorporated and made a part hereof, and ASSIGNEE hereby assumes all obligations and liabilities in connection with the said contracts.

EXECUTED this 31 day of May, 1973.

ATTEST:

BOARD OF REGENTS OF  
THE UNIVERSITY OF TEXAS SYSTEM

\_\_\_\_\_  
Secretary

By \_\_\_\_\_  
Chairman

ATTEST:

John M. Mc  
Asst. Sec.

ASSIGNOR

WIN-SAM, INC.  
By J. M. Smith  
Vice-president

APPROVED AS TO LEGAL FORM:

Bonnie Walden  
University Attorney

ASSIGNEE

APPROVED AS TO <sup>CONTENT:</sup> ~~FORM:~~

Cliff Walker  
Deputy Chancellor for Administration

APPROVED AS TO  
TECHNICAL FORM:

R. S. Kristof  
Director, Office of Facilities  
Planning and Construction

ACL

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(3) LEASE AGREEMENT (Pages 94-98)EXHIBIT "C"

THE STATE OF TEXAS |

COUNTY OF |

This AGREEMENT made and entered into this 31 day of May, 1973, by and between the BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM, herein called "Lessor," and WIN - SAM, INC., a Texas Corporation, with its principal place of business in Dallas, Texas, herein called "Lessee,"

## WITNESSETH:

For and in consideration of the construction, operation, and maintenance of a central plant, as described in the Service Agreement, which shall revert to Lessor at the expiration of the term of this Lease as herein provided, the covenants and agreements to be kept and performed by Lessee pursuant to that certain Service Agreement of even date herewith by and between Lessee and Lessor to which reference is here made, and the payment by Lessee of Ten Dollars (\$10.00) per annum, Lessor does hereby lease unto Lessee for a term commencing on the date hereof and terminating on September 1, 1999, or such other date as may be determined under provisions of the Service Agreement whereby said Service Agreement is terminated, the tract of land described in Exhibit "D" of the Service Agreement and by reference made a part of this Lease Agreement, <sup>\*</sup>Essentially this tract shall consist of the land covered by the Plant Building, plus the land covered by the Service Yard.

The following terms and conditions as to the use of the leased premises hereby granted are expressly agreed to by and between Lessee and Lessor:

1. Lessee agrees to construct a central chilled water and steam plant in accordance with the terms and conditions of the Service Agreement. Lessor agrees to furnish Lessee the necessary rights of ingress and egress from the central plant site and parking in accordance with the site plan, Exhibit "D". Lessor further agrees and hereby grants to Lessee the right to use the leased premises for the operation and maintenance of the central plant. Such operation and maintenance by Lessee shall not in any manner restrict or interfere with any proposed new building which may be constructed by Lessor on said premises.
2. It is agreed and understood that title to the central plant, including all fixed and movable property, such as compressors, boilers, cooling towers, switch gear, chillers, pumps and internal piping and all other improvements and equipment, shall vest in Lessor upon the expiration or termination of this Lease.

\* AND EXHIBIT C-4

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- 3. Lessee shall not commit or suffer to be committed waste upon said premises, and shall keep said premises and the improvements and equipment thereon in good order and repair and in clean, safe and healthful condition, and shall comply with all state, federal and local laws, rules and regulations with regard to the use and conditions of the demised premises and improvements and equipment thereon.
- 4. It is agreed and understood that Lessor is not to be liable for any damages or injuries to any person or persons or property on account of the occupancy, use or improvements placed on said premises by the Lessee, its successors or assigns, and Lessee shall indemnify and hold harmless Lessor from any such liability in the manner and to the extent provided in the Service Agreement.
- 5. Lessee shall pay, prior to delinquency, all valid charges connected with the operation of said premises, including all taxes, assessments and charges, general and specific, that may be levied or assessed against Lessee by reason of its use of said premises and improvements and equipment situated thereon.
- 6. This lease may be transferred or assigned by Lessee only in the event of an assignment or transfer of the Service Agreement after receipt of approval thereof from Lessor.

EXECUTED by the parties on the day and year first above written.

ATTEST:

BOARD OF REGENTS OF  
THE UNIVERSITY OF TEXAS SYSTEM

\_\_\_\_\_  
Secretary

By \_\_\_\_\_  
Chairman  
**LESSOR**

ATTEST:

~~LESSOR~~ WIN-SAM, INC.

John M. [Signature]  
act. Sec.

By [Signature]  
Vice-president

APPROVED AS TO LEGAL FORM:

LESSEE ~~COMMENT:~~  
APPROVED AS TO ~~FORM:~~

[Signature]  
University Attorney

[Signature]  
Deputy Chancellor for Administration

APPROVED AS TO  
TECHNICAL FORM:

[Signature]  
Director, Office of Facilities  
Planning and Construction  
A.C.C.

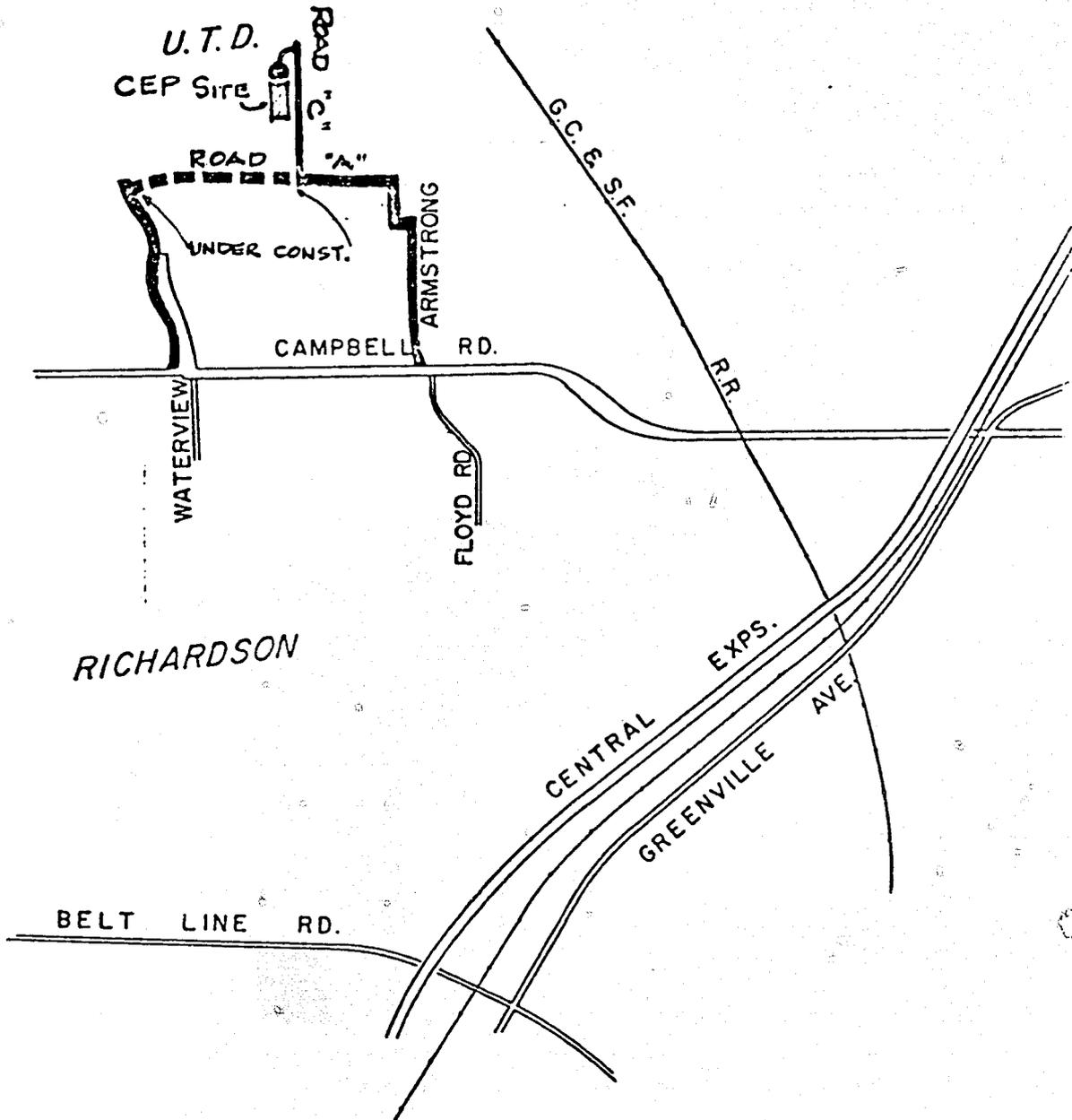
7-27-73

NOTES FOR A 0.4303 ACRE BUILDING SITE  
ON THE 608 ACRE SITE OF THE UNIVERSITY OF  
TEXAS AT DALLAS, CITIES OF RENNER AND RICHARDSON,  
COLLIN COUNTY TEXAS, FOR THE CENTRAL ENERGY PLANT  
BUILDING AND ATTACHED SERVICE YARD

- BEGINNING: At a point approximately 135.00 feet north and 30.00 feet west of the northwest corner of the Berkner Science Building find a point identified as 10,380 N/10,090 E on site by concrete marker;
- THENCE: West a distance of 40.00 feet to a point identified as 10,380 N/10,050 E, point of beginning;
- THENCE: South a distance of 60.00 feet along the east property line of the Central Energy Plant and attached Service Yard to a point identified as 10,320 N/10,050 E;
- THENCE: East a distance of 94.00 feet along the south property line of the Central Energy Plant and attached Service Yard to a point identified as 10,320 N/9,956 E;
- THENCE: North a distance of 209.00 feet along the west property line of the Central Energy Plant and attached Service Yard to a point identified as 10,529 N/9,956 E;
- THENCE: East a distance of 94.00 feet along the north property line of the Central Energy Plant and attached Service Yard to a point identified as 10,529 N/10,050 E;
- THENCE: South a distance of 149.00 feet along the east property line of the Central Energy Plant and attached Service Yard to the point identified as 10,380 N/10,050 E, containing 0.4303 acres of land, more or less.

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PROJECT LOCATION MAP

SCALE: 1" = 400'

Permanent access to Central Energy Plant may be made from Campbell Road (a city street) and Armstrong Parkway, Road A and Road C, Campus roads open to the public.

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7-27-73

b. The University of Texas of the Permian Basin

(1) PROPOSAL AND SERVICE AGREEMENT (Pages 99-113 )

This AGREEMENT is made and entered into this 31 day of May  
 \_\_\_\_\_, 1973, by and between WIN - SAM, INC.

DALLAS, TEXAS, hereinafter sometimes referred to as "Thermal Energy Contractor (TEC)," and THE BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM for the use and benefit of THE University of Texas of the Permian Basin, Odessa, Texas, hereinafter sometimes referred to as "Board,"

WITNESSETH:

WHEREAS, Board desires that a central plant be constructed and services from these facilities be provided to supply the chilled water and steam requirements of the buildings constituting The University of Texas of the Permian Basin, Odessa, Texas;

WHEREAS, TEC represents to Board that it has the requisite resources, experience, skill, and personnel properly to serve Board in the capacities specified below, and Board, in reliance on such assurances, is willing to provide a land lease; to authorize the construction, operation and maintenance of a central plant; and is willing to contract to obtain chilled water and steam services from TEC;

NOW, THEREFORE, in consideration of the premises and the mutual covenants set forth, the parties agree as follows:

ARTICLE I - TERMS OF AGREEMENT

A. Authority. The parties represent and warrant that each has legal power to enter into this Agreement and that each has taken all action necessary to authorize its duly authorized officers to execute this Agreement.

B. Term. TEC shall have the construction so advanced that the plant shall be substantially complete and placed in operation no later than March 15, 1974, and fully completed by August 1, 1974. TEC shall notify Board in writing at this point as well as at the final completion of the plant. This agreement shall be for a primary term of 25 years, ending September 1, 1999, unless purchase options herein described are exercised. Otherwise, at the end of the primary term, the Lease Agreement shall expire and title to the entire plant and improvements shall revert to and vest in Board.

C. Not a Public Utility. In carrying out this Service Agreement, Board and TEC understand and agree that TEC is not now a "public utility;" that TEC has not and will not dedicate any of its property or facilities herein covered to the public use or hold itself out as willing to serve the public; that TEC has heretofore and will continue to assert its right to serve only customers of its selection through negotiated contracts. Board will at no time during the term of this Agreement urge or press any claim or charge that TEC is or should be

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a public utility, nor will Board urge any such claim after the termination of this Agreement. If at any time, any regulatory body is found to have the right to regulate the rates charged under this Agreement, the Board shall have the right to purchase all facilities on the leased premises at the value stipulated in paragraph C, Article IV, and paragraph D, Article IX.

D. Notices. All notices and bills hereunder shall be in writing and shall be deemed to have been delivered when deposited in the United States mail, postage prepaid, if properly addressed as follows:

If to Board: Vice President for Business Affairs  
The University of Texas of the Permian Basin, Odessa, Texas

If to TEC: WIN - SAM, INC., SUITE 2280 FIRST NATIONAL  
BANK BUILDING, DALLAS, TEXAS 75202

Either party may, by written notice to the other, change its address for purposes of notices and bills hereunder.

E. Waiver. No failure by any party hereto to enforce any of its rights hereunder shall constitute a waiver or release of any such right or affect the validity of this Agreement. No waiver of any breach of this Agreement shall be deemed a waiver of any other or subsequent breach.

F. Partial Invalidity. If any provision of this Agreement is held to be invalid and not binding on any party hereto, such invalidity shall not affect the validity or enforceability of the remainder of this Agreement.

#### ARTICLE II - PAYMENT TO BOARD

Reimbursement. TEC hereby agrees to reimburse Board for the following costs already expended or committed by Board relative to the design of the plant as well as site preparation and other related costs. This amount is to be paid simultaneously with the execution of this Agreement.

The University of Texas of the  
Permian Basin . . . . . \$ 225,000.00

TWO HUNDRED TWENTY-FIVE THOUSAND DOLLARS

#### ARTICLE III - OWNERSHIP

Ownership of Central Plant. Ownership of central plant shall be vested in TEC and Board shall not, by virtue of this Agreement during the term hereof, acquire any interest or right in or to the central plant, central plant building, or any other equipment installed by TEC except as otherwise provided in this Agreement and the Lease Agreement attached hereto.

#### ARTICLE IV - RESPONSIBILITIES AND RIGHTS OF PARTIES

A. Right of Entry. Board agrees that TEC, its agents, representatives and workmen and all persons designated by TEC shall have free ingress

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and egress at all times to and from the areas within which the central plant building is located. Board shall designate specific parking areas for the sole use of TEC representatives.

TEC further agrees that its agents, representatives and workmen shall fully comply with all reasonable Board security regulations which may be in effect during the term of this Agreement. TEC shall grant to Board right of entry of its representatives at all times, including the right of observation and inspection of all records of plant operation.

B. Inspection of Plant and Systems. Board will cause a semi-annual inspection to be made under the supervision of the Director, Office of Facilities Planning and Construction, of this central plant. TEC will be expected to maintain the integrity of the plant and its systems to a degree compatible with that of the facilities served from the plant.

A written report of the results of such inspection shall be given to TEC. If deficiencies are reported, TEC shall have a mutually agreed time to correct such deficiencies. Continued failure on the part of TEC to satisfactorily complete said repairs shall constitute a breach of contract on the part of TEC.

C. Right of Purchase. On or after the third anniversary date, the Board shall have the option to purchase the plant for such amounts indicated and terminate this contract on contract anniversary dates as follows; or at other times as stipulated below:

\$ 3,443,648.00	on third anniversary date
\$ 3,138,044.00	on fifth anniversary date
\$ 2,570,902.00	on tenth anniversary date
\$ 1,970,661.00	on fifteenth anniversary date
\$ 1,172,324.00	on twentieth anniversary date

At the Board's option, Board may purchase the plant at any time after the third anniversary date on the basis of a straight line pro-rata of elapsed days. This shall be computed using the difference in value between the preceding and the succeeding dates.

D. Notice of Intent to Purchase by Board shall precede purchase date by at least six months.

E. Right of Audit. TEC agrees that Board shall have the right to audit any and all records of TEC at any time Board may designate. TEC agrees to make available to Board any and all records so requested. The cost of said audit shall be borne by Board.

#### ARTICLE V - CONSTRUCTION

A. Commencement of Construction; Ground Lease. TEC agrees to commence construction of the central plant upon the leased lands of the Board, described herein, within ten days from the date of completion of this Agreement and to continue in an orderly manner to assure substantial completion no later than March 15, 1974. Should TEC permanently abandon the construction of said plant and system, title to all improvements shall vest in Board.

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As a part of the consideration of this Agreement, Board agrees to lease to TEC a tract of land within the site and at the location described in Exhibit "C" attached hereto, upon which TEC will erect the central plant building and install the central plant equipment. Board also agrees to provide easements for necessary utilities to the plant. Board further agrees to provide sufficient construction work area as defined in Exhibit "D". The parties hereby agree to execute a Lease Agreement, a copy of which is attached hereto as Exhibit "C", reflecting the terms and conditions under which said land is to be used.

B. Construction of Plant. TEC hereby agrees to construct a central plant to provide chilled water and steam to those buildings constituting The University of Texas of the Permian Basin, Odessa, Texas, described in Exhibit "A" attached hereto and made a part of this Agreement. During the life of this agreement, the Board agrees not to intentionally disconnect from the central energy plant any building enumerated in Exhibit "A". TEC agrees to provide chilled water and steam on a continuous basis in accordance with Board's load requirements up to the capacity of TEC's plant, such capacity being in accordance with plans and specifications defined below.

The central energy plant shall be constructed in strict accordance with the Plans, Specifications and any Addenda thereto, as prepared for Board by B. Segall, Jr. & Associates, Consulting Engineers, Austin, Texas. Copies of these documents, signed by both parties, shall be a part of this agreement as Exhibit "D".

Before any construction is begun or any commitments made as to materials or labor for the central plant, TEC shall submit a 100% Performance and Payment Bond as shown in Exhibit "F", guaranteeing completion of construction in sufficient time to commence providing full services from the plant as stipulated in Article I B.

C. Changes in the Work. TEC stipulates that competent personnel have carefully examined the site and the construction documents. TEC warrants that the site conditions and documents covering the design of the central plant are acceptable and that any changes in the work proposed by TEC, and approved by the Board, will result in no additional cost to or claims against Board. Changes in construction involving any deviation from the approved plans and specifications, either in scope of work or quality of construction, shall be done only with written approval of Board or its duly authorized representative.

Should Board or its representatives require any changes from approved plans involving increased or decreased costs to TEC, this shall constitute a basis of negotiation for an equitable adjustment in the payment for services rates.

D. Board Representatives. TEC agrees that during all phases of construction up to and including final acceptance by Board, Board representatives shall have free access to the work for purposes of inspection and supervision.

E. Assignment of Prepurchased Equipment Items. TEC hereby agrees to accept from Board assignment of contracts for prepurchased mechanical equipment items which Board has awarded previously. Contracts cover (2) water chilling refrigeration systems, (2) packaged water tube steam boilers, (1) spray type deaerating feedwater heater, (6) chilled water and condenser water pumps and (1) cooling tower. Contracts between Board and the successful equipment vendors, copies of which are attached as Exhibits "B-1-A" through "B-1-E", will be assigned to the TEC, including one change order thereto.

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TEC further agrees to coordinate and administer the execution of these contracts in strict accordance with the prepurchase specifications, a copy of which is attached hereto as Exhibit "B-2". Board will provide to TEC complete copies of all submittal data, approved by Board representatives.

All payments to vendors for prepurchased equipment shall be made by TEC in accordance with the terms of the assigned contracts and Board shall be completely absolved of any further liability for subject contracts upon signing of this Agreement and the assignment form included in Exhibit "B" by TEC.

Claims, if any, arising from TEC's inability to receive prepurchased equipment by the dates established in the contracts shall be the full responsibility of TEC.

F. Design Criteria. The central plant is designed and shall be constructed to provide desired chilled water and steam services to buildings constituting The University of Texas of the Permian Basin, Odessa, Texas.

As designed, the central plant has the capability of cooling 4,500 gallons per minute of circulating water from 54° F to 38° F when the outdoor wet bulb temperature is 74° F. The design provides for two chillers to be installed with space and provision to accommodate one additional chiller that will increase the plant cooling capability to 9,000 gpm of circulating water from 54° F to 38° F with an outdoor wet bulb temperature of 74° F. Sufficient standby pumping capacity is included to afford full plant output with any single chilled water or condenser water pump out of service. The selected chilled water pumps are designed to operate at pressure differentials sufficient to overcome distribution system losses. Plant arrangement and design is suitable for future plant expansions to approximately 6,000 tons capacity without enlarging the building, unless Alternate #1 is accepted.

The central plant design provides for two boilers, each with a capability of delivering 60,000 pounds per hour of 125 psi saturated steam of 99% quality to the delivery point. Superheating will be acceptable at delivery points up to 100° F above saturation temperature.

#### ARTICLE VI - QUANTITY AND QUALITY OF SERVICES

A. Quantity and Quality of Services. Beginning no later than March 15, 1974 chilled water shall be continuously available to the delivery points within the temperature limits of 38° F to 40° F, within pressure limits of 125 psi to 150 psi, and at circulation rates necessary for compatibility with building systems designed for 44° F supply water and 10° F to 12° F temperature rise at full load. Chilled water system static pressure will be maintained high enough (up to 85 psig) to prevent draining of lines in highest building in event of temporary loss of pumping pressure. Chilled water return mains shall operate at pressures approximately 20 psig below supply mains. Circulation within buildings shall be the responsibility of Board or its representatives.

Beginning no later than March 15, 1974 steam shall be available continuously at the delivery points between the limits of 125 psig to 150 psig. Superheating will be accepted up to 100° F above saturation temperature.

Water treatment will be maintained for control of scale, corrosion and biological growth. Water treating procedures and records of results shall be submitted monthly to the Director of Physical Plant for review and evaluation.

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Water quality shall be strictly maintained by TEC within the prescribed ranges established in the construction document specifications, unless variations are agreed to by both parties and are directed in writing by the Director of Physical Plant. TEC shall take immediate action to correct unsuitable quality conditions when instructed by the Director of Physical Plant. Continued failure on the part of TEC to correct water quality shall constitute a breach of contract.

**B. Return of Chilled Water and Steam Condensate.** Board shall be responsible for the return to the circulation system of chilled water and condensate from the steam as follows:

Board shall endeavor to return all chilled water delivered.

Board shall endeavor to return steam condensate at a pressure sufficient to enter TEC return lines but not in excess of 50 psig. TEC's return lines shall be maintained and operated so as to permit such entry under all usual operating conditions.

The necessary mixing valves, control systems, pumps, and regulators in the circulation system of the buildings served will be installed by the Board at its sole expense. The design of such equipment shall provide for the automatic return of chilled water and steam condensate within the prescribed limits.

If Board shall fail to return chilled water or steam condensate as herein provided, it shall pay a charge of \$1.25 per thousand gallons for each thousand gallons of steam condensate or chilled water in excess of a total of thirty thousand gallons, not returned to TEC during any month.

**C. Metering Equipment; Point of Delivery.** Equipment for measuring and metering the chilled water, steam, and steam condensate delivered and returned shall be located in the central plant and shall be accurate within plus or minus 2% at all normal conditions of flow and temperature differential. Metering system shall maintain an hourly typed record of total thermal loads as well as supply and return flow temperature and pressure.

Delivery point(s) shall be as shown on the plans, attached hereto as part of Exhibit "D".

**D. Verification of Metering.** Board shall have access at all reasonable times to metering equipment and all instruments used in the measurement of the contract units of chilled water, steam, and steam condensate, but the reading, adjustment and maintenance thereof shall be performed only by representatives of TEC. Upon request of Board, TEC shall submit to Board its records and readings of such meters and measuring equipment, and a representative of Board shall be present when periodic tests or adjustments are made of such meters and measuring equipment; and TEC shall give ten days' notice of its intention to make such tests or adjustments. Board, through a representative, shall have the right at reasonable times to test the accuracy of such meters and measuring equipment, and if upon any test of the meters or measuring equipment by Board or by TEC any of such meters or measuring equipment is found to be inaccurate by more than 2%, such meter or measuring device shall be promptly corrected, and payments based upon such inaccurate registration shall be corrected for the period during which said inaccuracy is known to have existed, but in case such

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period is not known or agreed upon, then for a period extending back for one-half of the elapsed time since the previous test of the accuracy of such meter or measuring equipment. Adequate plant records will be maintained so that calculations of energy usage by plant records may be used to verify metering or for billing purposes.

#### ARTICLE VII - PAYMENT FOR SERVICES

A. Demand Charge: Board shall pay TEC a monthly demand charge which represents payment for relatively fixed costs (capital recovery, interest, profit, taxes, labor, insurance, etc.) as follows:

\$47,309.00 per month.

\$ 304.00 adjustment to the monthly demand charge for each full three percent change in the average cost of labor prevailing for manufacturing employees in the Odessa labor market for the month of December of each contract year from the average cost of labor prevailing for manufacturing employees in the Odessa labor market for December, 1973. The average cost of labor prevailing for manufacturing employees in the Odessa labor market shall be determined by reference to and in conformity with the index of Gross Average Hours and Earnings in the Odessa Metropolitan Area published by the Texas Employment Commission in cooperation with the United States Bureau of Labor Statistics.

B. Rate for Chilled Water: Board shall pay TEC a commodity charge which represents payment for variable costs (fuel, electricity, water, maintenance, repair, supplies, etc.) for producing, furnishing and circulating chilled water, as follows:

\$ 0.01196 per ton hour for all ton hours per month.

One ton hour is defined as 12,000 BTU of energy for a period of one hour.

Article VIA notwithstanding, payment for services shall begin only after delivery of chilled water has been directed in writing by the Board. In no event shall this payment for services be delayed longer than 90 days after the date specified in Article VIA, provided TEC is ready to deliver said services. Chilled water rates will be increased or, as the case may be, decreased from time to time as follows:

- (1) For the refrigeration produced by using steam turbine driven chillers, \$0.0001711 per ton hour for each full cent by which the average annual cost to TEC per one thousand cubic feet of the primary fuel utilized in the central plant systems varies from 30 cents per one thousand cubic feet.
- (2) The electrical cost adjustment shall be \$0.0004437 per ton hour for each full one-tenth cent change in the cost of electrical energy, including demand, from \$ .015 per kilowatt hour on an annual basis.
- (3) \$0.0000842 per ton hour for each full two cents by which the average annual cost to TEC per thousand gallons of raw water utilized in the central plant system varies from 50 cents per thousand gallons of water.
- (4) The maintenance and supplies adjustment shall be \$ 0.000021 per ton hour for each full three percent change in the cost of labor prevailing

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for manufacturing employees in the Odessa labor market for the month of December of each contract year from the average cost of labor prevailing for manufacturing employees in the Odessa labor market for December 1973. The average cost of labor prevailing for manufacturing employees in the Odessa labor market shall be determined by reference to and in conformity with the index of Gross Average Hours and Earnings in the Odessa Metropolitan Area published by the Texas Employment Commission in cooperation with the United States Bureau of Labor Statistics.

C. Rates for Steam. Board shall pay TEC a commodity charge which represents payment for variable costs for producing and furnishing steam to the delivery point, subject to adjustment as herein provided, as follows:

\$ 0.55 per million BTU for all million BTU per month.

Article VIA notwithstanding, payment for services shall begin only after delivery of steam has been directed in writing by the Board. In no event shall this payment for services be delayed longer than 90 days after the date specified in Article VIA, provided TEC is ready to deliver said services.

Steam rates will be increased or, as the case may be, decreased from time to time as follows:

- (1) \$0.01522 per million BTU for each full cent by which the average annual cost to TEC per one thousand cubic feet of the primary fuel utilized in the central plant system allocated to the production of steam for sale varies from 30 cents per one thousand cubic feet.
- (2) \$0.00750 per million BTU for each full one-tenth cent by which the average annual cost to TEC per KWH of electrical energy, including demand, varies from \$ .015 per KWH on an annual basis.
- (3) \$0.00026 per million BTU for each full two cents by which the average annual cost to TEC per thousand gallons of raw water utilized in the central plant system varies from \$ .50 per thousand gallons of water.

D. Tax Adjustment. An adjustment shall be made to reflect a change in taxes, other than income taxes, occasioned by a change in evaluation, percent assessment, change in tax rate or new taxes. Such adjustment shall be from the base of the first tax year of record under this Agreement. The documented annual increase shall be added to the monthly statement as twelve equal charges.

E. Notice of Adjustment. When proposing any adjustment to the rates as provided for in this Article, TEC shall give written notice to Board of its computation of such adjustment not later than April 30 of that year. The adjustment shall become effective commencing with the beginning of the next succeeding fiscal year of the Board, which begins September 1.

F. Statements for Charges; Payment. Statements shall be rendered monthly by TEC to Board not later than the fifth business day of each month for the prior month's service, and shall be payable on or before thirty days thereafter.

G. Renegotiation of Rate Schedules. The above rate schedules are constructed on the premise that natural gas is the primary fuel and that fuel oil is the secondary fuel. It is agreed that secondary fuel will be used only for test purposes or during valid interruptions of primary fuel, as outlined in Article

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IXB, below. In the event that the use of secondary fuel (fuel oil) exceeds 15% of the annual input BTU requirements to the central energy plant for a billing year (April 1 to March 31), the Board will entertain renegotiation of the rates for chilled water and steam. It is agreed that the input measurement shall be calculated on the basis of 1,000 BTU/CF for natural gas consumed and a notarized heat value for fuel oil consumed. Furthermore, in the event that present primary and secondary fuels become unavailable or economically undesirable, the Board will entertain redesign and conversion of the central energy plant and renegotiation of the rates for chilled water and steam.

#### ARTICLE VIII - OPERATION, MAINTENANCE AND REPAIR

- A. Pollution. TEC agrees to operate the plant in full compliance with all ordinances related to environmental pollution. Board shall have no liability for claims arising from non-compliance by TEC.
- B. Secondary Fuel. TEC agrees to maintain services through the use of secondary fuel at all times when the supply of primary fuel is interrupted. Furthermore, TEC shall operate each boiler for an equal period on secondary fuel for the first week of October of each year.
- C. Maintenance and Repairs. TEC shall maintain and repair building, systems and equipment. If any part or all of such facilities shall at any time be destroyed or damaged so that the production and circulation of chilled water and steam is not adequate to maintain the standards herein contained, TEC shall proceed promptly to rebuild, replace and/or repair the same. TEC shall have the right, upon reasonable notice to the Director of Physical Plant, of Board, and with the approval of the Director of Physical Plant, to interrupt the supply of chilled water and steam to Board's facilities for the purposes of making any necessary repairs; but TEC shall in each instance accomplish such work at such times and in such manner as to cause as little interruption or inconvenience to the occupants of the buildings as is reasonably possible and shall restore its facilities to operation as quickly as shall be reasonably possible under the circumstances.
- D. Equipment Under Control of Board. TEC will not be responsible for insufficient cooling or heating within any building attributable to defects or inadequacy of air handling, heat exchange or other related equipment not under the exclusive control of TEC.
- E. Force Majeure. TEC will not be responsible for any interruptions of the delivery of chilled water or steam or for the performance of any of the duties assumed hereunder by TEC due to strikes, fires, or governmental interference by order or regulation of or by any governmental authority, or acts of God, but TEC will at all times exercise the highest degree of diligence to have the central plant system furnish an uninterrupted supply of chilled water and steam.
- F. Exterior Maintenance. Board shall cause the exterior areas adjacent to plant to be maintained by Board representatives, including landscaping, irrigation and parking areas. TEC shall agree to cause no nuisance in the form of exterior storage or other unsightly acts on property adjacent to the plant building. Should such occur, Board reserves the right to charge the cost of correcting same to TEC.

ARTICLE IX - EXPANSION OF PLANT

A. Design of Additional Facilities. At the discretion of Board, expansion plans for additional facilities shall be prepared by Board, after consultation with TEC with respect to design criteria. Major expansion may be in increments or directly to full design capacity of the plant. TEC agrees to construct such additional facilities in strict accordance with documents provided by Board and to have the stipulated additional capacity available when directed by Board. "Additional facilities," as used above, includes not only expansion of plant capacity but also plant conversions caused by changing from present fuels or caused by drastic changes in government regulations such as environmental protection laws.

B. Physical Completion of Expansion. TEC shall notify Board in writing when the Board-specified expansion is to be complete, to include the date TEC requests Board acceptance of completion, and the date the expanded capacity shall be ready to provide the services required. Board shall have seven (7) days to accept completion or notify TEC of deficiencies in the additional capacity. Board shall accept such completion or provide notification of deficiencies in writing. TEC agrees to correct Board enumerated deficiencies without additional cost to Board.

C. Payment of Expanded Services. Upon completion and acceptance by the Board, payment for expanded facilities for furnishing additional chilled water and steam services will be determined. Unless changes in the primary source of energy are involved, basic rates in effect at the time of expansion shall remain in effect. At the time of expansion and at its discretion, the Board will choose one of the three following methods to compensate the TEC for the expansion:

(1) A monthly payment for recovery of added capital investment, to be added to the monthly demand charge and to be calculated as follows:

$$\frac{(CI + AI + Ins + \%RI)}{T} \div 12$$

CI = Documented actual added capital investment for expansion, in dollars

T = Remaining term of agreement, in years

AI = Annual interest cost, based on unamortized CI, in dollars

Ins. = Annual increased insurance premium, based on added CI, in dollars

%RI = Annual return on added CI, in dollars

TEC agrees that the interest rate related to the cost of financing of added capital investment shall be approved by the Board. Furthermore, TEC agrees that the factor defined above as %RI shall be 5.875%.

(2) A negotiated lump sum payment for the cost of the added capital improvements, including out-of-pocket costs for engineering and design, construction supervision and inspection, financing, and administration which may have been incurred by the TEC.

(3) Renegotiation of the Service Agreement to include one or more of the following items: the term of the contract, the demand charge and the commodity rates.

D. Right of Purchase After Expansion. Board agrees that in the event the Right of Purchase is exercised subsequent to an expansion, TEC shall be paid for the expanded plant as follows: the modified purchase price shall be the base sum as stipulated in Article IVC - Right of Purchase, plus the unrecovered balance of the adjusted capital investment.

#### ARTICLE X - INDEMNIFICATION AND INSURANCE

A. Indemnification and Insurance. TEC will indemnify and hold Board harmless from any loss, cost, damage or expense proximately resulting from the negligent performance by it of its obligations hereunder or from its violation of the covenants made by it hereunder. TEC shall be promptly notified in writing of any claim or demand for payment made on account of which Board claims that it is entitled to indemnification under this Agreement; and TEC shall have a reasonable opportunity and the right to contest, at its own expense, any such claim or demand asserted against Board.

At all times during the term of this Agreement, TEC shall maintain in full force and effect the following insurance coverage and furnish Board continuing evidence of such coverage:

- (1) Public Liability insurance in an amount not less than \$100,000 per person and \$500,000 for each occurrence.
- (2) Workmen's Compensation in accordance with applicable laws.
- (3) Property Damage Liability insurance, in an amount not less than \$100,000/\$500,000.
- (4) Property Damage upon the building, contents and additions thereto to the extent of the highest insurable value thereof, including coverage against damage by fire, lightning, windstorm, hurricane, hail, explosion, riot, civil commotion, smoke, aircraft, and land vehicles. Coverage shall be based on an annual revaluation and provide for full replacement or repair without regard to depreciation.

#### ARTICLE XI. - ENCUMBRANCES AND INDEBTEDNESS

A. Encumbrances and Removal of Property. Except for financing of the initial construction and equipment for the facilities described in this Agreement, TEC agrees not to further encumber any property located on the land described in Exhibit "C" without approval of Board; and TEC further agrees not to remove any of said property without approval of Board.

B. Equity and Financing. TEC covenants that it shall maintain a clear equity in the initial total construction cost for the facilities described of not less than 20%. TEC shall provide the Board, prior to final execution of this Agreement by the successful bidder, a detailed cost estimate for the entire initial construction phase. Further, TEC covenants that indebtedness of this project will be retired by substantially level annual principal and interest payments in a manner acceptable to the Board.

C. No Indebtedness Created. This Agreement shall not be construed as creating an indebtedness against the State of Texas, and all obligations of the Board hereunder are subject to the availability of appropriations by the Legislature of the State of Texas; provided, however, that the failure by Board to make payments to TEC as contemplated by this Agreement shall relieve TEC of the obligation to perform services hereunder until such failure is corrected, but such failure shall not otherwise terminate the obligations of the parties hereunder.

D. Operation, Maintenance and Repair Costs. TEC shall pay, prior to delinquency, all valid charges related to operation, maintenance and repair of plant.

#### ARTICLE XII - TERMINATION OF CONTRACT

A. Inability to Perform. In the event TEC becomes unable to continue the performance of services as herein provided because of bankruptcy, insolvency, or for any reasons other than those outlined in Article VIII E of this Agreement, Board may either appoint a successor operator or itself to take over the operation of such plant. If TEC is unable to perform, this Agreement will terminate and ownership shall vest in Board, provided, however, Board shall pay current operating and maintenance expenses and retire primary indebtedness from any surplus monies that is the result of plant revenues being in excess of net actual operating and maintenance expense. This obligation to retire primary indebtedness would be secondary to any capital requirement necessary to restore facilities to reasonable operational order, except where this expense is recovered from insurance in effect. The obligation to apply excess monies to the retirement of the primary indebtedness shall only terminate upon full payment of the debt, provided the initial indebtedness of TEC shall not provide for a period of payments in excess of 25 years. However, subject to the foregoing, if at the termination date of the Lease, any portion of the primary indebtedness remains unpaid, the Board shall continue to apply such surplus monies to the payment of such primary indebtedness, until such primary indebtedness and interest thereon, is fully paid. Board, while it is operating such plant, shall have the option to prepay the unpaid primary indebtedness, without penalty.

Plant revenues as used in this paragraph are defined as the revenues which would have been payable to TEC under this Agreement had TEC continued to own and operate the facilities herein described. Primary Indebtedness as referred to above is defined as not more than 80% of capital cost of facilities as reported in the TEC's letter of transmittal, less any payments of principal. If termination takes place after expansion, the unrecovered balance of the additional capital investment, as determined in Article IX C., may be added to the above defined primary indebtedness.

In the event that Board shall allege that TEC has defaulted or is suffering a default to exist in its obligations hereunder, Board shall, by Certified or Registered Mail, serve a 10-day notice upon TEC and the holder of the primary indebtedness (Mortgagee) specifying the default or defaults it has alleged to have occurred.

If such default or defaults are cured within the period of said notice, such notice of default shall be of no further force and effect. If such default or defaults are unable, by their nature to be cured within said 10-day period, the notice of default shall likewise be of no further force or effect if TEC or

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the Mortgagee commences to cure such default or defaults within the 10-day notice period and continues with the curing of such default or defaults, with due diligence.

If such default or defaults are cured or steps are commenced to cure such default or defaults as hereinbefore provided the right granted hereunder to Board to take over the operation of the Plant, shall be of no force and effect.

At any time during the term of this Agreement, the Mortgagee, until the payment in full of the primary indebtedness, shall have the right to succeed to the interest of TEC under this Agreement. If the Mortgagee does so succeed to the interest of TEC, it may appoint a successor operator of such plant. Such successor operator must be approved by the Board which approval shall not be unreasonably withheld.

B. Breach of Contract. Should TEC commit a breach of contract, as hereinbefore defined, and after 15 days written notice to TEC and TEC's lender, Board may appoint a successor operator or itself take over the operation of the plant, exactly as stipulated in paragraph A above.

C. Determination of Restoration Cost. TEC and Board agree that any actual restoration cost to restore the plant to reasonable operational order shall be deducted from the final payment due TEC.

#### ARTICLE XIII - SUCCESSOR AND ASSIGNS

Successor and Assigns. This Agreement shall be binding upon the successors and assigns of the parties hereto. TEC may not sell or assign this Agreement, without prior written consent of Board, which consent shall not be unreasonably withheld.

#### ARTICLE XIV - AMENDMENTS

Amendments. This written Agreement constitutes the whole agreement between the parties hereto, and all prior or contemporaneous commitments or understandings are merged herein.

This Agreement may be modified or amended only by an agreement in writing by each of the parties hereto.

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ARTICLE XV - EXHIBITS

Exhibits constituting an integral part of this agreement are as follows:

- \* Exhibit A - List of Buildings Served and Estimated Chilled Water and Steam Requirements
- \*\* Exhibit B - Form of Assignment of Contracts
  - \*\*\* - Prepurchased Equipment Contracts and Specifications-
    - \*\*\* B-1-A - Water Chilling Refrigeration Systems
    - \*\*\* B-1-B - Packaged Water Tube Steam Boilers [Incl. Change Order #1]
    - \*\*\* B-1-C - Spray Type Deaerating Feedwater Heater
    - \*\*\* B-1-D - Chilled Water and Condenser Water Pumps
    - \*\*\* B-1-E - Cooling Towers
    - \*\*\* B-2 - Specifications for Mechanical Equipment for Three Central Plants at The University of Texas at San Antonio, The University of Texas of the Permian Basin, and The University of Texas at Dallas
- \*\*\* Exhibit C - Lease Agreement and Legal Description
- \*\*\*\* Exhibit D - Construction Plans (Shts. 1-18) and Specifications (all dated Sept., 1972) including Addenda 1, 2, 3, Less Alternate #1.
- \*\*\* Exhibit E - Contract Administration and Relation of Parties During Construction
- \*\*\* Exhibit F - Payment Bond and Performance Bond

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\* Page 113

\*\* Page 114

\*\*\* In Contract Set

\*\*\*\* Page 116

\*\*\*\*\* Filed in Office of Facilities Planning and Construction

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered as of the date and year first above written.

(Corporate Seal)

WIN-SAM, INC  
(Thermal Energy Contractor)

ATTEST:

By J.M. Amis  
Vice-president  
Title

John M. Mee  
Asst. Sec.

ATTEST:

BOARD OF REGENTS OF THE  
UNIVERSITY OF TEXAS SYSTEM

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Chairman

APPROVED AS TO LEGAL FORM:

APPROVED AS TO ~~FORM~~ <sup>CONTENT:</sup>

Burton Waldrop  
University Attorney

Edith Walker  
Deputy Chancellor for Administration

APPROVED AS TO  
TECHNICAL FORM:

R. J. Gustaf  
Director, Office of Facilities  
Planning and Construction  
A.C.L.

EXHIBIT "A"

THE UNIVERSITY OF TEXAS OF THE PERMIAN BASIN

Building	Tons Cooling	Lbs. Steam Heating	Square Feet
Phase I:			
Classroom	540	19,235	100,000
Laboratory	520	18,665	100,000
Gymnasium	400	14,750	60,000
Maximum Total	1,460	52,650	260,000

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(2) ASSIGNMENT (Pages 114-115)EXHIBIT "B"

This Agreement between the Board of Regents of The University of Texas System, hereinafter called "ASSIGNOR," and WIN - SAM, INC.

\_\_\_\_\_, hereinafter called "ASSIGNEE," WITNESSETH:

WHEREAS, on the 10th of June, 1972, ASSIGNOR entered into those certain agreements, dated June 10, 1972, with the below listed firms or companies, for the delivery and erection of the below specified equipment for the Central Energy Plant, The University of Texas of the Permian Basin:

ContractorEquipment Specified

York Division, Borg-Warner Corporation, Houston, Texas

Base Bid A: Two Water Chilling Refrigeration Systems

Erie City Energy Division Zurn Industries, Inc., Erie, Pennsylvania

Base Bid B: Two Packaged Water Tube Steam Boilers

Chicago Heater Company, Inc., Mineola, New York

Base Bid C: One Spray Type Deaerating Feedwater Heaters

Fluid Dynamics Corporation, Dallas, Texas

Base Bid D: Six Chilled Water and Condenser Water Pumps

The Marley Company, Mission, Kansas

Base Bid E: One Cooling Tower

WHEREAS, ASSIGNOR is desirous of assigning its rights, title and interest in the above cited contracts to WIN - SAM, INC. for the purchase, delivery and erection of such equipment therein specified;

NOW, THEREFORE, know all men by these presents that the ASSIGNOR for and in consideration of the sum of Ten (\$10.00) Dollars and other good and valuable consideration has sold, assigned and transferred and by these presents does sell, assign and transfer unto WIN - SAM, INC., all rights, title and interest in the equipment specified to be delivered and erected, all of which is more specifically described in those certain

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contracts set out above copies of which are attached hereto and which are incorporated and made a part hereof, and ASSIGNEE hereby assumes all obligations and liabilities in connection with the said contracts.

EXECUTED this 31 day of May, 1973.

ATTEST:

BOARD OF REGENTS OF  
THE UNIVERSITY OF TEXAS SYSTEM

\_\_\_\_\_  
Secretary

By \_\_\_\_\_  
Chairman

ATTEST:

ASSIGNEE

John D. Lee  
Asst. Sec.

WIN-SAM, INC.  
By M. Starni  
Vice-president

APPROVED AS TO LEGAL FORM:

Bruner Welch  
University Attorney

ASSIGNEE  
APPROVED AS TO ~~FORM~~ <sup>CONTENT:</sup>

Elton D. Allen  
Deputy Chancellor for Administration

APPROVED AS TO  
TECHNICAL FORM:

R. S. Huston  
Director, Office of Facilities  
Planning and Construction

A.C.L.

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(3) LEASE AGREEMENT (Pages 116-120)EXHIBIT "C"

THE STATE OF TEXAS

COUNTY OF

This AGREEMENT made and entered into this 31 day of May, 1973, by and between the BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM, herein called "Lessor," and WIN - SAM, INC., a Texas Corporation, with its principal place of business in Dallas, Texas, herein called "Lessee."

## WITNESSETH:

For and in consideration of the construction, operation, and maintenance of a central plant, as described in the Service Agreement, which shall revert to Lessor at the expiration of the term of this Lease as herein provided, the covenants and agreements to be kept and performed by Lessee pursuant to that certain Service Agreement of even date herewith by and between Lessee and Lessor to which reference is here made, and the payment by Lessee of Ten Dollars (\$10.00) per annum, Lessor does hereby lease unto Lessee for a term commencing on the date hereof and terminating on September 1, 1999, or such other date as may be determined under provisions of the Service Agreement whereby said Service Agreement is terminated, the tract of land described in Exhibit "D" of the Service Agreement and by reference made a part of this Lease Agreement, **\*** Essentially this tract shall consist of the land covered by the Plant Building, plus the land covered by the Service Yard.

The following terms and conditions as to the use of the leased premises hereby granted are expressly agreed to by and between Lessee and Lessor:

1. Lessee agrees to construct a central chilled water and steam plant in accordance with the terms and conditions of the Service Agreement. Lessor agrees to furnish Lessee the necessary rights of ingress and egress from the central plant site and parking in accordance with the site plan, Exhibit "D". Lessor further agrees and hereby grants to Lessee the right to use the leased premises for the operation and maintenance of the central plant. Such operation and maintenance by Lessee shall not in any manner restrict or interfere with any proposed new building which may be constructed by Lessor on said premises.
2. It is agreed and understood that title to the central plant, including all fixed and movable property, such as compressors, boilers, cooling towers, switch gear, chillers, pumps and internal piping and all other improvements and equipment, shall vest in Lessor upon the expiration or termination of this Lease.

**\* AND EXHIBIT C-4**

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- 3. Lessee shall not commit or suffer to be committed waste upon said premises, and shall keep said premises and the improvements and equipment thereon in good order and repair and in clean, safe and healthful condition, and shall comply with all state, federal and local laws, rules and regulations with regard to the use and conditions of the demised premises and improvements and equipment thereon.
- 4. It is agreed and understood that Lessor is not to be liable for any damages or injuries to any person or persons or property on account of the occupancy, use or improvements placed on said premises by the Lessee, its successors or assigns, and Lessee shall indemnify and hold harmless Lessor from any such liability in the manner and to the extent provided in the Service Agreement.
- 5. Lessee shall pay, prior to delinquency, all valid charges connected with the operation of said premises, including all taxes, assessments and charges, general and specific, that may be levied or assessed against Lessee by reason of its use of said premises and improvements and equipment situated thereon.
- 6. This lease may be transferred or assigned by Lessee only in the event of an assignment or transfer of the Service Agreement after receipt of approval thereof from Lessor.

EXECUTED by the parties on the day and year first above written.

ATTEST:

BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM

\_\_\_\_\_  
Secretary

By \_\_\_\_\_  
Chairman

**LESSOR**

ATTEST:

**LESSOR**

*WIN-SAM, INC.*

*John M. Lee*  
\_\_\_\_\_  
*Asst Sec.*

By *M. Harris*  
\_\_\_\_\_  
*Vice-president*

APPROVED AS TO LEGAL FORM:

LESSEE **CONTENT:**  
APPROVED AS TO ~~FORM~~

*Dennis Weidner*  
\_\_\_\_\_  
University Attorney

*Elliot Walker*  
\_\_\_\_\_  
Deputy Chancellor for Administration

APPROVED AS TO TECHNICAL FORM:

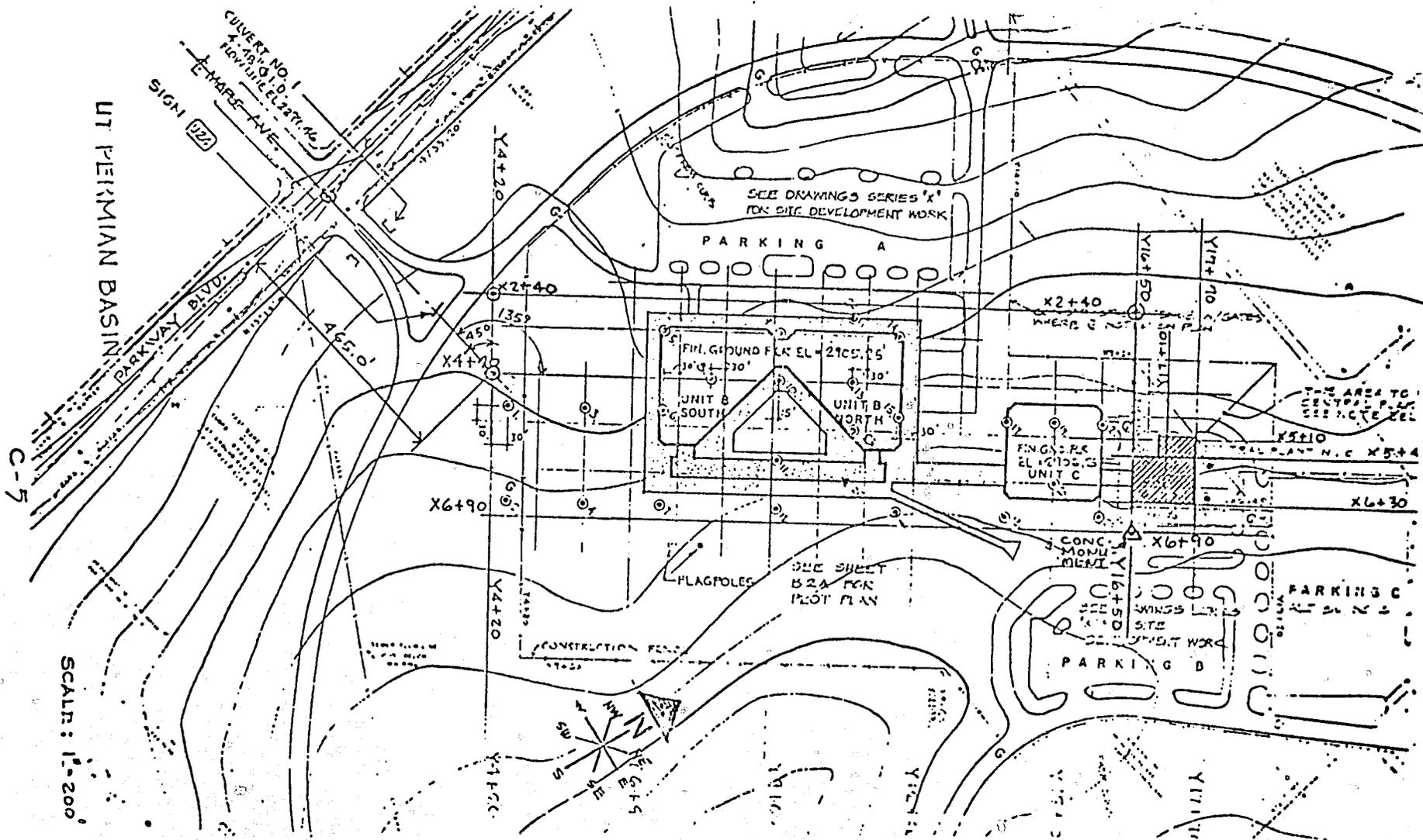
*R. S. Kristof*  
\_\_\_\_\_  
Director, Office of Facilities  
Planning and Construction  
A.C.L.

7-27-73

NOTES FOR A 0.344 ACRE BUILDING SITE ON THE  
600 ACRE SITE OF THE UNIVERSITY OF TEXAS  
OF THE PERMIAN BASIN, CITY OF ODESSA, ECTOR COUNTY TEXAS,  
FOR THE CENTRAL ENERGY PLANT BUILDING AND  
AND ATTACHED SERVICE YARD

- BEGINNING: At a concrete monument identified by coordinates X6 + 90,  
Y16 + 50;
- THENCE: In a northwesterly direction along coordinate Y16 + 50 to  
the intersection of coordinates X6 + 30, Y16 + 50;
- THENCE: In a northeasterly direction along coordinate X6 + 30 for a  
distance of 1.0 feet;
- THENCE: In a southeasterly direction parallel to coordinate Y16 + 50  
for a distance of 3.0 feet, the point of beginning of the  
herein described tract of land;
- THENCE: In a northeasterly direction parallel to coordinate X6 + 30  
for a distance of 127.0 feet;
- THENCE: In a northwesterly direction parallel to coordinate Y17 + 70  
for a distance of 136.0 feet;
- THENCE: In a southwesterly direction parallel to coordinate X5 + 10  
for a distance of 70.0 feet;
- THENCE: In a southeasterly direction parallel to coordinate X17 +  
10 for a distance of 40.0 feet;
- THENCE: In a southwesterly direction parallel to coordinate X5 + 40  
for a distance of 57.0 feet;
- THENCE: In a southeasterly direction parallel to coordinate Y16 +  
50 for a distance of 96.0 feet, the point of beginning of the  
herein described tract of land, containing 0.344 acres of land,  
more or less.

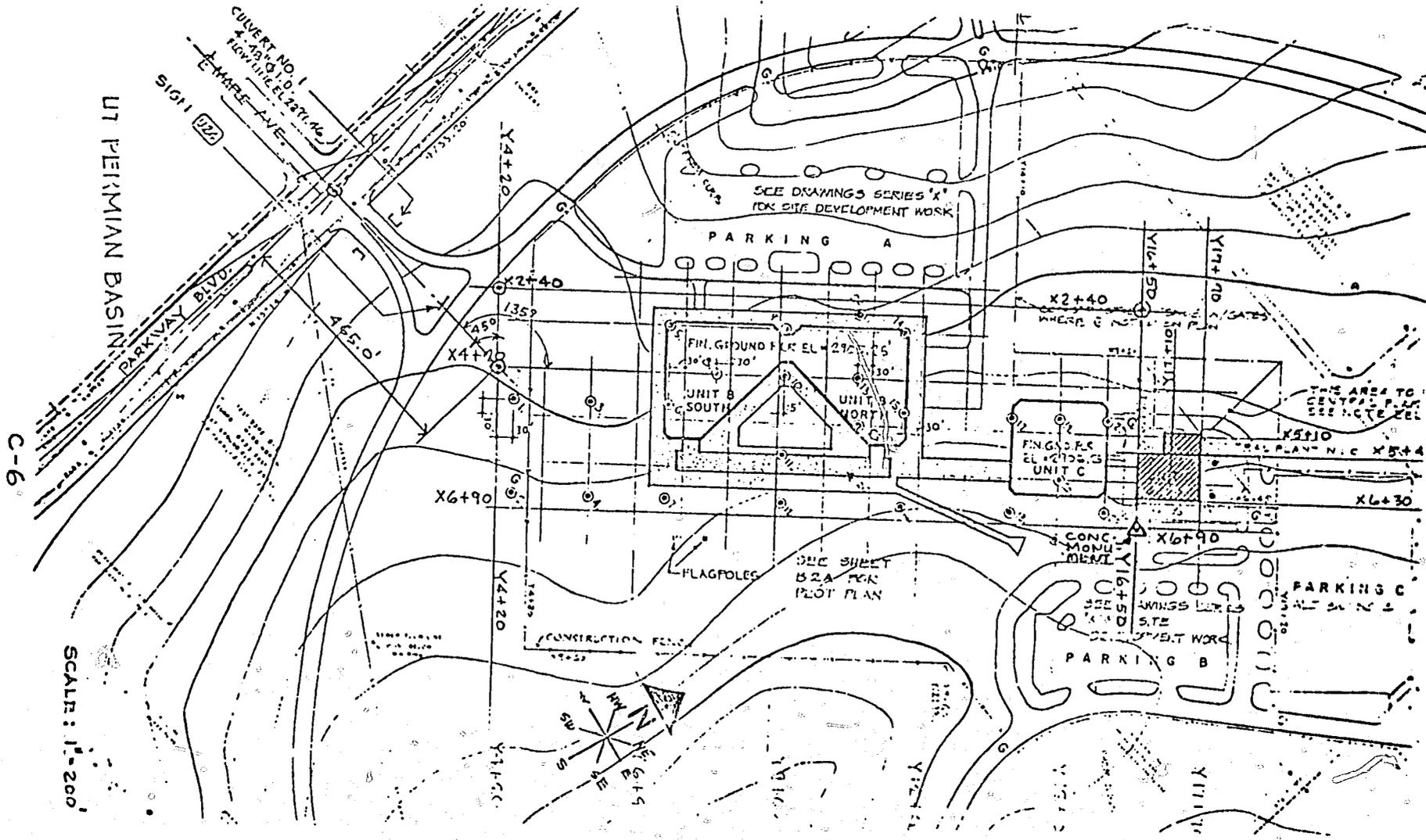
C-4



Permanent access to Central Plant may be made from Parkway Boulevard (a city street) and as yet un-named campus streets open to the public.

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3409



SCALE: 1" = 200'

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c. The University of Texas at San Antonio

(1) PROPOSAL AND SERVICE AGREEMENT (Pages 122-136)

This AGREEMENT is made and entered into this 31 day of May, 1973, by and between WIN - SAM, INC.,

DALLAS, TEXAS, hereinafter sometimes referred to as "Thermal Energy Contractor (TEC)," and THE BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM for the use and benefit of The University of Texas at San Antonio, San Antonio, Texas, hereinafter sometimes referred to as "Board,"

WITNESSETH:

WHEREAS, Board desires that a central plant be constructed and services from these facilities be provided to supply the chilled water and steam requirements of the buildings constituting The University of Texas at San Antonio, San Antonio, Texas;

WHEREAS, TEC represents to Board that it has the requisite resources, experience, skill, and personnel properly to serve Board in the capacities specified below, and Board, in reliance on such assurances, is willing to provide a land lease; to authorize the construction, operation and maintenance of a central plant; and is willing to contract to obtain chilled water and steam services from TEC;

NOW, THEREFORE, in consideration of the premises and the mutual covenants set forth, the parties agree as follows:

ARTICLE I - TERMS OF AGREEMENT

A. Authority. The parties represent and warrant that each has legal power to enter into this Agreement and that each has taken all action necessary to authorize its duly authorized officers to execute this Agreement.

B. Term. TEC shall have the construction so advanced that the plant shall be substantially complete and placed in operation no later than March 15, 1974, and fully completed by August 1, 1974. TEC shall notify Board in writing at this point as well as at the final completion of the plant. This agreement shall be for a primary term of 25 years, ending September 1, 1999, unless purchase options herein described are exercised. Otherwise, at the end of the primary term, the Lease Agreement shall expire and title to the entire plant and improvements shall revert to and vest in Board.

C. Not a Public Utility. In carrying out this Service Agreement, Board and TEC understand and agree that TEC is not now a "public utility;" that TEC has not and will not dedicate any of its property or facilities herein covered to the public use or hold itself out as willing to serve the public; that TEC has heretofore and will continue to assert its right to serve only customers of its selection through negotiated contracts. Board will at no time during the term of this Agreement urge or press any claim or charge that TEC is or should be

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a public utility, nor will Board urge any such claim after the termination of this Agreement. If at any time, any regulatory body is found to have the right to regulate the rates charged under this Agreement, the Board shall have the right to purchase all facilities on the leased premises at the value stipulated in paragraph C, Article IV, and paragraph D, Article IX.

D. Notices. All notices and bills hereunder shall be in writing and shall be deemed to have been delivered when deposited in the United States mail, postage prepaid, if properly addressed as follows:

If to Board: Vice President for Business Affairs  
The University of Texas at San Antonio, San Antonio, Texas

If to TEC: WIN - SAM, INC., SUITE 2280 FIRST NATIONAL  
BANK BUILDING, DALLAS, TEXAS 75202

Either party may, by written notice to the other, change its address for purposes of notices and bills hereunder.

E. Waiver. No failure by any party hereto to enforce any of its rights hereunder shall constitute a waiver or release of any such right or affect the validity of this Agreement. No waiver of any breach of this Agreement shall be deemed a waiver of any other or subsequent breach.

F. Partial Invalidity. If any provision of this Agreement is held to be invalid and not binding on any party hereto, such invalidity shall not affect the validity or enforceability of the remainder of this Agreement.

#### ARTICLE II - PAYMENT TO BOARD

Reimbursement. TEC hereby agrees to reimburse Board for the following costs already expended or committed by Board relative to the design of the plant as well as site preparation and other related costs. This amount is to be paid simultaneously with the execution of this Agreement.

The University of Texas at San Antonio . . . . \$ 325,000.00  
THREE HUNDRED TWENTY-FIVE THOUSAND DOLLARS

#### ARTICLE III - OWNERSHIP

Ownership of Central Plant. Ownership of central plant shall be vested in TEC and Board shall not, by virtue of this Agreement during the term hereof, acquire any interest or right in or to the central plant, central plant building, or any other equipment installed by TEC except as otherwise provided in this Agreement and the Lease Agreement attached hereto.

#### ARTICLE IV - RESPONSIBILITIES AND RIGHTS OF PARTIES

A. Right of Entry. Board agrees that TEC, its agents, representatives and workmen and all persons designated by TEC shall have free ingress

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and egress at all times to and from the areas within which the central plant building is located. Board shall designate specific parking areas for the sole use of TEC representatives.

TEC further agrees that its agents, representatives and workmen shall fully comply with all reasonable Board security regulations which may be in effect during the term of this Agreement. TEC shall grant to Board right of entry of its representatives at all times, including the right of observation and inspection of all records of plant operation.

B. Inspection of Plant and Systems. Board will cause a semi-annual inspection to be made under the supervision of the Director, Office of Facilities Planning and Construction, of this central plant. TEC will be expected to maintain the integrity of the plant and its systems to a degree compatible with that of the facilities served from the plant.

A written report of the results of such inspection shall be given to TEC. If deficiencies are reported, TEC shall have a mutually agreed time to correct such deficiencies. Continued failure on the part of TEC to satisfactorily complete said repairs shall constitute a breach of contract on the part of TEC.

C. Right of Purchase. On or after the third anniversary date, the Board shall have the option to purchase the plant for such amounts indicated and terminate this contract on contract anniversary dates as follows; or at other times as stipulated below:

\$ 3,815,000.00	on third anniversary date
\$ 3,415,000.00	on fifth anniversary date
\$ 2,900,000.00	on tenth anniversary date
\$ 2,200,000.00	on fifteenth anniversary date
\$ 1,248,000.00	on twentieth anniversary date

At the Board's option, Board may purchase the plant at any time after the third anniversary date on the basis of a straight line pro-rata of elapsed days. This shall be computed using the difference in value between the preceding and the succeeding dates.

D. Notice of Intent to Purchase by Board shall precede purchase date by at least six months.

E. Right of Audit. TEC agrees that Board shall have the right to audit any and all records of TEC at any time Board may designate. TEC agrees to make available to Board any and all records so requested. The cost of said audit shall be borne by Board.

#### ARTICLE V - CONSTRUCTION

A. Commencement of Construction; Ground Lease. TEC agrees to commence construction of the central plant upon the leased lands of the Board, described herein, within ten days from the date of completion of this Agreement and to continue in an orderly manner to assure substantial completion no later than March 15, 1974. Should TEC permanently abandon the construction of said plant and system, title to all improvements shall vest in Board.

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As a part of the consideration of this Agreement, Board agrees to lease to TEC a tract of land within the site and at the location described in Exhibit "C" attached hereto, upon which TEC will erect the central plant building and install the central plant equipment. Board also agrees to provide easements for necessary utilities to the plant. Board further agrees to provide sufficient construction work area as defined in Exhibit "D". The parties hereby agree to execute a Lease Agreement, a copy of which is attached hereto as Exhibit "C", reflecting the terms and conditions under which said land is to be used.

B. Construction of Plant. TEC hereby agrees to construct a central plant to provide chilled water and steam to those buildings constituting The University of Texas at San Antonio, San Antonio, Texas, described in Exhibit "A" attached hereto and made a part of this Agreement. During the life of this agreement, the Board agrees not to intentionally disconnect from the central energy plant any building enumerated in Exhibit "A". TEC agrees to provide chilled water and steam on a continuous basis in accordance with Board's load requirements up to the capacity of TEC's plant, such capacity being in accordance with plans and specifications defined below.

The central energy plant shall be constructed in strict accordance with the Plans, Specifications and any Addenda thereto, as prepared for Board by B. Segall, Jr. & Associates, Consulting Engineers, Austin, Texas. Copies of these documents, signed by both parties, shall be a part of this agreement as Exhibit "D".

Before any construction is begun or any commitments made as to materials or labor for the central plant, TEC shall submit a 100% Performance and Payment Bond as shown in Exhibit "F", guaranteeing completion of construction in sufficient time to commence providing full services from the plant as stipulated in Article I B.

C. Changes in the Work. TEC stipulates that competent personnel have carefully examined the site and the construction documents. TEC warrants that the site conditions and documents covering the design of the central plant are acceptable and that any changes in the work proposed by TEC, and approved by the Board, will result in no additional cost to or claims against Board. Changes in construction involving any deviation from the approved plans and specifications, either in scope of work or quality of construction, shall be done only with written approval of Board or its duly authorized representative.

Should Board or its representatives require any changes from approved plans involving increased or decreased costs to TEC, this shall constitute a basis of negotiation for an equitable adjustment in the payment for services rates.

D. Board Representatives. TEC agrees that during all phases of construction up to and including final acceptance by Board, Board representatives shall have free access to the work for purposes of inspection and supervision.

E. Assignment of Prepurchased Equipment Items. TEC hereby agrees to accept from Board assignment of contracts for prepurchased mechanical equipment items which Board has awarded previously. Contracts cover (2) water chilling refrigeration systems, (2) packaged water tube steam boilers, (1) spray type deaerating feedwater heater, (6) chilled water and condenser

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water pumps and (1) cooling tower. Contracts between Board and the successful equipment vendors, copies of which are attached as Exhibits "B-1-A" through "B-1-E", will be assigned to the TEC, including one change order thereto.

TEC further agrees to coordinate and administer the execution of these contracts in strict accordance with the prepurchase specifications, a copy of which is attached hereto as Exhibit "B-2". Board will provide to TEC complete copies of all submittal data, approved by Board representatives.

All payments to vendors for prepurchased equipment shall be made by TEC in accordance with the terms of the assigned contracts and Board shall be completely absolved of any further liability for subject contracts upon signing of this Agreement and the assignment form included in Exhibit "B" by TEC.

Claims, if any, arising from TEC's inability to receive prepurchased equipment by the dates established in the contracts shall be the full responsibility of TEC.

F. Design Criteria. The central plant is designed and shall be constructed to provide desired chilled water and steam services to buildings constituting The University of Texas at San Antonio, San Antonio, Texas.

As designed, the central plant has the capability of cooling 4,500 gallons per minute of circulating water from 54° F to 38° F when the outdoor wet bulb temperature is 78° F. The design provides for two chillers to be installed with space and provision to accommodate two additional chillers that will increase the plant cooling capability to 13,500 gpm of circulating water from 54° F to 38° F with an outdoor wet bulb temperature of 78° F. Sufficient standby pumping capacity is included to afford full plant output with any single chilled water pump out of service. The selected chilled water pumps are designed to operate at pressure differentials sufficient to overcome distribution system losses. Plant arrangement and design is suitable for future plant expansions to approximately 9,000 tons capacity without enlarging the building, unless Alternate #1 is accepted.

The central plant design provides for two boilers, each with a capability of delivering 60,000 pounds per hour of 125 psi saturated steam of 99% quality to the delivery point. Superheating will be acceptable at delivery points up to 100° F above saturation temperature.

#### ARTICLE VI - QUANTITY AND QUALITY OF SERVICES

A. Quantity and Quality of Services. Beginning no later than March 15, 1974, chilled water shall be continuously available to the delivery points within the temperature limits of 38° F to 40° F, within pressure limits of 125 psi to 150 psi, and at circulation rates necessary for compatibility with building systems designed for 44° F supply water and 10° F to 12° F temperature rise at full load. Chilled water system static pressure will be maintained high enough (up to 85 psig) to prevent draining of lines in highest building in event of temporary loss of pumping pressure. Chilled water return mains shall operate at pressures approximately 20 psig below supply mains. Circulation within buildings shall be the responsibility of Board or its representatives.

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Beginning no later than March 15, 1974, steam shall be available continuously at the delivery points between the limits of 125 psig to 150 psig. Superheating will be accepted up to 100° F above saturation temperature.

Water treatment will be maintained for control of scale, corrosion and biological growth. Water treating procedures and records of results shall be submitted monthly to the Director of Physical Plant for review and evaluation.

Water quality shall be strictly maintained by TEC within the prescribed ranges established in the construction document specifications, unless variations are agreed to by both parties and are directed in writing by the Director of Physical Plant. TEC shall take immediate action to correct unsuitable quality conditions when instructed by the Director of Physical Plant. Continued failure on the part of TEC to correct water quality shall constitute a breach of contract.

B. Return of Chilled Water and Steam Condensate. Board shall be responsible for the return to the circulation system of chilled water and condensate from the steam as follows:

Board shall endeavor to return all chilled water delivered.

Board shall endeavor to return steam condensate at a pressure sufficient to enter TEC return lines but not in excess of 50 psig. TEC's return lines shall be maintained and operated so as to permit such entry under all usual operating conditions.

The necessary mixing valves, control systems, pumps, and regulators in the circulation system of the buildings served will be installed by the Board at its sole expense. The design of such equipment shall provide for the automatic return of chilled water and steam condensate within the prescribed limits.

If Board shall fail to return chilled water or steam condensate as herein provided, it shall pay a charge of \$1.25 per thousand gallons for each thousand gallons of steam condensate or chilled water in excess of a total of thirty thousand gallons, not returned to TEC during any month.

C. Metering Equipment; Point of Delivery. Equipment for measuring and metering the chilled water, steam, and steam condensate delivered and returned shall be located in the central plant and shall be accurate within plus or minus 2% at all normal conditions of flow and temperature differential. Metering system shall maintain an hourly typed record of total thermal loads as well as supply and return flow temperature and pressure.

Delivery point(s) shall be as shown on the plans, attached hereto as part of Exhibit "D".

D. Verification of Metering. Board shall have access at all reasonable times to metering equipment and all instruments used in the measurement of the contract units of chilled water, steam, and steam condensate, but the reading, adjustment and maintenance thereof shall be performed only by representatives of TEC. Upon request of Board, TEC shall submit to Board its records and readings of such meters and measuring equipment, and a

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representative of Board shall be present when periodic tests or adjustments are made of such meters and measuring equipment; and TEC shall give ten days' notice of its intention to make such tests or adjustments. Board, through a representative, shall have the right at reasonable times to test the accuracy of such meters and measuring equipment, and if upon any test of the meters or measuring equipment by Board or by TEC any of such meters or measuring equipment is found to be inaccurate by more than 2%, such meter or measuring device shall be promptly corrected, and payments based upon such inaccurate registration shall be corrected for the period during which said inaccuracy is known to have existed, but in case such period is not known or agreed upon, then for a period extending back for one-half of the elapsed time since the previous test of the accuracy of such meter or measuring equipment. Adequate plant records will be maintained so that calculations of energy usage by plant records may be used to verify metering or for billing purposes.

#### ARTICLE VII - PAYMENT FOR SERVICES

A. Demand Charge: Board shall pay TEC a monthly demand charge which represents payment for relatively fixed costs (capital recovery, interest, profit, taxes, labor, insurance, etc.) as follows:

\$ 50,639.00 per month.

\$ 300.00 adjustment to the monthly demand charge for each full three percent change in the average cost of labor prevailing for manufacturing employees in the San Antonio labor market for the month of December of each contract year from the average cost of labor prevailing for manufacturing employees in the San Antonio labor market for December, 1973. The average cost of labor prevailing for manufacturing employees in the San Antonio labor market shall be determined by reference to and in conformity with the index of Gross Average Hours and Earnings in the San Antonio Metropolitan Area published by the Texas Employment Commission in cooperation with the United States Bureau of Labor Statistics.

B. Rate for Chilled Water: Board shall pay TEC a commodity charge which represents payment for variable costs (fuel, electricity, water, maintenance, repair, supplies, etc.) for producing, furnishing and circulating chilled water, as follows:

\$ 0.00926 per ton hour for all ton hours per month.

One ton hour is defined as 12,000 BTU of energy for a period of one hour.

Article VIA notwithstanding, payment for services shall begin only after delivery of chilled water has been directed in writing by the Board. In no event shall this payment for services be delayed longer than 90 days after the date specified in Article VIA, provided TEC is ready to deliver said services. Chilled water rates will be increased or, as the case may be, decreased from time to time as follows:

- (1) For the refrigeration produced by using steam turbine driven chillers, \$0.0001544 per ton hour for each full cent by which the average annual cost to TEC per one thousand cubic feet of the primary fuel utilized in the central plant systems varies from 30 cents per one thousand cubic feet.
- (2) The electrical cost adjustment shall be \$0.0002820 per ton hour for each full one-tenth cent change in the cost of electrical energy, including demand, from \$ .01 per kilowatt hour on an annual basis.

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- (3) \$0.0000842 per ton hour for each full two cents by which the average annual cost to TEC per thousand gallons of raw water utilized in the central plant system varies from 20 cents per thousand gallons of water.
- (4) The maintenance and supplies adjustment shall be \$0.000021 per ton hour for each full three percent change in the cost of labor prevailing for manufacturing employees in the San Antonio labor market for the month of December of each contract year from the average cost of labor prevailing for manufacturing employees in the San Antonio labor market for December 1973. The average cost of labor prevailing for manufacturing employees in the San Antonio labor market shall be determined by reference to and in conformity with the index of Gross Average Hours and Earnings in the San Antonio Metropolitan Area published by the Texas Employment Commission in cooperation with the United States Bureau of Labor Statistics.
- C. Rates for Steam. Board shall pay TEC a commodity charge which represents payment for variable costs for producing and furnishing steam to the delivery point, subject to adjustment as herein provided, as follows:
- \$ 0.4997 per million BTU for all million BTU per month.

Article VIA notwithstanding, payment for services shall begin only after delivery of steam has been directed in writing by the Board. In no event shall this payment for services be delayed longer than 90 days after the date specified in Article VIA, provided TEC is ready to deliver said services.

Steam rates will be increased or, as the case may be, decreased from time to time as follows:

- (1) \$ 0.01522 per million BTU for each full cent by which the average annual cost to TEC per one thousand cubic feet of the primary fuel utilized in the central plant system allocated to the production of steam for sale varies from 30 cents per one thousand cubic feet.
- (2) \$ 0.00450 per million BTU for each full one-tenth cent by which the average annual cost to TEC per KWH of electrical energy, including demand, varies from \$ .01 per KWH on an annual basis.
- (3) \$ 0.00026 per million BTU for each full two cents by which the average annual cost to TEC per thousand gallons of raw water utilized in the central plant system varies from \$ .20 per thousand gallons of water.

D. Tax Adjustment. An adjustment shall be made to reflect a change in taxes, other than income taxes, occasioned by a change in evaluation, percent assessment, change in tax rate or new taxes. Such adjustment shall be from the base of the first tax year of record under this Agreement. The documented annual increase shall be added to the monthly statement as twelve equal charges.

E. Notice of Adjustment. When proposing any adjustment to the rates as provided for in this Article, TEC shall give written notice to Board of its computation of such adjustment not later than April 30 of that year. The adjustment shall become effective commencing with the beginning of the next succeeding fiscal year of the Board, which begins September 1.

F. Statements for Charges; Payment. Statements shall be rendered monthly by TEC to Board not later than the fifth business day of each month for the prior month's service, and shall be payable on or before thirty days thereafter.

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G. Renegotiation of Rate Schedules. The above rate schedules are constructed on the premise that natural gas is the primary fuel and that fuel oil is the secondary fuel. It is agreed that secondary fuel will be used only for test purposes or during valid interruptions of primary fuel, as outlined in Article IXB, below. In the event that the use of secondary fuel (fuel oil) exceeds 15% of the annual input BTU requirements to the central energy plant for a billing year (April 1 to March 31), the Board will entertain renegotiation of the rates for chilled water and steam. It is agreed that the input measurement shall be calculated on the basis of 1,000 BTU/CF for natural gas consumed and a notarized heat value for fuel oil consumed. Furthermore, in the event that present primary and secondary fuels become unavailable or economically undesirable, the Board will entertain redesign and conversion of the central energy plant and renegotiation of the rates for chilled water and steam.

#### ARTICLE VIII - OPERATION, MAINTENANCE AND REPAIR

A. Pollution. TEC agrees to operate the plant in full compliance with all ordinances related to environmental pollution. Board shall have no liability for claims arising from non-compliance by TEC.

B. Secondary Fuel. TEC agrees to maintain services through the use of secondary fuel at all times when the supply of primary fuel is interrupted. Furthermore, TEC shall operate each boiler for an equal period on secondary fuel for the first week of October of each year.

C. Maintenance and Repairs. TEC shall maintain and repair building, systems and equipment. If any part or all of such facilities shall at any time be destroyed or damaged so that the production and circulation of chilled water and steam is not adequate to maintain the standards herein contained, TEC shall proceed promptly to rebuild, replace and/or repair the same. TEC shall have the right, upon reasonable notice to the Director of Physical Plant, of Board, and with the approval of the Director of Physical Plant, to interrupt the supply of chilled water and steam to Board's facilities for the purposes of making any necessary repairs; but TEC shall in each instance accomplish such work at such times and in such manner as to cause as little interruption or inconvenience to the occupants of the buildings as is reasonably possible and shall restore its facilities to operation as quickly as shall be reasonably possible under the circumstances.

D. Equipment Under Control of Board. TEC will not be responsible for insufficient cooling or heating within any building attributable to defects or inadequacy of air handling, heat exchange or other related equipment not under the exclusive control of TEC.

E. Force Majeure. TEC will not be responsible for any interruptions of the delivery of chilled water or steam or for the performance of any of the duties assumed hereunder by TEC due to strikes, fires, or governmental interference by order or regulation of or by any governmental authority, or acts of God, but TEC will at all times exercise the highest degree of diligence to have the central plant system furnish an uninterrupted supply of chilled water and steam.

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F. Exterior Maintenance. Board shall cause the exterior areas adjacent to plant to be maintained by Board representatives, including landscaping, irrigation and parking areas. TEC shall agree to cause no nuisance in the form of exterior storage or other unsightly acts on property adjacent to the plant building. Should such occur, Board reserves the right to charge the cost of correcting same to TEC.

#### ARTICLE IX - EXPANSION OF PLANT

A. Design of Additional Facilities. At the discretion of Board, expansion plans for additional facilities shall be prepared by Board, after consultation with TEC with respect to design criteria. Major expansion may be in increments or directly to full design capacity of the plant. TEC agrees to construct such additional facilities in strict accordance with documents provided by Board and to have the stipulated additional capacity available when directed by Board. "Additional facilities," as used above, includes not only expansion of plant capacity but also plant conversions caused by changing from present fuels or caused by drastic changes in government regulations such as environmental protection laws.

B. Physical Completion of Expansion. TEC shall notify Board in writing when the Board-specified expansion is to be complete, to include the date TEC requests Board acceptance of completion, and the date the expanded capacity shall be ready to provide the services required. Board shall have seven (7) days to accept completion or notify TEC of deficiencies in the additional capacity. Board shall accept such completion or provide notification of deficiencies in writing. TEC agrees to correct Board enumerated deficiencies without additional cost to Board.

C. Payment of Expanded Services. Upon completion and acceptance by the Board, payment for expanded facilities for furnishing additional chilled water and steam services will be determined. Unless changes in the primary source of energy are involved, basic rates in effect at the time of expansion shall remain in effect. At the time of expansion and at its discretion, the Board will choose one of the three following methods to compensate the TEC for the expansion:

(1) A monthly payment for recovery of added capital investment, to be added to the monthly demand charge and to be calculated as follows:

$$\frac{(CI + AI + Ins + \%RI)}{T} \div 12$$

CI = Documented actual added capital investment for expansion, in dollars

T = Remaining term of agreement, in years

AI = Annual interest cost, based on unamortized CI, in dollars

Ins. = Annual increased insurance premium, based on added CI, in dollars

%RI = Annual return on added CI, in dollars

TEC agrees that the interest rate related to the cost of financing of added capital investment shall be approved by the Board. Furthermore, TEC agrees that the factor defined above as %RI shall be 3.5 %.

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(2) A negotiated lump sum payment for the cost of the added capital improvements, including out-of-pocket costs for engineering and design, construction supervision and inspection, financing, and administration which may have been incurred by the TEC.

(3) Renegotiation of the Service Agreement to include one or more of the following items: the term of the contract, the demand charge and the commodity rates.

D. Right of Purchase After Expansion. Board agrees that in the event the Right of Purchase is exercised subsequent to an expansion, TEC shall be paid for the expanded plant as follows: the modified purchase price shall be the base sum as stipulated in Article IVC - Right of Purchase, plus the unrecovered balance of the adjusted capital investment.

#### ARTICLE X - INDEMNIFICATION AND INSURANCE

A. Indemnification and Insurance. TEC will indemnify and hold Board harmless from any loss, cost, damage or expense proximately resulting from the negligent performance by it of its obligations hereunder or from its violation of the covenants made by it hereunder. TEC shall be promptly notified in writing of any claim or demand for payment made on account of which Board claims that it is entitled to indemnification under this Agreement; and TEC shall have a reasonable opportunity and the right to contest, at its own expense, any such claim or demand asserted against Board.

At all times during the term of this Agreement, TEC shall maintain in full force and effect the following insurance coverage and furnish Board continuing evidence of such coverage:

- (1) Public Liability insurance in an amount not less than \$100,000 per person and \$500,000 for each occurrence.
- (2) Workmen's Compensation in accordance with applicable laws.
- (3) Property Damage Liability insurance, in an amount not less than \$100,000/\$500,000.
- (4) Property Damage upon the building, contents and additions thereto to the extent of the highest insurable value thereof, including coverage against damage by fire, lightning, windstorm, hurricane, hail, explosion, riot, civil commotion, smoke, aircraft, and land vehicles. Coverage shall be based on an annual revaluation and provide for full replacement or repair without regard to depreciation.

#### ARTICLE XI - ENCUMBRANCES AND INDEBTEDNESS

A. Encumbrances and Removal of Property. Except for financing of the initial construction and equipment for the facilities described in this Agreement, TEC agrees not to further encumber any property located on the land described in Exhibit "C" without approval of Board; and TEC further agrees not to remove any of said property without approval of Board.

B. Equity and Financing. TEC covenants that it shall maintain a clear equity in the initial total construction cost for the facilities described of not

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less than 20%. TEC shall provide the Board, prior to final execution of this Agreement by the successful bidder, a detailed cost estimate for the entire initial construction phase. Further, TEC covenants that indebtedness of this project will be retired by substantially level annual principal and interest payments in a manner acceptable to the Board.

C. No Indebtedness Created. This Agreement shall not be construed as creating an indebtedness against the State of Texas, and all obligations of the Board hereunder are subject to the availability of appropriations by the Legislature of the State of Texas; provided, however, that the failure by Board to make payments to TEC as contemplated by this Agreement shall relieve TEC of the obligation to perform services hereunder until such failure is corrected, but such failure shall not otherwise terminate the obligations of the parties hereunder.

D. Operation, Maintenance and Repair Costs. TEC shall pay, prior to delinquency, all valid charges related to operation, maintenance and repair of plant.

#### ARTICLE XII - TERMINATION OF CONTRACT

A. Inability to Perform. In the event TEC becomes unable to continue the performance of services as herein provided because of bankruptcy, insolvency, or for any reasons other than those outlined in Article VIII E of this Agreement, Board may either appoint a successor operator or itself to take over the operation of such plant. If TEC is unable to perform, this Agreement will terminate and ownership shall vest in Board, provided, however, Board shall pay current operating and maintenance expenses and retire primary indebtedness from any surplus monies that is the result of plant revenues being in excess of net actual operating and maintenance expense. This obligation to retire primary indebtedness would be secondary to any capital requirement necessary to restore facilities to reasonable operational order, except where this expense is recovered from insurance in effect. The obligation to apply excess monies to the retirement of the primary indebtedness shall only terminate upon full payment of the debt, provided the initial indebtedness of TEC shall not provide for a period of payments in excess of 25 years. However, subject to the foregoing, if at the termination date of the Lease, any portion of the primary indebtedness remains unpaid, the Board shall continue to apply such surplus monies to the payment of such primary indebtedness, until such primary indebtedness and interest thereon, is fully paid. Board, while it is operating such plant, shall have the option to prepay the unpaid primary indebtedness, without penalty.

Plant revenues as used in this paragraph are defined as the revenues which would have been payable to TEC under this Agreement had TEC continued to own and operate the facilities herein described. Primary Indebtedness as referred to above is defined as not more than 80% of capital cost of facilities as reported in the TEC's letter of transmittal, less any payments of principal. If termination takes place after expansion, the unrecovered balance of the additional capital investment, as determined in Article IX C., may be added to the above defined primary indebtedness.

In the event that Board shall allege that TEC has defaulted or is suffering a default to exist in its obligations hereunder, Board shall, by Certified or Registered Mail, serve a 10-day notice upon TEC and the holder of the primary indebtedness (Mortgagee) specifying the default or defaults it has alleged to have occurred.

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If such default or defaults are cured within the period of said notice, such notice of default shall be of no further force and effect. If such default or defaults are unable, by their nature to be cured within said 10-day period, the notice of default shall likewise be of no further force or effect if TEC or the Mortgagee commences to cure such default or defaults within the 10-day notice period and continues with the curing of such default or defaults, with due diligence.

If such default or defaults are cured or steps are commenced to cure such default or defaults as hereinbefore provided the right granted hereunder to Board to take over the operation of the Plant, shall be of no force and effect.

At any time during the term of this Agreement, the Mortgagee, until the payment in full of the primary indebtedness, shall have the right to succeed to the interest of TEC under this Agreement. If the Mortgagee does so succeed to the interest of TEC, it may appoint a successor operator of such plant. Such successor operator must be approved by the Board which approval shall not be unreasonably withheld.

B. Breach of Contract. Should TEC commit a breach of contract, as hereinbefore defined, and after 15 days written notice to TEC and TEC's lender, Board may appoint a successor operator or itself take over the operation of the plant, exactly as stipulated in paragraph A above.

C. Determination of Restoration Cost. TEC and Board agree that any actual restoration cost to restore the plant to reasonable operational order shall be deducted from the final payment due TEC.

#### ARTICLE XIII - SUCCESSOR AND ASSIGNS

Successor and Assigns. This Agreement shall be binding upon the successors and assigns of the parties hereto. TEC may not sell or assign this Agreement, without prior written consent of Board, which consent shall not be unreasonably withheld.

#### ARTICLE XIV - AMENDMENTS

Amendments. This written Agreement constitutes the whole agreement between the parties hereto, and all prior or contemporaneous commitments or understandings are merged herein.

This Agreement may be modified or amended only by an agreement in writing by each of the parties hereto.

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ARTICLE XV - EXHIBITS

Exhibits constituting an integral part of this agreement are as follows:

- \* Exhibit A - List of Buildings Served and Estimated Chilled Water and Steam Requirements
- \*\* Exhibit B - Form of Assignment of Contracts
  - \*\*\* - Prepurchased Equipment Contracts and Specifications-
    - \*\*\* B-1-A - Water Chilling Refrigeration Systems
    - \*\*\* B-1-B - Packaged Water Tube Steam Boilers [Incl. Change Order #1]
    - \*\*\* B-1-C - Spray Type Deaerating Feedwater Heater
    - \*\*\* B-1-D - Chilled Water and Condenser Water Pumps
    - \*\*\* B-1-E - Cooling Towers
    - \*\*\* B-2 - Specifications for Mechanical Equipment for Three Central Plants at The University of Texas at San Antonio, The University of Texas of the Permian Basin, and The University of Texas at Dallas
- \*\*\*\* Exhibit C - Lease Agreement and Legal Description
- \*\*\*\* Exhibit D - Construction Plans (Shts. 1-18) and Specifications (all dated Sept., 1972) including Addenda 1, 2, 3, Less Alternate #1.
- \*\*\* Exhibit E - Contract Administration and Relation of Parties During Construction
- \*\*\* Exhibit F - Payment Bond and Performance Bond

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\* Page 136

\*\* Page 137

\*\*\* In Contract Set

\*\*\*\* Page 139

\*\*\*\*\* Filed in Office of Facilities Planning and Construction

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered as of the date and year first above written.

(Corporate Seal)

WIN-SAM, INC.  
(Thermal Energy Contractor)

ATTEST:

John M. Mc  
asst. Sec

By M. Amin  
Vice-president  
Title

ATTEST:

BOARD OF REGENTS OF THE  
UNIVERSITY OF TEXAS SYSTEM

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Chairman

APPROVED AS TO LEGAL FORM:

APPROVED AS TO <sup>CONTENT</sup> FORM:

Bruner Waldrop  
University Attorney

E. J. ...  
Deputy Chancellor for Administration

APPROVED AS TO  
TECHNICAL FORM:

R. S. Kristof  
Director, Office of Facilities  
Planning and Construction  
A.U.

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EXHIBIT "A"

## THE UNIVERSITY OF TEXAS AT SAN ANTONIO

Building	Tons Cooling	Lbs. Steam Heating	Square Feet
Library- Administration	767	11,400	225,891
Humanities- Business	600	10,600	180,855
Science- Education	620	12,800	185,362
Arts	256	3,750	65,894
Gymnasium	147	3,750	40,731
Convocation Center	540	4,375	72,614
Physical Plant	54		27,890
TOTAL	* 2,984	** 48,275	799,237

\* Diversity applied

\*\* Maximum- No diversity applied



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presents does sell, assign and transfer unto WIN - SAM, INC.,  
all rights, title and interest in the equipment specified to be delivered  
and erected, all of which is more specifically described in those certain  
contracts set out above copies of which are attached hereto and which are  
incorporated and made a part hereof, and ASSIGNEE hereby assumes all obliga-  
tions and liabilities in connection with the said contracts.

EXECUTED this 31 day of May, 1973.

ATTEST:

BOARD OF REGENTS OF  
THE UNIVERSITY OF TEXAS SYSTEM

\_\_\_\_\_  
Secretary

By \_\_\_\_\_  
Chairman

ATTEST:

ASSIGNOR ~~OR~~  
WIN-SAM, INC.

[Signature]  
Asst. Sec.

By [Signature]  
Vice-president

APPROVED AS TO LEGAL FORM:

ASSIGNEE  
APPROVED AS TO <sup>CONTENT</sup> ~~FORM~~:

[Signature]  
University Attorney

[Signature]  
Deputy Chancellor for Administration

APPROVED AS TO  
TECHNICAL FORM:

[Signature]  
Director, Office of Facilities  
Planning and Construction  
A.C.L.

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(3) LEASE AGREEMENT (Pages 139-143)EXHIBIT "C"

THE STATE OF TEXAS

COUNTY OF

This AGREEMENT made and entered into this 31 day of May, 1973, by and between the BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM, herein called "Lessor," and WIN - SAM, INC., a Texas Corporation, with its principal place of business in Dallas, Texas, herein called "Lessee,"

## WITNESSETH:

For and in consideration of the construction, operation, and maintenance of a central plant, as described in the Service Agreement, which shall revert to Lessor at the expiration of the term of this Lease as herein provided, the covenants and agreements to be kept and performed by Lessee pursuant to that certain Service Agreement of even date herewith by and between Lessee and Lessor to which reference is here made, and the payment by Lessee of Ten Dollars (\$10.00) per annum, Lessor does hereby lease unto Lessee for a term commencing on the date hereof and terminating on September 1, 1999, or such other date as may be determined under provisions of the Service Agreement whereby said Service Agreement is terminated, the tract of land described in Exhibit "D" of the Service Agreement and by reference made a part of this Lease Agreement, \* Essentially this tract shall consist of the land covered by the Plant Building, plus the land covered by the Service Yard.

The following terms and conditions as to the use of the leased premises hereby granted are expressly agreed to by and between Lessee and Lessor:

1. Lessee agrees to construct a central chilled water and steam plant in accordance with the terms and conditions of the Service Agreement. Lessor agrees to furnish Lessee the necessary rights of ingress and egress from the central plant site and parking in accordance with the site plan, Exhibit "D". Lessor further agrees and hereby grants to Lessee the right to use the leased premises for the operation and maintenance of the central plant. Such operation and maintenance by Lessee shall not in any manner restrict or interfere with any proposed new building which may be constructed by Lessor on said premises.
2. It is agreed and understood that title to the central plant, including all fixed and movable property, such as compressors, boilers, cooling towers, switch gear, chillers, pumps and internal piping and all other improvements and equipment, shall vest in Lessor upon the expiration or termination of this Lease.

\* and EXHIBIT C-4

3. Lessee shall not commit or suffer to be committed waste upon said premises, and shall keep said premises and the improvements and equipment thereon in good order and repair and in clean, safe and healthful condition, and shall comply with all state, federal and local laws, rules and regulations with regard to the use and conditions of the demised premises and improvements and equipment thereon.
4. It is agreed and understood that Lessor is not to be liable for any damages or injuries to any person or persons or property on account of the occupancy, use or improvements placed on said premises by the Lessee, its successors or assigns, and Lessee shall indemnify and hold harmless Lessor from any such liability in the manner and to the extent provided in the Service Agreement.
5. Lessee shall pay, prior to delinquency, all valid charges connected with the operation of said premises, including all taxes, assessments and charges, general and specific, that may be levied or assessed against Lessee by reason of its use of said premises and improvements and equipment situated thereon.
6. This lease may be transferred or assigned by Lessee only in the event of an assignment or transfer of the Service Agreement after receipt of approval thereof from Lessor.

EXECUTED by the parties on the day and year first above written.

ATTEST:

BOARD OF REGENTS OF  
THE UNIVERSITY OF TEXAS SYSTEM

\_\_\_\_\_  
Secretary

By \_\_\_\_\_  
Chairman  
**LESSOR**

ATTEST:

~~LESSOR~~  
WIN-SAM, INC.  
By M. Sami  
Vice-president

John M. Mee  
asst. sec.

APPROVED AS TO LEGAL FORM:

LESSEE <sup>CONTENT</sup>  
APPROVED AS TO FORM:  
Edell Elber  
Deputy Chancellor for Administration

Bruner Waldrop  
University Attorney

APPROVED AS TO  
TECHNICAL FORM:

R. S. Gustaf  
Director, Office of Facilities  
Planning and Construction  
A.L.L.

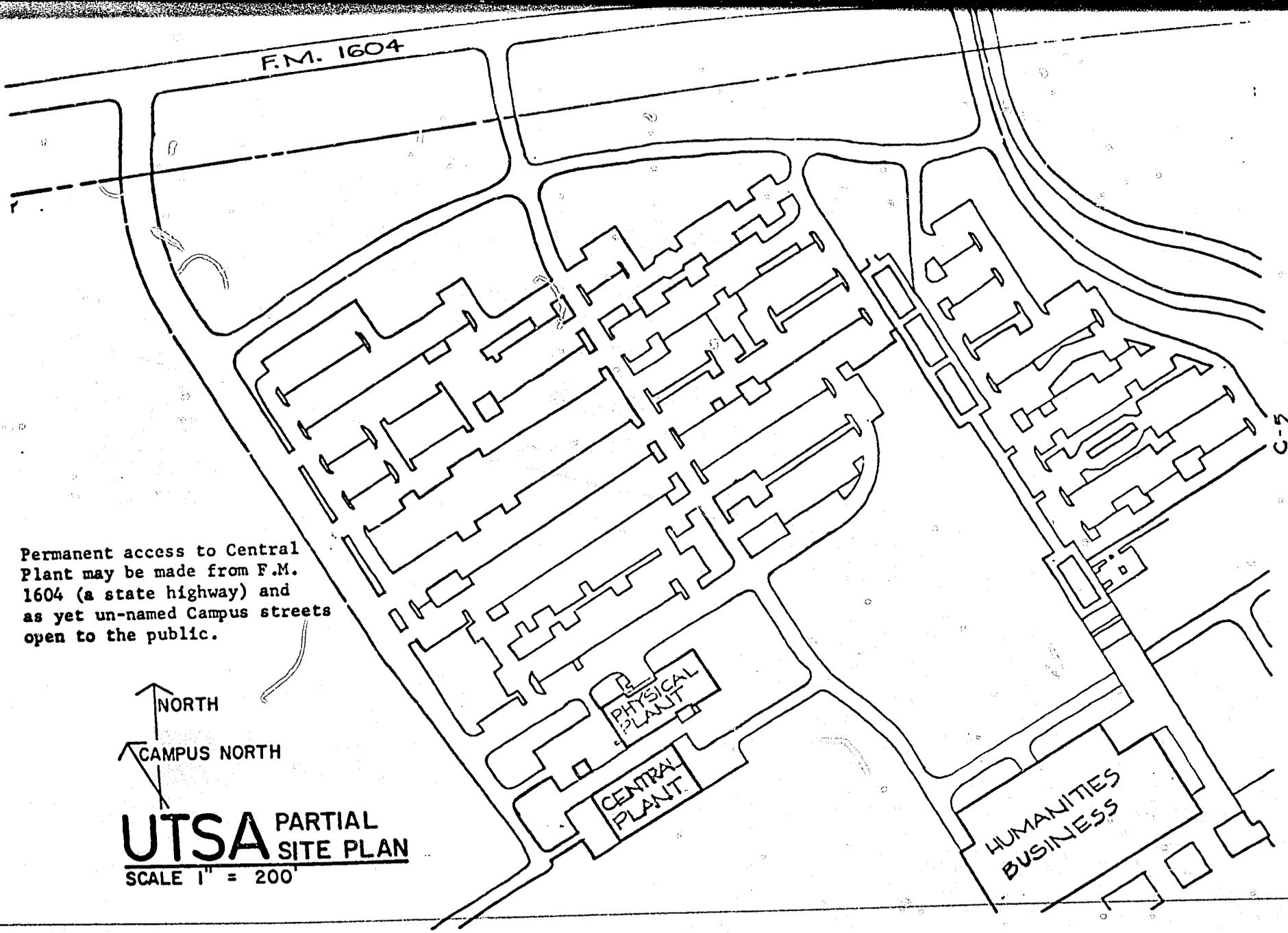
7-27-73

NOTES FOR A 0.451 ACRE BUILDING SITE  
ON THE 600 ACRE SITE OF THE UNIVERSITY  
OF TEXAS AT SAN ANTONIO, CITY OF SAN ANTONIO  
BEXAR COUNTY TEXAS, FOR THE CENTRAL ENERGY PLANT  
BUILDING AND ATTACHED SERVICE YARD

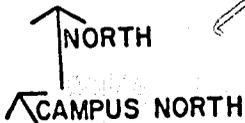
- BEGINNING: at a point at the most southwestly extremity of the Central Energy Plant and attached Service Yard, the point mentioned above being the same point as located by permanent concrete monuments located on the 600 acre site of The University of Texas at San Antonio and identified as point E 14,465/N 13,888;
- THENCE: "Campus North" a distance of 94.00 feet along the west property line of the Central Energy Plant and attached Service Yard to a point identified as point E 14,465/N 13,982;
- THENCE: "Campus East" a distance of 209.00 feet along the north property line of the Central Energy Plant and attached Service Yard to a point identified as point E 14,674/N 13,982;
- THENCE: "Campus South" a distance of 94.00 feet along the east property line of the Central Energy Plant and attached Service Yard to a point identified as point E 14,674/N 13,888;
- THENCE: "Campus West" a distance of 209.00 feet along the south property line of the Central Energy Plant and attached Service Yard to the point of beginning, containing 0.451 acres of land, more or less.

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F.M. 1604



Permanent access to Central Plant may be made from F.M. 1604 (a state highway) and as yet un-named Campus streets open to the public.



**UTSA** PARTIAL  
SITE PLAN  
SCALE 1" = 200'

HUMANITIES  
BUSINESS

PHYSICAL  
PLANT

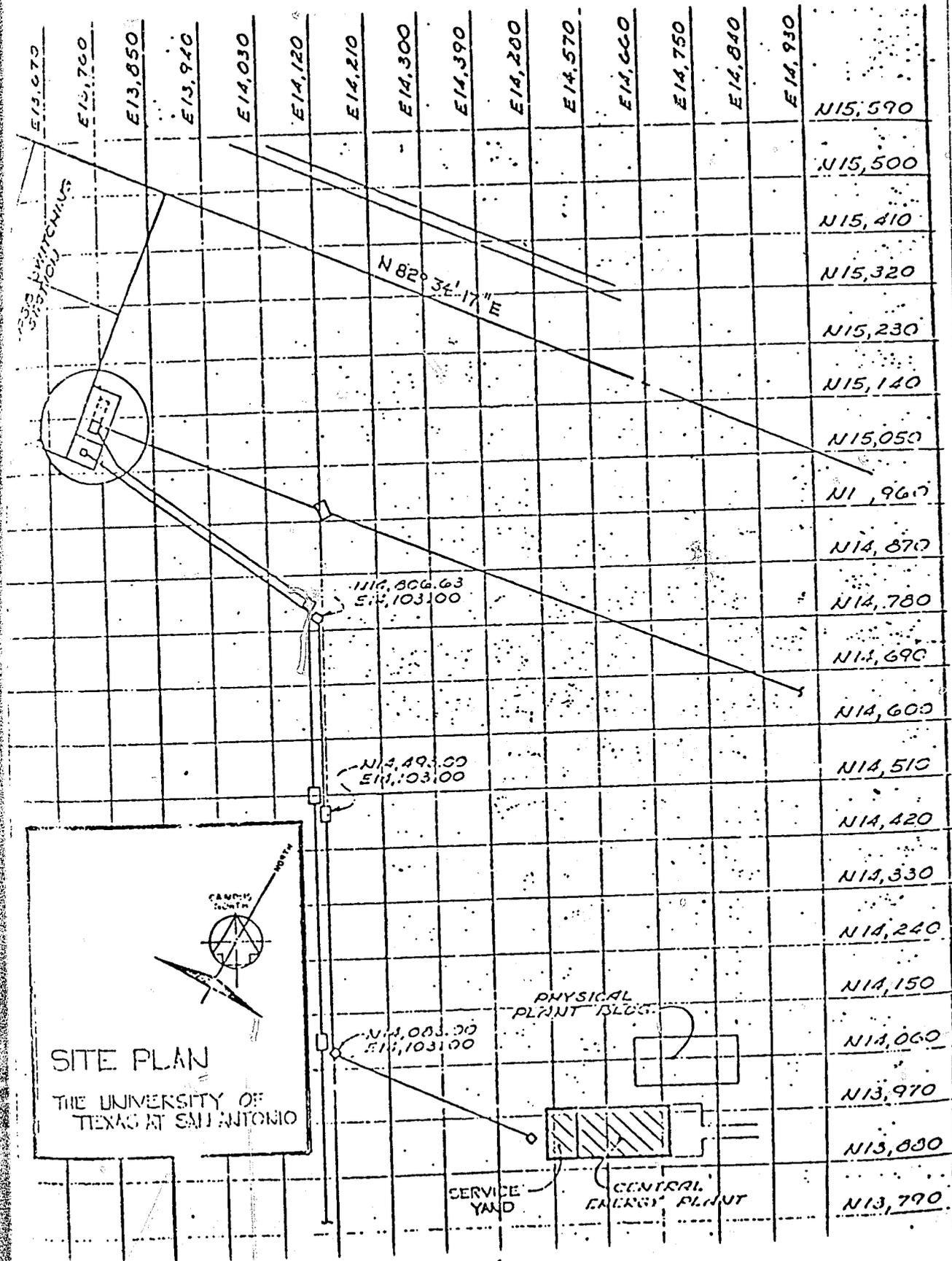
CENTRAL  
PLANT

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7-27-73

REPORT OF LAND AND INVESTMENT COMMITTEE (Pages 144-156). --  
The following report of the Land and Investment Committee was filed with  
the Secretary. Committee Chairman Garrett was called to the telephone,  
and in his stead Regent Nelson moved that the report be adopted. The  
motion was seconded and unanimously prevailed.

Unless otherwise indicated in the report, either the Associate Deputy  
Chancellor for Investments, Trusts and Lands or the Deputy Chancellor  
for Administration was authorized to execute all necessary instruments  
relating to real estate or mineral interest held or controlled by the  
Board of Regents as a part of the Permanent University Fund or as a  
part of any Trust or Special Fund when such instruments are approved  
as to form by a University attorney and as to content by an appropriate  
official:

William L. Lobb, Associate Deputy Chancellor for Investments,  
Trusts and Lands Recognized. -- Committee Chairman Garrett  
recognized the new Associate Deputy Chancellor for Investments,  
Trusts and Lands, William L. Lobb.

I. Permanent University Fund

A. Investment Matters

Permanent University Fund: Report on Clearance of Monies to Permanent University Fund and Available University Fund. --  
 From the Auditor, Oil and Gas Production the following report with respect to monies cleared by the General Land Office to  
 the Permanent University Fund and the Available University Fund for the current fiscal year through June 1973 was received  
 and made a part of this Committee's report:

	May, 1973	June, 1973	Cumulative This Fiscal Year	Cumulative Preceding Fiscal Year (Averaged)
<u>Permanent University Fund</u>				
Royalty				
Oil	\$1,414,873.47	\$ 758,035.56	\$12,384,677.21	\$13,371,827.40
Gas - Regular	318,029.78	289,180.49	3,082,184.87	2,868,644.20
- F. P. C.	.76	26.99	40,871.76	23,353.70
Water	10,329.48	13,107.73	100,336.20	98,818.50
Salt Brine	1,334.18	1,502.44	11,892.84	11,217.70
Rental on Mineral Leases	9,373.81	8,832.70	252,633.31	283,025.40
Rental on Water Contracts	- 0 -	4,580.00	13,541.47	21,340.00
Rental on Brine Contracts	- 0 -	- 0 -	- 0 -	166.70
Amendments and Extensions of Mineral Leases	408,810.00	215,515.89	917,588.45	237,859.00
	<u>2,162,751.48</u>	<u>1,290,781.80</u>	<u>16,803,726.11</u>	<u>16,916,252.60</u>
Bonuses, Mineral Lease Sales (actual)	- 0 -	- 0 -	6,035,200.00	4,769,600.00
Total-Permanent University Fund	<u>2,162,751.48</u>	<u>1,290,781.80</u>	<u>22,838,926.11</u>	<u>21,685,852.60</u>
<u>Available University Fund</u>				
Rental on Easements	9,287.45	16,935.81	81,027.99	198,469.10
Interest on Easements and Royalty	403.05	1,571.71	4,041.89	12,008.80
Correction Fees - Easements	- 0 -	- 0 -	- 0 -	112.90
Transfer and Relinquishment Fees	309.07	178.40	2,901.43	5,695.50
Total-Available University Fund	<u>9,999.57</u>	<u>18,685.92</u>	<u>87,971.31</u>	<u>216,286.30</u>
Total-Permanent and Available University Funds	<u>\$2,172,751.05</u>	<u>\$1,309,467.72</u>	<u>\$22,926,897.42</u>	<u>\$21,902,138.90</u>

Oil and Gas Development-June 30, 1973  
 Acreage Under Lease 625,281  
 Number of Producing Acres 320,671  
 Number of Producing Leases 1,421

B. Land Matters

Permanent University Fund: Easements and Surface Leases Nos. 3536-3576, Material Source Permits Nos. 429-431, and Water Contract No. 143. --Easements and Surface Leases Nos. 3536-3576, Material Source Permits Nos. 429-431, and Water Contract No. 143 were approved as set out below. All are within the policies of the Board of Regents and all have been approved as to form by a University attorney and as to content by an appropriate official:

Easements and Surface Leases Nos. 3536-3576

All easements and surface leases are at the standard rate; are on the University's standard forms; and payment has been received in advance unless otherwise stated.

No.	Company	Type of Permit	County	Location (Block#)	Distance or Area	Period	Consideration
3536	Texas Electric Service Company (renewal of 1758)	Power Line	Crane	31	172.97 rds. distribution construction	6/1/73-5/31/83	\$ 121.08
3537	Basin Tank Rental Company	Surface Lease (trucking yard site)	Reagan	11	3 acres	9/1/73-8/31/74*	350.00 (annually)
3538	Texas Electric Service Company (renewal of 1747)	Power Line	Crane	35	160 rds. distribution construction	6/1/73-5/31/83	112.00
3539	Delhi Gas Pipeline Corporation	Pipe Line	Ward	18	1,086.12 rds. 10-3/4 inch	5/1/73-4/30/83	1,629.18
3540	Oasis Pipe Line Company	Pipe Line	Ward	17, 18	757.40 rds. 6 inch	5/1/73-4/30/83	1,136.10
3541	Oasis Pipe Line Company	Pipe Line	Ward	17, 18	748.67 rds. 6 inch	5/1/73-4/30/83	1,123.00

\*Renewable from year to year, but not to exceed a period of ten (10) years

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Land Matters - Continued--

No.	Company	Type of Permit	County	Location (Block#)	Distance or Area	Period	Consideration
3542	Oasis Pipe Line Company	Surface Lease (two residences)	Pecos	16	2 sites, each 150' x 150'	5/1/73-4/30/83	\$ 1,500.00 (full)
3543	C. T. Williams (renewal of 1742)	Surface Lease (business site)	Ward	16	150' x 100'	7/1/73-6/30/74*	200.00 (annually)
3544	Gulf Oil Corporation (renewal of 1797)	Pipe Line	Crockett	47	456.3 rds. 2 inch	9/1/73-8/31/83	342.23
3545	Texas Electric Service Company (renewal of 1748)	Power Line	Ward	16	310 rds. distribution construction	6/1/73-5/31/83	217.00
3546	Community Public Service Company	Power Line	Ward	16	51.64 rds. single pole	5/1/73-4/30/83	75.00 (Min.)
3547	Exxon Pipeline Company (renewal of 2219)	Pipe Line	Andrews	1	58.18 rds. 4½ inch	7/1/73-6/30/83	75.00 (Min.)
3548	Exxon Pipeline Company (renewal of 1762)	Pipe Line	Andrews	9	358.42 rds. 4½ inch	6/1/73-5/31/83	268.81
3549	Southwestern Bell Telephone Company (renewal of 1751)	Power Line	Ward	17	1,414 rds. telephone line construction	8/1/73-7/31/83	989.80
3550	Phillips Petroleum Company (renewal of 1772)	Pipe Line	Andrews	1, 10	80.0 rds. 3½ inch 108.7 rds. 4½ inch	7/1/73-6/30/83	141.53

\*Renewable from year to year, but not to exceed a period of ten (10) years

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Land Matters - Continued---

No.	Company	Type of Permit	County	Location (Block#)	Distance or Area	Period	Consideration
3551	Phillips Petroleum Company (renewal of 1732)	Pipe Line	Andrews	11	556.03 rds. various size	9/1/73- 8/31/83	\$ 1,102.07
3552	Texaco, Inc. (renewal of 1709)	Pipe Line	Ward	18	853 rds. 4½ inch	5/1/73- 4/30/83	639.75
3553	Texas Electric Service Company (renewal of 1757)	Power Line	Loving	19	664.12 rds. distribution construction	6/1/73- 5/31/83	464.88
3554	Exxon Pipeline Company (renewal of 1763)	Pipe Line	Andrews	1	154.8 rds. 4½ inch	8/1/73- 7/31/83	116.10
3555	Phillips Petroleum Company (renewal of 1756)	Pipe Line	Andrews	4, 5, 6, 7, 8, 13, 14	4,770.16 rds. 8-5/8 inch 3,212.2 rds. 4½ inch	7/1/73- 6/30/83	9,564.39
3556	El Paso Natural Gas Company (renewal of 1779)	Pipe Line	Reagan	11	1,037.333 rds. 6-5/8 inch 27,000 rds. 4½ inch	12/1/73- 11/30/83	1,576.25
3557	Southwestern Bell Telephone Company (renewal of 1840)	Power Line	Crockett, Winkler, Pecos	14, 21 16	3,608 rds. telephone line construction	8/1/73- 7/31/83	2,525.60
3558	Texas Electric Service Company (renewal of 1777)	Power Line	Andrews	7, 10	355.76 rds. distribution construction	8/1/73- 7/31/83	249.03

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Land Matters - Continued--

No.	Company	Type of Permit	County	Location (Block#)	Distance or Area	Period	Consideration
3559	Texas Electric Service Company (renewal of 1765)	Power Line	Crane	31	1,247.88 rds. distribution construction	8/1/73-7/31/83	\$ 873.52
3560	BTA Oil Producers	Surface Lease (salt water disposal)	Ward	16	2 acres	6/1/73-5/31/74*	500.00 (annually)
3561	Texas-New Mexico Pipe Line Company (renewal of 1697-A)	Surface Lease (pump station site)	Crockett	46	0.92 acre	6/1/73-5/31/83	750.00 (full)
3562	Texas-New Mexico Pipe Line Company (renewal of 1734)	Pipe Line	Crockett	46	982 rds. 6-5/8 inch	6/1/73-5/31/83	1,473.00
3563	El Paso Natural Gas Company (renewal of 1770)	Pipe Line	Reagan	11	73.636 rds. 4½ inch	11/1/73-10/31/83	75.00 (Min.)
3564	Skelly Oil Company	Power Line	Andrews	14	160.3 rds. single pole construction	6/1/73-5/31/83	112.21
3565	El Paso Natural Gas Company (renewal of 1768)	Pipe Line	Reagan	11	175.758 rds. 4 inch	11/1/73-10/31/83	131.82
3566	El Paso Natural Gas Company (renewal of 1769)	Pipe Line	Upton	3, 58	202.618 rds. 4½ inch	11/1/73-10/31/83	151.96

\*Renewable from year to year, but not to exceed a period of five (5) years

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Land Matters - Continued

No.	Company	Type of Permit	County	Location (Block#)	Distance or Area	Period	Consideration
3567	Texas Electric Service Company (renewal of 1766)	Power Line	Ector	35	78.18 rds. distribution construction	8/1/73-7/31/83	\$ 75.00 (Min.)
3568	Western Communications Service	Surface Lease (microwave tower site)	Crockett	41	500' x 500'	7/1/73-6/30/83	1,500.00 (full)
3569	Northern Natural Gas Company (renewal of 1776)	Pipe Line	Pecos Upton Martin and Andrews	18, 19, 20 3, 15, 58 5, 6, 7	6,873.51 rds. 20 inch 4,899.76 rds. 30 inch	8/1/73-7/31/83	31,243.32
3570	Northern Natural Gas Company (renewal of 1774)	Pipe Line	Pecos	19	160.97 rds. 16 inch	8/1/73-7/31/83	370.23
3571	Northern Natural Gas Company (renewal of 1788)	Surface Lease (heater facility)	Pecos	19	2.066 acres	8/1/73-7/31/83	750.00 (full)
3572	LSG TRANSTEXAS GAS COMPANY	Pipe Line	Ward	18	2,751.39 rds. 18 inch	7/1/73-6/30/83	6,328.20
3573	Mobil Pipe Line Company	Pipe Line	Andrews	4	130 rds. 4 inch	7/1/73-6/30/83	97.50
3574	El Paso Natural Gas Company (renewal of 1801)	Pipe Line	Crockett	29	256.969 rds. 6-5/8 inch 1,139.485 rds. 4 1/2 inch	11/1/73-10/31/83	1,240.06

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Land Matters - Continued--

No.	Company	Type of Permit	County	Location (Block#)	Distance or Area	Period	Consideration
3575	Southwest Texas Electric Cooperative, Inc. (renewal of 1832)	Power Line	Upton	5	1,294.4 rds.	7/1/73-	\$ 906.08
			Crockett	14	single pole	6/30/83	
			Pecos	24	construction		
			Reagan	49			
3576	Delhi Gas Pipeline Corporation	Pipe Line	Ward	16	775.64 rds. 6-5/8 inch	7/1/73- 6/30/83	1,163.46

Material Source Permits Nos. 429-431

No.	Grantee	County	Location	Quantity	Consideration
429	Texas Highway Department	Reagan	Block 10	3,370 cubic yards caliche	\$ 337.00
430	M. F. Machen	Andrews	Block 1	906 cubic yards caliche	271.80
431	McVean and Barlow, Inc.	Ward and Winkler	17, 18, 19, 20, 21	23,358 cubic yards pad dirt	6,671.60

Water Contract No. 143

No.	Grantee	County	Location	Period	Consideration
143	Gulf Oil Corporation (renewal of 29)	Crane	Block 31	9/1/73-8/31/78	*

\*\$4,480 per year plus ten cents (10¢) per one thousand (1,000) gallons of water produced, but in no event shall royalty be less than \$200 per year. The University derives a double benefit from this agreement since the water goes to a gasoline plant which processes hydrocarbons from University Lands, and a portion of the water goes to a brine producer on University Lands from which additional royalty is collected.

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## II. Trust and Special Funds

## A. Gift, Bequest and Estate Matters

1. Galveston Medical Branch (Galveston Medical School): Acceptance of Agnes Thelma Anderson Bequest. --A written report was received that Agnes Thelma Anderson had provided in her will the following bequest and that the United States National Bank of Galveston, Independent Executor of the Estate, expects to complete administration by the end of the year and deliver the net estate of approximately \$200,000 to the University:

"I give, devise and bequeath all of my Estate, whether real, personal or mixed, that I shall die seized and possessed of to the Board of Regents of the University of Texas to be used at its Galveston Medical Branch for the purpose of giving either grants, loan, or contributions to worthy medical students for the purpose of enabling such medical students to complete their education as Doctor of Medicine."

This bequest was accepted for the purposes set out above for the benefit of The University of Texas Medical Branch at Galveston.

2. Galveston Medical Branch (Galveston Medical School): Acceptance of Gifts from Mrs. Florence Thelma Hall and Daughter, Miss Florence Marie Hall, and Establishment of Dr. Granville T. Hall Professorship of General Surgery. --It was reported that Mrs. Florence Thelma Hall and her daughter, Miss Florence Marie Hall, have each given an additional \$25,000 to add to the \$50,000 which they gave and was accepted by the Board of Regents on December 8, 1972, to complete the endowment of a professorship at the Galveston Medical School of The University of Texas Medical Branch at Galveston in memory of Dr. Granville T. Hall. These additional gifts were accepted, and the Dr. Granville T. Hall Professorship of General Surgery was established.
3. Galveston Medical Branch (Galveston Medical School): Acceptance of Trust Assets as Substitute Trustee of the Daniel Charles Wunderman Trust. --The following resolution was adopted:

WHEREAS, In 1963 Dr. Daniel Charles Wunderman established with the Corpus Christi Bank and Trust Company a trust that is to terminate in 1986 and at the same time executed a will leaving his entire estate to that trust;

WHEREAS, Provisions in the trust agreement provide for the net income or a minimum of \$2,500 annually to be paid to Dr. Wunderman's mother during her lifetime and thereafter to the residuary beneficiary of the trust, "the Board of Regents of the University of Texas, for the use and benefit of the Medical Branch of The University of Texas, Department of Neurology and Psychiatry;"

WHEREAS, Dr. Wunderman's mother predeceased him only a few days and since then the payments have been made to the residuary beneficiary of the trust;

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WHEREAS, This trust has been classified by the Internal Revenue Service under the Tax Reform Act of 1969 as a Private Foundation, entailing filing of tax returns, payment of accounting fees and excise taxes, and publication of notices, all of which with reasonable trustee's fees have cut the net income of the trust to the range of \$300-\$400 per year on a total value of about \$75,000, and

WHEREAS, In order to avoid such expenses, Corpus Christi Bank and Trust Company has expressed a willingness to deliver over to the Board of Regents as substitute or successor trustee all of the trust assets, which probably will involve a simple District Court proceeding with the Attorney General as a party:

BE IT RESOLVED, That the Board of Regents accept the assets as substitute trustee of the Daniel Charles Wunderman Trust and to complete this transfer of assets that the Board of Regents authorize the necessary proceedings and the execution of appropriate papers after the documents have been approved by a University attorney.

B. Real Estate Matters

1. U. T. Austin: Archer M. Huntington Museum Fund - Oil and Gas Lease to Evard P. Ellison on Land in Samuel C. Bundick League in Galveston County. --After a discussion as to the remaining acres of land in the original Archer M. Huntington Fund, authorization was granted for an oil and gas lease to Mr. Evard P. Ellison. The lease to Mr. Ellison will cover approximately 900 acres and will be at bonus of \$25 per acre, \$5 per acre annual delay rental and 1/6th royalty. Other terms of the lease are as follows:

- a. Operations will be restricted to 3 drilling sites of not more than 5 acres each.
- b. Primary term of 2 years.
- c. Minimum annual royalty of \$5 per acre for acreage held by production.
- d. The University will reserve the right to take its royalty in kind.

It was noted that action on this lease was postponed at the January 26, 1973, meeting of the Board of Regents pending inquiries into the potential disposition of this property so that the proceeds might be used to finance the construction of an art museum. Mr. Neville Allison of Houston, the appraiser who has been working on the Huntington Land, has expressed the opinion that the oil and gas lease with terms as set out above would not affect significantly the sale of the surface.

Regent Erwin suggested that an active surveillance of this property should be kept because a portion of it is increasingly under water because of subsidence in the area. Whereupon Regent Shivers asked that the Law Office submit to the Board of Regents an opinion as to the Regents' present title to that acreage that has subsided and to recommend as to whether to construct a levee.

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2. U. T. El Paso: Frank B. Cotton Estate - Renewal of Grazing Lease to W. B. Evans, Hudspeth County. --The grazing lease to Mr. W. B. Evans covering 16,911 acres of Frank B. Cotton Estate land in Block 3, GC&SF Ry., Hudspeth County, Texas, was renewed for a five year period beginning August 1, 1973, at a rate of \$0.15 per acre or \$2,536.65 annually. The terms of the new lease are in accordance with the standard provisions of University grazing leases and certainly include "proper grazing use" and "hunting rights" as set forth in the standard University forms.
3. U. T. El Paso: Frank B. Cotton Estate - Renewal of Grazing Lease to Tom Bennett, Jr., Culberson County. --The lease originally granted to J. A. Neal, with assignments to others and finally assigned to Tom Bennett, Jr., Tom Murphey and C. B. Caswell, covering 6,100.95 acres of Frank B. Cotton Estate land in Block 2, GC&SF Ry, Culberson County, Texas, was renewed to Tom Bennett, Jr., for a five year term beginning August 1, 1973, at a rate of \$0.15 per acre or \$915.14 annually. The terms of the new lease are in accordance with the standard provisions of University grazing leases and certainly include "proper grazing use" and "hunting rights" as set forth in the standard University forms.

#### C. Bond Matters

1. U. T. Arlington: Authorization to Invite Bids for Combined Fee Revenue Bonds, Series 1973-A, \$7,500,000; Paying Agents Therefor and Printing Thereof; Appointment of McCall, Parkhurst & Horton, Bond Counsel; and Appointment of Sam Maclin, Bond Consultant, and Establishment of Miscellaneous Cost Account. --To provide a portion of the funds necessary to complete the construction requirements of The University of Texas at Arlington, authorization was given to invite bids for Board of Regents of The University of Texas System, The University of Texas at Arlington, Combined Fee Revenue Bonds, Series 1973-A, in the amount of \$7,500,000, and to invite bids for the paying agents therefor and the printing thereof to be submitted to the Board of Regents on September 14, 1973. These bonds will be issued as additional parity bonds to The University of Texas at Arlington Combined Fee Revenue Bonds, Series 1971, 1971-A and Series 1973, which have heretofore been issued by the Board of Regents and which are secured by a pledge of the Building Use Fee (Skiles Act) and the General Fee.

The firm of McCall, Parkhurst & Horton was named Bond Counsel, and Mr. Sam Maclin was named Bond Consultant.

A Miscellaneous Cost Account in the amount of \$25,000 to be paid out of bond proceeds was established for the purpose of paying fees for Bond Counsel, Bond Consultant, printing of the Bonds, and other miscellaneous costs.

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2. U. T. Arlington: Authorization to Invite Bids for Universities of the State of Texas State Ad Valorem Tax Bonds, Series 1973, \$1,500,000; Paying Agents Therefor and Printing Thereof; Appointment of McCall, Parkhurst & Horton, Bond Counsel; and Appointment of Sam Maclin, Bond Consultant, and Establishment of Miscellaneous Cost Account. -- To provide a portion of the funds necessary to complete the construction requirements of The University of Texas at Arlington, authorization was given to invite bids for Universities of The State of Texas State Ad Valorem Tax Bonds, Series 1973, in the amount of \$1,500,000, and to invite bids for the paying agents therefor and printing thereof to be submitted to the Board of Regents on October 26, 1973. These bonds will be issued as additional parity bonds to Universities of The State of Texas State Ad Valorem Tax Bonds, Series 1972, which have heretofore been issued by the Board of Regents and which are secured by a pledge of U. T. Arlington's portion of the continuing ad valorem tax on all of the taxable property in the State of Texas levied at the rate of 10¢ per \$100 valuation which has been allocated among the several institutions eligible under Section 17 of Article VII of the Constitution of Texas by the Comptroller of Public Accounts on June 1, 1972.

The firm of McCall, Parkhurst & Horton was named Bond Counsel, and Mr. Sam Maclin was named Bond Consultant.

A Miscellaneous Cost Account in the amount of \$20,000 to be paid out of bond proceeds was established for the purpose of paying fees for Bond Counsel, Bond Consultant, printing of the Bonds, and other miscellaneous costs.

3. U. T. Austin: Authorization to Invite Bids for Combined Fee Revenue Bonds, Series 1973, \$34,000,000; Paying Agents Therefor and Printing Thereof; Appointment of McCall, Parkhurst & Horton, Bond Counsel; and Appointment of Sam Maclin, Bond Consultant, and Establishment of Miscellaneous Cost Account. -- To provide a portion of the funds necessary to complete the construction requirements of The University of Texas at Austin, authorization was given to invite bids for Board of Regents of The University of Texas System, The University of Texas at Austin, Combined Fee Revenue Bonds, Series 1973, in the amount \$34,000,000, and to invite bids for the paying agents therefor and the printing thereof to be submitted to the Board of Regents on September 14, 1973. These bonds will be issued as additional parity bonds to The University of Texas at Austin Combined Fee Revenue Bonds, Series 1970, Series 1971 and Series 1972, which have heretofore been issued by the Board of Regents and which are secured by a pledge of the Building Use Fee (Skiles Act) and the General Fee.

The firm of McCall, Parkhurst & Horton was named Bond Counsel, and Mr. Sam Maclin was named Bond Consultant.

A Miscellaneous Cost Account in the amount of \$60,000 to be paid out of bond proceeds was established for the purpose of paying fees for Bond Counsel, Bond Consultant, printing of the Bonds, and other miscellaneous costs.

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4. U. T. El Paso: Authorization to Invite Bids for Combined Fee Revenue Bonds, Series 1973, \$5,000,000; Paying Agents Therefor and Printing Thereof; Appointment of McCall, Parkhurst & Horton, Bond Counsel; and Appointment of Sam Maclin, Bond Consultant and Establishment of Miscellaneous Cost Account. --  
To provide a portion of the funds necessary to complete the construction requirements of The University of Texas at El Paso, authorization was given to invite bids for Board of Regents of The University of Texas System, The University of Texas at El Paso, Combined Fee Revenue Bonds, Series 1973, in the amount of \$5,000,000, and to invite bids for the paying agents therefor and the printing thereof to be submitted to the Board of Regents on September 14, 1973. These bonds will be issued as additional parity bonds to The University of Texas at El Paso Combined Fee Revenue Bonds, Series 1970 and Series 1971, which have heretofore been issued by the Board of Regents and which are secured by a pledge of the Building Use Fee (Skiles Act) and the General Fee.

The firm of McCall, Parkhurst & Horton was named Bond Counsel, and Mr. Sam Maclin was named Bond Consultant.

A Miscellaneous Cost Account in the amount of \$22,500 to be paid out of bond proceeds was established for the purpose of paying fees for Bond Counsel, Bond Consultant, printing of the Bonds, and other miscellaneous costs.

### III. Other Matters

Report of Securities Transactions for Permanent University Fund and for Trust and Special Funds for the Months of April and May 1973. --  
The report of Securities Transactions for Permanent University Fund and for Trust and Special Funds for April and May 1973, submitted by the Office of Investments, Trusts and Lands, was received. It is attached (Attachment No. 2) following Page N-11 of Attachment No. 1 and made a part of these Minutes.

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REPORT OF MEDICAL AFFAIRS COMMITTEE (Pages 157-173 ). -- Regent Nelson, Chairman of the Medical Affairs Committee, filed the following report of the Medical Affairs Committee and moved that it be approved. Regent Clark seconded the motion which unanimously prevailed:

1. U. T. System: Agreement between the Veterans Administration Center, Temple, Texas, and The University of Texas System Components. -- The following agreement between the Veterans Administration Center, Temple, Texas, and the Board of Regents of The University of Texas System was authorized to replace the two existing agreements with the Veterans Administration Center, Temple, Texas, (U. T. System affiliation agreement authorized January 29, 1971, and System Nursing School affiliation agreement authorized July 30, 1971). The Chairman of the Board of Regents was authorized to execute this agreement which has been approved as to content by the Deputy Chancellor for Administration and the Vice-Chancellor for Health Affairs and as to form by University Attorney Waldrep:

AGREEMENT

THE STATE OF TEXAS

COUNTY OF TRAVIS

This AGREEMENT is executed on \_\_\_\_\_, 1973, between the BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM, for and on behalf of the component institutions of The University of Texas System, sometimes referred to as "University" in this agreement, and Veterans Administration Center, Temple, Texas, sometimes referred to as "Facility" in this agreement,

WITNESSETH:

WHEREAS, the University and the Facility have the following common objectives: (1) to provide clinical experience in terms of patient and related instruction for students of the University; (2) to improve the overall educational program of the University by providing opportunities for learning experiences that will progress the student to advanced levels of performance; (3) to increase contacts between academic faculties and clinical faculties for fullest utilization of available teaching facilities and expertise; and (4) to establish and operate a Clinical Education Program of the first rank:

NOW, THEREFORE, for and in consideration of the foregoing, and in further consideration of the mutual benefits, the parties to this agreement

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agree as follows:

I. GENERAL PROVISIONS

- A. The Clinical Education Program will be consistent with the academic plan for the University and with Veterans Administration directives and standards for training.
- B. There will be no exchange of funds under this agreement.
- C. The period of time for each student's clinical education will be mutually agreed upon at least one month before the beginning of the Clinical Education Program.
- D. The number of students eligible to participate in the Clinical Education Program will be mutually determined by agreement of the parties and may be altered by mutual agreement.
- E. The Facility and the University certify that they subscribe to and will adhere to the letter and spirit of Title 6 of the Civil Rights Act of 1964 and will do so in all areas relating to student participation in the training program.

II. RESPONSIBILITIES OF THE UNIVERSITY

- A. The University will send the name, biographical data, and a report of health status of each student to the Facility at least four weeks before the beginning date of the Clinical Education Program.
- B. The University is responsible for supplying any additional information required by the Facility prior to arrival of the students.
- C. The University will assign to the Facility only those students who have satisfactorily completed the prerequisite didactic portion of the curriculum, in accordance with accreditation standards.

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- D. The University will designate a faculty member to coordinate with a designee of the Facility the assignment to be assumed by the student participating in the Clinical Education Program.
- E. The University will enforce rules and regulations governing students that are mutually agreed upon by the University and the Facility.

### III. RESPONSIBILITIES OF THE FACILITY

- A. The Facility shall provide a jointly-planned, supervised program of clinical experience.
- B. The Facility shall maintain complete records and reports on each student's performance and provide an evaluation to the University.
- C. The Facility may request the University to withdraw from the Facility any student whose performance is unsatisfactory or is considered detrimental to VA patient care, whose personal characteristics prevent desirable relationships within the Facility, or whose health status is a detriment to the student's successful completion of the training assignment.
- D. The Facility shall provide equally to each student while assigned to the Facility and participating in the Clinical Education Program the benefits provided by VA Manual M-3, Part II, Chapter 5 (copy available upon request).
- E. The Facility shall, on reasonable request, permit the inspection of the clinical facilities, services available for clinical experiences, student records, and such other items pertaining to the Clinical Education Program by the department or agency, or both, charged with the responsibilities for accreditation of the curriculum.
- F. The Facility shall designate and submit in writing to the University for acceptance, the name and professional and

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academic credentials of a person to be responsible for the Clinical Education Program. That person shall be called the Clinical Education Supervisor.

- G. The Facility shall immediately notify the University in writing of any change or proposed change in the Clinical Supervisor.
- H. The Facility is responsible for all patient care, which will be under VA supervision and control. It is recognized that patient care is the primary responsibility of the VA and any training must be incidental thereto.

#### IV. RESPONSIBILITY OF THE STUDENT

- A. The student will not submit for publication any material relating to the clinical experience without prior written approval of the Facility and the University.

#### V. TERM OF AGREEMENT, MODIFICATION, TERMINATION

- A. This agreement is effective for the period July 1, 1973, through June 30, 1974, and may be renewed from year to year unless terminated by either party on 30 days' notice to the other.
- B. It is understood and agreed that the parties to this agreement may revise or modify this agreement by written amendment when both parties agree to such an amendment.

AUTHORITY: This agreement is entered into under the authority of 38 U.S.C. 4101.

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EXECUTED by the parties on the day and year first above written.

ATTEST:

\_\_\_\_\_

BOARD OF REGENTS OF THE  
UNIVERSITY OF TEXAS SYSTEM

BY \_\_\_\_\_

Chairman

ATTEST:

\_\_\_\_\_

VETERANS ADMINISTRATION CENTER  
TEMPLE, TEXAS

BY \_\_\_\_\_

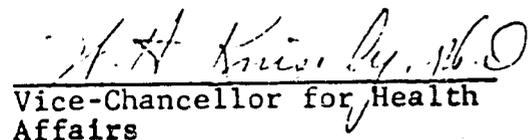
V. J. BELDA, Director

Approved as to Form:

Approved as to Content:

  
University Attorney

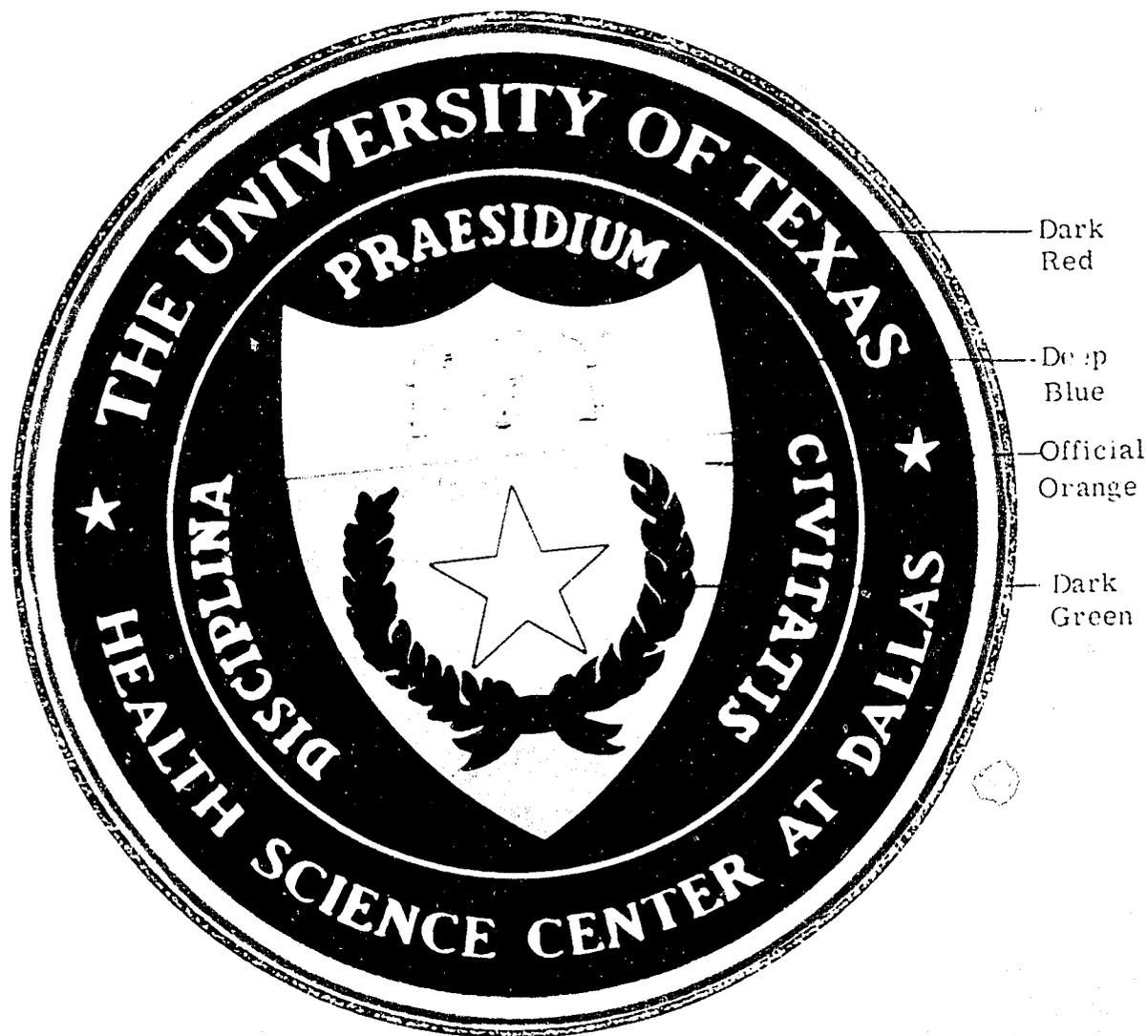
  
Deputy Chancellor

  
Vice-Chancellor for Health  
Affairs

2. Dallas Health Science Center (Dallas G. S. B. S.): Authorization to Request Coordinating Board for Permission to Establish a Master of Arts Degree Program in Biomedical Communications. -- Upon recommendation of President Sprague, concurred in by Chancellor LeMaistre, approval was given to ask permission from the Coordinating Board, Texas College and University System to establish a program leading to a Master of Arts degree in Biomedical Communications at the Dallas Graduate School of Biomedical Sciences of The University of Texas Health Science Center at Dallas.
3. Dallas Health Science Center (Dallas Allied Health Sciences School): Authorization to Request Coordinating Board for Permission to Establish a Bachelor of Science Degree Program in Health Care Administration. -- Authorization was given to request the Coordinating Board, Texas College and University System for permission to establish a program leading to a Bachelor of Science degree in Health Care Administration at the Dallas Allied Health Sciences School of The University of Texas Health Science Center at Dallas. The program will be administered in the Department of Rehabilitation Science, and basically the program is to train hospital administrators.
4. Dallas Health Science Center, Houston Health Science Center and San Antonio Health Science Center: Official Seals Approved. -- In accordance with the Regents' Rules and Regulations, Part Two, Chapter I, Section 8.1, and upon recommendation of Presidents Harrison and Sprague and Acting President Olson, concurred in by Chancellor LeMaistre, official seals as set out on Pages 162-164 were approved for The University of Texas Health Science Center

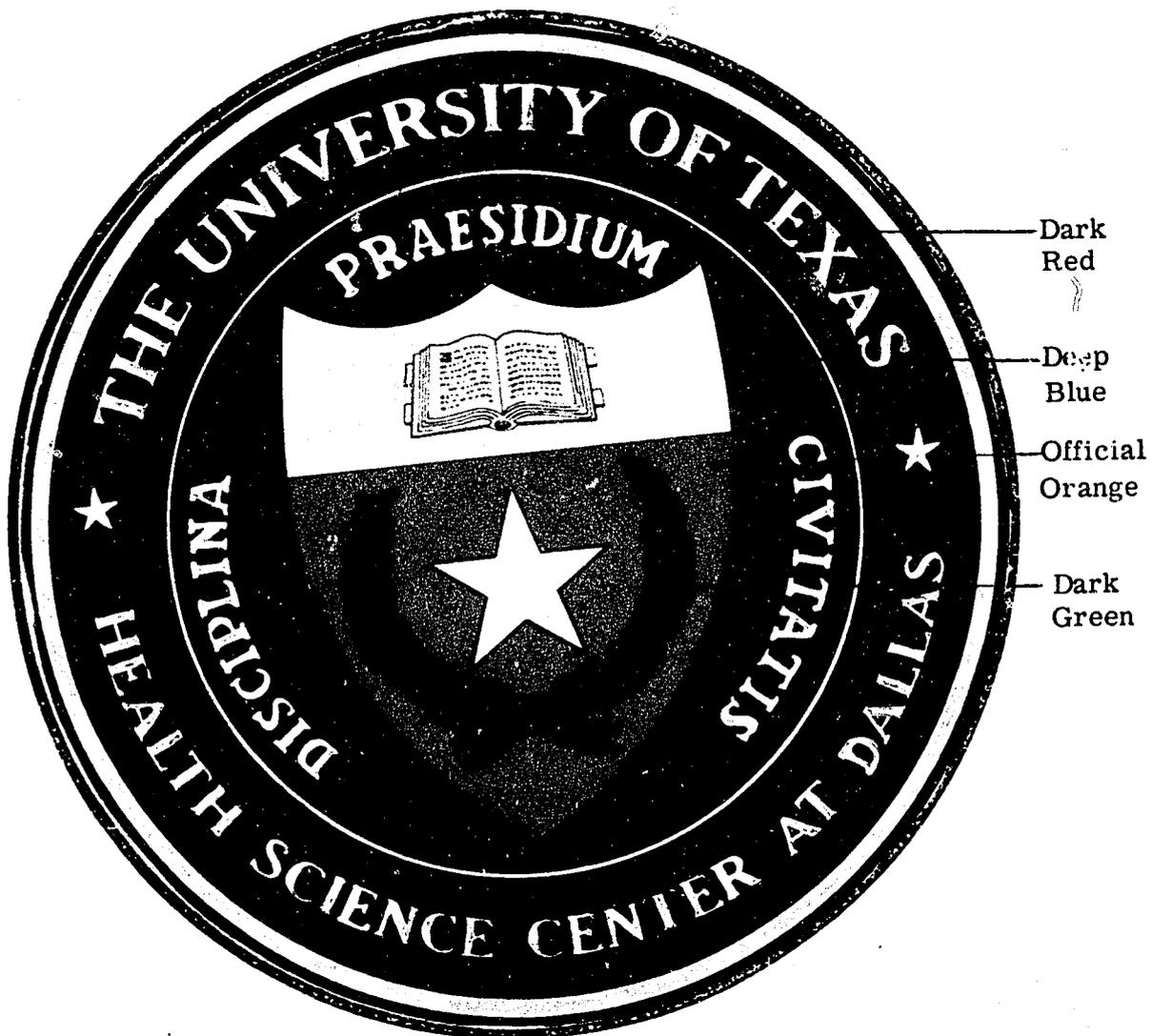
at Dallas, The University of Texas Health Science Center at Houston and The University of Texas Health Science Center at San Antonio. The design and color of each seal is the same as The University of Texas System seal and has the appropriate name of the health science center inscribed in the outer ring.

The University of Texas Health Science Center at Dallas



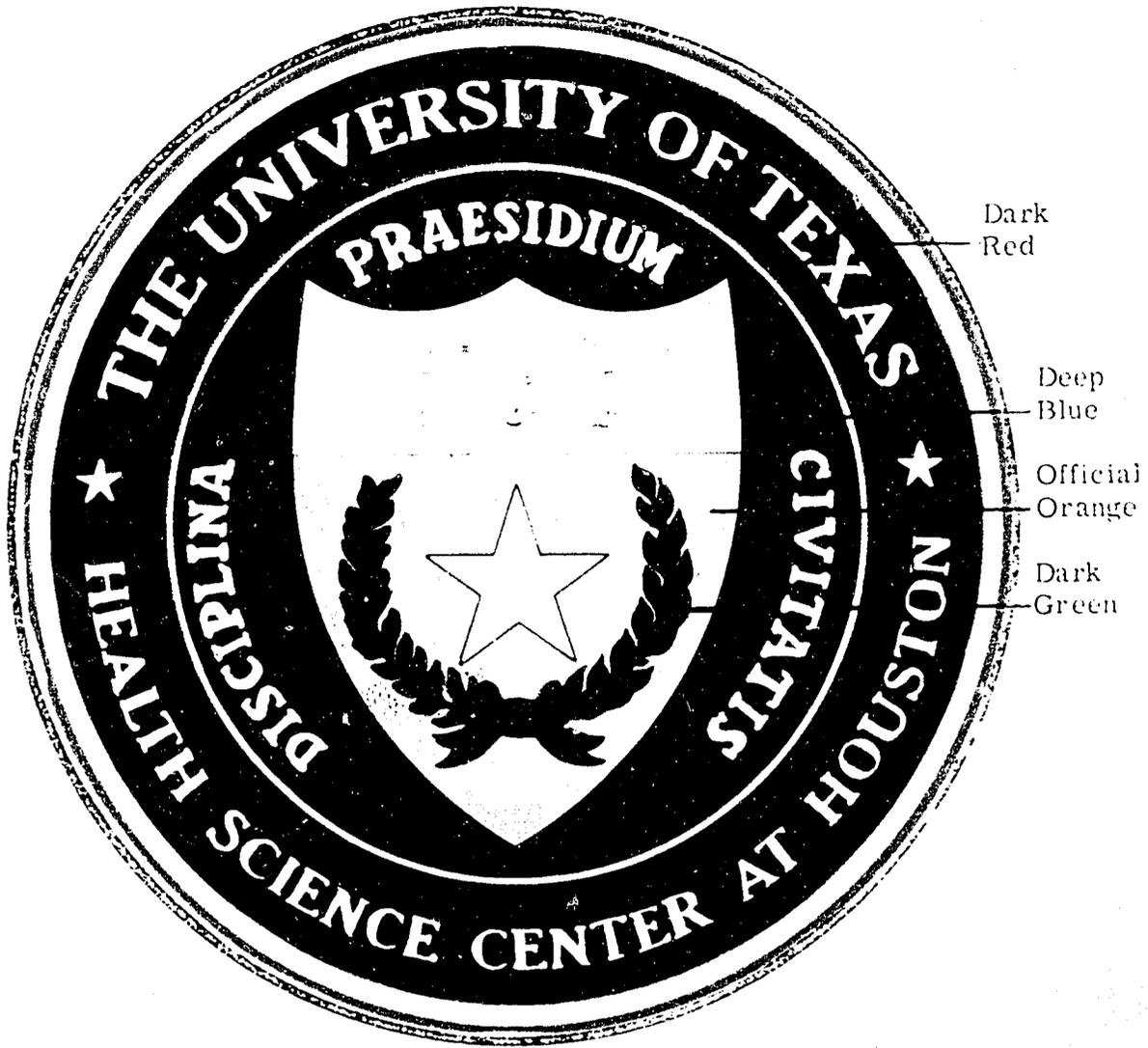
at Dallas, The University of Texas Health Science Center at Houston and The University of Texas Health Science Center at San Antonio. The design and color of each seal is the same as The University of Texas System seal and has the appropriate name of the health science center inscribed in the outer ring.

The University of Texas Health Science Center at Dallas



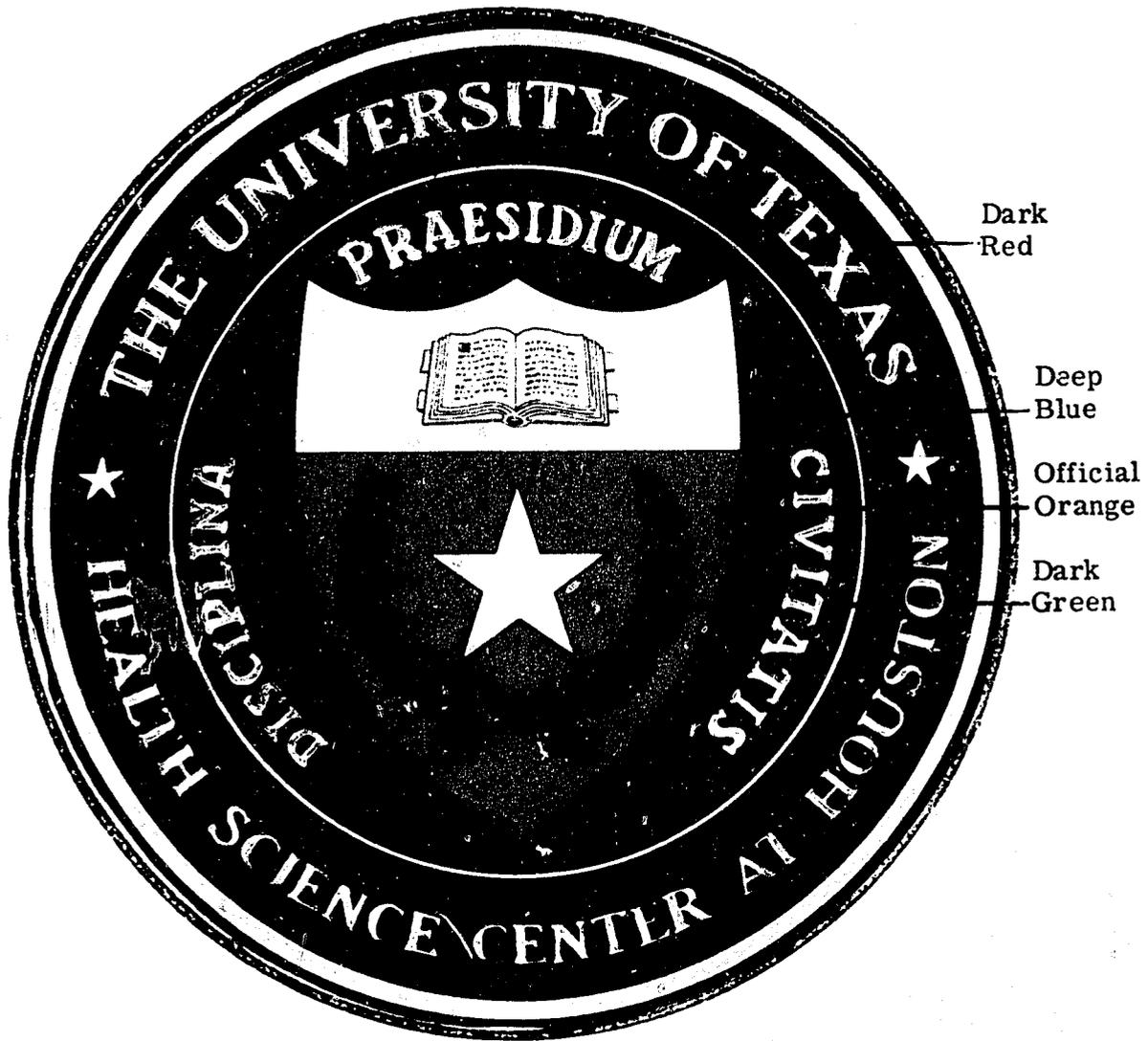
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The University of Texas Health Science Center at Houston

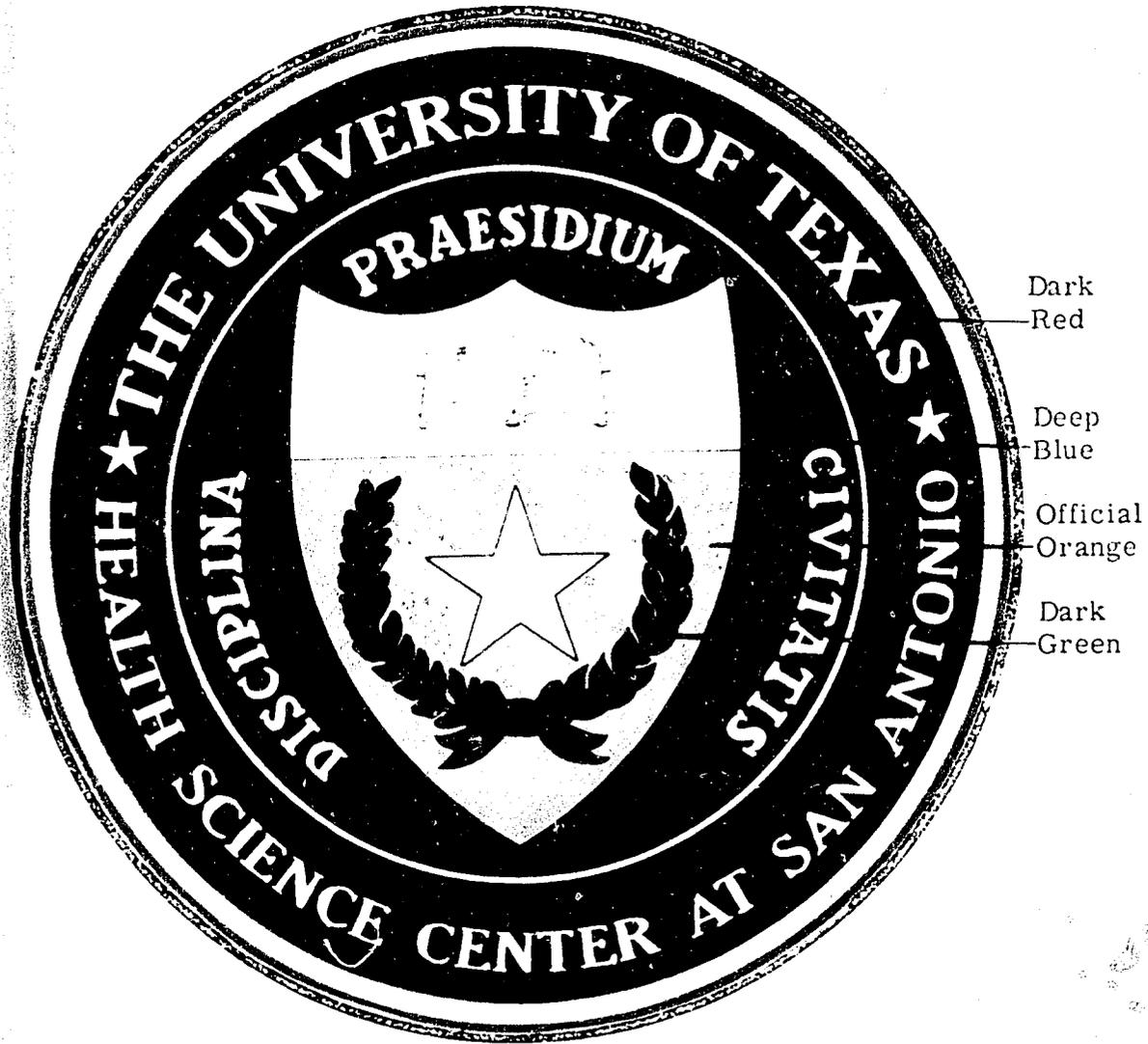


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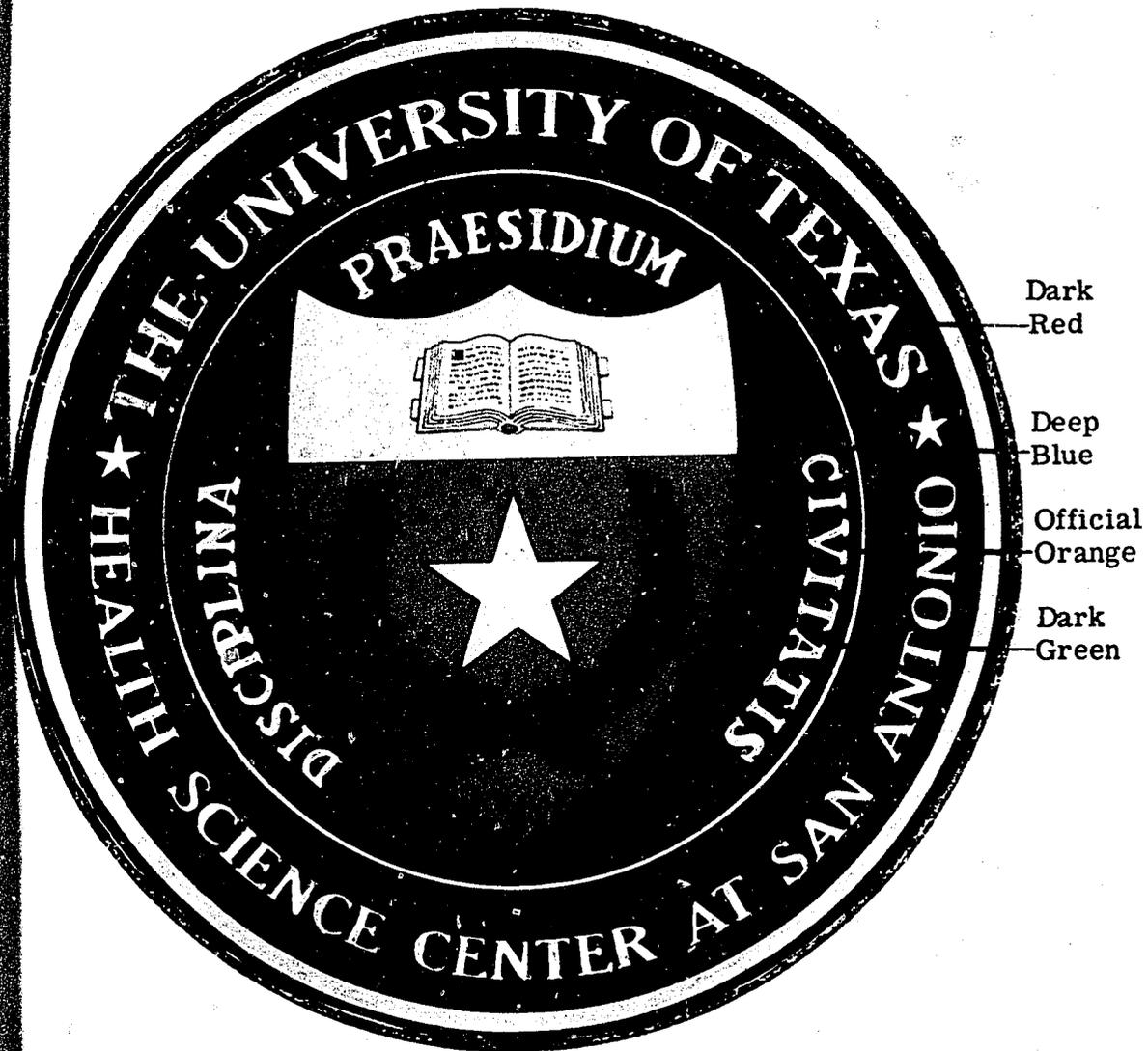
The University of Texas Health Science Center at Houston



The University of Texas Health Science Center at San Antonio



5. Galveston Medical Branch (Galveston Medical School): First Appointment to the Gladys Kempner and R. Lee Kempner Professorship in Child Psychiatry - Dr. William E. Stone. -- Effective September 1, 1973, Dr. William E. Stone was named the first holder of the Gladys Kempner and R. Lee Kempner Professorship in Child Psychiatry at the Galveston Medical School of The University of Texas Medical Branch at Galveston. This professorship was established on March 6, 1970. Dr. Stone presently is Associate Clinical Professor of Psychiatry at Boston University School of Medicine, Boston, Massachusetts.

The University of Texas Health Science Center at San Antonio

5. Galveston Medical Branch (Galveston Medical School): First Appointment to the Gladys Kempner and R. Lee Kempner Professorship in Child Psychiatry - Dr. William E. Stone. -- Effective September 1, 1973, Dr. William E. Stone was named the first holder of the Gladys Kempner and R. Lee Kempner Professorship in Child Psychiatry at the Galveston Medical School of The University of Texas Medical Branch at Galveston. This professorship was established on March 6, 1970. Dr. Stone presently is Associate Clinical Professor of Psychiatry at Boston University School of Medicine, Boston, Massachusetts.

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6. Galveston Medical Branch (Galveston Allied Health Sciences School): Affiliation Agreements for Clinical Training of Allied Health Students with (1) Diagnostic Center Hospital, Houston, Texas, (2) Baptist Memorial Hospital, San Antonio, Texas, and (3) Richardson General Hospital, Richardson, Texas. -- For the clinical training of allied health students at the Galveston Allied Health Sciences School of The University of Texas Medical Branch at Galveston, affiliation agreements were authorized with the facilities listed below. Each of these agreements conforms to the standard affiliation agreement approved by the Board of Regents on March 6, 1970. The Chairman of the Board of Regents was authorized to execute these agreements which have been approved as to form by a University attorney and as to content by the Vice-Chancellor for Health Affairs and the Deputy Chancellor for Administration:

<u>Clinical Facility</u>	<u>Location</u>	<u>Specialty</u>
Diagnostic Center Hospital	Houston	Medical Record Administration
Baptist Memorial Hospital	San Antonio	Medical Record Administration
Richardson General Hospital	Richardson	Medical Record Administration

7. Houston Health Science Center (Houston Medical School): Passed Until September Meeting Proposed Amendment to Bylaws of the Medical Service, Research and Development Plan. -- With the concurrence of Dean Smythe, the proposed amendment to the Bylaws of the Medical Service, Research and Development Plan of the Houston Medical School of The University of Texas Health Science Center at Houston was passed until the Regents' meeting on September 14, 1973.

8. Houston Health Science Center (Houston Dental Branch): Affiliation Agreement with Harris County Hospital District (Ben Taub General Hospital and Jefferson Davis Hospital). -- The following affiliation agreement (Pages 166-170) between the Board of Regents of The University of Texas System for and on behalf of the Houston Dental Branch of The University of Texas Health Science Center at Houston and the Harris County Hospital District (Ben Taub General Hospital and Jefferson Davis Hospital) was approved, and the Chairman of the Board of Regents was authorized to execute this agreement which has been approved as to content by the Vice-Chancellor for Health Affairs and the Deputy Chancellor for Administration and as to form by University Attorney Waldrep.

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AGREEMENT

THE STATE OF TEXAS     |

COUNTY OF HARRIS     |

This AGREEMENT is executed on \_\_\_\_\_, 1973,  
 between the BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM, for and  
 on behalf of The University of Texas Health Science Center at Houston,  
 The University of Texas Dental Branch at Houston, sometimes referred to  
 as "Dental Branch" in this agreement, and the Harris County Hospital  
 District, a political subdivision organized under the laws of the State  
 of Texas, sometimes referred to as the "District" in this agreement,  
 WITNESSETH:

WHEREAS, the District is the owner and operator of two hospitals,  
 Ben Taub General Hospital and Jefferson Davis Hospital (Herein called the  
 "Hospitals"), situated in Harris County, Texas, providing medical and  
 hospital care to the indigent ill of Harris County, Texas; and

WHEREAS, it is mutually recognized that the District and the  
 Dental Branch have certain objectives in common, namely (a) the advancement  
 of medical service through high quality professional care of patients,  
 (b) the education and training of medical personnel, (c) the advancement  
 of medical knowledge through research, and (d) the promotion of personal  
 and community health; and that each can accomplish these objectives in a  
 larger measure and more effectively through affiliated operations; and

WHEREAS, it is mutually recognized that the primary function of  
 the District is the provision of the best possible health care for the  
 citizens of Harris County; and

WHEREAS, it is the desire of both parties and it is for the  
 benefit of the citizens of Harris County that the Hospitals maintain  
 excellent programs of dental education both for graduate students and for  
 undergraduate dental students in order that both parties can accomplish  
 their objectives in a larger measure;

NOW, THEREFORE, for and in consideration of the foregoing, and  
 in further consideration of the mutual benefits, the parties to this  
 agreement agree as follows:

(1) SEPARATE JURISDICTION

Dental Branch will continue, as in the past, to operate a dental school of the highest quality and shall retain all jurisdictional powers incident to its separate ownership and operation, including the power to determine the general and fiscal policies of the dental school and to appoint its administrative, faculty and other personnel under the terms of the subsequent paragraphs of this agreement.

The District shall retain for its Hospitals all jurisdictional powers incident to separate ownership and operation, including the powers to determine general and fiscal policies and to appoint its administrative officers and other personnel under the terms of the subsequent paragraphs of this agreement.

The Board of Managers of the District retains final jurisdiction over the administration and supervision of the Hospitals and over the admission of patients to the Hospitals and the assignment of beds therein.

(2) HIGH QUALITY PATIENT CARE

The District will operate its Hospitals in a manner and with standards consistent with high quality patient care and in accordance with standards established by the Joint Commission on the Accreditation of Hospitals.

(3) TEACHING PROGRAMS

The District will bear all costs for maintaining a staff of dental interns and resident doctors, herein called the "House Staff"; it will also provide facilities to support programs with classrooms, laboratories and office space for the supervisory personnel of the House Staff.

The decisions regarding the extent of and the number of students in undergraduate teaching in the Hospitals, the House Staff programs, and the research programs will be made by Dental Branch except that no decisions which affect the budget of the District shall be made unless the District's agreement thereto is first obtained.

(4) ORAL SURGERY

Dental Branch will provide the District with an adequate number of qualified oral surgeons from the dental school faculty to supervise and direct the professional services to inpatients and outpatients of (a) its Hospitals and (b) the other facilities, if any, operated by the

District for which medical staffing requests have been made by the District and to supervise all training and research activity conducted under the auspices of Dental Branch in the Hospitals and any such other facilities.

(5) REIMBURSEMENT TO DENTAL BRANCH

The funds to be paid to Dental Branch by the District each year during the term of this agreement shall be agreed to by the District and Dental Branch upon the principle that Dental Branch will provide qualified oral surgeons from the dental school to supervise and direct professional services to the inpatients and outpatients of the Hospitals and other facilities, if any, operated by the District for which oral surgeons staffing requests have been made by the District, and to supervise all training and research activities conducted under the auspices of Dental Branch in the Hospitals and any such other facilities. In this connection, the District shall have the right to bill, in its own name, charges for professional services rendered to patients to the extent that same may be ethical and lawful, and the Oral Surgery Staff appointed by Dental Branch shall cooperate with the District in processing insurance, Medicare, Medicaid, and other applications and forms in order that the District may fully recover all sums of money due and owing to it for services rendered; and the District shall upon request give a full accounting thereof to Dental Branch.

(6) APPOINTMENT OF MEDICAL STAFF

Appointment to the Medical Staff of the Hospitals, and any such other facilities operated by the District and staffed by Dental Branch, shall be made annually by the Board of Managers of the District only upon the recommendation of the Medical Board of the Hospitals, which shall be appointed by Dental Branch and approved by the Board of Managers of the District.

(7) CHIEF OF ORAL SURGERY DEPARTMENT

The District shall appoint as chief of the Oral Surgery Service of the Hospital Medical Staff the Dean of the Dental Branch, or his designee.

(8) GRANTS, RESEARCH OR DEMONSTRATION PROGRAMS

Dental Branch shall submit annually to the District a list of the programs or projects being conducted by Dental Branch in the Hospitals.

Dental Branch recognizes that it is the policy of the District that the District shall not be committed to participating in any grants, research or demonstration programs, or similar type activities without having first had the plans for any such program submitted to and approved by the District. In accordance with this policy, if Dental Branch desires to initiate any such program which involves the District or any of its facilities or personnel, Dental Branch shall first submit the plan and completed application therefor to the District for approval. If the District does not approve same, Dental Branch shall not proceed with any such program involving the District.

(9) TERM

This agreement shall be effective as of August 1, 1973, and shall continue in full force and effect until August 31, 1978, unless sooner terminated by the mutual consent of the parties, or by either party hereto giving to the other party written notice of termination which shall not be effective until at least 90 days after the receipt of such notice by the other party, any such notice to specify such date of termination.

(10) PROVISION FOR OTHER AGREEMENTS

It is recognized that either party may enter into other agreements and affiliations so long as same are not inconsistent with the terms and provisions hereof.

(11) AMENDMENTS

This agreement may be amended only by a written instrument duly authorized for execution by the governing Boards of the respective parties hereto.

(12) BINDING ON SUCCESSORS

This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, and shall supersede all previous agreements.

EXECUTED by the parties on the day and year first above written.

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BOARD OF REGENTS OF THE  
UNIVERSITY OF TEXAS SYSTEM

ATTEST:

Secretary, Board of Regents of  
The University of Texas System

By Chairman, Board of Regents of  
The University of Texas System

ATTEST:

*[Signature]*  
Asst. Secretary, Board of Managers

HARRIS COUNTY HOSPITAL DISTRICT

By *[Signature]*  
Chairman, Board of Managers

Approved as to Form:

*[Signature]*  
University Attorney

Approved as to Content:

*[Signature]*  
Deputy Chancellor for  
Administration

*[Signature]*  
Vice-Chancellor for  
Health Affairs

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9. Houston Health Science Center and University Cancer Center: Authorization in Principle for Houston Units of The University of Texas System to Participate in Program of Hemotherapy Institute (Non-profit Service Corporation within Texas Medical Center) and to Allocate Funds for Initial Support and Approval of "Consent of Trustees" Document. --Upon recommendation of President Clark and Acting President Olson, concurred in by Chancellor LeMaistre, authorization in principle was given for The University of Texas Health Science Center at Houston and The University of Texas System Cancer Center to participate in the programs of the Hemotherapy Institute, a non-profit service corporation to serve institutions in the Texas Medical Center, Houston, Texas, and their affiliated hospitals.

The Houston Health Science Center and the University Cancer Center were authorized to allocate institutional funds toward the initial support of the Institute in accordance with the following initial draft of the budget:

Projected Sources of Income for Basic Support

(Suggested approach for discussion purposes)

General Assessment for all participating institutions \$10,000 each - thirteen participants \$130,000

Principal Users

The Methodist Hospital	\$30,000	
St. Luke's Hospital	15,000	
Texas Childrens' Hospital	10,000	
Ben Taub General Hospital	15,000	
M.D. Anderson Hospital & Tumor Institute	15,000	
Hermann Hospital	15,000	
St. Joseph's Hospital	15,000	
Memorial Hospital System	<u>15,000</u>	130,000

Other Support

Baylor College of Medicine	20,000	
University of Texas	20,000	
Houston Chapter American Red Cross	20,000	
Texas Medical Center, Inc.	5,000	
Harris County Medical Society	<u>5,000</u>	<u>70,000</u>

TOTAL

\$330,000

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The policy governance of the Institute will be by a thirteen member Board of Trustees. The Articles of Incorporation provide for a representative Board of Trustees to serve "until their respective successors are duly elected and qualified" one of whom would be the Chairman of the Board of Regents, Mr. A. G. McNeese, Jr., representing the System and with the concurrence of Dr. Victor Olson, Acting President of the Houston Health Science Center, one would be Dr. R. Lee Clark, President of the University Cancer Center, representing the Houston units of The University of Texas System.

Chairman McNeese and President Clark were authorized to execute the "Consent of Trustees" document as set out below after it has been approved as to form by a University attorney and as to content by the Vice-Chancellor for Health Affairs and the Deputy Chancellor for Administration:

CONSENT OF TRUSTEES  
THE INSTITUTE OF HEMOTHERAPY

We, the undersigned, members of the Board of Trustees of the Institute of Hemotherapy (the "Institute"), and on behalf of the organizations which we represent, consent to and adopt the following resolutions, indicative of our intent to participate in and support the Institute:

RESOLVED, we hereby pledge our participation and support to the successful development and operation of the Institute;

RESOLVED FURTHER, each member organization will allow the administrative office of blood inventory control of the Institute free access to its blood utilization records;

RESOLVED FURTHER, the Institute office of inventory control will regulate the interchange of blood among member organizations to assure maximum utilization of the blood resource;

RESOLVED FURTHER, at such time as it is feasible and appropriate, all member organizations will satisfy their needs for blood and its components through the Institute;

RESOLVED FURTHER, the Institute will research, develop, and utilize voluntary blood donor recruitment tactics to be carried out within the member organizations; and

RESOLVED FURTHER, the organizational structure of the Institute, proposed by Dr. Edward E. Morse, in a letter to Dr. Joseph Merrill dated April 10, 1973, is approved, and the budget for the first year of operation of the Institute, included in such letter, is tentatively approved.

DATED \_\_\_\_\_, 1973

\_\_\_\_\_  
Harris County Hospital District

\_\_\_\_\_  
The University of Texas M.D. Anderson  
Hospital and Tumor Institute

\_\_\_\_\_  
The Methodist Hospital

\_\_\_\_\_  
Harris County Medical Society

\_\_\_\_\_  
American National Red Cross  
Houston-Harris County Chapter

\_\_\_\_\_  
Hermann Hospital Estate

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 Luke's Episcopal Hospital
 

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 Texas Childrens' Hospital
 

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 the University of Texas System
 

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 St. Joseph's Hospital
 

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 Texas Medical Center, Inc.
 

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 Baylor College of Medicine
 

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 Memorial Hospital System
 

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REPORT OF BOARD FOR LEASE OF UNIVERSITY LANDS. --Regent Garrett, Vice-Chairman of the Board for Lease of University Lands, filed the following report of the Board for Lease meeting on June 28, 1973:

The Board for Lease met on June 28 in Dallas at 1800 Southland Center (office of member Dan Williams). The Board voted to hold the sixty-second public auction sale of oil and gas leases on University Lands on December 12, 1973, at the Commodore Perry Building. The next meeting to approve the tracts to be offered will be on September 15, in El Paso, the day following the next Regents' meeting.

The Board also approved applications for two one-section pooling agreements in Ward County by Texaco and Union Texas Petroleum. These two agreements call for the drilling of a 19,000 foot well on each section, both adjacent to the recent discovery of the deep Caprito Ellenburger gas field. When these holes are commenced there will be five wells drilling around this one well field.

Another one-section pooling agreement in Winkler County, carrying a deep drilling commitment was approved for W. A. Moncrief. Mr. Moncrief paid a bonus of \$590,000 for leases on this section at the last sale in April.

A change in operator from Ralph Lowe Estate to Gulf Oil Corporation on a six-section deep drilling unit was approved. One dry hole has been drilled on the unit but because of good gas shows in the Fusselman formation Gulf intends to commence another hole by August 17.

A one-section pooling agreement was terminated by the Board because the deep gas production was depleted.

A deep gas drilling unit approved in May 1970 and containing 16,640 acres was also terminated by the Board because of absence of development. Ralph Lowe Estate who was operator of the unit and who drilled what is now the deepest hole in the State of Texas to 28,500 feet at a cost of approximately six million dollars did not choose to commence a second well.

COMMITTEE OF THE WHOLE  
(Pages 174 - 194, 194a, 194b - 217)

Chairman McNeese presented the items considered in executive session and moved the adoption of the following report which includes the action taken in open session and in executive session. Regent Clark seconded the motion which unanimously prevailed:

REGENTS' RULES AND REGULATIONS, PART ONE: AMENDMENTS TO CHAPTER I (APPEARANCES BEFORE BOARD OF REGENTS), CHAPTER VIII (INSTITUTIONS OF U. T. SYSTEM), AND CHAPTER IX (OFFICIAL COPIES OF RULES AND REGULATIONS). --The necessary rules were waived and the following amendments to the Regents' Rules and Regulations, Part One, Chapters I, VIII and IX were adopted as set out below to be effective immediately:

- a. The recommendation to amend Section 8.62 of Chapter I was further amended and was adopted as set out below:

8.62 Except upon invitation of the Board of Regents, the Chairman of the Board, or the Chancellor, no person shall appear before the Board or any committee thereof unless he shall file with the Secretary to the Board a written request for such appearance at least ten days before the date of such appearance and unless the Chairman of the Board, or a majority of the whole Board, shall approve the request; provided, however, that the Chief Administrative Officer, or his delegate, and/or the president of the students' association, or his delegate, of any component institution, without prior notice or request but subject to such time limitation as may be prescribed by the Chairman or a majority of the Board (or by the chairman or a majority of the committee), may appear before the Board or any committee thereof whenever the matter under consideration by the Board or committee directly affects the component institution represented by such Chief Administrative Officer and/or student president. Whenever time and other circumstances permit, the president of the students' association, or his delegate, of such component institution, shall consult with the Chief Administrative Officer, or his delegate, of such institution regarding said "matter under consideration" prior to the meeting of the Board or committee. Insofar as possible, any person who appears before the Board pursuant to the ten-day notice provision or without notice pursuant to the provisions of this paragraph shall provide a written statement of the substance of such person's presentation to the Board, and, insofar as possible, such written statement shall be delivered to the Secretary to the Board in sufficient time for copies to be distributed to the Regents prior to the meeting.

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- b. Section 4 and its subsections and subdivisions of Chapter VIII were deleted, and the following substituted in lieu thereof:

4. Institutions and Entities Composing The University of Texas System.--The University of Texas System is composed of the component institutions and entities set forth below in paragraphs 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12, 4.13, and 4.14; and such other component institutions and activities as may from time to time be assigned to the governance, control, jurisdiction, or management of the Board of Regents of The University of Texas System. To insure uniformity and consistence of usage throughout The University of Texas System, the component institutions and their respective entities shall be listed in the following order and the following titles shall be used:

<u>Full Title</u>	<u>Short Title</u>
4.1 The University of Texas System Board of Regents, including The University of Texas Permanent University Fund	Board of Regents Permanent University Fund
4.2 The University of Texas System Administration	System Administration
4.3 The University of Texas at Arlington, including The University of Texas Institute of Urban Studies at Arlington	U. T. Arlington Institute of Urban Studies
4.4 The University of Texas at Austin, including 4.41 The University of Texas Marine Science Institute 4.42 The University of Texas McDonald Observatory at Mount Locke	U. T. Austin Marine Science Institute McDonald Observatory
4.5 The University of Texas at Dallas	U. T. Dallas
4.6 The University of Texas at El Paso	U. T. El Paso
4.7 The University of Texas of the Permian Basin	U. T. Permian Basin
4.8 The University of Texas at San Antonio, including The University of Texas Institute of Texan Cultures at San Antonio	U. T. San Antonio Texan Cultures Institute
4.9 The University of Texas Health Science Center at Dallas, including 4.91 The University of Texas Southwestern Medical School at Dallas 4.92 The University of Texas Graduate School of Biomedical Sciences at Dallas 4.93 The University of Texas School of Allied Health Sciences at Dallas	Dallas Health Science Center Dallas Medical School Dallas G. S. B. S. Dallas Allied Health Sciences School Galveston Medical Branch
4.10 The University of Texas Medical Branch at Galveston, including 4.10(1) The University of Texas Medical School at Galveston 4.10(2) The University of Texas Graduate School of Biomedical Sciences at Galveston	Galveston Medical School Galveston G. S. B. S.

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| 4.10(3) The University of Texas School of Allied Health Sciences at Galveston          | Galveston Allied Health Sciences School   |
| 4.10(4) The University of Texas Marine Biomedical Institute at Galveston               | Marine Biomedical Institute               |
| 4.10(5) The University of Texas Hospitals at Galveston                                 | Galveston Hospitals                       |
| 4.11 The University of Texas Health Science Center at Houston, including               | Houston Health Science Center             |
| 4.11(1) The University of Texas Medical School at Houston                              | Houston Medical School                    |
| 4.11(2) The University of Texas Dental Branch at Houston                               | Houston Dental Branch                     |
| 4.11(3) The University of Texas Graduate School of Biomedical Sciences at Houston      | Houston G. S. B.S.                        |
| 4.11(4) The University of Texas School of Allied Health Sciences at Houston            | Houston Allied Health Sciences School     |
| 4.11(5) The University of Texas School of Public Health at Houston                     | Public Health School                      |
| 4.11(6) The University of Texas Speech and Hearing Institute at Houston                | Speech and Hearing Institute              |
| 4.12 The University of Texas Health Science Center at San Antonio, including           | San Antonio Health Science Center         |
| 4.12(1) The University of Texas Medical School at San Antonio                          | San Antonio Medical School                |
| 4.12(2) The University of Texas Dental School at San Antonio                           | San Antonio Dental School                 |
| 4.12(3) The University of Texas Graduate School of Biomedical Sciences at San Antonio  | San Antonio G. S. B.S.                    |
| 4.12(4) The University of Texas School of Allied Health Sciences at San Antonio        | San Antonio Allied Health Sciences School |
| 4.13 The University of Texas System Cancer Center, including                           | University Cancer Center                  |
| 4.13(1) The University of Texas M. D. Anderson Hospital and Tumor Institute at Houston | M. D. Anderson                            |
| 4.13(2) The University of Texas Environmental Science Park at Smithville               | Environmental Science Park                |
| 4.14 The University of Texas System School of Nursing, including                       | System Nursing School                     |
| 4.14(1) The University of Texas School of Nursing at Austin                            | Austin Nursing School                     |
| 4.14(2) The University of Texas School of Nursing at El Paso                           | El Paso Nursing School                    |
| 4.14(3) The University of Texas School of Nursing at Fort Worth                        | Fort Worth Nursing School                 |
| 4.14(4) The University of Texas School of Nursing at Galveston                         | Galveston Nursing School                  |
| 4.14(5) The University of Texas School of Nursing at Houston                           | Houston Nursing School                    |
| 4.14(6) The University of Texas School of Nursing at San Antonio                       | San Antonio Nursing School                |

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c. Section 3 of Chapter IX was deleted, and the following substituted in lieu thereof:

3. Official Copies.

- 3.1 The official copies of the Regents' Rules and Regulations and the Handbook of Operating Procedures for each component institution of The University of Texas System shall be maintained on file in the Office of the Board of Regents.
- 3.2 Copies of these Regents' Rules and Regulations and of the Handbooks of Operating Procedures shall be furnished to members of the Board of Regents, the Chancellor, the chief administrative officers of the component institutions, and such other persons and offices as the Chancellor or the Board of Regents shall designate.

REGENTS' RULES AND REGULATIONS, PART TWO: AMENDMENT TO CHAPTER III, SECTION 13 (TRAVEL EXPENSES). --Section 13 of Chapter III of Part Two of the Regents' Rules and Regulations was amended by:

- a. Changing Subdivision 13.431 of Subsection 13.4 of Section 13 to read as follows:

13.431 In-State--A per diem allowance, in lieu of actual expenses for meals and lodging, will be paid at the rate of \$18.00 per calendar day, and at the rate of \$4.50 for each period of six (6) hours or fraction thereof (at least 2 hours).

- b. Changing Subdivision 13.442 of Subsection 13.4 of Section 13 to read as follows:

13.442 An employee who is traveling on official University business in-state for a continuous period of a minimum of six (6) hours but less than twenty-four (24) hours which does involve over-night stay will be reimbursed for meals and lodging in an amount not in excess of \$18.00 at the rate of \$4.50 for each six (6) hour period involved or fraction thereof (at least 2 hours).

- c. Changing Subdivision 13.472 of Subsection 13.4 of Section 13 and its Subdivisions 13.4722, 13.4723 and 14.4724 to read as follows:

13.472 Private Motor Vehicle.--An employee traveling in his personally owned motor vehicle shall be reimbursed at the rate of twelve cents (12¢) per mile on the basis of the shortest practical route between points. No additional expense incidental to the operation of such motor vehicle shall be allowed.

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- 13.4722 When two or more employees travel in a single private motor vehicle, only one shall receive a transportation allowance, but this provision shall not preclude each traveler from receiving a per diem allowance.
- 13.4723 When two, three, or four officials or employees of System Administration or one of the component institutions of The University of Texas System with the same itinerary on the same dates are required to travel on the same official state business for which travel reimbursement for mileage in a personal motor vehicle is claimed, mileage reimbursement will be claimed and allowed for only one of the employees except as provided hereafter. If more than four employees attend such meeting or conference in more than one motor vehicle, full mileage reimbursement shall be allowed for one motor vehicle for each four employees and for any fraction in excess of a multiple of four employees. If, in any instance, it is not feasible for these officials or employees to travel in the same motor vehicle, then prior official approval from the Chancellor for System Administration, or the head of the component institution for employees of that institution, shall be obtained and shall be considered as authorization and the basis for reimbursement for travel for each person authorized to use his personal motor vehicle in such travel.
- 13.4724 Reimbursement for out-of-state transportation for the use of personally owned motor vehicles together with per diem shall never exceed the cost of the lowest available commercial airline fare from the nearest airport and the per diem (or other allowance established in lieu thereof) required had the employee traveled by such conveyance. The determination of the allowances due owners of personally owned motor vehicles in compliance with this paragraph shall be as follows: (1) Per diem shall be determined by use of an airline schedule which would have sufficed for the performance of the official business. (2) Expenses of transportation to airfields from points where airports are not available shall be allowed in addition to the cost of the lowest available commercial airline fare. (3) When additional passengers are conveyed on out-of-state trips in personally owned motor vehicles they shall receive as their expenses per diem based on motor vehicle travel time. (4) Persons traveling to points not served by airlines shall receive mileage and per diem based on actual miles traveled and other expenses as authorized elsewhere in these regulations.

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- d. Changing Subdivision 13.473 of Subsection 13.4 of Section 13 to read as follows:

13.473 Private Airplane.--The current Appropriation Bill provides that the rate of reimbursement to executive heads for travel in their personally owned airplanes within and outside the boundaries of Texas and between points of necessary official business shall be sixteen cents (16¢) per highway mile. The rate for reimbursement for other state employees for such travel in their personally owned airplanes shall be twelve cents (12¢) per highway mile.

- e. Changing Subsection 13.49 of Subsection 13.4 of Section 13 to read as follows:

13.49 Exceptions to Per Diem Allowance.--Executive heads of component institutions shall be reimbursed for their actual meals, lodging, and incidental expenses (exclusive of expenses related to motor vehicles for which transportation is paid) when traveling on official business either in or out of the state.

- f. Changing Subdivision 13.4(10)2 of Subsection 13.4 of Section 13 to read as follows:

13.4(10)2 Gifts, Grants, and Designated Funds.--Reimbursement of travel expenses paid from Gifts, Grants, and Designated Funds will be as follows:

- (a) For grants from or derived from Federal or State agencies, travel allowances shall be paid as specified in the foregoing general travel regulations, Subsections 13.43 through 13.49.
- (b) For other gifts, grants, trust or designated funds, travel allowances may be for actual expenses for meals, lodging and airport parking, not to exceed \$35.00 per day. The transportation allowance will be as specified in Subsection 13.47 of the foregoing general travel regulations.

The provisions of both (a) and (b) above are subject to the terms, provisions and conditions of the particular gifts, grants, or funds involved. Further exceptions to these provisions may be in accordance with specific authorization by the Board of Regents with certain designated funds. Likewise, when anticipated living costs are unusually low for those engaged in travel, the person authorizing the travel may reduce the allowance for all or any part of the travel, provided that the employee shall be notified of such reduced allowance before being allowed to incur any expense. When not otherwise prohibited by the terms of the gift or grant, employees may also be reimbursed for required registration fees or similar expenses incurred in attending meetings of organizations or associations. Receipts for lodging, registration fees, or similar

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expenses shall be obtained and attached to the expense voucher. Project Directors, Principal Investigators, Departmental Chairmen, or other authorized personnel under a gift or grant who travel in their personally owned airplanes on necessary official business may be reimbursed at the rate of twelve cents (12¢) per highway mile for in-state travel. The same rate shall apply to out-of-state travel, subject to the limitation that the mileage reimbursement shall not exceed the amount equal to the number of persons flying by private plane times the lowest available airline fare.

**U. T. SYSTEM: ADOPTION OF 1973-74 OPERATING BUDGETS (INCLUDING AUXILIARY ENTERPRISES, GRANTS AND GOVERNMENT FUNDS AND RESTRICTED CURRENT FUNDS).** --Chairman McNeese reported that in the Executive Session of the Committee of the Whole to consider personnel matters related to the 1973-74 Operating Budgets for The University of Texas System, the following budgets had been adopted:

1. The University of Texas System Administration Including the Available University Fund
2. The University of Texas at Arlington
3. The University of Texas at Austin
4. The University of Texas at Dallas
5. The University of Texas at El Paso
6. The University of Texas of the Permian Basin
7. The University of Texas at San Antonio
8. The University of Texas Health Science Center at Dallas
9. The University of Texas Medical Branch at Galveston
10. The University of Texas Health Science Center at Houston
11. The University of Texas Health Science Center at San Antonio
12. The University of Texas System Cancer Center
13. The University of Texas System School of Nursing

It was noted that these budgets include Auxiliary Enterprises, Grants and Government Funds and Restricted Current Funds. The rules governing these operating budgets are included on pink sheets in each of the bound budgets.

The Official Copy of these budgets is a part of the Minutes and will be in bound Volume XXVIII entitled Annual Budgets for 1973-74.

**U. T. SYSTEM - CREATION OF NEW POSITION: ASSISTANT TO DIRECTOR OF EMPLOYEE RELATIONS FOR MINORITY AFFAIRS.** -- In the discussion of the budget, the Committee of the Whole authorized that there be created a new position of "Assistant to the Director of Employee Relations for Minority Affairs" to assist in the identification of qualified minority students and employees, and that appropriate fiscal support for this position be provided.

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BOARD OF REGENTS: REQUEST TO ATTORNEY GENERAL TO PROTECT INTEREST OF COMPONENT INSTITUTIONS OF U. T. SYSTEM IN LITIGATION OF PENNZOIL PIPELINE CO. V. COASTAL STATES GAS PRODUCING CO., ET AL, NO. 947,276 IN THE 113TH DISTRICT COURT OF HARRIS COUNTY, TEXAS.-- Regent Shivers moved that the Chairman of the Board of Regents write a letter to the Attorney General requesting that he take such action with regard to suit styled Pennzoil Pipeline Co. v. Coastal States Gas Producing Co., et al, No. 947,276 in the 113th District Court of Harris County, Texas, as may be necessary to protect the natural gas supply of The University of Texas at Austin or any other component institution of The University of Texas System. This motion was duly seconded and prevailed.

U. T. SYSTEM: REPORT OF SANTA RITA AWARD COMMITTEE.-- In Executive Session, the Committee of the Whole received a report from the Santa Rita Award Committee composed of Mr. Preston Shirley (Chairman), Regent Jenkins Garrett, and Mr. Joe Dealy. This committee formerly reported to The University of Texas Development Board until the discontinuance of that board and the reorganization of private fund development in 1969. Since this report involves personnel, it will not be made a part of the record until the announcement has been made.

U. T. SYSTEM - FINANCING CONSTRUCTION: IMPLEMENTATION THEREOF BY ESTABLISHMENT OF THE UNIVERSITY OF TEXAS ENDOWMENT CORPORATION (NONPROFIT) AND APPROVAL OF CHARTER AND BY-LAWS THEREFOR; AUTHORIZATION TO BOND COUNSEL TO APPLY TO INTERNAL REVENUE SERVICE FOR RULING WITH RESPECT TO TAX EXEMPTION.--To implement the financing plan authorized by the Board of Regents on June 1, 1973, for construction of certain proposed permanent improvements at an estimated cost of \$53,000,000, it was ordered that there be established The University of Texas System Endowment Corporation (a nonprofit corporation).

Further approval was given to the Charter and By-Laws of The University of Texas Endowment Corporation as set out on Pages 182-192.

It was pointed out in detail that this educational nonprofit corporation would issue thirty year tax exempt bonds and construct the required improvements out of such bond proceeds; would lease the completed structures back to the Board of Regents on a net-net basis at an annual rental sufficient to pay the annual debt service requirements on the tax exempt bonds so issued, and estimated not to exceed \$4,250,000, and that title to the land and improvements to be deeded to the nonprofit corporation would revert to the Board of Regents upon the retirement of all outstanding bonds.

After a detailed discussion, the Board of Regents authorized the University bond attorney to apply to the Internal Revenue Service for a ruling establishing the privileged status of the corporation.

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ARTICLES OF INCORPORATION  
OF  
THE UNIVERSITY OF TEXAS SYSTEM ENDOWMENT CORPORATION

THE STATE OF TEXAS :

COUNTY OF TRAVIS :

WE, THE UNDERSIGNED, natural persons of the age of twenty-one years or more, citizens of the State of Texas, acting as incorporators of a non-profit 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 THE UNIVERSITY OF TEXAS SYSTEM ENDOWMENT CORPORATION.

ARTICLE TWO

The Corporation is a non-profit corporation.

ARTICLE THREE

The period of duration of the Corporation is perpetual.

ARTICLE FOUR

The Corporation is organized for strictly educational purposes and is organized and is to be operated for the exclusive purpose of benefiting The University of Texas System (a public agency and political subdivision of the State of Texas, existing pursuant to Article 7, Section 10, of the Texas Constitution and Chapters 65 through 75, Texas Education Code) by constructing, purchasing, or otherwise acquiring, owning, leasing, enlarging, extending, improving, furnishing, equipping, operating, and maintaining land, buildings, improvements, and any other facilities on behalf of The University of Texas System, including, but not limited to, classroom buildings, libraries, laboratories, research facilities, workshops, science buildings, art buildings, educational buildings, activities, athletic, and recreational buildings, administrative office buildings, industrial parks, and residential real property for family units.

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ARTICLE FIVE

The street address of the initial registered office of the Corporation is \_\_\_\_\_, Austin, Texas, and the name of its initial registered agent at such address is \_\_\_\_\_.

ARTICLE SIX

The Corporation shall have no members. The direction and management of the affairs of the Corporation and the control and disposition of its properties and funds shall be vested in a Board of Directors. The number of Directors shall be three, and the names and addresses of the persons who are to serve as the initial Directors, and the dates of expiration of their initial terms as Directors, are as follows:

<u>NAMES</u>	<u>ADDRESSES</u>	<u>DATE OF EXPIRATION OF TERM</u>
_____	_____	January 1, 1975
_____	_____	January 1, 1975
_____	_____	January 1, 1975

Directors to succeed the initial Directors shall be appointed by the Board of Regents of The University of Texas System for terms of one year each, commencing on January 1 of each year and expiring on December 31 of each year. Each Director, including the initial Directors, shall be eligible for reappointment. Any vacancy occurring on the Board of Directors through death, resignation, or otherwise, shall be filled by appointment by the Board of Regents of The University of Texas System to hold office until the expiration of the term for which the vacating Director had been appointed.

ARTICLE SEVEN

The initial by-laws of the Corporation shall be adopted by its Board of Directors. The power to alter, amend or repeal the by-laws or to adopt new by-laws shall be vested in the Board of Directors.

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## ARTICLE EIGHT

The directors 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 exempt organization under the provisions of the Internal Revenue Code of 1954, as amended, or corresponding provisions hereafter in effect; and the use, directly or indirectly, of any part of the Corporation's assets in any such activity or transaction is hereby expressly prohibited.

## ARTICLE NINE

No dividends shall ever be paid by the Corporation and no part of its net income shall be distributed to or inure to the benefit of its directors or officers or any private person, firm, corporation, or association. No substantial part of the Corporation's activities 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 TEN

If the Corporation ever should be dissolved 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 shall be transferred and delivered, after satisfaction or provision for satisfaction of debts and claims, to The University of Texas System.

## ARTICLE ELEVEN

The name and street address of each incorporator is:

<u>Name</u>	<u>Address</u>
Franklin W. Denius	Capital National Bank Building Austin, Texas
E. G. Morrison	Austin National Bank Building Austin, Texas
Jack G. Taylor	Brown Building Austin, Texas

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IN WITNESS WHEREOF, we have hereunto set our hands, this  
\_\_\_\_ day of \_\_\_\_\_, 1973.

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

THE STATE OF TEXAS :  
COUNTY OF TRAVIS :

I, the undersigned, a Notary Public, do hereby certify that  
on this \_\_\_\_ day of \_\_\_\_\_, 1973, personally appeared before me  
\_\_\_\_ and \_\_\_\_\_,

who each being by me first duly sworn, severally declared that  
they are the persons who signed the foregoing document as in-  
corporators, and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal  
the day and year above written.

\_\_\_\_\_  
Notary Public in and for  
Travis County, Texas  
My commission expires June 1, 1975.

(NOTARY SEAL)

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BYLAWS

## THE UNIVERSITY OF TEXAS SYSTEM ENDOWMENT CORPORATION

## ARTICLE I

## Offices

1.1 The registered office of the corporation is at 210 West Sixth Street, Austin, Texas 78701, and the name of the registered agent of the corporation at that address is W. R. Long.

1.2 The Corporation also may have offices at other places, both in Texas and out of state, as determined by the Board of Directors from time to time, or as required by the business of the corporation.

## ARTICLE II

## Directors

2.1 The Board of Directors shall manage the business and affairs of the corporation. The Board may exercise all the powers of the corporation and do all lawful acts and things permitted by statute, the Articles of Incorporation, or the Bylaws.

2.2 The Board of Directors shall consist of three persons, with the initial Directors being named in the Articles of Incorporation, to serve for terms expiring January 1, 1975, and with their successors to be appointed by the Board of Regents of The University of Texas System for terms of one year, all as provided in the Articles of Incorporation. Each director shall hold office for his respective term and until his successor is appointed and qualified. If a director becomes disqualified by death, resignation, or becomes unable or unwilling to act before his term expires, the Board of Regents of The University of Texas System shall appoint a successor director who shall complete the term of office of such director.

2.3 The Board of Directors may hold its meetings, both regular and special, either in Texas or out of state, as the Board may from time to time determine.

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2.4 The Board of Directors may hold regular meetings without notice at the time and place from time to time determined by the Board of Directors.

2.5 The President may call special meetings of the Board of Directors on twenty-four hours' notice to each director, either personally or by mail or telegram. The President or Secretary shall call special meetings in the same manner and on the same notice upon written request by two (2) directors. Except as provided by statute, the Articles of Incorporation, or the Bylaws, neither the business to be transacted nor the purpose of any special meeting need be specified in a notice or waiver of notice of the meeting.

2.6 The presence of a majority of the directors at all meetings of the Board of Directors is necessary to constitute a quorum for the transaction of business. Except as otherwise specifically provided by statute, the Articles of Incorporation, or the Bylaws, the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors. If a quorum is not present at a meeting of directors, the directors present may adjourn the meeting from time to time without notice other than announcement of the meeting, until a quorum is present.

2.7 The Board of Directors, by resolution adopted by a majority of the directors in office, may designate one or more committees of directors, each consisting of two (2) or more directors. To the extent provided in the resolution, each committee may exercise the authority of the Board of Directors in the management of the corporation. The designation of the committees and the delegation to them of authority does not relieve the Board of Directors or any individual director of any responsibility imposed by law. Other committees not having and exercising the authority of the Board of Directors in the management of the corporation may be designated and appointed

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by a resolution adopted by a majority of the directors at a meeting at which a quorum is present, or by the President after authorization by a similar resolution of the Board of Directors or by the Articles of Incorporation or by the Bylaws. Membership on such committees may be, but is not required to be, limited to directors. Notice of meetings of the committee shall be given in the same manner as notice of meetings of the Board of Directors.

## ARTICLE III

## Notices

3.1 Whenever required by statute, the Articles of Incorporation, or the Bylaws, notice is required to be given to any director and no provision is made as to how notice shall be given, any notice may be given in writing by mail, postage prepaid, addressed to the director at his address as it appears on the books of the corporation. Personal notice is not required. Notice by mail is deemed to be given at the time when the notice is deposited in the United States Mails.

3.2 Whenever notice is required to be given to any director of the corporation under the provisions of the statutes, the Articles of Incorporation, or the Bylaws, a waiver of notice in writing signed by the person or persons entitled to notice, whether on, before, or after the time stated in the notice, is equivalent to giving that notice.

3.3 By attending a meeting, a director waives notice of the meeting, except where a director attends a meeting for the purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

## ARTICLE IV

## Officers

4.1 The directors shall elect the officers of the corporation. The officers are: the President; the Vice-President; and a Secretary and Treasurer. Any person may hold two (2) or more offices, except that the same person may not hold the offices of President and Secretary.

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4.2 The Board of Directors at its first meeting shall choose a President and a Vice-President from its members, and shall choose a Secretary and a Treasurer, neither of whom need be a member of the Board, and the offices of Secretary and Treasurer may be held by one person.

4.3 The Board of Directors may appoint any other officers and agents it deems necessary. Officers shall be appointed for terms and shall exercise the powers and perform the duties determined from time to time by the Board.

4.4 Each officer of the corporation shall hold office until his successor is chosen and qualified or until his death, resignation, or removal from office. Any officer or agent elected or appointed by the Board of Directors may be removed at any time by the affirmative vote of a majority of the Board of Directors, but removal shall be without prejudice to the contract rights, if any, of the person removed. If the office of any officer becomes vacant for any reason, the Board of Directors may fill the vacancy.

4.5 The President is the chief executive officer of the corporation; he shall preside at meetings of the Board of Directors; he shall have general and active management of the business and affairs of the corporation; he shall see that all orders and resolutions of the Board are carried into effect; and he shall perform any other duties prescribed by the Board of Directors.

4.6 The Vice-President has the powers and shall perform any duties that the Board of Directors may from time to time prescribe or that the President may from time to time delegate to him.

4.7 The Secretary is responsible to the President and the Board of Directors. He shall attend all meetings of the Board and shall record all votes and minutes of all proceedings in a book kept for that purpose. He shall give or provide for

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giving notice of all meetings, where required, and shall perform any other duties prescribed by the Board of Directors or President. He shall keep in safe custody the seal of the corporation, and when authorized by the Board, affix the seal to any instrument requiring the seal. When affixed, the seal shall be attested by the signature of the Secretary.

4.8 The Treasurer has custody of the corporate funds and securities and shall keep a full and accurate account of the receipts and disbursements of the corporation. He shall deposit all money and other valuable items in the name and to the credit of the corporation in any depository designated by the Board of Directors.

4.9 The Treasurer shall disburse the funds of the corporation as ordered by the Board of Directors, making proper vouchers for each disbursement. He shall provide the President and directors, at the regular meeting of the Board or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the corporation. He shall perform any other duties prescribed by the Board of Directors.

#### ARTICLE V

##### General Provisions

5.1 The corporate seal shall have inscribed around its circumference the name of the corporation. The seal may be used by causing it or its facsimile to be impressed, affixed, or otherwise reproduced.

5.2 Any action required to be taken at a meeting of the Board of Directors by statute, the Articles of Incorporation, or the Bylaws, or any action that may be taken at a meeting of the Board of Directors, may be taken without a meeting if all the directors give their signed consent, setting forth the action to be taken. The consent has the same effect as a unanimous consent of the directors.

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5.3 All checks or demands for money and notes of the corporation shall be signed by the officer or officers or any other person or persons designated by the Board of Directors.

5.4 The corporation shall indemnify any director, officer, or employee, or any former director, officer, or employee of the corporation against expenses he actually and necessarily incurs and any amount paid in satisfaction of judgments in connection with any action, suit, or proceeding, whether civil or criminal, in which he is made a party by reason of being or having been a director, officer, or employee (whether or not he was a director, officer, or employee at the time the costs or expenses were incurred by or imposed upon him) except in relation to matters to which he is adjudged in the action, suit, or proceeding to be liable for gross negligence or willful misconduct in the performance of duty. The corporation may also reimburse any director, officer, or employee the reasonable costs of settlement of any action, suit, or proceeding, if a majority of the directors not involved in the matter in controversy, whether or not a quorum, finds it in the interest of the corporation that the settlement is made, and that the director, officer, or employee was not guilty of gross negligence or willful misconduct. The rights of indemnification and reimbursement are not exclusive to any other rights that the director, officer, or employee may be entitled by law or under any bylaw or agreement, or otherwise.

5.5 The directors 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 exempt organization under the provisions of the Internal Revenue Code of 1954, as amended, or corresponding provisions hereafter in effect; and the use, directly or indirectly, of any part of the Corporation's assets in any such activity or transaction is hereby expressly prohibited.

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5.6 No dividends shall ever be paid by the Corporation and no part of its net income shall be distributed to or inure to the benefit of its directors or officers or any private person, firm, corporation, or association. No substantial part of the Corporation's activities 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.

5.7 If the Corporation ever should be dissolved 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 shall be transferred and delivered, after satisfaction or provision for satisfaction of debts and claims, to The University of Texas System.

#### ARTICLE VI

##### Amendments

6.1 These Bylaws may be altered, amended, or repealed at any meeting of the directors at which a quorum is present, provided notice of the proposed alteration, amendment, or repeal is contained in the notice of the meeting.

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BRACKENRIDGE TRACT: SPECIAL COMMITTEE TO MEET WITH CITY COUNCIL OF AUSTIN TO DISCUSS PRESENT AND FUTURE USE OF LAND OCCUPIED BY AUSTIN MUNICIPAL GOLF COURSE AND ALL OTHER MATTERS PENDING BETWEEN CITY COUNCIL AND BOARD OF REGENTS; REGENT CLARK'S STATEMENT.--Chairman McNeese named the following committee to meet with the City Council of Austin to discuss the present and future use of that portion of the Brackenridge Tract that is presently occupied by the Austin Municipal Golf Course, as well as any and all other matters that are presently pending between the City Council and the Board of Regents:

Regent Shivers, Chairman  
Regent Clark  
Regent Erwin

Regent Shivers reported that after Chairman McNeese had notified him of his appointment to this special committee, he had discussed the matter with Mayor Roy Butler. Mayor Butler had appointed a committee composed of himself and Councilmen Leberman and Binder. Regent Shivers said that he and Mayor Butler were in the process of trying to arrange a meeting of the committee as soon as possible. However, due to the fact that Councilman Leberman will be away from Austin, it will probably be late in August before the full committee can meet. In the meantime, the golf course lease by the terms of the notice will expire; however, Regent Shivers said that if there were no objections, and none were registered, the City will continue to operate the golf course as a municipal course until the committee has had an opportunity to meet.

Speaking on personal privilege, Regent Clark made the following statement:

Mr. Chairman, I would be less than frank if I did not tell this Board that I have already made a judgment as far as the Brackenridge Tract--or Munny Golf Course--is concerned. After much thought, I have reached the conclusion that I am unalterably opposed to selling one inch of Brackenridge Tract.

I am in favor of the University taking possession of the golf course and using it as a University golf course with priorities to students, staff, administration, and faculty. If possible, and there is time, I would think the public might have some use of it in this priority chain.

As for the rest of the Brackenridge Tract, I am in favor of the University using it for conservation, recreation and the beautification of not only the University but also Austin. It should be for the enjoyment of the people of Austin. I am particularly interested in seeing this is done around the lake. I do not want any of it sold. I have had hundreds of calls and letters, with the rumors and all, that I wanted to put myself on record as to how I stand on this matter. I will be glad to serve on the committee to meet with the city council members, but I wanted you, the Board and the public to know of my position.

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I think the whole area should become an auxiliary enterprise of the University, with an orderly, correct transition. This would be in keeping with the thinking of the people of Austin and the friends of the University.

At this point, Chairman McNeese read a letter from Mrs. Ben F. Bedinger in which she reminded the Regents of an invitation that had been extended to them by the "Muny Committee" for a fiesta at the Austin Municipal Golf Course from 5:30 p. m. to 7:30 p. m. It was unfortunate, as expressed by the Regents, that most of the members of the Board had already made personal commitments. It is the understanding of the Secretary, however, that Regent Bauerle did attend the party on behalf of the Board of Regents.

APPEARANCE OF PRESIDENT OF THE TEXAS COLLEGE AND UNIVERSITY SYSTEM STAFF EMPLOYEES' ASSOCIATION.--Mr. George Karp, President of the Texas College and University Staff Employees' Association, appeared before the Board of Regents. Mr. Karp had previously submitted a written statement, copies of which were distributed to each member of the Board of Regents, stating that the primary purpose of the Association was to achieve equity for those employees in state-supported colleges and universities who are employed in staff positions and suggesting that (1) three employees representative of the staff community should be added to the U. T. Austin Union Board, (2) two staff employees be added to the U. T. Austin Shuttle Bus Committee, (3) the Board of Regents "go on record as favoring a policy to better and improve the working conditions and status of all staff employees on all of The University of Texas campuses," and (4) the administration on each campus have as one of its goals the improvement of staff employee situations.

An exchange took place between several Regents and Mr. Karp as to whether the organization that he represents is a labor organization as defined in Article 5154c, Vernon's Texas Civil Statutes.

Regent Erwin has requested that the following summary of his views on the legal status of TCUSSEA be included here for the record:

There can be no doubt that TCUSSEA is a "labor organization" within the meaning of Article 5154c, Vernon's Civil Statutes, because, in pertinent part, that statute provides that "labor organization means any organization of any kind...in which employees participate and which exists for the purpose, in whole or in part, of dealing with one or more employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work." In the material furnished to the Board of Regents by TCUSSEA, it is stated that "TCUSSEA is a voluntary organization...of, by and for staff employees...working through established channels to provide university staff members with more equitable conditions of employment and better representation in the decision making processes on their campuses."

The difficulty in applying Article 5154c arises from what some see as an apparent inconsistency between Sections 1 and 2, which prohibit state officials from entering into a collective bargaining contract with a "labor organization"

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and from recognizing a "labor organization" as the bargaining agent for any group of public employees, and Section 6, which permits public employees to present grievances concerning their wages, hours of work, or conditions of work individually or through a representative that does not claim the right to strike.

However, that apparent inconsistency has been resolved by Attorney General's Opinion 196, No. M-77, wherein it was held that under Article 5154c "public employees have the right to present grievances concerning their wages, hours of work, or conditions of work through a labor organization that does not claim the right to strike or bargain collectively."

That interpretation is further supported by the decision in Beverly v. City of Dallas (El Paso Civ. App., 1956) 292 SW (2d) 172 (N. R. E.), wherein the Court held that "The presentation of a grievance is in effect a unilateral procedure, whereas a contract or agreement resulting from collective bargaining must of necessity be a bilateral procedure culminating in a meeting of the minds involved and binding the parties to the agreement. The presentation of a grievance is simply what the words imply, and no more, and here it must be remembered that the privilege is extended only with the express restriction that strikes by public employees are illegal and unlawful, as is collective bargaining, so it is clear that (Article 5154c) carefully prohibits striking and collective bargaining, but does permit the presentation of grievances, a unilateral proceeding resulting in no loss of sovereignty by the (state).

Therefore, so long as TCUSSEA does not claim the right of its members or of any other public employees to strike and does not claim the right to bargain collectively with university officials on behalf of its members or other public employees, TCUSSEA may present to university officials - either orally or in writing - a statement of grievances concerning wages, hours of work, or conditions of work and information supporting such grievances.

But university officials have no legal duty or authority to do anything beyond receiving the grievances, because they are expressly forbidden by Article 5154c from recognizing TCUSSEA as a bargaining agent and from entering into a collective bargaining contract with TCUSSEA. As the Court said in the Beverly case, supra, collective bargaining with public employees' representatives is "illegal, unlawful, and prohibited."

TCUSSEA attempts to avoid the proscriptions of Article 5154c by saying that it does not want to "bargain collectively"; it simply wants to meet with university officials to discuss the public employees' grievances in an effort to work out a negotiated settlement of the grievances. But discussions that are between an employer and the employees' representative and that look toward a negotiated settlement of the employees' grievances are exactly what is meant by "collective bargaining" [56 C. J. S. Sec. 28 (20)] and, therefore, are exactly what is prohibited by Article 5154c.

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It follows that until Article 5154c is either amended or repealed, university officials may not enter into discussions with TCUSSEA or any other public employee representative looking toward a negotiated settlement of employee grievances.

That TCUSSEA and its attorney, Clifton L. Homes, fully understand and appreciate the legal situation outlined above is amply demonstrated in TCUSSEA's Bulletin No. 10 of February, 1973, in which it is stated that one of TCUSSEA's four legislative goals for 1973-74 is "the passage of a bill to repeal the law prohibiting collective bargaining by state employees." Further in the same article it is stated that "TCUSSEA has employed the services of Clif Holmes, Austin attorney, to represent us in legislative matters."

Finally, TCUSSEA tries to confuse the real legal issue by dragging in a "red herring" in the form of the definition of a "labor union" in Article 5154a. As TCUSSEA and its attorney well know, Article 5154a is a statute that is complete in itself and is entirely separate from Article 5154c which is the statute that relates to "public employees." In Article 5154c, which is the statute in issue here, there is no reference whatever to the term "labor union," so TCUSSEA's reference to the definition of "labor union" in Article 5154a is entirely immaterial and irrelevant to the matter here under consideration. TCUSSEA's use of such diversionary and misleading tactics is not calculated to increase an employer's confidence and trust in TCUSSEA's future representations.

**PERMANENT UNIVERSITY FUND - CONSTITUTIONAL REVISION:  
ADOPTION OF BOARD OF REGENTS' STATEMENT OF POSITION. --**  
The statement set out on Pages 195 - 208 presented to the Texas Constitutional Revision Commission by Chairman A. G. McNeese, Jr., for and on behalf of the Board of Regents, on June 29, 1973 (as supplemented and amended on July 5, 1973), was approved and adopted as the official policy and position of the Board of Regents of The University of Texas System.

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Statement to the Texas Constitutional Revision Commission  
by

The Honorable A. G. McNeese, Jr., Chairman,  
Board of Regents, The University of Texas System,  
in Austin, Texas, on June 29, 1973 \*

Mr. Chairman and Distinguished Members of the Commission:

For almost 100 years - since February 15, 1876, when the present Texas Constitution was adopted by popular vote - the Legislature has been commanded by the Constitution to "establish, organize and provide for the maintenance, support and direction of a university of the first class to be styled 'The University of Texas' ". Since that time the several Texas Legislatures have faithfully honored that injunction so that today The University of Texas at Austin ranks high among the outstanding universities in this country - and, indeed, in the world.

It is the only university west of Tulane, south of Kansas, and east of U. C. L. A. that is a member of the American Association of Universities, which is the most prestigious group of academic institutions in the land. The American Council on Education's recent evaluation of graduate academic departments, which was made by members of graduate faculties throughout the United States, indicates that during the decade 1959 to 1969 the quality of academic work at U. T. Austin made greater strides than at any other U. S. institution, and that in 1969 graduate departments at U. T. Austin ranked 14th among all of the universities in the nation, 6th among all state universities, and 1st in the entire South.

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\*As Amended, 7/5/73

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In a recent issue, The New York Times reported that U. T. Austin is one of the great national research universities in the United States and that it is the only one of such institutions that is not presently in financial trouble. This report only reconfirmed what has been widely known for years - that the remarkable academic progress that has been made at U. T. Austin in the past few decades has been almost solely due to the financial support which has been provided by the Permanent University Fund - over and above the financial support which has been furnished by the Legislature to all state colleges and universities.

Therefore, those who have recommended to this Commission that the Permanent University Fund be abolished - or that its corpus be invaded to help fund annual operating expenses - or that its annual income be divided among all of the public colleges and universities in the State, simply pose this question to you:

Do you want to participate in the destruction of the financial base which was established by the early architects of higher education in this State and which has not only permitted, but has directly caused, one institution in this State to rise above all others in this region of the country and to take its rightful place among the great centers of learning in the nation?

We earnestly hope and believe that your answer to that question must be "No," because, as we shall later demonstrate, the division of the income from the University Permanent Fund among all 37 of the institutions of higher education in Texas would not raise all of them to excellence but would only assure that no Texas institution could achieve any truly outstanding national stature.

From a historical standpoint, it would be almost tragic for the original purpose of the Permanent University Fund to be violated, because generations of Texans have fought to establish and maintain the endowment for

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the benefit of "The University of Texas" so that it might truly become and remain "a university of the first class."

On January 26, 1839, less than 3 years after the Battle of San Jacinto, the Third Congress of Texas set aside 50 leagues of land with which to endow a state university. Unfortunately, the poverty of the Republic and the early difficulties of the newborn State of Texas for years delayed the opening of that school.

Elisha M. Pease, who became governor in 1853, urged the building of the University, and after several efforts by the Legislature to that end, a bill was signed on February 11, 1858, establishing "The University of Texas," setting aside \$100,000 in U. S. bonds for the establishment and maintenance of the University, reaffirming and setting apart the 221,400 acres (i. e., 50 leagues) of land which had previously been set aside by the Congress of the Republic in 1839, and appropriating for the University one out of every 10 sections of land which had theretofore been or might thereafter be granted by the State to encourage the construction of railroads.

Unfortunately, the chaotic conditions ensuing during the War Between The States intervened, and on March 13, 1861, the Texas Secession Convention ordered that all unsold University lands be sold, that the proceeds thereof be applied to the state's debt, and that the balance of the proceeds be made available for appropriation.

By the end of the War Between The States, most of the 50 leagues of land appropriated in 1839 had been settled on, with or without payment to the State, and the Constitutional Convention of 1875 rescinded the grant to the University of the "railroad lands."

To meet this situation, the present Constitution of 1876 established the "Permanent University Fund" for the "endowment, maintenance and support of said university and its branches," appropriated to the fund "one million acres of the unappropriated public domain of the state," and declared

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to be included in the fund "all lands, and other property (theretofore) set apart and appropriated for the establishment and maintenance of 'The University of Texas,' together with all the proceeds of sales of the same, (theretofore) made or (thereafter) to be made, and all grants, donations and appropriations that may (thereafter) be made by the State of Texas or from any other source." The Constitution further provided that all funds included in the Permanent University Fund should be invested and the income accruing thereon should be "subject to appropriation by the legislature" to provide for the "maintenance, support and direction of a university of the first class."

Since we understand that at one or more of your public hearings it has been suggested that the Available Fund (which is the name applied to the net income from the Permanent University Fund) is not subject to appropriation by the Legislature and that its expenditure is entirely within the discretion of the Board of Regents, it may be well at this point to emphasize that that suggestion is absolutely incorrect. Since 1876 - and at all times since then - the Constitution has provided that the Available Fund is subject to Legislative appropriation, and in every general appropriation bill since then - including the General Appropriation Bill signed into law this month - the Legislature appropriates the Available Fund to Texas A&M University and to The University of Texas, and without such a Legislative appropriation, the Available Fund could not be expended by either university.

Returning to our historical review, in 1883 the Legislature appropriated an additional one million acres of public lands to the Permanent University Fund, and the total of 2,100,000 acres of University Lands, situated in 19 West Texas counties, is the foundation of the Fund today.

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The landed endowment of the University, lying as it does in the western half of the State, is largely arid and the surface is suitable for little except grazing and some dry-land farming. From 1883 to 1925, practically the entire income from the land consisted of rentals from grazing leases, the income from which ranged from nothing in 1886 to about \$225,000 in 1925.

Since the Board of Regents was given authority to sell the University Lands, to invest the proceeds, and to expend the income therefrom, it apparently was the hope of the early Texans that the sale of the University Lands would provide an endowment of such size that the income from the endowment would substantially support the operation of the University.

Fortunately, and wisely, the early Boards of Regents either did not - or could not - sell the land - at least not on terms satisfactory to them - and none of the University Lands has been sold up to this date.

The discovery of oil on University land in Reagan County in 1923 marks an epoch in the history of The University of Texas and especially in the history of the Permanent University Fund. The receipt of income from oil royalty first brought sharply to the attention of the University officials the problems involved in the investment of the moneys in the Fund. Originally, there was a question as to whether oil royalty was income and, therefore, subject to expenditure or whether it was corpus and, therefore, must be invested. To determine this matter, a friendly suit was instituted, and the Texas Supreme Court held that proceeds from the sale of oil were proceeds from the sale of part of the corpus of the estate and, therefore, could not be regarded as income. That meant that the oil royalties had to be invested and that only the income from the investment could be expended for the support of the University.

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Since 1876, the Constitution has provided that "no tax shall be levied and no money appropriated out of general revenue for the establishment and erection of buildings of The University of Texas." This provision - particularly as expanded by subsequent amendments to the Constitution - has very important implications with respect to pressures upon the Legislature for college building funds, but those implications will be discussed later. At this point it is interesting to note its implication regarding the respective relationships of The University of Texas and Texas A&M University to each other and to the Fund.

The 1876 Constitution provided that "The Agricultural and Mechanical College of Texas, established in 1871 and located in Brazos County, is hereby made and constituted a branch of The University of Texas." However, The University of Texas and Texas A&M University were never under the same governing board, and for many years each was content to go its own way. Indeed, so long as the Available Fund consisted only of a small income from grazing leases, A&M was rather strongly inclined to disclaim any "branch" relationship with the University, since it was greatly to the advantage of A&M to go to the Legislature and secure building funds from the general revenue rather than to share in the Constitutional prohibition laid upon the University in that respect. Since the Available Fund at that time was wholly inadequate to furnish a proper physical plant for one university, it was even more inadequate for two. But following the discovery of oil on University Lands, with the resulting geometric increase in endowment and income, the A&M authorities began to take a more liberal view of the situation, and they set up a claim for a portion of the Available Fund. Extended negotiations between the governing boards of the two institutions finally culminated in an agreement that was formalized by the Legislature in 1931, and since that time A&M has received 1/3 of the net

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income realized from the Permanent University Fund investments, the University has received 2/3 of that income, and the income from the surface leases goes wholly to the University.

Since appropriations from the general revenue are not available to the University for building purposes, from 1876 until 1930 the University had to rely solely on cash accumulations of money received from its share of the Available Fund for building purposes. However, by Constitutional amendment first adopted in 1930, and later revised by popular vote in 1932, 1947, 1956, and 1966, the governing boards of both the University and A&M were authorized to issue bonds secured by pledges of their respective shares of the Available Fund, and to use the proceeds from the bond sales for building purposes. Obviously, this greatly increased the amount of money available to build physical facilities, but even that advantage is sharply limited by two factors. In the first place, the University and A&M are each prohibited from issuing bonds in cumulative total in excess of 20% of the value of their respective shares of the Permanent University Fund. Second, under the Constitutional amendments, A&M's Main University must share its bond proceeds with Tarleton State University and Prairie View A&M University, and U. T. Austin must share its bond proceeds with the Galveston Medical Branch, the Dallas Medical School, the Houston Dental Branch, U. T. El Paso, M. D. Anderson Hospital, the Houston Graduate School of Biomedical Sciences, the Houston School of Public Health, McDonald Observatory, and the Marine Science Institute. At least as far as the University is concerned, with the 20% limitation there simply are not enough Permanent University Fund bond proceeds to meet the building needs of all of those institutions. Thus, after exhausting that Constitutional source of building funds and with prior Legislative

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approval, the University has had to turn to other sources of building funds, such as, the issuance of student building use fee bonds at the existing institutions and the issuance of tuition revenue bonds for new institutions.

After the geometric rise in student enrollment that occurred during the late 1960's (for example, the enrollment at U. T. Austin rose by more than 15,000 students from 1964 to 1970), there is now a leveling off in enrollment which is expected to continue for at least the next five years or so. The University of Texas System is currently engaged in an extensive "catch-up" construction program that is designed to meet the need for physical facilities at all of the institutions in the System for the next 5 to 10 years. To fund this program the University is exhausting every conceivable source of construction money and has issued and is issuing bonds, both Permanent University Fund bonds and otherwise, that will not be retired for 20 to 30 years.

This leads to an important consideration that will have to be taken into account. In order to fund the building program mentioned above, the Board of Regents has committed portions of the Available Fund up through the year 2003, and it seems obvious that the prohibition against the impairment of contract in the United States Constitution will require that even if the Available Fund is otherwise denied to the University in the future, provision will have to be made for the Available Fund to service those long-term financial obligations until they are finally retired.

The futility of trying to assist schools outside the U. T. and A&M Systems by dividing the Available Fund among all of the 37 public institutions of higher education in the State is demonstrated, first, by the fact that U. T. 's share of the Available Fund is inadequate to fund the construction of facilities for all of the institutions presently in the U. T. System (hence, the resort to the use of student building use fee bonds and tuition revenue bonds) and, therefore, it would be even more inadequate to fund

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the construction of facilities for even more institutions. Second, during the next biennium there will be less than \$8 million annually left in U. T. 's share of the Available Fund after long term building financing obligations are serviced. This demonstrates conclusively that if even \$8 million is divided among 37 institutions, there will not be enough money for any institution to raise it to greatness, but the substantial withdrawal of that support from U. T. Austin would be catastrophic and would make it absolutely impossible for U. T. Austin to maintain its present position of academic eminence.

However, The University of Texas is neither insensitive nor unsympathetic to the financial needs of the public institutions of higher education that are presently outside the coverage of the Permanent University Fund. Therefore, for those institutions The University of Texas strongly supports the establishment of a permanent Constitutionally dedicated tax to furnish, in addition to Legislative appropriations for operations, long-term financial support for the acquisition of land, the construction and initial equipping of new physical facilities, the repair and rehabilitation of old physical facilities, the acquisition of library books and materials, and the purchase of non-consumable equipment, including computers. In this connection, we strongly urge that the appropriation of funds for the operation of the academic institutions, including the appropriation of the Available Fund for that purpose, should remain within the sole discretion of the Legislature.

The U. T. System has had experience with the operation of the Constitutional Tax program for the 17 public colleges and universities included therein, because for historical reasons U. T. Arlington participates in that program rather than in the Permanent University Fund. The Constitutional Tax program has worked rather well at U. T. Arlington, and it

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would work very well for the participating institutions if the program were adequately funded, if it were placed on a permanent basis, and if its permissible uses were broadened as suggested above.

There is another consideration that should be carefully weighed by this Commission, because the Constitutional Convention is likely to give it much thought when it convenes next January. Since the present Constitution was adopted in 1876, it has prohibited any school that benefits from the Available Fund from obtaining general revenue for the construction of buildings. Thus, the University has always been disqualified to receive general revenue for construction. A&M became so disqualified in 1931 when it became a participant in the Available Fund, and when the Constitution was amended in 1956, and again in 1966, to authorize the issuance of Permanent University Fund bonds, the several institutions named in those amendments as eligible to participate in the proceeds of those bonds were expressly disqualified from receiving general revenue for construction purposes. Similarly, when the Constitutional Tax program was established in 1947, and thereafter amended in 1956 and again in 1965, the 17 participating institutions were disqualified from receiving general revenue funds for construction.

The continuing wide acceptance of this principle that schools receiving Constitutional funds for construction should be ineligible to receive general revenue for the same purpose is easily understood from the standpoint of practical politics. Few interests in the State can muster the political influence that can be generated by the students, faculty, administration, governing board, alumni, and friends of an institution of higher education. This is even more true in the case of such institutions that are located in metropolitan areas which count 3 or 4 state senators and 9 to 23 representatives among their adherents. And when several such institutions - even in different academic systems - join hands in a common effort, the joint

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pressure is very difficult to resist. Therefore, the Legislature, with the approval of the voters, has very wisely insulated itself from such political influence by writing into the Constitution an express prohibition against general revenue appropriations being made to institutions receiving Constitutional funds for construction, and the taxpayers of this State have been the beneficiaries of such Constitutional prohibition, because it has prevented an increase in the expenditure of general revenue funds by millions and millions of dollars. If proof of this is needed, merely examine recent appropriation bills which give tens of millions of dollars of general revenue for construction at schools which are not within the Constitutional prohibition. Therefore, this Commission should be cautious, indeed, to throw out, in the interest of mere political theory, a procedure that has been tried and found viable in the crucible of practical politics.

This Statement should not be completed without emphasizing that when it is suggested herein that the national and international reputation of The University of Texas at Austin is superior to that of other public colleges and universities in the State, it is not thereby implied that the undergraduate students at U. T. Austin are receiving a better or higher quality education than are undergraduates/at all other state colleges and universities. Nor is it implied that undergraduate students at state institutions other than U. T. Austin are attending classes in inferior buildings or that they are being relegated to the use of inferior teaching equipment. Indeed, it may very well be that in some instances freshman and sophomore students receive better instruction at state colleges and universities other than U. T. Austin.

The fact is that every state-supported general academic institution receives virtually all of its legislative appropriations for operations on the basis of formulae prescribed by the Coordinating Board. For example, every state general academic institution - whether U. T. Austin, Prairie

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View, Texas Tech, Texas Southern, Texas A&I, or North Texas - receives exactly the same dollar appropriation for each semester hour taught in freshman English, sophomore math, junior physics, and senior philosophy. Thus, every public general academic institution receives exactly the same financial support from the State for each particular academic course that it teaches, and, therefore, there is absolutely no discrimination whatever in favor of U. T. Austin in the legislative formula appropriations.

The thing that distinguishes U. T. Austin from the other state colleges and universities is the same thing that brings it national and international recognition - and that is the breadth and excellence of its graduate and research programs - and that is also the area to which the enrichment afforded by the Available Fund is primarily devoted. U. T. Austin's world-famous research library, its plasma physics research in nuclear fusion, its humanities research center, its transportation research center, its Latin American institute, its bureau of business research, its internationally renowned McDonald observatory, its highly sophisticated research computer, its nationally-rated law school, its developing programs in marine science, its institute of Middle Eastern studies, its Navy-sponsored sonar research, its distinguished graduate business school, and its Clayton biochemical institute are merely examples of the far-ranging and high quality graduate and research work that has attracted outstanding scholars and researchers to Austin from all over the world.

However, the fact that these great graduate and research programs exist at U. T. Austin and do not exist at all other state colleges and universities does not indicate that the other public colleges and universities are being improperly discriminated against. Certainly, most, if not all, of those colleges and universities will properly have high quality graduate

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programs in certain selected fields of knowledge, but there is no academic demand or need for every public college in the State to have the breadth and depth of graduate and research work that is found at U. T. Austin. Such academic proliferation would not only result in much unnecessary and wasteful duplication, but in many academic areas it would be virtually impossible to accomplish. In the first place, the great research libraries and collections that undergird the graduate and research work at U. T. Austin would be almost impossible to duplicate even once - and would be absolutely impossible to duplicate multiple times. Second, the highly trained scholars and researchers that are necessary to conduct such work would be extremely difficult, if not impossible, to recruit in sufficient numbers to man the graduate faculties and research staffs of multiple Texas colleges. Finally, the cost of duplicating U. T. Austin's graduate and research work at multiple Texas colleges would be clearly prohibitive.

To the benefit of all of the people of the State, in recent years Texas A&M University at College Station has also made great strides in improving both the breadth and the quality of its graduate and research work, but just as at U. T. Austin, A&M's dramatic progress in those areas has been primarily due to the financial support which A&M has been able to commit to the task out of its share of the Available Fund. Thus, the taxpayers of Texas have been greatly advantaged by the fact that the two leading graduate and research universities in the State have been able to support the development of their expensive graduate and research programs in large measure out of the Available Fund and with a minimum call upon the general revenue, and that happy situation is a direct result of the creation of the Permanent University Fund a century ago and the wise management of that endowment since that time.

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In conclusion, may we say that the foresight, the wisdom, and the dedication of Mirabeau Lamar, Elisha Pease, Oran Roberts, Ashbel Smith, Will Hogg, George Brackenridge, George Littlefield and generations of other Texans have built for Texas a magnificent university of national and international renown - a university that from the beginning has furnished the guidance and inspiration for higher education in this State, one which has trained hundreds of thousands of young Texans for leadership in this State and Nation, and one which attracts some of the best brains in this country to come and remain in Texas.

After almost 100 years of sacrifice and effort to build this great educational institution, are we now going to emasculate it simply to satisfy some philosophical concept of political theorists, or are we going to preserve the Permanent University Fund and thereby assure the greatness of this outstanding institution for all time to come?

In the words of William Prather, an early president of The University of Texas, let me assure you that in reaching your answer to that question

"The Eyes of Texas Are Upon You."

Thank you.

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U. T. ARLINGTON: NOMINATIONS TO COLLEGE OF BUSINESS ADMINISTRATION ADVISORY COUNCIL, AND ESTABLISHMENT OF AND NOMINATIONS TO GRADUATE SCHOOL OF SOCIAL WORK ADVISORY COUNCIL. --Chairman McNeese reported that in the Executive Session of the Committee of the Whole approval had been given to nominations to the College of Business Administration Advisory Council of The University of Texas at Arlington. These nominations, if accepted, will be reported as an item for the record at a subsequent meeting of the Board of Regents.

In addition thereto, approval was given to establish an Advisory Council for the Graduate School of Social Work at U. T. Arlington in order to further programs of that school, and suggested nominees were approved for this council. As soon as the acceptances have been received, the names of the appointees will be reported as an item for the record at a subsequent meeting of the Board of Regents.

U. T. AUSTIN: APPROVAL OF NOMINATIONS TO DEVELOPMENT BOARD, AND ADVISORY COUNCILS OF ARCHITECTURE FOUNDATION, ARTS AND SCIENCES FOUNDATION, COLLEGE OF BUSINESS ADMINISTRATION FOUNDATION, SCHOOL OF COMMUNICATION FOUNDATION, ENGINEERING FOUNDATION, FINE ARTS FOUNDATION, GEOLOGY FOUNDATION, McDONALD OBSERVATORY, PHARMACEUTICAL FOUNDATION, AND SCHOOL OF SOCIAL WORK FOUNDATION. --In the Executive Session of the Committee of the Whole, approval was given to nominations for membership on the following councils of The University of Texas at Austin. When these nominees have accepted their appointments, their names will be reported for the record at a subsequent meeting of the Board of Regents:

The University of Texas at Austin Development Board  
 Advisory Council of Architecture Foundation  
 Advisory Councils of Arts and Sciences Foundation  
 Advisory Council of College of Business Administration  
 Foundation  
 Advisory Council of School of Communication Foundation  
 Advisory Council of Engineering Foundation  
 Advisory Council of Fine Arts Foundation  
 Advisory Council of Geology Foundation  
 Advisory Council of McDonald Observatory  
 Advisory Council of Pharmaceutical Foundation  
 Advisory Council of School of Social Work Foundation

U. T. AUSTIN: ESTABLISHMENT OF AND NOMINATIONS TO GRADUATE SCHOOL OF LIBRARY SCIENCE FOUNDATION ADVISORY COUNCIL. --Chairman McNeese reported that in the Executive Session of the Committee of the Whole approval was given to establish an Advisory Council for the Graduate School of Library Science at The University of Texas at Austin in order to further programs of that school, and suggested nominees were approved for this council. As soon as the acceptances have been received, the names of the appointees will be reported as an item for the record at a subsequent meeting of the Board of Regents.

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U. T. AUSTIN: SETTLEMENT OF CAUSE NO. 205, 697 IN THE DISTRICT COURT OF TRAVIS COUNTY, TEXAS, STYLED IN THE ESTATE OF CALEB PERRY PATTERSON, DECEASED. --A written report was received from John F. Morehead of the law firm of Small, Herring, Craig & Werkenthin with respect to the estate of Caleb Perry Patterson, a longtime distinguished Professor of Government at The University of Texas at Austin. On December 4, 1970, it was reported to the Board of Regents that in the Cause No. 171, 583, the Board of Regents of The University of Texas and the State of Texas vs. Donald B. Yarbrough and Malcolm Patterson, Guardian of the Person and Estate of Caleb Perry Patterson, N. C. M., a judgment adverse to the University had been entered in the court. Clint C. Small, Attorney for the University in Cause No. 171, 583, was authorized to prosecute an appeal from that judgment and to use every effort to have it overturned.

As reflected in the written summary submitted to the Board, the appeal was unsuccessful, and Dr. Patterson's house went to Donald B. Yarbrough, and all of Dr. Patterson's personal property was handed over to the guardian to hold for the benefit of Dr. Patterson.

Dr. Patterson died in November 1971, and his last will and testament was offered for probate by the independent executor under such will, J. Rector Allen. The will provided that the rest and residue of Dr. Patterson's estate was to pass to the Board of Regents of The University of Texas System as Trustee for the establishment of The Perry Patterson Professorship of Government and The Perry and Tommie Patterson Fellowships in Political Science. The probate court denied probate of said will on the grounds that Dr. Patterson was of unsound mind and had executed such purported last will and testament while under the undue influence of various employees of The University of Texas System.

The will contest has been appealed to the District Court of Travis County, Texas, styled Cause No. 205, 697, by the law firm of Small, Herring, Craig & Werkenthin. After consultation with the Office of the Attorney General, the law firm recommends, and System Administration concurs, that Cause No. 205, 697 in the District Court of Travis County, Texas, be settled with the heirs at law with U. T. Austin to receive Dr. Patterson's library and certain stocks and securities worth approximately \$50,000. The Administration further recommends that after the settlement the proceeds be used for the establishment of the Patterson Fellowship Fund in Government.

The recommendations of the Administration were unanimously adopted.

U. T. AUSTIN: ESTABLISHMENT OF THE MARIAN ROYAL KAZEN MEMORIAL FUND AND ACCEPTANCE OF GIFT FROM FRANK W. DENIUS. --Mr. Frank W. Denius proposed and the Board of Regents unanimously concurred that there be established in memory of Marian Royal Kazen, the daughter of Coach Darrell Royal, the Marian Royal Kazen Memorial Fund at The University of Texas at Austin. A gift of \$500 from Frank W. Denius was accepted for this fund. The trust provides for the acceptance of gifts from others who may wish to make gifts for this purpose, and further provides that the net income from the fund will be used for scholarships for deserving students in the Department of Fine Arts at The University of Texas at Austin.

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U. T. DALLAS: NOMINATIONS TO DEVELOPMENT BOARD. --In the Executive Session of the Committee of the Whole, approval was given to nominations to the Development Board at The University of Texas at Dallas. These nominations, if accepted, will be reported as an item for the record at a subsequent meeting of the Board of Regents.

U. T. EL PASO: NOMINATIONS TO DEVELOPMENT BOARD. -- Chairman McNeese reported that in the Executive Session of the Committee of the Whole approval had been given to nominations to the Development Board of The University of Texas at El Paso. When these nominees have accepted their appointments, the names will be reported as an item for the record at a subsequent meeting of the Board of Regents.

U. T. PERMIAN BASIN: DESIGNATION OF VICE-PRESIDENT FOR BUSINESS AFFAIRS R. C. THOMPSON AS AGENT FOR TAX-FREE ALCOHOL. --For The University of Texas of the Permian Basin, the following resolution was adopted designating an authorized agent to secure tax-free alcohol:

WHEREAS, The University of Texas of the Permian Basin is carrying on research programs which require a continuing supply of alcohol for experimental and other scientific purposes:

THEREFORE, BE IT RESOLVED, That Dr. R. C. Thompson, Vice-President for Business Affairs of The University of Texas of the Permian Basin, be authorized to have charge of and be responsible for and apply for and sign the "Application and Withdrawal Permit to Procure Spirits Free of Tax" for The University of Texas of the Permian Basin, and

BE IT FURTHER RESOLVED, That it shall be the duty of Dr. R. C. Thompson to execute on behalf of The University of Texas of the Permian Basin any and all documents required by the Alcohol and Tobacco Tax, Internal Revenue Service.

U. T. PERMIAN BASIN: AUTHORIZATION TO ACQUIRE LOT 6 AND NORTH 6 FEET OF LOT 7, BLOCK 6, IDLEWILD ESTATES, AN ADDITION TO CITY OF ODESSA, ECTOR COUNTY, TEXAS, FOR PRESIDENT'S HOME. --For the President's home at The University of Texas of the Permian Basin, authorization was given to the appropriate administrative officials to acquire Lot 6 and north 6 feet of Lot 7, Block 6, Idlewild Estates, an addition to the City of Odessa, Ector County, Texas (1625 Englewood) for a consideration of not more than \$58,628.46, including closing costs and filing fees, for which an appropriation has been made. The remainder of the \$60,000 appropriated for this purpose will be used for furnishings, refurbishing and miscellaneous expenses in the acquisition of said property.

The Chairman of the Board of Regents was authorized to execute and/or accept any and all instruments necessary to consummate this transaction when such instruments have been approved as to content by the Deputy Chancellor for Administration and as to form by a University attorney.

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**U. T. PERMIAN BASIN: RATIFICATION OF AUTHORIZATION TO PRESIDENT TO FILE GRANT APPLICATION WITH STATE CRIMINAL JUSTICE COUNCIL.** --The following action was taken at the Regents' meeting on June 1, 1973. However, this item was not on the agenda and was resubmitted and ratified at this meeting:

WHEREAS, the Texas Legislature authorized the establishment of The University of Texas of the Permian Basin within the University of Texas under House Bill 157 of the 61st Legislature, as amended, for the purpose of providing upper-level institution charged with providing baccalaureate and graduate degree programs to junior, senior and graduate level students; and,

WHEREAS, integral within its mission and in support of the Criminal Justice Plan for Texas, UTPB has been approved by the Coordinating Board, Texas College and University System to offer upper-level Police Science/Law Enforcement Management Programs; and,

WHEREAS, essential for desired thrust to these programs are mature, competent students engaged in Law Enforcement. Funds are needed to attract and help support such students having financial commitments attendant with age and acquired responsibilities; and,

WHEREAS, toward this end, UTPB petitions Criminal Justice Council support. UTPB will provide specified matching monies. Recipients either continue to work half-time for sponsoring agencies or half-time for UTPB police department. Proposed allowances: each of ten commissioned personnel \$4,200 per year, noncommissioned personnel \$2,950 per year:

NOW, THEREFORE, BE IT RESOLVED by The University of Texas System Board of Regents that:

1. The president of The University of Texas of the Permian Basin be authorized to file future applications with the Criminal Justice Council.
2. The president be authorized to sign said application on behalf of The University of Texas of the Permian Basin.
3. The University of Texas of the Permian Basin be permitted to commit up to \$33,429 in its 1973-74 budget in accordance with the attached proposal entitled "Supplemental Subsistence Funds for UTPB Law Enforcement Programs."

**U. T. PERMIAN BASIN: AUTHORIZATION FOR AN ADVANCE NOT TO EXCEED \$30,000 FOR WORKING CAPITAL OF BOOKSTORE.** -- Authorization was granted to System Administration to advance from available balances an amount not to exceed \$30,000 to The University of Texas of the Permian Basin to be used as initial working capital for a bookstore to provide textbooks and other scholastic materials for the students who will register beginning with the Fall semester of the 1973-74 academic year. It was noted that the U. T. Permian Basin operating budget for 1972-73 proposes the inclusion of this bookstore, but there is no initial source of funds for start-up expenses and working capital. This advance is to be repaid within three years from the U. T. Operating Budget funds.

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DALLAS HEALTH SCIENCE CENTER (ALSO THE UNIVERSITY OF TEXAS AT ARLINGTON AND THE UNIVERSITY OF TEXAS AT DALLAS OF THE NORTH TEXAS REGIONAL COMPUTER CENTER) AND GALVESTON MEDICAL BRANCH: AUTHORIZATION TO ACQUIRE IBM MODEL 370/158 COMPUTER AT EACH UNIT, SUBJECT TO FINAL APPROVAL OF PURCHASE PLANS. --Authorization was granted to the North Texas Regional Computer Center (located at the Dallas Medical School of The University of Texas Health Science Center at Dallas, and serving The University of Texas at Arlington, The University of Texas at Dallas, and the Dallas Health Science Center) to acquire an IBM Model 370/158 computer at a total price not to exceed \$2,699,000, depending on whether purchased outright or by a special option purchase agreement.

Likewise, authorization was granted to The University of Texas Medical Branch at Galveston to proceed with the acquisition of a similar computer, that is, IBM Model 370/158 Central Processing Unit with major peripherals, disk drives, tape drives, control units, printers and card reader, to replace the present rented equipment at a price not to exceed \$2,699,000, depending on the purchase plan later submitted to the Board of Regents for approval.

System Administration will submit to the Board for final approval the purchase plans used and the actual appropriations therefor.

GALVESTON MEDICAL BRANCH: RETIREMENT OF CHIEF ADMINISTRATIVE OFFICER EFFECTIVE AUGUST 31, 1974. -- With respect to the Chief Administrative Officer of The University of Texas Medical Branch at Galveston, the following was authorized:

1. President Blocker will continue as President until his retirement from that office effective at the close of business on August 31, 1974.
2. Dr. Blocker is appointed an Ashbel Smith Professor of Surgery, as recommended by the Galveston Medical Branch Executive Committee, effective September 1, 1973. Upon his retirement Dr. Blocker will retain his faculty status and will be designated President-Emeritus.
3. After September 1, 1974, Dr. Blocker shall have such duties as are assigned to him by the new Chief Administrative Officer, but it is the intent of the Board of Regents and the Chancellor that such duties shall include developmental responsibilities for the Marine Biomedical Institute, the Gymnasium and Rehabilitation Center, the History of Medicine section of the Library, the Institute for the Medical Humanities, and alumni and professional group relations.
4. For as long as he is physically able to discharge the duties assigned to him, Dr. Blocker's total annual compensation from all sources will be not less than his total annual compensation from all sources during the last year prior to his retirement.
5. The terms of any modified service by Dr. Blocker after the age of seventy shall be as set forth in the Regents' Rules and Regulations, Part One, Chapter III, Section 31.

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**GALVESTON MEDICAL BRANCH: SELECTION COMMITTEE FOR CHIEF ADMINISTRATIVE OFFICER.** -- Pursuant to the Regents' Rules and Regulations, Part One, Chapter II, Section 4.1, Chairman McNeese announced the appointment of the Selection Committee for the Chief Administrative Officer of The University of Texas Medical Branch at Galveston:

Regents' Committee for Selection of Chief Administrative Officer  
for  
The University of Texas Medical Branch at Galveston

Board of Regents:

Mr. A. G. McNeese, Jr.  
Joe T. Nelson, M.D.  
Mr. Frank C. Erwin, Jr.

The University of Texas System:

Charles A. LeMaistre, M.D., Chancellor (Chairman of this Committee)  
Mr. E. D. Walker, Deputy Chancellor for Administration  
Dr. William Knisely, Vice-Chancellor for Health Affairs  
Dr. James Wagener, Assistant Vice-Chancellor for Academic Programs

Chief Administrative Officers of Component Institutions:

Frank Harrison, M.D., President of The University of Texas Health Science Center at San Antonio  
R. Lee Clark, M.D., President of The University of Texas System Cancer Center  
Charles Sprague, M.D., President of The University of Texas Health Science Center at Dallas

The Chancellor will initiate the process of appropriate faculty advisory consultation.

**GALVESTON MEDICAL BRANCH (GALVESTON MEDICAL SCHOOL): RATIFICATION OF REPORT ON STATUS OF ASHBEL SMITH BUILDING (REFERRED TO AS OLD RED) AND COMMITMENT OF FUNDS FOR RESTORATION.** -- The following action was taken at the Regents' meeting on June 1, 1973. However, this item was not on the agenda and was resubmitted and ratified at this meeting:

At the request of the Committee, President Blocker reported on the campaign for funds to restore the Ashbel Smith Building (referred to as Old Red) at the Galveston Medical School of The University of Texas Medical Branch at Galveston. He reported that over \$130,000 had been received in this campaign for immediate use. President Blocker estimated that it will take from \$1,000,000 to \$1,500,000 to restore this building. Whereupon, Regent Erwin moved that in the construction plans for The University of Texas Medical Branch at Galveston a commitment be made of \$1,750,000 with \$875,000 to come from Permanent University Fund Bond proceeds and \$875,000 to come from matching grants which he and Deputy Chancellor Walker will try to secure with the understanding that President Blocker will continue to try to get funds for this restoration. This motion was seconded by Regent Shivers and unanimously adopted.

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**GALVESTON MEDICAL BRANCH: AUTHORIZATION TO INSTITUTE CONDEMNATION PROCEEDINGS AGAINST MRS. K. EWALD AND MRS. C. A. ANDERSON, CITY OF GALVESTON, GALVESTON COUNTY, TEXAS.** --The University of Texas Medical Branch at Galveston owns all of Block 612 in the City of Galveston, Galveston County, Texas, except Lot 2, presently owned by Mrs. C. A. Anderson, and Lot 12, presently owned by Mrs. K. Ewald. Since this land is needed for campus expansion, it was ordered that condemnation proceedings be instituted against Mrs. C. A. Anderson and Mrs. K. Ewald in order that Block 612, Lots 2 and 12, in the City of Galveston, Galveston County, Texas, may be acquired.

**GALVESTON MEDICAL BRANCH: NOMINATIONS TO (1) DEVELOPMENT BOARD AND (2) MARINE BIOMEDICAL INSTITUTE NATIONAL ADVISORY COMMITTEE.** --Chairman McNeese reported that in the Executive Session of the Committee of the Whole approval had been given to nominations for membership on the Development Board and the Marine Biomedical Institute National Advisory Committee of The University of Texas Medical Branch at Galveston. When these nominees have accepted their appointments, their names will be reported as an item for the record at a subsequent meeting of the Board of Regents.

**HOUSTON HEALTH SCIENCE CENTER (HOUSTON MEDICAL SCHOOL): SITE ACQUISITION FOR PERMANENT BUILDING - PHASE II AND OTHER AGREEMENTS WITH HERMANN HOSPITAL ESTATE AND TEXAS MEDICAL CENTER, INC., IN RELATION THERETO.** --At the meeting of the Board of Regents on July 21, 1972, authorization was given to accept a deed from the Texas Medical Center, Inc., to a tract of land of 5.554 acres and to enter into a 99-year lease with the Board of Trustees of the Hermann Hospital Estate for a tract of land adjoining the tract of land accepted from the Texas Medical Center, Inc. The two tracts constitute the site of the Permanent Building - Phase II of the Houston Medical School of The University of Texas Health Science Center at Houston. Negotiations followed between the University staff and representatives of the Texas Medical Center, Inc., and the Hermann Hospital Estate, and it was determined that the Phase II Building will be constructed approximately two-thirds on University land (obtained from the Texas Medical Center, Inc.) and one-third on Hermann Hospital Estate land under a 99-year lease with an option to extend for 50 additional years. It was also determined that in addition to the 5.554 acre deed from Texas Medical Center, Inc., and the 99-year lease from Hermann Hospital Estate there would be additional documents needed. Based on these negotiations and upon recommendation of the Administration, it was authorized:

1. To release portions of the easement ways contained in that certain deed to the Board of Regents from the Texas Medical Center, Inc., dated February 19, 1971, covering the 5.554 acre tract.
2. To accept two deeds to four tracts of land in the P. W. Rose Survey, Abstract No. 645, Houston, Texas, from the Texas Medical Center, Inc., subject to existing restrictions imposed upon the Texas Medical Center by instrument dated February 27, 1946, said tracts being: (a) a 0.02549 acre

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tract of land, (b) a 0.06379 acre tract of land, (c) a 0.06980 acre tract of land, and (d) a 0.12224 acre tract of land, together with the underground and air rights and subject to the easements set forth in the deeds.

3. To accept a lease from Trustees of Hermann Hospital Estate to the Board of Regents as a part of the site of the Phase II Building a 0.20003 acre tract, a 0.33680 acre tract, and a 0.18929 acre tract of land, all in the P. W. Rose Survey, Abstract No. 645, Houston, Texas.
4. To execute an operating agreement in connection with Ross Sterling Avenue which is an internal thoroughfare.
5. To establish by agreement for the Houston Medical School parking and traffic controls.
6. To execute agreements to observe restrictions of Texas Medical Center.

The Committee of the Whole approved the foregoing documents and authorized the Chairman of the Board of Regents to execute any and all instruments when each has been approved as to content by Deputy Chancellor Walker and as to form by a University attorney.

**SAN ANTONIO HEALTH SCIENCE CENTER (SAN ANTONIO MEDICAL SCHOOL): WAIVER OF REGENTS' RULES AND REGULATIONS, PART TWO, CHAPTER IV, SECTION 7 (AUTHORIZATION TO PURCHASE RABBITS FROM ALVIN W. BLOM, EMPLOYEE) AND INSTRUCTIONS TO EXPLORE FOR OTHER SOURCES.** --The Committee of the Whole received a report that Mr. Alvin W. Blom has for many years supplied the San Antonio Medical School of The University of Texas Health Science Center at San Antonio with rabbits for the school's use. However, Mr. Blom has recently been employed by the San Antonio Medical School, and under the Regents' Rules and Regulations, Part Two, Chapter IV, Section 7, the San Antonio Medical School must have authorization to purchase from this employee.

San Antonio Medical School was instructed to check into the possibility of other sources to purchase rabbits. If another source is found, the school was instructed to follow the usual competitive procedure for future purchases; however, in the meantime permission was granted to continue to purchase rabbits from Mr. Blom.

**UNIVERSITY CANCER CENTER (M. D. ANDERSON): NOMINATIONS TO BOARD OF VISITORS OF THE UNIVERSITY CANCER FOUNDATION.** -- Chairman McNeese reported that in the Executive Session of the Committee of the Whole approval had been given to nominations for membership on the Board of Visitors of the University Cancer Foundation of the M. D. Anderson Hospital and Tumor Institute of The University of Texas System Cancer Center. When these nominees have accepted their appointments, their names will be reported as an item for the record at a subsequent meeting of the Board of Regents.

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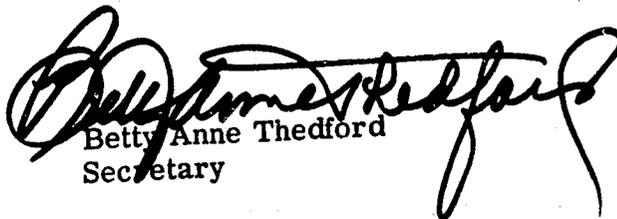
**SYSTEM NURSING SCHOOL: NOMINATIONS TO DEVELOPMENT BOARD.** --Chairman McNeese reported that in the Executive Session of the Committee of the Whole approval had been given to nominations for membership on the Development Board of The University of Texas System School of Nursing. When these nominees have accepted their appointments, their names will be reported as an item for the record at a subsequent meeting of the Board of Regents.

**RATIFICATION (AFFILIATION AGREEMENTS).** --The following affiliation agreements were ratified:

System Nursing School: Affiliation Agreements with Fort Worth Children's Hospital, Fort Worth, Texas, and Shriners Hospitals for Crippled Children (Galveston Burns Institute), Galveston, Texas. --Based on the model agreement for clinical training of nursing students approved by the Board of Regents on September 12, 1970, affiliation agreements between the Board of Regents of The University of Texas System on behalf of The University of Texas System School of Nursing and the following facilities were ratified. The Chairman of the Board of Regents was authorized to execute these agreements which have been approved as to form by a University attorney and as to content by the Vice-Chancellor for Health Affairs and the Deputy Chancellor for Administration:

Fort Worth Children's Hospital, Fort Worth, Texas  
Shriners Hospitals for Crippled Children (Galveston Burns Institute), Galveston, Texas

**ADJOURNMENT.** --There being no further business, Chairman McNeese declared the meeting adjourned at 5:20 p. m.

  
Betty Anne Thedford  
Secretary

August 3, 1973