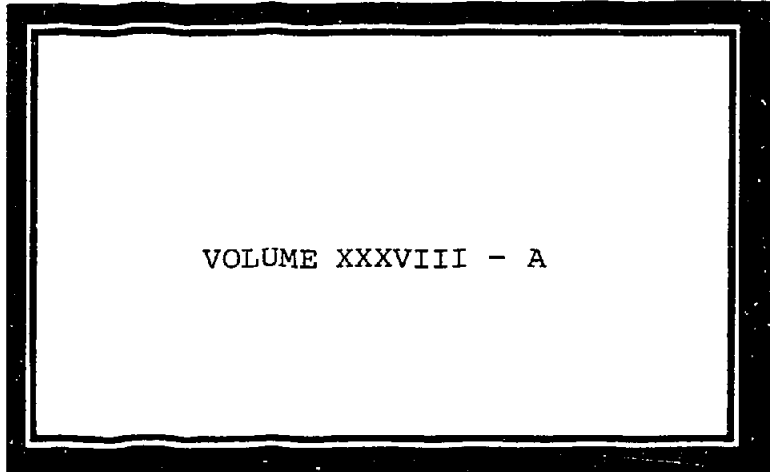


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Meeting No. 850

THE MINUTES OF THE BOARD OF REGENTS
OF
THE UNIVERSITY OF TEXAS SYSTEM



VOLUME XXXVIII - A

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October 12, 1990

Dallas, Texas

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 OF
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MEETING NO. 850

FRIDAY, OCTOBER 12, 1990.--The members of the Board of Regents of The University of Texas System convened in regular session at 10:30 a.m. on Friday, October 12, 1990, in Room E6.200 of the Fred F. Florence Bioinformation Center at The University of Texas Southwestern Medical Center at Dallas, Dallas, Texas, with the following in attendance:

ATTENDANCE.--

Present

Chairman Beecherl, presiding
Vice-Chairman Barshop
Vice-Chairman Roden
Regent Blanton
Regent Loeffler
Regent Moncrief
Regent Ramirez
Regent Ratliff

Absent

*Regent Cruikshank

Executive Secretary Dilly

Chancellor Mark
Executive Vice Chancellor Duncan
Executive Vice Chancellor Mullins
Executive Vice Chancellor Patrick

Chairman Beecherl announced a quorum present and called the meeting to order.

WELCOME BY KERN WILDENTHAL, M.D., PRESIDENT OF THE UNIVERSITY OF TEXAS SOUTHWESTERN MEDICAL CENTER AT DALLAS.--Chairman Beecherl stated that the Board was pleased to be meeting in Dallas and to participate in the dedication ceremonies of the Charles Cameron Sprague Clinical Science Building. He then called on Kern Wildenthal, M.D., President of The University of Texas Southwestern Medical Center at Dallas, for any welcoming remarks on behalf of the host institution.

On behalf of the faculty, staff, and students of the U. T. Southwestern Medical Center - Dallas, President Wildenthal welcomed the members of the Board and other guests to Dallas.

U. T. BOARD OF REGENTS: APPROVAL OF MINUTES OF REGULAR MEETING HELD ON AUGUST 9, 1990.--Upon motion of Vice-Chairman Barshop, seconded by Vice-Chairman Roden and Regent Ratliff, the Minutes of the regular meeting of the Board of Regents of The University of Texas System held on August 9, 1990, in Odessa, Texas, were approved as distributed by the Executive Secretary. The official copy of these Minutes is recorded in the Permanent Minutes, Volume XXXVII, Pages 2638 - 3142.

*Regent Cruikshank was excused because of a previous commitment.

RECESS FOR COMMITTEE MEETINGS AND COMMITTEE REPORTS TO THE BOARD.--At 10:32 a.m., the Board recessed for the meetings of the Standing Committees and Chairman Beecherl announced that at the conclusion of each committee meeting, the Board would reconvene to approve the report and recommendations of that committee.

The meetings of the Standing Committees were conducted in open session and the reports and recommendations of those committees are set forth on the following pages.

REPORTS AND RECOMMENDATIONS OF STANDING COMMITTEES

REPORT OF EXECUTIVE COMMITTEE (Pages 3 - 104).--In compliance with Section 7.14 of Chapter I of Part One of the Regents' Rules and Regulations, Chairman Beecherl reported to the Board for ratification and approval all actions taken by the Executive Committee since the last meeting. Unless otherwise indicated, the recommendations of the Executive Committee were in all things approved as set forth below:

1. U. T. System: Authorization to Continue (a) Comprehensive Crime Policy with Arkwright Mutual Insurance Company, Waltham, Massachusetts, and (b) Executive Liability and Indemnification Policy with Chubb Group Insurance Companies, Warren, New Jersey, Both Effective September 1, 1990 Through September 1, 1991; and Approval to Renew Automobile Liability Insurance Policy with Commercial Lloyds Insurance Company, Austin, Texas, Effective August 31, 1990 Through August 31, 1991 (Exec. Com. Letter 90-24).--The Board, upon recommendation of the Executive Committee, took the following actions related to certain insurance policies for The University of Texas System:
 - a. Continued the comprehensive crime policy (commonly referred to as employee bond coverage) with Arkwright Mutual Insurance Company, Waltham, Massachusetts, effective September 1, 1990 through September 1, 1991, at the current annual premium rate of \$43,000
 - b. Continued the executive liability and indemnification policy with the Chubb Group Insurance Companies, Warren, New Jersey, effective September 1, 1990 through September 1, 1991, at an annual premium of \$73,500
 - c. Renewed the automobile liability insurance policy for officers' and employees' use and operation of University-owned and operated motor vehicles with the Commercial Lloyds Insurance Company, Austin, Texas, for the period August 31, 1990 through August 31, 1991, at an annual premium of \$132,909 and a \$2,500 deductible per loss occurrence.

The premiums charged for these policies are prorated among the component institutions of the U. T. System.

2. U. T. Austin - Balcones Research Center - Additional Building for Applied Research Laboratories Facility (Project No. 102-703): Award of Construction Contract to Evergreen Construction Company, Division of Spaw-Glass/Cahaba S.A. Inc., Austin, Texas; Authorization to Change Name to Engineering Support Building, Applied Research Laboratories; and Approval of Plaque Inscription (Exec. Com. Letter 90-21).--Upon recommendation of the Executive Committee, the Board:
 - a. Awarded a construction contract for the Additional Building for Applied Research Laboratories Facility at the Balcones Research Center at The University of Texas at Austin

to the lowest responsive bidder, Evergreen Construction Company, Division of Spaw-Glass/Cahaba S.A. Inc., Austin, Texas, for the Base Bid in the amount of \$3,128,000

- b. Changed the name of the project to Engineering Support Building, Applied Research Laboratories and approved the inscription set out below for a plaque to be placed on the building. The inscription follows the standard pattern approved by the U. T. Board of Regents in June 1979.

ENGINEERING SUPPORT BUILDING
APPLIED RESEARCH LABORATORIES
1990

BOARD OF REGENTS

| | |
|----------------------------------|---|
| Louis A. Beecherl, Jr., Chairman | Hans Mark |
| Sam Barshop, Vice-Chairman | Chancellor, The University of Texas System |
| Bill Roden, Vice-Chairman | William H. Cunningham |
| Jack S. Blanton | President, The University of Texas at Austin |
| Robert J. Cruikshank | |
| Tom Loeffler | |
| W. A. "Tex" Moncrief, Jr. | |
| Mario E. Ramirez, M.D. | Wilson Stoeltje Martin, Inc. |
| Shannon H. Ratliff | Project Architect |
| | Evergreen Construction Company, Division of Spaw-Glass/Cahaba S.A. Inc. |
| | Contractor |

The \$3,500,000 total project cost is composed of the following elements:

| | |
|----------------------------------|---------------|
| Construction Cost | \$3,128,000 |
| Fees and Administrative Expenses | 309,152 |
| Future Work | 29,200 |
| Miscellaneous Expenses | 21,918 |
| Project Contingency | <u>11,730</u> |
| Total Project Cost | \$3,500,000 |

3. U. T. Austin: Approval to Restructure the Dedman Merit Scholars Program in the College of Liberal Arts by Transferring Fifty Percent of Funds to Establish the Dedman Merit Scholars Program Quasi-Endowment in the College of Liberal Arts and to Redesignate Remaining Endowment as the Dedman Merit Scholars Program Endowment; Authorization to Allocate Future Pledge Payments for the Dedman Merit Scholars Program; and Approval for President to Distribute Proceeds (Exec. Com. Letter 90-22).--In accordance with Section 65.36(f) of the Texas Education Code and with the concurrence of the donors, the Board, upon recommendation of the Executive Committee:
- a. Restructured the Dedman Merit Scholars Program in the College of Liberal Arts at The University of Texas at Austin by transferring fifty percent of the current holdings of common stock held in the Dedman Merit Scholars Program endowment to establish the Dedman Merit Scholars Program Quasi-Endowment in the College of Liberal Arts and redesignating the remaining endowment as the Dedman Merit Scholars Program Endowment

- b. Allocated future pledge payments, as received, for the Dedman Merit Scholars Program equally between the Dedman Merit Scholars Program Quasi-Endowment and the Dedman Merit Scholars Program Endowment
- c. Authorized the President of U. T. Austin, or his or her designee, to expend any part or all of the proceeds held in the Dedman Merit Scholars Program Quasi-Endowment and income only from the Dedman Merit Scholars Program Endowment as needed to fund scholarship commitments and program costs related to the Dedman Merit Scholars Program in the College of Liberal Arts.

4. U. T. Austin and U. T. Permian Basin: Acceptance of Gifts of Real and Personal Property and Funds from The Texas Permian Basin Foundation, Inc. for the Benefit of the U. T. Permian Basin Center for Energy and Economic Diversification and Termination of Agency Agreement and Funds Management Agreement with The Texas Permian Basin Foundation, Inc. (Exec. Com. Letter 90-23).--In December 1985, the Board approved the concept of a Permian Basin Center for Energy and Economic Diversification and authorized the creation of a foundation to assist with implementation of that concept. In October 1987, the U. T. Board of Regents entered into agreements with The Texas Permian Basin Foundation, Inc., the foundation created for this purpose, to construct and equip a facility on land donated to the Foundation by Scharbauer Brothers and Company.

The Executive Committee recommended and the Board:

- a. Accepted on behalf of The University of Texas at Austin and The University of Texas of the Permian Basin for the benefit of the U. T. Permian Basin Center for Energy and Economic Diversification a gift of real and personal property from The Texas Permian Basin Foundation, Inc., as described in the Deeds of Gift set out on Pages 6 - 12, and accepted the gift of funds currently on hand and funds yet to be collected by or on behalf of the Foundation for the benefit of the Center
- b. Terminated the Agency Agreement and Funds Management Agreement under which The University of Texas System Administration managed the construction and equipping of the Center on behalf of the Foundation.

DEED OF GIFT

STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

WHEREAS, the undersigned, THE TEXAS PERMIAN BASIN FOUNDATION, INC., a Texas nonprofit corporation, as Grantor, owns the real property described below; and

WHEREAS, Grantor desires to donate said real property to the BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM, for the use and benefit of THE U. T. PERMIAN BASIN CENTER FOR ENERGY AND ECONOMIC DIVERSIFICATION, Grantee;

NOW, THEREFORE, THE TEXAS PERMIAN BASIN FOUNDATION, INC., in consideration of Grantee's accepting title to the hereinafter-described real property, have GIVEN, GRANTED and CONVEYED, and by these presents do GIVE, GRANT and CONVEY unto the Grantee the following-described real property located in Midland County, Texas, to-wit:

28.296 acres of land in Section 42, Block 40, T-1-S, T&P Ry. Co. Survey, Midland County, Texas, and being more particularly described in Exhibit "A" attached hereto and made a part hereof,

together with all buildings and other improvements situated thereon, all fixtures and other property affixed thereto and all right, title and interest of Grantor in and to adjacent streets, alleys, easements and rights-of-way.

SAVE and EXCEPT and there is hereby reserved to the record owners thereof, their heirs and assigns, all oil, gas and other minerals in and under and that may be produced from the above-described property.

This conveyance is further expressly made subject to outstanding liens against said property, general real estate taxes on said property, zoning laws, regulations and ordinances of municipal and other governmental authorities, if any, affecting said property and any and all valid restrictions, easements and other encumbrances, if any, affecting said property whether of record or not, including specifically, but not limited to the encumbrances described in Exhibit "B" attached hereto and made a part hereof.

TO HAVE AND TO HOLD the herein-described property, together with all and singular the rights and appurtenances thereto in any-wise belonging unto Grantee, its successors and assigns, forever.

PROVIDED, however, that this gift is made to advance the educational mission of The U. T. Permian Basin Center for Energy and Economic Diversification; and, in the event any of said real estate shall ever be sold or exchanged by the Grantee, the proceeds of such sales or exchanges shall not become a part of the Permanent University Fund, the Available University Fund, or the general funds of the State of Texas.

This conveyance is made without representation, warranty or covenant of title, either express or implied.

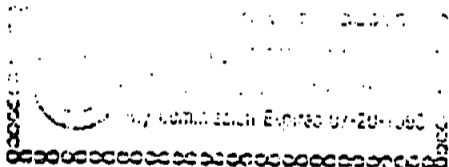
IN WITNESS WHEREOF, this Deed of Gift is executed by Grantor on this the 7th day of August, 1990.


TEXAS PERMIAN BASIN
FOUNDATION, INC.


James L. Crowson, President

STATE OF TEXAS §
 §
COUNTY OF ~~MIDLAND~~ ^{DALLAS} §

This instrument was acknowledged before me on the 7th day of August, 1990, by James L. Crowson, President of Texas Permian Basin Foundation, Inc., a Texas nonprofit corporation, on behalf of said corporation.




Notary Public, in and for
The State of Texas

Please return recorded original to:

The Board of Regents of
The University of Texas System
201 West 7th Street
Austin, Texas 78701

Attn: Max Werkenthin
Office of General Counsel

Deedgift.max

EXHIBIT "A"

Landgraf, Crutcher and Associates, Inc. TRANSPORTATION CONSULTANTS • CIVIL ENGINEERS

521 NORTH TEXAS • ODESSA, TEXAS 79761
(915) 332-5058 or 563-1761

METES & BOUNDS DESCRIPTION

for
28.296 Acres of Land in Section 42, Block 40,
T-1-S, T&P Ry Co Survey
Midland County, Texas

BEING 28.296 ACRES OF LAND IN SECTION 42, AT THE INTERSECTION OF FM 1788 AND STATE HIGHWAY 191 FOR THE CENTER FOR ENERGY AND ECONOMIC DIVERSIFICATION BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING at a found Texas Department of Highway and Public Transportation concrete monument for the southernmost southeast cutback corner of State Highway 191 and FM 1788 from which point the northwest corner of Section 42 bears North $74^{\circ}49'30''$ West a distance of 69.89 feet and North $15^{\circ}10'30''$ West a distance of 1906.98 feet;

THENCE North $8^{\circ}22'15''$ East along said cutback a distance of 356.24 feet to a found Texas Highway Department concrete monument in the south right-of-way line of State Highway 191;

THENCE North $33^{\circ}39'30''$ East along the south right-of-way line of State Highway 191 a distance of 970.00 feet to a point for the northernmost corner of this tract;

THENCE South $56^{\circ}20'30''$ East a distance of 844.34 feet to a point for the northeast corner of this tract;

THENCE South $36^{\circ}45'57''$ West a distance of 174.78 feet to a point of curvature to the right having a delta angle of $19^{\circ}05'00''$, a radius of 561.00 feet, a chord bearing South $46^{\circ}18'27''$ West a distance of 185.99 feet;

THENCE Southwesterly along said curve a distance of 186.85 feet to a point of reverse curvature to the left having a delta angle of $43^{\circ}05'00''$, a radius of 530.00 feet, a chord bearing South $34^{\circ}18'27''$ West a distance of 389.21 feet;

THENCE Southwesterly along said curve a distance of 398.53 feet to a point of tangency;

THENCE South $12^{\circ}45'57''$ West a distance of 347.88 feet to a point of curvature to the right having a delta angle of $62^{\circ}00'00''$, a radius of 411.00 feet and a chord bearing South $43^{\circ}45'57''$ West at 423.36 feet;

THENCE Southwesterly along said curve a distance of 444.75 feet to a point of tangency;

THENCE South $74^{\circ}45'57''$ West a distance of 98.96 feet to a point of curvature to the left having a delta angle of $16^{\circ}41'57''$, a radius of 177.84 feet, and a chord bearing South $66^{\circ}24'58''$ West at 51.65 feet;

LCA

—DALLAS BRANCH—
8585 NORTH STEMMONS FREEWAY, SUITE 628 B
DALLAS, TEXAS 75247
(214) 263-1788

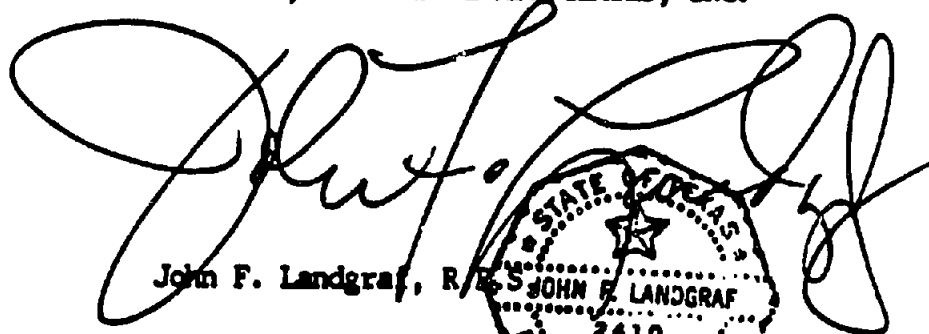
THENCE Southwesterly along said curve a distance of 51.83 feet to a point of reverse curvature to the right having a delta angle of $16^{\circ}41'57''$, a radius of 177.84 feet, and a chord bearing South $66^{\circ}24'58''$ West at 51.65 feet;

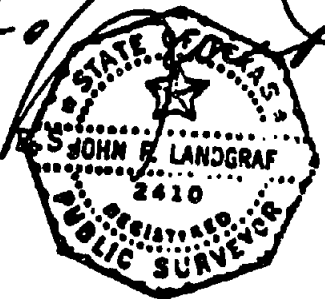
THENCE Southwesterly along said curve a distance of 51.83 feet to a point of tangency;

THENCE South $74^{\circ}45'57''$ West a distance of 103.90 feet to a point in the east right-of-way line of FM 1788;

THENCE North $15^{\circ}14'03''$ West along said right-of-way line a distance of 661.00 feet to the place of beginning containing 1232590.42 square feet or 28.296 acres of land more or less.

LANDGRAF, CRUTCHER & ASSOCIATES, INC.


John F. Landgraf, R/S



LCA Project No. 86-020-2
Revised

EXHIBIT 'B'

1. Subject to that certain Ground Lease, dated January 1, 1989, by and between The Texas Permian Basin Foundation, Inc., (Lessor), and the Board of Regents of The University of Texas System, for and on behalf of The University of Texas at Austin (Lessee), covering a 1.063-acre tract, described in a Memorandum of Ground Lease recorded in Volume 1050, page 378 of the Deed Records of Midland County, Texas.

2. Subject to the reservation of mineral ownership, the reversion of easement, the obligation to maintain road, the reservation of right of access, and any other rights reserved in that certain Deed of Gift, dated march 1, 1989, from Scharbauer Brother & Company, Inc., a Texas corporation (Grantor), to the Texas Permian Basin Foundation, Inc. (Grantee), recorded in Volume 1048, Page 255 of the Deed Records of Midland County, Texas.

DEED OF GIFT
OF PERSONAL PROPERTY

WHEREAS, the undersigned, the TEXAS PERMIAN BASIN FOUNDATION, INC., a Texas nonprofit corporation, as Grantor, owns the personal property described below; and

WHEREAS, Grantor desires to donate said personal property to the BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM, for the use and benefit of THE U. T. PERMIAN BASIN CENTER FOR ENERGY AND ECONOMIC DIVERSIFICATION, as Grantee;

NOW, THEREFORE, The Texas Permian Basin Foundation, Inc., in consideration of Grantee's accepting title to the hereinafter-described personal property, have GIVEN, ASSIGNED and TRANSFERRED and by these presents do GIVE, ASSIGN and TRANSFER unto the Grantee all right, title and interest in and to the following-described property owned by the undersigned:

All furniture, equipment, furnishings, and all other items of personal property of whatever type or description located within or on the premises of the U. T. Permian Basin Center for Energy and Economic Diversification in Midland County, Texas.

PROVIDED, however, that this gift is made to advance the educational mission of The U. T. Permian Basin Center for Energy and Economic Diversification; and such other component institutions of The University of Texas System as the said Board of Regents may designate from time to time; and, in the event any of said personal property shall ever be sold or exchanged by the Grantee, the proceeds of such sales or exchanges shall not become a part of the Permanent University Fund, the Available University Fund, or the general funds of the State of Texas.

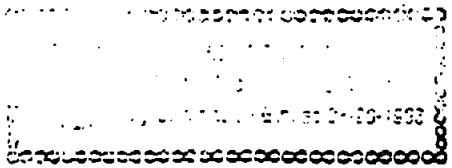
IN WITNESS WHEREOF, this Deed of Gift of Personal Property is executed by Grantor on this the 7th day of August, 1990.

TEXAS PERMIAN BASIN FOUNDATION, INC.


James L. Crowson, President

STATE OF TEXAS §
 §
COUNTY OF DALLAS §
 §

This instrument was acknowledged before me on the 7th day of August, 1990, by James L. Crowson, President of Texas Permian Basin Foundation, Inc., a Texas nonprofit corporation on behalf of said corporation.



Loma Rayburn
Notary Public, in and for
The State of Texas.

Please return recorded original to:

The Board of Regents of
The University of Texas System
201 West 7th Street
Austin, Texas 78701

Attn: Max Werkenthin
Office of General Counsel

Deedgift.per

5. U. T. Medical Branch - Galveston - John Sealy Hospital - New Emergency Department and Trauma Center Facility - Services Building and Equipment (Project No. 601-658): Award of Construction Contract for Services Building to Miner-Dederick Constructors, Inc., Houston, Texas (Exec. Com. Letter 90-21).--Approval was given to award a construction contract for the Services Building as part of the New Emergency Department and Trauma Center Facility of the John Sealy Hospital at The University of Texas Medical Branch at Galveston to the lowest responsive bidder, Miner-Dederick Constructors, Inc., Houston, Texas, for the Base Bid and Alternate No. A-2 in the amount of \$2,734,800.

In August 1989, the U. T. Board of Regents awarded a contract for the construction of the New Emergency Department and Trauma Center Facility within the authorized total project cost of \$28,071,400, of which \$18,071,400 was budgeted for the Trauma Center Facility and \$10,000,000 for the Services Building and associated equipment.

In August 1990, two contracts were awarded for the purchase and installation of (1) incinerator systems and associated material handling equipment and (2) a trash and linen pneumatic conveying system in the Services Building.

6. U. T. Health Science Center - San Antonio - Research Building - Communications Ductbank (Project No. 402-666): Award of Contract to MICA Corporation, Fort Worth, Texas (Exec. Com. Letter 91-1).--Upon recommendation of the Executive Committee, the Board awarded a contract for the construction of the Research Building - Communications Ductbank at The University of Texas Health Science Center at San Antonio to the lowest responsive bidder, MICA Corporation, Fort Worth, Texas, for the Base Bid in the amount of \$505,000.

The Communications Ductbank will provide an underground telecommunications and computer link between the U. T. Health Science Center - San Antonio main campus and the satellite campus west of the main campus in the South Texas Medical Center. The Communications Ductbank will serve the Research Building on the satellite campus from the main campus and is designed to serve other facilities as the satellite campus is developed.

This contract award can be made within the previously authorized total project cost of \$20,000,000 funded with \$10,000,000 from Permanent University Fund Bond Proceeds and \$10,000,000 from private gifts.

7. U. T. M.D. Anderson Cancer Center - Jesse H. Jones Rotary House International: Approval of Management Agreement with the Marriott Corporation, Bethesda, Maryland, and Authorization for President to Execute the Management Agreement (Exec. Com. Letter 90-22).--At its October 1989 meeting, the U. T. Board of Regents authorized The University of Texas System Administration, in cooperation with President LeMaistre, to obtain proposals from well-known and respected hotel corporations to operate and manage the Jesse H. Jones Rotary House International at The University of Texas M.D. Anderson Cancer Center upon its completion in September 1992.

In accordance therewith, the Board, upon recommendation of the Executive Committee:

- a. Approved the Management Agreement set out on Pages 15 - 104 by and between the Board of Regents of The University of Texas System, for and on behalf of the U. T. M.D. Anderson Cancer Center, and Marriott Corporation, Bethesda, Maryland, for the operation of the Jesse H. Jones Rotary House International
- b. Authorized execution of the Management Agreement by President LeMaistre following approval by the Vice Chancellor for Business Affairs and the Office of General Counsel.

The Management Agreement delineates responsibilities of both parties and spells out provisions for approval of budgets, deposit of receipts, collection of debts, hiring of executive staff, management fees, standards of operation, insurance, capital reserves, and other matters relevant to the efficient and effective operation of this facility.

See Page 231 related to the naming of the Jesse H. Jones Rotary House International.

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ATTACHMENT C - Guest Satisfaction Form

MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT ("AGREEMENT") is made and entered into this the _____ day of _____, 1990 by and between The Board of Regents of The University of Texas System, for and on behalf of The University of Texas M. D. Anderson Cancer Center, and Marriott Corporation, a Delaware corporation ("Management Company").

WITNESSETH

WHEREAS, Owner is currently having constructed on its property a facility known as the Jesse H. Jones Rotary House International, (hereinafter "Patient Housing Center"), which shall contain guest rooms, conference rooms, a restaurant and other facilities and will be located in the 1600 block of Holcombe Boulevard, Houston, Texas 77030; and

WHEREAS, Management Company provides management and other services for hospitality centers throughout the United States; and

WHEREAS, Owner desires to have Management Company provide management and other services relating to the management and operation of the Patient Housing Center, and Management Company is willing to perform such services for Owner, all on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants hereinafter contained, the parties agree as follows:

ARTICLE I DEFINITION OF TERMS

1.01 Defined Terms. As used in this Agreement, the following words and phrases shall have the meanings respectively specified below:

A. "Accounting Period": The four (4) week periods used by Management Company in its accounting, except an Accounting Period may occasionally contain five (5) weeks when necessary to conform Management Company's accounting system to the calendar.

B. "Agreement": This Management Agreement, with all exhibits attached hereto, and all written amendments.

C. "Budget": The operating, Capital Expenditure and replacement budgets for the Patient Housing Center as described in Section 6.01.

D. "Capital Expenditure": The costs incurred in the repair or replacement of FF&E or the Patient Housing Center in accordance with Sections 11.02 and 11.03 and normally depreciated or amortized under generally accepted accounting principles.

E. "Effective Date": The date this Agreement is executed by both parties and takes effect as a binding contractual document as specified above.

F. "Expense": The ordinary costs incurred by Management Company in the operation of the Patient Housing Center, but excluding all Owner's Direct Costs.

G. "Fiscal Year": The thirteen (13) accounting periods, beginning September 1, 1990 and continuing from year to year thereafter.

H. "FF&E": All fixtures, furnishings and equipment of every type and description located in and used in connection with the operation of the Patient Housing Center.

I. "General Account": Marriott's account into which all Gross Revenues and Owner's advances are deposited and from which all Expenses and the Management Fee are paid.

J. "Gross Revenues": All revenues, receipts, and proceeds received by the Management Company on behalf of Owner from the operation of the Patient Housing Center, such as income from room rentals, manual and vending food and beverage sales, gift shop sales, concession license and lease fees. Gross Revenues shall not include interest on working capital, reserves, or any other funds of Owner; discounts for prompt or cash payments; any taxes or similar governmental impositions collected from patrons or guests or included as part of the sales price of any goods or services; proceeds from the sale of any Patient Housing Center FF&E; or insurance proceeds not attributable to business interruption insurance.

K. "Incentive Fee": The fee earned by and paid to the Management Company pursuant to Section 8.02.

L. "Inventory": Those items of personal property included within the classification of "Inventory" under the Uniform System, such as merchandise intended for sale, stationery, mechanical supplies, food and beverage provisions in Patient Housing Center storerooms, pantries and kitchens, and other expensed supplies.

M. "Key Personnel": The General Manager, the Food and Beverage Director, the Comptroller, the Building Engineer, and the Executive Housekeeper of the Patient Housing Center, all of whom are employees of Management Company.

N. "Management Fee": The fee earned by and paid to the Management Company pursuant to Section 8.01 for the services rendered hereunder.

O. "Opening Date": The date the Patient Housing Center shall, by subsequent agreement of Owner and Management Company, be formally and officially opened to the Owner's patients and their guests as an operating Patient Housing Center.

P. "Operating Supplies": The supply items included within the classification of "Property and Equipment" under the Uniform System, such as linen, china, glassware, silver and uniforms.

Q. "Owner's Direct Cost": All costs normally paid directly by Owner, such as major Capital Expenditure costs, depreciation, amortization, debt service, insurance costs, audits and taxes and not included as Expenses.

R. "Owner's Profits": The amount of Gross Revenues in excess of Expenses and the Management Fee after deducting Owner's Direct Costs.

S. "Patient Housing Center": The guest rooms, gift shop, convenience store, conference rooms, a restaurant and other facilities, and all FF&E therein as more fully described in Exhibit A, attached hereto and incorporated herein by reference.

T. "Pre-opening Period": That period of time from the Effective Date of this Agreement to the Opening Date, when certain preliminary and preparatory activities are to be carried out with respect to the operation of the Patient Housing Center.

U. "Reserve Account": An account established at a designated bank into which are deposited funds to pay for routine Capital Expenditures.

V. "Uniform System": The Uniform System of Accounts for Conference Centers, Second Revised Edition, [1986], as published by the International Association of Conference Centers.

W. "Working Capital": The funds reasonably necessary for the day-to-day operation of the Patient Housing Center, including, without limitation, amounts sufficient for the maintenance of change and petty cash funds, operating bank accounts, receivables, payrolls, prepaid expenses and funds required to maintain the Inventory, less accounts payable and accrued current liabilities.

1.02 Other Definitions. In this Agreement, personal pronouns shall include the feminine, masculine and neuter gender, the singular number includes the plural, and the word "person" includes a corporation, partnership, firm or association, wherever the context so requires. "Herein," "hereunder," and equivalent words refer to this Agreement in its entirety and not solely to the particular section in which any such word is used.

ARTICLE II
APPOINTMENT OF MANAGEMENT COMPANY

2.01 Appointment. Owner hereby appoints and engages Management Company to perform certain services, functions, obligations and duties relating to the management and operation of the Patient Housing Center. Management Company accepts said appointment and engagement.

2.02 Exclusive Management Right. Owner shall recognize Management Company's exclusive right to manage and operate the Patient Housing Center, subject to the provisions of this Agreement. Subject to the provisions of this Agreement, including without limitation Sections 4.07 and 4.19 herein, Management Company shall have discretion and control, free from interference, in all matters relating to management and operation of the Patient Housing Center, including, without limitation, charges for rooms and commercial space, credit policies, promotion and publicity, food and beverage services, employment policies, granting of concessions or leasing of shops and agencies within the Patient Housing Center, procurement of Inventory, supplies and services in Owner's name, promotion and publicity and, generally, all activities necessary for operation of the Patient Housing Center.

2.03 No Covenants or Restrictions. Owner warrants that on the Opening Date there shall be no covenants or restrictions that would prohibit or limit Management Company, after the necessary licenses and permits therefor have been obtained, from operating the Patient Housing Center, including cocktail lounges, restaurants and other facilities customarily a part of a first-class Patient Housing Center. Owner shall cooperate with Management Company in obtaining licenses, permits or other instruments necessary for operation of the Patient Housing Center.

2.04 Term. This Agreement shall govern the relationship of the parties, commencing on the Effective Date. The term of this Agreement shall be five (5) years, commencing on the Opening Date, unless terminated by either party in accordance with the provisions of this Agreement or by mutual written agreement of both Parties. Notwithstanding any other provision of this Agreement, Owner shall have the right in its sole discretion to terminate this Agreement by written notice at any time within twenty (20) days after the 90th day preceding the third anniversary of the Opening Date. Owner's failure to exercise this right to terminate shall be deemed as Owner's consent that the term of the Agreement will continue subject to all the terms and conditions hereof.

ARTICLE III
PATIENT HOUSING CENTER

3.01 Improvements.

A. Owner shall, at Owner's Direct Cost, develop the Patient Housing Center on the site described in Exhibit "A" and within funds appropriated. Owner and Management Company shall cooperate in developing plans and shall mutually agree to final plans and specifications for the construction of the Patient Housing Center. In the event Management Company does not agree to, in a timely manner, the final plans and specifications in the design phase, Management Company shall serve written notice to Owner identifying cause(s) for non-approval, and if Owner does not revise plans and specifications to Management Company's reasonable satisfaction within 30 days of such notice, Management Company shall have the option of terminating the Agreement. Any substantive changes in the plans and specifications shall require the mutual approval of the parties herein.

B. Owner may enter into a technical service agreement with the Architecture and Construction Division ("A&C") of Management Company. A&C shall observe the completion of the improvements, and Owner shall have final approval of any issues relating to the improvements. Owner shall use its best efforts to ensure that construction on the Patient Housing Center has commenced by April 1, 1991, and that construction, furnishing and equipping of the Patient Housing Center have been completed in substantial compliance with the plans and specifications approved by Management Company by October 31, 1992. In the event the Patient Housing Center is not completed in substantial compliance with the plans and specifications approved by Management Company within ninety (90) days of October 31, 1992, Management Company shall then have the option to terminate this Agreement by giving Owner thirty (30) days written notice.

3.02 Ownership of Patient Housing Center.

A. Owner hereby covenants that it holds good and marketable fee title to the Patient Housing Center and that upon completion of the Patient Housing Center, it shall have, keep and maintain good and marketable fee title interest therein free and clear of any and all liens, encumbrances or other charges, except as follows:

1. Easements or other encumbrances (other than those described in subsection 2 and 3 hereof) that do not adversely affect the operation of the Patient Housing Center by Management Company;

2. State Revenue Bonds, deeds of trust or similar security instruments that contain a provision that this Agreement shall not be subject to forfeiture or termination other than in accordance with the terms hereof notwithstanding a default under such mortgage, deed of trust or security instrument;

3. Liens for taxes, assessments, levies or other public charges not yet due or which are being contested in good faith.

B. Owner shall pay and discharge, at or prior to the due date, any and all installments of principal and interest due and payable upon any mortgage, deed of trust or like instrument described in this Section and to the extent authorized by the Constitution and the Laws of the State of Texas shall indemnify Management Company from and against all claims, litigation and damages arising from the failure to make such payments when required.

ARTICLE IV
MANAGEMENT FUNCTION AND DUTIES

4.01 General Standard. Management Company shall diligently manage the operation of the Patient Housing Center. Such efforts and practices shall be applied so as to ensure that the Patient Housing Center is operated and maintained as a first-class facility comparable to similarly sized and constructed patient housing centers and ancillary restaurants operated in similar market areas. This standard of performance and operation shall apply to all functions and duties of Management Company, as more fully set forth below.

4.02 Staff. Management Company shall maintain a sufficient number of employees at the Patient Housing Center with competence and skills to assure quality operation of the Patient Housing Center, as defined and incorporated by reference in Attachment "B."

4.03 Promotion and Marketing. Management Company and Owner shall establish and implement such policies of advertising, promotion, and marketing as Management Company and Owner shall deem necessary to publicize the Patient Housing Center to Owner's patients and their guests and to promote the use and occupancy thereof. All major promotional policies and materials shall be approved in writing and in advance by Owner. As required from time to time, Management Company shall share with Owner appropriate marketing strategies and information pertaining to Patient Housing Center and shall assist Owner in developing marketing materials.

Management Company agrees that it will not publicize this Agreement or disclose, confirm or deny any details thereof to third parties, or use any photographs or video recordings of the facility or of Owner's employees, patients, or guests of the facility or use the name of Owner's facilities in connection with any sales promotion or publicity event without the explicit prior written approval of Owner.

4.04 Support Services. Management Company shall negotiate and recommend for Owner's approval appropriate agreements for services necessary to support the operation of the Patient Housing Center. All such agreements shall comply with all applicable provisions of local, state and federal laws.

4.05 Purchasing Goods and Services. Except as provided herein, Management Company shall purchase all goods and services necessary for the efficient operating of the Patient Housing Center. Such purchases shall be an Expense to Owner. Management Company shall use good faith efforts to purchase the highest quality goods and services available at the most reasonable competitive price. Owner shall have the right to audit Management Company's records and books relevant to the purchasing of all goods and services. To the extent authorized by the Constitution and the laws of the State of Texas and to the extent practical for both parties, Management Company shall endeavor to purchase goods and services using Owner's state agency tax exemption whenever possible.

4.06 Security. Management Company shall provide limited, passive security services in the Patient Housing Center in accordance with policies and procedures established by Owner and shall coordinate with a representative designated by the parties. Management Company shall immediately notify Owner of any disturbance or other security matter that comes to Management Company's attention. To the extent authorized by the Constitution and laws of the State of Texas, Owner shall indemnify and hold Management Company, its subsidiaries and affiliates harmless from and against all claims, damages, liabilities and expenses, including attorneys' fees and court costs, arising out of or in connection with the provision of security services for the Patient Housing Center.

4.07 Rates and Credit. With prior review and approval by Owner, Management Company shall establish and implement policies for charges, rates, fees and prices for rooms, services, food, beverages and entertainment at the Patient Housing Center, together with policies for the granting and withholding of credit to patrons and users of the Patient Housing Center.

4.08 Licenses and Permits. In its own name, Management Company shall maintain, as an Expense, such licenses, permits and certificates from public authorities and commissions as may be necessary to operate the Patient Housing Center as a full service facility, including, without limitation: business licenses, food and beverage service and sale licenses, and licenses for the dispensing and sale of alcoholic beverages. Owner shall cooperate with Management Company in obtaining licenses and permits.

4.09 Concessions. Management Company shall prepare and negotiate agreements, all for final approval and execution by and in the name of Owner, for the use of concessions, including without limitation coin-operating laundry and vending machines, and commercial space located in the Patient Housing Center. All concession and commercial space agreements negotiated by Management Company in the name of the Owner shall specify that all books and records pertaining to such concessions and commercial space shall be made available for Owner's review upon Owner's reasonable request.

4.10 Books and Records. Management Company shall prepare and maintain all books of account for the Patient Housing Center as required by this Agreement and the Uniform System. The books and records maintained by Management Company hereunder shall be kept at the Patient Housing Center or at a location specified by Management Company and agreed to by Owner and shall be available for inspection and copying by Owner or Owner's representative at all times during normal working hours.

4.11 Taxes. Upon receipt by Management Company of any real and personal property tax bills and assessments for the Patient Housing Center, Management Company shall submit the same to Owner for Owner's review and payment. The amount of taxes shall be Owner's Direct Cost.

4.12 Compliance with Law. Management Company shall, as an Expense, arrange for compliance with all local, state and federal statutes, laws, rules and regulations applicable to the Patient Housing Center. Any extraordinary costs associated with such compliance shall be Owner's Direct Cost. Management Company shall, immediately upon discovery, report to Owner any hazardous conditions at the Patient Housing Center, together with any conditions that may cause Owner, Management Company or the Patient Housing Center to be in violation of any statute, law, rule, regulation or any insurance company requirement which applies to the Patient Housing Center. Management Company shall promptly take remedial action as may be necessary or appropriate to prevent or correct any such hazardous condition or violation. Management Company shall give Owner prompt notice of all legal claims, suits or proceedings of which it has knowledge filed against or arising from or related to the ownership or operation of the Patient Housing Center. In the event a hazardous condition or violation of any statute, law, rule or any insurance requirement cannot be remedied within a reasonable period, Management Company may terminate this Agreement by giving Owner thirty (30) days written notice.

Management Company is aware of, is fully informed about, and in full compliance with its obligations under the following regulations unless otherwise exempt:

- 1.a. Equal Employment Opportunity provisions of the Civil Rights Act of 1964, as amended;
- b. Executive Order 11701, as amended;
- c. Executive Order 11246, as amended;
- d. Executive Order 12086;
- e. Rehabilitation Act of 1973, as implemented by 41 CFR 60-741, as amended;
- f. Vietnam Era Veterans Readjustment Act of 1974 as implemented by 41 CFR 60-250, as amended;
- g. Omnibus Budget Reconciliation Provision, Section 952.
2. Fair Labor Standards Act of 1938, Section 6, 7, and 12, as amended.
3. Immigration Reform and Control Act of 1986.

4.13 Repairs and Improvements. At Owner's Expense, Management Company shall perform routine maintenance, repairs, replacements, alterations, additions and improvements to the Patient Housing Center and the FF&E in the Patient Housing Center.

4.14 Complaints. Management Company shall establish and implement policies and procedures to handle the complaints of all tenants, guests or users of any of the services or facilities of the Patient Housing Center, including the compensation for or replacement of lost, stolen, or damaged personal property.

4.15 Collection Actions. Management Company shall recommend to Owner legal actions or proceedings when necessary or appropriate to collect charges, rent or other income owed to the Patient Housing Center, or to oust or dispossess guests, tenants or other persons in possession, or to cancel or terminate any agreement due to the breach of a party. Management Company shall have no authority to institute any such legal action or proceeding without the specific prior written approval of Owner. Unless otherwise agreed in writing, Owner shall have exclusive control and direction of any such legal actions or proceedings.

4.16 Consumption of Supplies and Inventories. Management Company shall use, consume and replace the Operating Supplies and Inventory in the ordinary course of operation of the Patient Housing Center as an Expense.

4.17 Revenue and Expenses. Management Company shall diligently collect and deposit Gross Revenues and disburse and pay all Expenses from Gross Revenues and advances provided by Owner.

4.18 Information Generally. Management Company shall keep Owner fully informed at all times with respect to conditions and circumstances affecting the operation of the Patient Housing Center, including prevailing market and sales conditions and the status of competition. Management Company shall extend to Owner its cooperation and assistance in allowing free access to the Patient Housing Center and in enabling Owner to determine and evaluate the status of operations at the Patient Housing Center. Management Company shall meet and confer with Owner regularly to review the operations thereof.

4.19 Gift Shop. Owner shall retain exclusive control over the management of the Gift Shop, the Patient Guest Programs, and the Patient/Guest Exercise Room, each of which will be located on the Patient Housing Center premises. Management Company shall be responsible for maintenance and repairs of Gift Shop as set forth in Section 11.07 below.

4.20 Transportation. Management Company shall as an Expense operate vans or other appropriate vehicles to transport Owner's patients and guests to and from the Patient Housing Center and U.T. M. D. Anderson Cancer Center.

4.21 Monitor Quality. Management Company shall establish and implement procedures to continually monitor the quality of services, including an inspection system covering all services to be performed and a method for identifying and correcting deficiencies. Owner will participate in this assessment process on a regular basis, and a written report of findings, corrective action planned and taken will be provided to Owner. The areas of operations which shall be specifically monitored for quality include housekeeping, maintenance, food service operations, beverage service operations, and guest relations.

4.22 Performance Evaluation. Perform periodic performance evaluations at appropriate intervals for each employee of Management Company assigned to the Patient Housing Center. Owner shall have the right to review and comment upon such evaluations at Owner's request.

ARTICLE V
EMPLOYEES

5.01 Hiring, Supervision, and Training. Management Company shall hire, promote, train, direct and discharge a staff of employees adequate to operate and maintain the Patient Housing Center at the qualitative standard of operation required under this Agreement. Such staff shall be employees of Management Company, and Management Company shall fix their compensation and establish and implement policies relating to staff employment. Additionally, Management Company shall:

A. Ensure that Patient Housing Center's General Manager shall have at least three (3) years previous experience as an employee of Management Company and that such General Manager is knowledgeable and competent to implement and enforce Management Company's policies and procedures;

B. Provide Owner the opportunity to interview and approve all executive staff personnel prior to extending employment offers;

C. Ensure that the Management Company's General Manager is present on the premises of the Patient Housing Center at least four (4) months prior to the opening of Patient Housing Center;

D. Ensure that Management Company's Corporate Engineer is present on the premises of the Patient Housing Center at least one day per month on average six (6) months prior to the opening of Patient Housing Center or at the request of the Owner;

E. Ensure that Management Company's Building Engineer is present on the premises of the Patient Housing Center at least six (6) months prior to the opening of the Patient Housing Center; and

F. Ensure sufficient lead time for proper preparation of budgets and inventories, proper hiring and training of staff, and proper operational planning.

5.02 Key Personnel. It having been agreed by Owner and Management Company that the Key Personnel named in the Management Company's proposal and/or such other individuals who are to be assigned to work under this Agreement as a result of negotiations, are necessary for the successful performance of this Agreement, the Management Company agrees that whenever for any reason, one or more of the aforementioned individuals are unavailable for performance under this Agreement, the Management Company shall replace such individual(s) with (an) individual(s) of

substantially equal abilities and qualifications. In this regard, Management Company shall submit to Owner, in duplicate, a resume giving the full name, title, qualifications, and experience, for all such successor personnel prior to assignment of such personnel to perform work under the Agreement, so that Owner may decide whether such successor personnel meet the qualifications of the position, or whether they are qualified to perform work assigned, and advise the Management Company accordingly. Owner shall have final approval over the appointment of successor Key Personnel, such approval not to be unreasonably withheld. After the first year of Patient Housing Center's operations, successor Key Personnel must be current employees of the Management Company for a period of no less than one (1) year with a proven satisfactory performance history with Management Company, and have at least three (3) years experience in hotel/hospitality management.

5.03 Compliance with Law. Management Company shall ensure that all applicable local, state and federal laws, statutes, ordinances and regulations concerning employment are observed with respect to its employees. Management Company specifically agrees that all personnel decisions concerning employees shall be made without regard to race, color, national origin, religion, sex, age or handicap.

5.04 Payroll and Related Expenses. Management Company shall be responsible for paying all salaries, wages, expenses and fringe benefits of its employees. Management Company shall further prepare, report and pay all social security, employment and unemployment taxes and contributions as may be required by statute. All of the foregoing payments shall be deemed Expenses under this Agreement.

5.05 Employee Amenities. Management Company and Owner shall determine which employees, if any, shall reside at the Patient Housing Center on a permanent or extended basis. Management Company shall be permitted to provide reasonable free accommodations and amenities to its employees and representatives living at or visiting the Patient Housing Center in connection with management functions.

5.06 Severance Costs. In the event this Agreement is terminated by Owner, for a reason other than default by Management Company hereunder, Owner agrees to reimburse Management Company for all severance costs paid to those Key Personnel who must be discharged. Severance pay or benefits shall be paid only when specially adopted and incorporated for this Agreement.

5.07 Owner Hiring Restriction. Unless Management Company otherwise approves, Owner shall pay Management Company a fee equal to Twenty-Five Thousand & No/100 (\$25,000) Dollars in the event Owner hires or makes any agreement to hire, within one (1) year after the termination of this Agreement, any general or assistant manager of Management Company who was employed at Patient Housing Center during the term hereof. A general or assistant manager terminated by Management Company shall not fall within the scope of this Section. This Section shall survive the termination of this Agreement.

ARTICLE VI BUDGET AND FINANCIAL REPORTS

6.01 Budgets.

A. Not later than two (2) months prior to the beginning of each Fiscal Year, Management Company shall prepare and submit to Owner a comprehensive operating budget. Such operating budget shall reflect by Accounting Period and for the Fiscal Year, in the degree of detail specified by the Uniform System for statements on a accrual basis, the projected Gross Revenues, Expenses and the Management Fee in all categories of receipt and disbursement. Management Company shall also submit to Owner, at the same time each year, a five (5) year Capital Expenditure budget and replacement budget. Any changes in the Budgets requested by Owner shall be communicated to Management Company before the commencement of the Fiscal Year covered thereby.

6.02 Compliance with Budget. Except in the case of an emergency or other exigent circumstance, Management Company shall comply with Budgets and shall not deviate therefrom in any material way without prior written notification to and consent of Owner. Inasmuch as Budgets are estimates based upon certain assumptions about operating conditions which may change due to unforeseen circumstances, Management Company shall not be held responsible for any Budget overruns.

6.03 Statements. Within thirty (30) days after the close of each Accounting Period, Management Company shall prepare and submit to Owner a statement of operations of the Patient Housing Center reflecting, for the preceding Accounting Period and cumulatively for the Fiscal Year, all financial activities pertaining to the Patient Housing Center. Such statement of operations shall include the amount of Gross Revenues, Expenses, Management Fee, Capital Expenditures and a reconciliation thereof, an analysis of statistics, bank accounts and accounts receivable. In the event Gross Revenues are insufficient to pay Expenses and the Management Fee, Management Company shall invoice Owner, and Owner shall submit the amount of the invoice within

twenty (20) days after the invoice date. Owner shall pay interest on any amount not paid when due at the prime rate plus one percent from the due date until paid.

6.04 Audit. At any time during the term of this Agreement and for a period of four (4) years thereafter, Owner or a duly authorized audit representative of Owner or the State of Texas, at its expense and at reasonable times, shall have the right to audit Management Company's records and books relevant to all services provided under this Agreement. Management Company shall cooperate fully with Owner and Owner's representatives in connection with any audit or examination conducted pursuant to this Section and shall make available such books and records at the Patient Housing Center. Any audit conducted or directed by Owner pursuant to this Section shall be at Owner's sole cost and shall not be deemed an Expense, provided however, in the event such an audit by Owner reveals any errors (overpayments or shortages), Management Company shall promptly refund Owner any payments due. Should such audit reveal errors totalling an amount equal to the greater of \$5,000 or 5% of income before debt service, Management Company shall reimburse Owner the reasonable cost of such audit.

6.05 Meetings. Management Company shall meet with Owner's designee on a periodic basis at Owner's Option, but no less than every ninety (90) days, to discuss the status of all financial and operational matters pertaining to and any other topics pertinent to the management of the Patient Housing Center. At each quarterly meeting Management Company shall submit a ninety (90) day action plan for each of its departments and shall assist Owner in coordinating management goals of Owner and of Management Company.

ARTICLE VII COLLECTION AND DISBURSEMENT OF FUNDS

7.01 General Account. Management Company and Owner shall open a General Account in the name of Owner or the Patient Housing Center at a bank mutually agreed upon by the parties. Two designated employees of Management Company, who are bonded and who have been approved in writing by Owner, shall have signature authority on such account. Management Company shall deposit all Gross Revenues in such General Account. Management Company shall pay all Expenses, and all disbursements authorized by this Agreement, including the Management Fee, from such General Account. No other funds of Owner or Management Company shall be deposited to or commingled with funds on deposit in the General Account, except as specifically authorized under this Agreement.

7.02 Owner's Advances. Within ten (10) days of the request of Management Company, and in accordance with approved Budgets, Owner shall advance sufficient funds through the General Account as are reasonably required as Working Capital to meet the operating needs of the Patient Housing Center. Management Company shall not request Owner to make any such advances unless the cash in General Account is inadequate to meet such needs.

7.03 Reserve Account. During the initial Fiscal Year, Owner shall pay for repairs and replacement of FF&E as an Owner Expense, upon Management Company's reasonable request. At the end of the initial Fiscal Year, Management Company and Owner shall establish a special interest-bearing Reserve Account in the name of Owner or the Patient Housing Center at a bank mutually agreed upon by the parties. The purpose of such Reserve Account shall be to accumulate funds to pay for routine Capital Expenditures. The parties agree to transfer from Gross Revenues into the Reserve Account the following monies, which shall be deemed an Expense: two percent (2%) of Gross Revenues from the first full Fiscal Year of the operation, and five percent (5%) of Gross Revenues for each Fiscal Year of operation thereafter, with such percentages to be reviewed annually by the Parties. Amounts remaining in the Reserve Account at the end of each Fiscal Year shall be carried forward to the subsequent Fiscal Year. Proceeds from the sale of any FF&E no longer deemed necessary by Management Company and Owner shall be deposited in the Reserve Account and may be credited against amounts otherwise required to be deposited therein. The Reserve Account shall be available to Management Company for the purpose specified herein.

7.04 Other Accounts. Management Company and Owner may also establish, upon mutual agreement, such other bank accounts as may be required for the efficient operation of the Patient Housing Center.

7.05 Ownership of Accounts. The accounts provided for under this Agreement, and all funds therein, shall be the property of Owner, subject to the payment of routine Capital Expenditures, Expenses and disbursements, including Management Fee.

7.06 Owner Responsibility for Expenses. Management Company shall not be required to make any payment of Expenses or other disbursements for the account of Owner, except out of the funds in the foregoing accounts. Any debts and liabilities incurred by Management Company as a result of its operation and management of the Patient Housing Center shall be paid by Owner to the extent that funds are not available in the foregoing accounts, within twenty (20) days after the date of invoice requesting such payment. All amounts not paid when due shall be subject to interest at the prime rate plus one percent from the due date until paid.

7.07 Client Settlement. Every four (4) weeks client settlement shall be adjusted for changes in working capital as follows: Sales plus or minus change in working capital = cash available for expenses, less expenses = net client settlement.

ARTICLE VIII
MANAGEMENT COMPANY COMPENSATION

For services rendered, Management Company shall be paid in accordance with the fee schedules described below:

8.01 Fixed Fee:

- Administrative and General \$35,000 per annum
- Management Fee Equivalent to 2.0% of Gross Revenues Budget, per annum

The Administrative and General Fee will be adjusted annually on the anniversary date of the Agreement based on the Consumer Price Index for Wage Earners in the Houston-Galveston area as of the anniversary date of the Agreement.

8.02 Incentive Fee:

(A) Guest Satisfaction Index. As additional compensation under this Agreement, for the period starting upon the opening of the Patient Housing Center and ending at the time of expiration of this Agreement and any extensions thereof, Management Company will be paid an incentive fee based on its achievement of providing quality service to guests of the Patient Housing Center which shall be measured under the Guest Satisfaction Index (GSI). The Guest Satisfaction Index will be determined by averaging the results of the Guest Satisfaction Form (Questions 1 to 8 only), Exhibit C, a part of this Agreement. Said Exhibit C contains a number of questions, each being rated from "Excellent," with a point value of five (5) to "Poor," with a point value of one (1). The Patient Housing Center's guest will rate each question by the quality rating. The rating system will provide an average per form. The total forms will be averaged to arrive at the GSI (GSI Average).

It has been established by Management Company and Owner that receipt of Guest Satisfaction Forms from a minimum of twenty percent (20%) of the actual total of guest registrations provides for a valid sample for measurement under the GSI, but in no event will the additional compensation to be paid under this Section be decreased if less than a twenty percent (20%) response is attained. Management Company and

Owner further agree that if receipt of the Guest Satisfaction Form is continually less than twenty percent (20%) of the total of guest registrations they may, by mutual agreement, establish an additional and/or alternate method for determining the GSI.

Management Company and Owner agree that they each will encourage guests to complete and submit the Guest Satisfaction Form.

The GSI Average will determine the Incentive Fee, which will be based on Gross Revenue and calculated on a quarterly basis as follows:

| <u>GSI Average</u> | <u>Percentage of Gross Revenue</u> |
|--------------------|------------------------------------|
| 4.5 to 5.0 | 2.5% of Gross Revenue |
| 4.0 to 4.5 | 2.0% of Gross Revenue |
| 3.0 to 4.0 | 1.5% of Gross Revenue |
| less than 3.0 | 0% of Gross Revenue |

The above percentages shall not be cumulative.

The Incentive Fee specified in this Section shall not exceed the Fixed Fee specified in Section 8.01 during any given contract year. The parties hereto may periodically renegotiate the Fixed Fee specified in Section 8.01, with any such renegotiation to be in the form of a written amendment hereto.

(B) Administration. The Guest Satisfaction Form will be deposited by guests in a lock box located at the Patient Housing Facility's Front Desk. A designated representative of Owner will be responsible for the removal of the Guest Satisfaction Forms in the presence of a Management Company representative, at which time the number of forms received will be logged. Owner shall provide Management Company on a monthly basis a summary/analysis of all forms received in that period which will indicate the GSI Average and which will be accompanied by a copy of the forms.

ARTICLE IX INSURANCE

9.01 Interim Insurance.

A. Owner shall, at all times during the period of construction, furnishing and equipping of the Patient Housing Center require its contractor(s) to procure and maintain adequate public liability and indemnity and property insurance (with limits and coverage to be mutually agreed upon) fully protecting Owner and Management Company against

loss or damage arising in connection with the preparation, construction, furnishing and equipping of the Patient Housing Center and pre-opening activities and naming the financial institution as loss payee.

B. In the event the Patient Housing Center burns prior to the full completion of construction to the extent that it cannot be rebuilt within a period of time reasonably close to the original construction schedule, Management Company shall have the right to terminate this Agreement.

9.02 Owners Insurance.

A. Owner shall procure and maintain, as Owner Direct Cost, a minimum of the following insurance:

1. Property insurance on the Patient Housing Center (including contents) against loss or damage by fire, explosion, lightning and all other risks covered under a standard all-risk property insurance policy at full replacement cost; and

2. Business interruption insurance covering loss of profits and continuing Expenses for interruptions caused by any occurrence covered by the insurance referred to in this Section.

B. All policies of insurance required under this Section shall be carried in the name of Owner and the holder of the first-lien permanent mortgage on the Patient Housing Center and shall name Management Company as an additional insured as their respective interests may require. Any losses thereunder shall be payable to the parties as their respective interests may appear. Certificates of insurance evidencing the insurance required under this Section shall be delivered by Owner to Management Company.

C. Any mortgage on the Patient Housing Center shall contain provisions to the effect that proceeds of the insurance policies required to be carried shall be available for repair and restoration of the Patient Housing Center.

9.03 Operational Insurance. Management Company shall provide and maintain in effect, as an Expense, during the time of this Agreement but not sooner than the Opening Date, the minimum insurance coverage as follows:

| | | |
|----|--|---|
| A. | Worker's Compensation | Statutory Limits |
| | Employer's Liability | 500,000 each occurrence 1,000,000 aggregate per year |
| | Comprehensive General Liability | |
| | a. Bodily Injury | 2,500,000 each occurrence |
| | b. Property Damage | 1,000,000 each occurrence 3,000,000 aggregate per year |
| | Automobile Liability | |
| | a. Bodily Injury | 500,000 each occurrence |
| | b. Property Damage | 1,000,000 aggregate per year |
| | Excess or Umbrella Liability Coverage | 10,000,000 |

Fidelity bonds and comprehensive crime insurance to the extent the parties mutually agree it is necessary for the Patient Housing Center;

B. Such other insurance in amounts as Management Company and Owner may agree upon for protection against claims, liabilities and losses arising out of or connected with the operation of the Patient Housing Center.

C. Each party shall maintain its own employees Workers' Compensation and employer's liability insurance at the Patient Housing Center.

D. Management Company shall deliver to Owner certificates of insurance with respect to all policies so procured, including existing and renewal policies. Such policies shall not be cancelled or materially changed without at least thirty (30) days' prior written notice to Owner and Management Company. All such policies except Workers' Compensation and Fidelity/Crime Insurance shall name Owner as an additional insured.

9.04 Waiver of Recovery. Owner and Management Company mutually agree to waive their rights, as well as the rights of its subsidiaries and affiliates, of recovery for loss or damage to each respective party's building, equipment, improvements or all other property covered under policies of insurance. Owner shall keep its building (including

contents) so insured as required in Section 9.02.

9.05 Waiver and Indemnification. Management Company shall be solely responsible for all services it provides, and Owner and Owner's officers, employees and agents shall have no liability for any services provided by Management Company or by the subcontractors of Management Company. Management Company shall indemnify and hold harmless the Owner, and Owner's officers, employees and agents (hereinafter referred to as the "Indemnified Parties") from and against any and all claims, demands, causes of action and proceedings of whatever kind or nature which may be brought or instituted on account of or in any way incident to, arising out of, or in connection with the provision of services under this Agreement by Management Company, its agents, employees, or subcontractors (hereinafter collectively referred to as "Claims") and all losses, costs, penalties, damages and expenses, including but not limited to attorneys' fees and other costs of defending against, investigating and settling the claims. Management Company shall assume on behalf of the Indemnified Parties and conduct with reasonable diligence and in good faith the defense of all Claims against the Indemnified Parties, whether or not Management Company is joined therein; provided, however, without relieving Management Company of its obligations under this Section, the Indemnified Parties, at their election may participate in the defense of any or all of the claims through the Attorney General of Texas or with attorneys or representatives of their own choosing. To the extent authorized by the Constitution and statutes of the State of Texas, Owner shall indemnify and hold harmless the Management Company and the officers, employees and agents thereof, from any claims, demands, causes of action and damages based solely upon the actions of Owner or Owner's officers, employees and agents. Maintenance of the insurance referred to in this Article IX shall not affect the parties' obligations under this Section and the policy limits of such insurance shall not constitute a limit on the parties' liability under this Section. The obligations of the parties under this Section shall survive the expiration of the term or the earlier termination of this Agreement.

ARTICLE X INVENTORIES AND FIXED ASSET SUPPLIES

10.01 Purchase and Maintenance. Inventory and Operating Supplies shall be purchased according to Management Company policies with funds from the General Account.

10.02 Ownership. All Inventory items and Operating Supplies shall be and remain the property of Owner.

ARTICLE XI
REPAIRS, REPLACEMENTS, AND IMPROVEMENTS

11.01 Maintenance and Routine Repair. Management Company shall maintain the Patient Housing Center in a state of good repair and condition. Management Company shall ensure that a Chief Engineer is employed full time to oversee the Patient Housing Center. Owner must review and approve the selection of any person or entity with whom Management Company subcontracts to perform maintenance and repair services. Management Company shall provide routine maintenance and repairs to the Patient Housing Center and the FF&E located therein as shall be occasioned by normal wear and tear, by any statutory or governmental rule or requirement, or by the requirement of any insurance company insuring the Owner's interest in the Patient Housing Center. Owner shall have advance notice of, and the right to approve any undertaking involving maintenance and repair costs in excess of Five Thousand and No/100 Dollars (\$5000.00), and Owner's approval shall not be unreasonably withheld. The cost of all such maintenance and repairs shall be deemed an Expense.

11.02 Replacements. Management Company shall provide routine replacements to the Patient Housing Center FF&E and routine repairs to the Patient Housing Center which are normally capitalized under generally accepted accounting principles, such as exterior and interior repainting, resurfacing of building walls, floors, doors, cabinets and millwork, roofs and parking areas, replacing folding walls, as may be occasioned by normal wear and tear, by any statutory or governmental rule or requirement, or by the requirement of any insurance company insuring Owner's interest in the Patient Housing Center. Owner shall have advance notice of, and the right to approve any Capital Expenditure involving costs in excess Five Thousand and No/100 Dollars (\$5000.00), and Owner's approval shall not be unreasonably withheld. Payment for such replacements and repairs shall be made from the Reserve Account, described in Section 7.03. Owner shall, as Owner's Direct Cost, pay for major Capital Expenditures. In the event any Capital Expenditure exceeds the balance in the Reserve Account, Owner, as Owner's Direct Cost, shall be responsible to pay such Capital Expenditures.

11.03 Alterations, Additions and Improvements. Management Company shall recommend to Owner, through the Capital Expenditure Budget, such alterations, additions, and improvements to the Patient Housing Center and its structural, mechanical, electrical, plumbing, communications and vertical transportation system components, as are necessary and appropriate to the continued safe, orderly and efficient operation of the Patient Housing Center. Within the limitations of such a Capital Expenditure budget and as Owner's Direct Cost, Management Company shall provide such alterations, additions and improvements to the Patient Housing Center to be reimbursed by Owner as invoiced, unless Owner reserves such undertaking to itself.

11.04 Emergency Repairs. Notwithstanding the provisions of Section 11.03 above, Management Company may provide repairs of an emergency nature without the necessity of securing prior approval of Owner, if the circumstances do not reasonably allow Management Company to first seek such approval.

11.05 Liens. With respect to any maintenance, repair and replacement provided by Management Company under the foregoing sections, Management Company shall make prompt payment of the costs incurred from the General or Reserve Accounts or upon invoicing to Owner. Management Company shall not have the right to subject Owner's property to any lien. If any liens or claims for labor or materials supplied or claimed to be supplied to the Patient Housing Center shall be filed, Management Company shall obtain the release or discharge of such lien(s) promptly.

11.06 Ownership. All repairs, replacements alterations, additions, and improvements made under the foregoing sections shall be the property of Owner.

11.07 Exceptions. Management Company shall be responsible for maintenance and repairs of the Volunteer Gift Shop, conference rooms, Patient Guest Programs, and Patient/Guest Exercise Room, each of which will be located on the Patient Housing Center premises. Owner shall compensate Management Company for maintaining and repairing the Volunteer Gift Shop, conference rooms, Patient/Guest Programs, and Patient/Guest Exercise Room as an Expense. Owner retains management and operational control of Gift Shop as set forth in Section 4.19 above and other units/offices as Owner may from time to time designate.

ARTICLE XII PRE-OPENING PERIOD

12.01 Pre-Opening Responsibilities. During the Pre-opening Period, Management Company shall carry out those functions and duties set forth in Article IV above which are appropriate to that phase of operation of the Patient Housing Center. In addition thereto, during the Pre-Opening Period, Management Company shall perform and carry out the following special pre-opening functions and duties:

A. Provide, at the request of Owner, suggestions with respect to the furnishing and equipping of the Patient Housing Center.

B. Prepare and submit for Owner's approval, and put into effect as soon as possible thereafter, a plan for the organization of the operation, services and sales of the Patient Housing Center.

C. Test the proposed operation of the Patient Housing Center by training personnel, furnishing typical services, preparing and serving food and beverages and generally operating the Patient Housing Center for a test period to be agreed upon by Owner and Management Company, not to exceed sixty (60) days, immediately prior to the Opening Date.

D. Provide, for a period to end not later than sixty (60) days prior to the Opening Date, a task force of Management Company experts and other special personnel to supervise and assist with pre-opening and opening operations.

E. Designate a "start-up team" experienced in pre-opening facility design and planning. Start-up team will be responsible for assisting/advising the architects and Owner's project personnel in developing design criteria and standards in such areas as telephone systems, data systems/reservation systems, floor plans, room lay-out, retail area, lounge and restaurant design and locations, kitchen design, service and storage areas, and administrative/management spaces. Management Company shall participate in the development of the Patient Housing Center on an ad hoc basis, as requested and determined necessary by Owner. Additional services beyond the prescribed amount will be reimbursed on a schedule to be agreed to in advance.

Further, during the Pre-opening Period Management Company's management personnel will be required to thoroughly familiarize themselves with Owner's Patient/Guest Programs Office, its functions and personnel, and to establish and understand the conditions under which the two shall work together to provide the services necessary for an effective patient/guest housing facility sensitive to the special needs of cancer patients and their families.

F. Render such other miscellaneous and incidental services as may be required to ensure that the Patient Housing Center shall be adequately staffed and fully capable of operating as a first-class facility on the Opening Date.

G. Designate one managerial level employee of Management Company to coordinate all Owner requirements to be the point of contact for any problems/questions which may arise either directly from guests and/or Owner's staff, and to make necessary decisions and/or take corrective action on behalf of the Management Company.

12.02 Pre-opening Budget and Expenses. A pre-opening budget shall be prepared by Management Company within sixty (60) days of Owner's request, and shall state the anticipated Expenses relating and attributable to the pre-opening activities described in Section 12.01 ("Pre-opening Expenses"). The Pre-opening Expenses shall be borne by

Owner and shall be paid by Management Company from the General Account, with such advances from Owner as may be necessary. Pre-Opening Expenses in excess of the pre-opening budget shall not be incurred, unless Owner gives prior approval. Owner agrees to reimburse Management Company for any Pre-opening Expenses paid out of its own funds in accordance with the pre-opening budget, within twenty (20) days after the date of invoice that is provided to Owner by Management Company. Within ninety (90) days after the Opening Date, Management Company shall furnish Owner with an accounting describing and showing in reasonable detail the total amount of Pre-opening Expenses incurred.

12.03 Compensation. As compensation for its services during the Pre-opening Period, Management Company shall be paid a "Pre-opening Fee" equal to \$105,000 (One Hundred and Five Thousand and 00/100 Dollars) for the first year of the Pre-Opening period, plus reasonable expenses for travel, and meals, plus expenses for lodging not to exceed the Marriott medical rate allotted to Owner per night. Expenses for travel, lodging and meals shall be reimbursed by Owner on a monthly basis upon presentation of written receipts. This Pre-Opening Fee shall be prorated on a monthly basis for any part of a year occurring during the Pre-opening Period.

ARTICLE XIII DEFAULT AND REMEDIES

13.01 Default. In the event Management Company is in default of any of its obligations under the Agreement, Owner may serve written notice upon Management Company setting forth such default and demanding compliance with the Agreement. Unless within thirty (30) days after serving such notice, such default shall cease and satisfactory arrangements for corrections be made, Owner may terminate this Agreement by serving written notice upon Management Company. Additionally, Owner reserves the right to terminate this Agreement at any time if Management Company continually is in default or if in Owner's opinion Management Company has grossly breached the Agreement. The termination of this Agreement, under any circumstances whatsoever, shall not affect or relieve the Management Company from any obligation or liability that may have been incurred or will be incurred pursuant to this Agreement. Events of default shall include the following:

A. The filing by Management Company or a parent company thereof in any state or federal court of a voluntary petition in bankruptcy or insolvency or for a reorganization under any bankruptcy law, the consent to an involuntary petition in bankruptcy or the failure to vacate, within thirty (30) days from the date of entry thereof, any order approving an involuntary petition in bankruptcy, the making of an assignment for, or the entering into an arrangement for, the benefit of creditors, or the admission

in writing of the inability to pay debts as they mature or come due;

B. The failure by a party to make any payment required to be made in accordance with the terms hereof; or

C. The failure of a party to perform or fulfill any of the other covenants, undertakings, obligations or conditions set forth herein.

13.02 Remedies.

A. Upon the occurrence of any such event of default, the non-defaulting party shall give to the defaulting party written notice of its intention to terminate this Agreement upon the expiration of five (5) days from the date of notice for nonpayment as specified in Section 13.01 B or thirty (30) days from the date of notice for any other default. If the default has not been cured on the expiration of the required period, this Agreement shall then terminate. Except as to any event of default stated in Section 13.01 A above, if the defaulting party promptly upon receipt of such notice commences action to cure the default and diligently thereafter continues such efforts, and if the default is not susceptible of being cured within thirty (30) days, then the defaulting party shall have an additional reasonable time to complete the curing of the default.

B. Any and all remedies provided for the enforcement of the provisions of this Agreement are cumulative and not exclusive, and the parties shall be entitled to pursue either the rights and remedies enumerated in this Agreement or those rights and remedies as may be available at law or in equity, provided that Management Company shall not exercise the right of offset or counterclaim against State funds for amounts claimed by Management Company.

ARTICLE XIV
CONDEMNATION, DAMAGE, AND DESTRUCTION

14.01 Condemnation.

A. In the event substantially all of the Patient Housing Center shall be taken in any eminent domain condemnation, compulsory acquisition or similar proceeding by any competent authority for any public or quasi-public use or purpose, or in the event a portion of the Patient Housing Center shall be so taken but the result is that it is unreasonable to continue to operate the Patient Housing Center, this Agreement shall terminate as of the date title vests in such authority. Owner and Management Company shall each have the right to initiate such proceedings as they deem advisable to recover any damages to which they may be entitled.

B. In the event a portion of the Patient Housing Center shall be taken by the events described herein, or the entire Patient Housing Center is affected but on a temporary basis, and the result is not to make it unreasonable to continue to operate the Patient Housing Center, the Agreement shall not terminate. The amount of award for any such partial taking or condemnation as shall be necessary to render the Patient Housing Center equivalent to its condition prior to such event shall be used for such purpose and the balance of such award, if any, shall be fairly and equitably apportioned between Owner and Management Company in accordance with their respective interests.

14.02 Force Majeure. In the event of a significant adverse effect upon the continuing operation of the Patient Housing Center caused by any act of God, act of war, civil disturbance, governmental action, including the revocation of any license or permit necessary for the operation of the Patient Housing Center where such revocation is not due to the action or inaction of Management Company, or any other cause beyond the reasonable control of Management Company, either party shall be entitled to terminate this Agreement upon sixty (60) days written notice to the other.

14.03 Destruction or Damage.

A. If, during the term hereof, the Patient Housing Center is damaged or destroyed by fire, casualty or other cause, Owner shall, at Owner's Direct Cost, and with all reasonable diligence, repair or replace the damaged or destroyed portion of the Patient Housing Center to the same condition as existed previously. To the extent available, proceeds from the insurance described in Article IX shall be applied to such repairs or replacements.

B. In the event damage or destruction to the Patient Housing Center from any cause materially and adversely affects the operation of the Patient Housing Center, and Owner fails to promptly commence and complete the repairing, rebuilding or replacement of the same so that the Patient Housing Center shall be substantially the same as it was prior to such damage or destruction, Management Company may terminate the Agreement upon sixty (60) days' written notice.

ARTICLE XV
MISCELLANEOUS

15.01 Assignment. Neither party may sell, lease, transfer, assign duties or obligations arising under this Agreement without the prior written consent of the other party. In the event either party consents to a sale, lease, transfer or assignment by the other, no further sale, lease, transfer or assignment shall be made without the prior written consent of the former party. Any approved transfer or assignment by either party shall not have the effect of relieving such party from its duties and obligations under this Agreement, unless specifically agreed to in writing by the other party. Any attempt to transfer or assign the same without having first obtained such written consent shall be null and void and upon such occurrence Owner may terminate the Agreement upon thirty (30) days written notice.

15.02 Representations and Warranties. Each party covenants that all action required on its part has been taken to authorize and empower it to enter into and perform this Agreement and that it has the full right to perform its obligations hereunder. Each party further represents that there are no prior or existing contractual commitments that would prevent it from entering into this Agreement or conducting the operations and carrying out the duties and obligations provided for hereunder.

15.03 Utilities. Steam and chilled water will be furnished to the Patient Housing Center through the Thermal Energy Cooperative (TECO) of which Owner is a member. Costs for these services will be considered an Expense.

15.04 Relationship of the Parties. The relationship of Management Company to Owner in all respects under this Agreement is and shall be that of independent contractor, and nothing contained in this Agreement shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any other association whatsoever, other than that of independent contractor.

15.05 Notices. All notices required or permitted to be given under the terms of this Agreement shall be in writing and shall be delivered either by hand, with receipt given, or sent by certified or registered mail, postage prepaid and return receipt requested. Notice to Owner shall be effective if addressed to:

To Owner: Associate Vice President
for Business Affairs
The University of Texas
M. D. Anderson Cancer Center
1515 Holcombe Blvd., Box 194
Houston, Texas 77030

With copies to: Director of Corporate Affairs
Internal Legal Services
The University of Texas
M. D. Anderson Cancer Center
1515 Holcombe Blvd., Box 033
Houston, Texas 77030

Charles B. Mullins, M.D.
Executive Vice Chancellor
for Health Affairs
The University of Texas System
601 Colorado Street
Austin, Texas 78701

To Management Company: Marriott Corporation
Conference Center Management Division
Department 884.40
10400 Fernwood Road
Bethesda, MD 20058

with copy to: Marriott Corporation
Law Department
Department 923
10400 Fernwood Road
Bethesda, MD 20058

The name and address to which notices shall be sent may be changed from time to time by either party by written notice sent as specified above. A notice which is properly mailed shall be deemed to have been given on the fifth (5th) calendar day after the date of its posting.

15.06 Waiver. No failure by either party to insist upon the strict performance by the other of any term, condition, covenant or provision of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver

of any such breach of such term, condition, covenant or provision. No waiver of any breach shall effect or alter this Agreement, but each and every term, condition, covenant or provision of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach.

15.07 Partial Invalidity. If any provision hereof shall be determined or declared invalid, illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall continue in full force and effect and shall in no way be affected, impaired or invalidated.

15.08 Construction Rules. The captions and headings in this Agreement are for purposes of convenience and reference only, and the words contained therein shall have no substantive effect and shall in no way be held to explain, modify, or amplify the meaning of the sections and provisions of this Agreement to which they pertain.

15.09 Governing Law. This Agreement, and all matters or issues collateral to it, shall be governed by and construed in accordance with the laws of the State of Texas. Any action arising out of this Agreement shall be litigated under the laws of the State of Texas in a court of competent jurisdiction in Harris County, Texas.

15.10 Trademarks and Trade Names. Neither party shall use the name, logo or mark of the other on signs, brochures, pamphlets, audiovisual recordings or other promotional material, without the prior written approval of such other party. Notwithstanding the foregoing, either party may indicate in any written or audiovisual materials that Owner's Patient Housing Center is being managed by Management Company.

15.11 Infringement Indemnity. Management Company shall pay for any royalties, license fees and patent or invention rights or copyrights or trade and service marks and defend and indemnify Owner from all lawsuits or claims for the infringement of any patent or invention rights or copyrights or trade or service marks involved in the services furnished pursuant to this Agreement. Management Company shall hold harmless and save Owner and its officers, agents, and employees harmless from liability of any kind, including costs and expenses for, or on account of any patented or unpatented invention, process, article or appliance furnished and/or used in the performance of this Agreement.

15.12 Confidentiality. Management Company shall not, except as necessary in the performance of this Agreement or as required by state or federal laws or as authorized in writing by Owner, supply, disclose, or otherwise permit access to at any time any information concerning or in any way related to Owner's information or other

matters pertaining to Owner's business which Management Company may in any way acquire by reason of performance of this Agreement.

15.13 Conflict of Interest. Management Company covenants to Owner that no relationship, whether by relative, business associate, capital funding agreement, or any other such kinship is known to exist between any officer or employee of Management Company and any member of the Board of Regents or any officer or employee of The University of Texas System or The University of Texas M. D. Anderson Cancer Center. If such a relationship becomes known to Management Company, full disclosure shall be made to the Owner's Associate Vice President for Business Affairs prior to acceptance of this Agreement for appropriate administrative review and approval.

Management Company affirms that it received no offer, made no offer nor intends to offer at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Agreement.

15.14 Fidelity Bond. Management Company shall provide and maintain in effect during the term of this Agreement a fidelity bond in the amount of \$1,000,000 (One million and No/100 Dollars.) Said bond shall be solely for the protection of the Board of Regents of The University of Texas System and shall cover only employees of Management Company and shall be deemed an Expense to Owner. Notwithstanding the maintenance of the above-described fidelity bond, Management Company shall be responsible for and shall promptly reimburse Owner for the value of any shortfall in cash or pilferage of property belonging to Owner. Such reimbursement shall be returned to Management Company to the extent that a claim for such loss is paid to Owner under the above fidelity bond.

15.15 Performance Bond. The Management Company shall execute in accordance with the provisions of Articles 5160 and 6252-5C, Vernon's Texas Civil Statutes, to Owner a Performance Bond in the amount of \$100,000 (One Hundred Thousand Dollars and No/100), conditioned upon the faithful performance of the Agreement. Said bond shall be solely for the protection of the State of Texas, and shall be deemed an Expense to Owner.

(a) The Performance Bond shall be executed by a corporate surety or corporate sureties duly authorized to do business in the State of Texas, acceptable to Owner, and on forms approved by the Attorney General of Texas. Owner will consider acceptable any corporate surety qualified to do business in Texas which has a rating of at least B from Best's Key Guide, or, if the surety company does not have a rating in

Best's Key Rating Guide owing to the short length of time it has been a surety company, the surety company must demonstrate eligibility to participate in the surety bond guarantee program of the Small Business Administration, or must be an approved surety company listed in the current United States Department of Treasury circular 570, "Companies holding certificates of authority as acceptable sureties on federal bonds and acceptable ensuring companies." If any surety upon any bond furnished in connection with the Agreement becomes insolvent, or otherwise not authorized to do business in the State, Management Company shall promptly furnish equivalent security to protect the interests of the State of Texas.

(b) The Performance Bond shall be accompanied by a valid Power-of-Attorney (issued by the surety company and attached, signed and sealed, with the corporate embossed seal, to the bond) authorizing the agent who signs the bond to commit the company to the terms of the limit, if any, in the total amount for which the agent is empowered to issue a single bond.

15.16 Attorneys' Fees. In the event either party shall bring any action or proceeding to protect or enforce its rights under this Agreement, the prevailing party shall be entitled to recover in such action or proceedings reasonable attorneys' fees and court costs, to the extent allowed by law.

15.17 Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to its subject matter and merges herewith all statements, representations, and covenants heretofore made, and any other agreements as to the subject matter hereof not incorporated herein are void and of no effect.

15.18 Amendment. This Agreement may not be amended except by means of a written document signed by the duly authorized representatives of the parties.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed in duplicate original by their duly authorized officers as of the date written below.

THE UNIVERSITY OF TEXAS M. D. MARRIOTT CORPORATION
ANDERSON CANCER CENTER

By: Charles A. LeMaistre
Charles A. LeMaistre, M.D.
Title: President
Date: July 24, 1990

By: _____
Title: _____
Date: _____

ATTEST:
By: Michael J. [Signature]

ATTEST:
By: _____

Approved as to Content:
By: David J. Bachrach
David J. Bachrach
Title: Executive Vice President
Administration and Finance

Approved as to Form:
By: Max M. [Signature]
Office of General Counsel
The University of Texas System

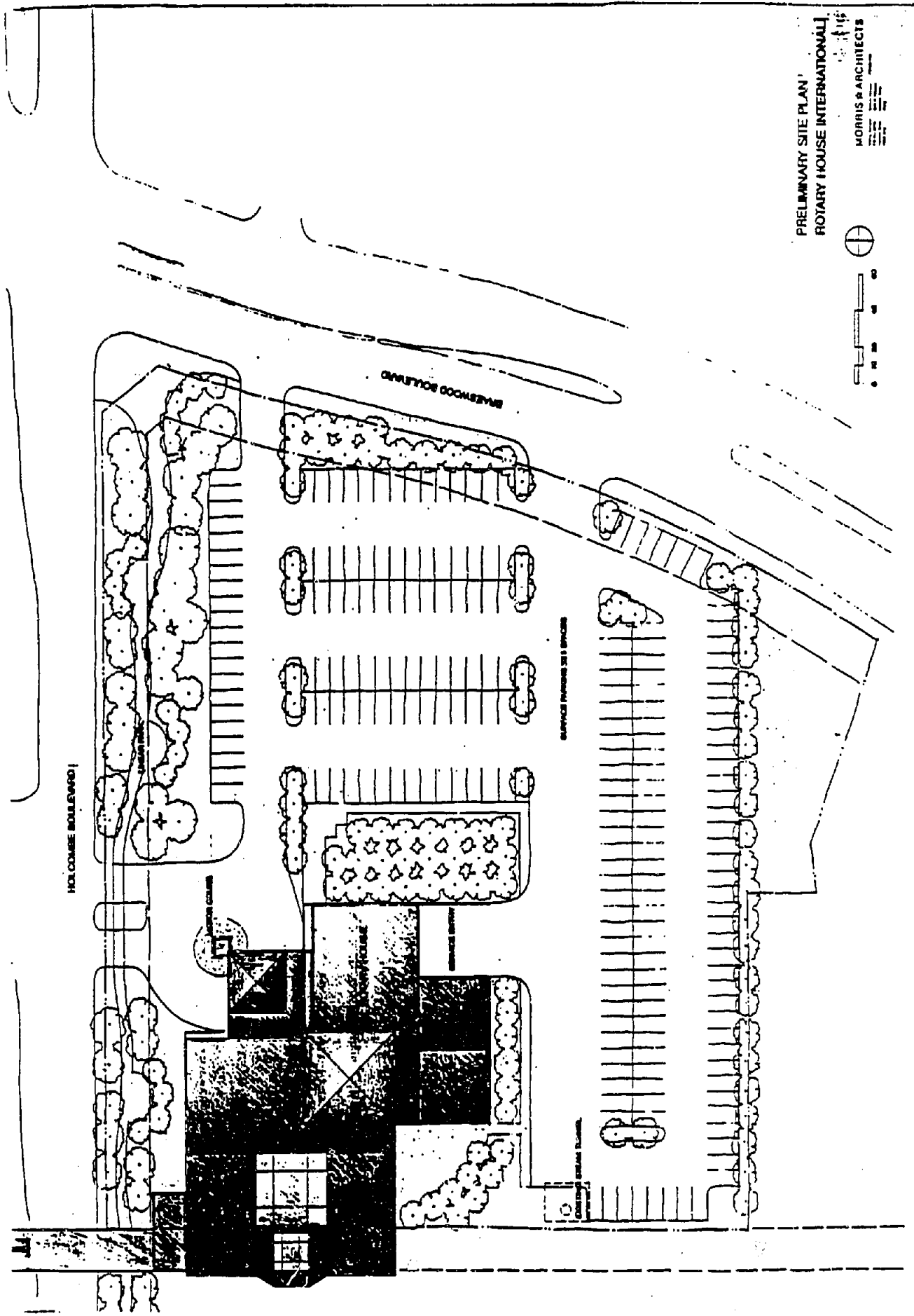
CERTIFICATE OF APPROVAL

I hereby certify that pursuant to procedures authorized by the Board of Regents of The University of Texas System, the foregoing Management Agreement was approved on the 29th day of August, 1990, and that the person whose signature appears above is authorized to execute such agreement on behalf of the Board.

Arthur [Signature]
Executive Secretary, Board of Regents
The University of Texas System

ATTACHMENT "A"
SITE OF PATIENT HOUSING CENTER

UTMDACC Management Agreement
Marriott



PRELIMINARY SITE PLAN
 ROTARY HOUSE INTERNATIONAL

MORRIS & ARCHITECTS



ATTACHMENT "B"
**CRITERIA FOR QUALITY OPERATION
OF THE PATIENT HOUSING CENTER**

**UTMDACC Management Agreement
Marriott**

MARRIOTT CONFERENCE CENTER MANAGEMENT

QUALITY AND FOOD SAFETY STANDARDS

QUICK REFERENCE CHECKLIST

- Employees must wash hands at hand sinks located in kitchen area before returning to work. This program is to be monitored by management.
- No eating, drinking or smoking at work stations.
- Hand washing signs posted in employee lavatories and over hand sink areas.
- Ready to eat food should not be touched with bare hands. Plastic gloves (disposable), tongs, or other dispensing devices must be used to handle food.
- All kitchen personnel have access to accurate food thermometers.
- Refrigeration equipment must be maintained to assure 36-38°F cooler and 0°F freezer product temperatures and be provided with an accurate thermometer.
- Cook -- All food to recommended internal temperatures. Check and record with accurate thermometers.
- Cool -- Rapidly using shallow containers -- depth no greater than 4" -- reaching 40°F within 4 hours.
- Reheat -- Rapidly heat products to 165°F minimum.
- Holding -- Hot Foods -- 140°F minimum.
-- Cold Foods -- 40°F maximum.
- Purchase only from Marriott approved vendors.
- Receiving -- Check food for possible contamination and temperature abuse. Reject any product that is questionable. Store refrigerated and frozen food first -- put away within 30 minutes.
- Date and label all food received or prepared.
- Shell eggs must be refrigerated at all times. Discard cracked eggs -- use only USDA shielded eggs. Use liquid or frozen pasteurized eggs wherever possible. Only use shell eggs for single service application or when absolutely necessary.
- Segregate raw meat, poultry, fish and shell eggs. Never store these products above ready to eat foods.

**MARRIOTT CONFERENCE CENTER MANAGEMENT
QUALITY FOOD AND SAFETY STANDARDS
QUICK REFERENCE CHECKLIST
Page 2**

- Disposable plastic tubs, i.e., pickle, mayonnaise, sour cream, etc. are not to be used for food storage. They are constructed of softer material that cannot be washed and sanitized properly. Use NSF approved plastic or stainless containers.
- Separate cutting boards must be used for raw and ready to eat foods. Use white for ready to eat and tan for raw meats, fish and poultry.
- Appropriately identified sanitizer is to be available at all work stations. Sanitizer test strips must be available.
- Use approved wiping cloths, i.e., handiwipes or cotton cloths. (Terry cloth towels are not permitted.)
- Use only non-metallic pads for pan scouring -- no Brillo or stainless pads. Always store glass containers on lower shelf.
- Hazardous foods left from buffet lines must be discarded.
- Toxic and chemical materials must be stored away from food, equipment and utensils. Hazard communication program in place.
- A self-inspection program relating to food safety shall be in effect with results recorded and on file.
- All management must be certified as food handlers through ETS, NIFI, or other recognized programs.

Engineering Property Review

Purpose: To ensure that Marriott Properties are maintained in accordance with SOP's and sound engineering practices.

Policy: The Regional Staff Engineer and/or District Manager will visit each Property and review the property's engineering operations two times annually. The first visit is to conduct a formal review; the second visit to conduct a scheduled follow-up visit.

Upon completion of the audit and prior to leaving the property, the Regional Engineer or District Manager will review his findings with the Chief Engineer and the General Manager.

Immediately following his visit, the Regional Engineer or District Manager will prepare a formal report for the General Manager with a copy to the Chief Engineer and Regional Vice President. Areas that need attention will be detailed, and recommendations for corrective action will be made. A written response including plans and actions will be submitted to the Regional Engineer's or District Manager's office, with completion dates, and/or plans and actions, within thirty (30) days of receiving the property review.

Procedure: The criteria to be covered by the Regional Staff Engineer or District Manager when conducting a general property review is located in the attached SOP #3.01A - Supplement.

Recommendation(s) for essential repairs, replacements, and modifications of items that adversely affect Marriott's quality image.

(Attachments: _____ yes _____ no)

Recommendation(s) for essential building and/or physical plant repairs, replacements, and additions.

(Attachments: _____ yes _____ no)

General Comments:

PROPERTY : _____
DATE(S) OF REVIEW : _____
CHIEF ENGINEER : _____
GENERAL MANAGER : _____
DISTRICT MANAGER : _____
REGIONAL VICE PRESIDENT : _____

GENERAL ENERGY AUDIT FORMAT

The following criteria will be covered by the Regional Engineer when conducting a general engineering audit at a property.

- EA-1 Review of Energy Use
- A. Electrical KWH consumption
 - B. Electrical KWD peak period(s)
 - C. KWH and KWD billing procedures
 - D. Rate structures
 - E. Fuel consumption and costs
 - F. Period HLP statement use and cost vs. budget
- EA-2 Lighting Evaluation, Interior and Exterior
- A. Fixture and lamp type
 - B. Hours of operation
 - C. Control requirements
- EA-3 Review Recording Procedures and Data of:
- A. Utilities use and cost
 - B. Fuel use and cost
 - C. Water treatment logs
 - D. Chiller logs (if applicable)
 - E. Boiler logs, etc.
- EA-4 Random Sampling of Total and Distribution Electrical Load Balance
- EA-5 Review of Existing Property and Corporate Energy Programs
- EA-6 Walk-Through Inspection of Engineering Areas, Food and Beverage Areas, Production Departments and Building to Evaluate:
- A. Operational procedures pertaining to use of equipment, hours of operation, logs, records, etc.
 - B. Equipment condition
 - C. Housekeeping condition
 - D. Application of new technology items and/or equipment improvement recommendations; such as chiller optimizer, equipment automation, boiler combustion air preheat systems, economizer cycle, etc.
 - E. Fuel consumption and costs
 - F. Period HLP statement use and cost vs. budget

HARRIOTT ENGINEERING ADMINISTRATIVE AUDIT FORM

S = Satisfactory
 NI = Needs Improvement

| ITEM | S | NI | COMMENTS |
|--|---|----|----------|
| Preventative Maintenance Systems & Logs | | | |
| Work Order System | | | |
| Purchase Order System | | | |
| Fire Inspection Reports (semi-annual) | | | |
| Hood & Duct Cleaning Records | | | |
| Fire Extinguisher & Sprinkler System Logs (monthly report) | | | |
| Boiler Logs | | | |
| Chiller Logs | | | |
| Water Treatment Logs | | | |

MARRIOTT ENGINEERING ADMINISTRATIVE AUDIT FORM

S = Satisfactory
 NI = Needs Improvement

| ITEM | S | NI | COMMENTS |
|---|---|----|----------|
| Fire Pump Logs | | | |
| Review Emergency Organization Plan Local Fire Dept. Approval? Date: _____ | | | |
| Rooms PM Systems *Second Effort Pgm *EIWO/Trend Anal. *Comm. (SOP #17) *Guest Comment Responses | | | |
| Utility Records- Utility Charts | | | |
| Vehicle Logs SOP #9.00 | | | |
| Emergency Power System Logs | | | |
| Safety Program | | | |
| T.V. Logs | | | |

HARRIOTT ENGINEERING ADMINISTRATIVE AUDIT FORM

S = Satisfactory
 NI = Needs Improvement

| ITEM | S | NI | COMMENTS |
|---|---|----|----------|
| Rooms Inspections | | | |
| Energy Conserva- tion SOP #5 Review | | | |
| C.E.P. | | | |
| Special Projects | | | |
| Manpower | | | |
| Training | | | |
| Department Meetings | | | |
| MBO Review | | | |
| Miscellaneous | | | |
| Are Hazardous chem- icals properly labeled & personnel trained in its use? | | | |

MARRIOTT ENGINEERING ADMINISTRATIVE AUDIT FORM

S = Satisfactory
 NI = Needs Improvement

| ITEM | S | NI | COMMENTS |
|--|---|----|----------|
| Is protective equipment provided and required when using chemicals? | | | |
| What type of job safety training has been conducted during last quarter? | | | |
| Are JSA's reviewed with new employee and signed? | | | |
| Is there any construction in progress or planned? | | | |
| What is the system for control of hazards from construction? | | | |

HARRIOTT ENGINEERING BUILDING AUDIT FORM

S = Satisfactory
 NI = Needs Improvement

| ITEM | S | NI | COMMENTS |
|----------------------------|---|----|----------|
| Foundations | | | |
| Painting/Exterior | | | |
| Painting/Interior | | | |
| Walls/Exterior | | | |
| Ceilings | | | |
| Wall Covering and Walls | | | |
| Doors & Windows | | | |
| Floors & Stairs | | | |
| Floor Covering | | | |
| Gutters and Downspouts | | | |

MARRIOTT ENGINEERING BUILDING AUDIT FORM

S = Satisfactory
 NI = Needs Improvement

| ITEM | S | NI | COMMENTS |
|---|---|----|----------|
| Lightning Rods, Terminals and Cables | | | |
| Lighting/Exterior | | | |
| Lighting/Interior | | | |
| Stacks | | | |
| Roofs (See Atch) | | | |
| Flashing | | | |
| Parapet Walls and Copings | | | |
| Swimming Pools Log Check | | | |
| Miscellaneous | | | |

MARRIOTT ENGINEERING ELECTRICAL AUDIT FORM

S = Satisfactory
 NI = Needs Improvement

| ITEM | S | NI | COMMENTS |
|--|---|----|----------|
| Cable and Wiring | | | |
| Buses & Buswork | | | |
| Panelboards | | | |
| Switches & Breakers | | | |
| Voltage | | | |
| Power Transformers Name Plate Data (PCB?) | | | |
| Thermograph Study (Date of Last Study) | | | |
| Emergency Power System (Date of Last Test) | | | |
| Miscellaneous | | | |

MARRIOTT ENGINEERING FOOD SERVICE FACILITIES AUDIT FORM

S = Satisfactory
 NI = Needs Improvement

| ITEM | S | NI | COMMENTS |
|--|---|----|----------|
| Hood Systems-Date of Last Cleaning/Protection Inspection | | | |
| Wiring & Controls | | | |
| Ventilation | | | |
| Interior Finish | | | |
| Conveyors | | | |
| ----- Thermostats, etc. Test Date of Fat Fryer-Hi Temp Cut Out | | | |
| Kitchen Equipment-General | | | |
| Dishwashers/ Potwashers | | | |
| Walk-ins/ Regriferation | | | |
| Miscellaneous | | | |

MARRIOTT ENGINEERING GROUNDS AUDIT FORM

S = Satisfactory
 NI = Needs Improvement

| ITEM | S | NI | COMMENTS |
|-----------------------------|---|----|----------|
| Fences, Walls and Handrails | | | |
| Lawn and Turf | | | |
| Trees & Shrubs | | | |
| Landscaped Areas | | | |
| Pavements | | | |
| Storm Drainage System | | | |
| Sprinkler System | | | |
| Parking Lot Striping | | | |
| Concrete | | | |
| Lot Safety Striping | | | |

HARRIOTT ENGINEERING GROUNDS AUDIT FORM

S = Satisfactory
NI = Needs Improvement

| ITEM | S | NI | COMMENTS |
|----------------|---|----|----------|
| Exterior Signs | | | |
| Miscellaneous | | | |

MARRIOTT ENGINEERING LAUNDRY AUDIT FORM

S = Satisfactory
 NI = Needs Improvement

| ITEM | S | NI | COMMENTS |
|----------------------------------|---|----|----------|
| Laundry (where applicable) | | | |
| Washers | | | |
| Dryers | | | |
| Ironers | | | |
| Folders - Flatwork - Towel | | | |
| Air Compressor | | | |
| HVAC | | | |
| Exhaust System - Ironer | | | |
| Scales | | | |
| Heat Exchangers | | | |

MARRIOTT ENGINEERING LAUNDRY AUDIT FORM

S = Satisfactory
 NI = Needs Improvement

| ITEM | S | NI | COMMENTS |
|---|---|----|----------|
| Monorails | | | |
| Pumps | | | |
| Interior Finish | | | |
| Chute | | | |
| Thermal Fluid System - General | | | |
| Date of Last Oil Analysis | | | |
| High & Low Pressure - Gas Pressure Swtch. Test Date | | | |
| Air Safety Switch (In the Stack) | | | |
| Miscellaneous | | | |

MARRIOTT ENGINEERING MECHANICAL AUDIT FORM

S = Satisfactory
 NI = Needs Improvement

| ITEM | S | NI | COMMENTS |
|--------------------------------------|---|----|----------|
| Air Conditioning Systems/Central | | | |
| Compressors | | | |
| Compressor Motor and Controls | | | |
| Condensers | | | |
| Evaporators | | | |
| Cooling Towers Chemical Treatment | | | |
| Absorption Units | | | |
| Wiring & Electrical Controls | | | |
| Pumps | | | |
| Fan Coil Units | | | |

MARRIOTT ENGINEERING MECHANICAL AUDIT FORM

S = Satisfactory
 NI = Needs Improvement

| ITEM | S | NI | COMMENTS |
|---|---|----|----------|
| Condensate Drain | | | |
| Log Sheets | | | |
| Heat Exchangers | | | |
| Air Conditioning Sys- tems/Packaged | | | |
| Evaporate Coolers Chemical Treatment | | | |
| Temperature and Humidity Controls | | | |
| Domestic Hot Water Heat Exchangers | | | |
| Electric Heating Units | | | |
| Miscellaneous | | | |

MARRIOTT ENGINEERING MECHANICAL AUDIT FORM

S = Satisfactory
 NI = Needs Improvement

| ITEM | S | NI | COMMENTS |
|---|---|----|----------|
| Pumps | | | |
| Air Ducts, Dampers, Registers, Grilles | | | |
| Piping | | | |
| Heating Systems | | | |
| Pumps | | | |
| Steam Traps | | | |
| Heat Exchangers | | | |
| Temperature Controls | | | |
| Miscellaneous | | | |
| Boilers (external) | | | |

HARRIOTT ENGINEERING MECHANICAL AUDIT FORM

S = Satisfactory
 NI = Needs Improvement

| ITEM | S | NI | COMMENTS |
|-------------------------------------|---|----|----------|
| Safety & Relief Valves | | | |
| Low Water Cutoff Inspection Date | | | |
| Gauges & Water Columns | | | |
| Lagging | | | |
| Casing, Refractory | | | |
| Shell | | | |
| Breechings | | | |
| Overhead Machinery | | | |
| Foundation | | | |
| Piping | | | |

MARRIOTT ENGINEERING MECHANICAL AUDIT FORM

S = Satisfactory
 NI = Needs Improvement

| ITEM | S | NI | COMMENTS |
|--------------------------|---|----|----------|
| Stop & Check Valves | | | |
| Pressure Reducing Valves | | | |
| Blow Off Tanks | | | |
| Ladders & Runways | | | |
| Burners | | | |
| Miscellaneous | | | |
| Boilers (Internal) | | | |
| Boilers Secured (Lay Up) | | | |
| Waterside Metal Surfaces | | | |
| Plates | | | |

MARRIOTT ENGINEERING MECHANICAL AUDIT FORM

S = Satisfactory
 NI = Needs Improvement

| ITEM | S | NI | COMMENTS |
|-----------------------------------|---|----|----------|
| Stays Braces & Tube Sheets | | | |
| Piping Connections | | | |
| Manholes & Handholes | | | |
| Tubes | | | |
| Drum Heads | | | |
| Fireside | | | |
| Setting & Refractory | | | |
| Dampers | | | |
| Last Inspection City Insurance | | | |
| Miscellaneous | | | |

MARRIOTT ENGINEERING MECHANICAL AUDIT FORM

S = Satisfactory
 NI = Needs Improvement

| ITEM | S | NI | COMMENTS |
|---|---|----|----------|
| Boilers (Operation) | | | |
| Controls | | | |
| Steam & Water Piping | | | |
| Pumps | | | |
| Safety, Pressure Relief Blow Off Valves Log Check | | | |
| Metering & Recording Devices | | | |
| Feedwater/DA System | | | |
| Fuel Handling Equipment | | | |
| Log Sheets | | | |
| Miscellaneous | | | |

MARRIOTT ENGINEERING MECHANICAL AUDIT FORM

S = Satisfactory
 NI = Needs Improvement

| ITEM | S | NI | COMMENTS |
|-------------------------------------|---|----|----------|
| Plumbing | | | |
| Water Temperature | | | |
| Water Piping | | | |
| Mixing Valves | | | |
| Pressurization Systems | | | |
| Sanitary & Drain Piping | | | |
| Floor Drains/ Traps | | | |
| Grease/Lint Traps | | | |
| Pressure Reducing & Relief Valve | | | |
| Piping ID | | | |

MARRIOTT ENGINEERING MECHANICAL AUDIT FORM

S = Satisfactory
 NI = Needs Improvement

| ITEM | S | NI | COMMENTS |
|--------------------------------------|---|----|----------|
| Expansion Tanks | | | |
| Water Softeners | | | |
| Miscellaneous | | | |
| Air Handlers | | | |
| Exhaust Systems | | | |
| Chemical Feed Equipment | | | |
| Gas Distribution System | | | |
| Sump Pumps | | | |
| Elevators/ Escalators | | | |
| Ice Machines and Vending Machines | | | |

MARRIOTT QUALITY ASSURANCE FOOD PROTECTION AUDIT FORM

S = Satisfactory
NI = Needs Improvement

| | S | NI | COMMENTS |
|--|---|----|----------|
| FOOD - Source: sound condition, no spoilage | | | |
| FOOD PROTECTION - Potentially hazardous food meets temperature requirements during storage, preparation, display, service, transportation - Hot Storage - Cold Storage - Reheat - Cooking - Equipment Maintaining Temperature | | | |
| - Thermometers provided and conspicuous, accurate | | | |
| - Unwrapped and potentially hazardous food not re-served | | | |
| - Food protection during storage, preparation, display, service, transportation | | | |
| PERSONNEL - Hands washed and clean, good hygienic practices | | | |
| FOOD EQUIPMENT AND UTENSILS - Sanitization rinse: clean, temperature, concentration, exposure time, equipment, utensils sanitized. | | | |
| PLUMBING - Cross-connection, back siphonage, backflow | | | |
| TOILET AND HANDWASHING FACILITIES - Number, convenient, accessible, designed, installed | | | |
| - Toilet rooms enclosed, self-closing doors, fixtures, good repair, clean: hand cleanser, sanitary towels/tissues/hand-drying devices provided, proper waste receptacles | | | |
| INSECT, RODENT, ANIMAL CONTROL - Presence of insect/rodents-outer openings protected, no birds, turtles, other animals | | | |
| OTHER OPERATIONS - Necessary toxic items properly stored, labeled, used | | | |

This inspection covers issues most critical to food borne illness prevention and does not include all items listed in the Marriott Food Protection Standards Manual.

Received by: _____ Completed by: _____
 Name and title: _____ Name and title: _____
 Supervisor: _____ Address: _____

FOOD SERVICE ESTABLISHMENT DATA SHEET

DATE: _____

EST. NUMBER: _____

TYPE OF SERVICE:

- a.
- b.
- c.
- d.

SELF INSPECTION PROGRAM

YES ___ NO ___

FOOD PROTECTION TRAINING FOR HOURLY STAFF

YES ___ NO ___

WEEKLY MEAL VOLUME:

- a.
- b.
- c.
- d.

USE & FOLLOW UP ON PEST CONTROL REPORTS

YES ___ NO ___

USE & FOLLOW-UP ON DISHWASHER SERVICE REPORTS

YES ___ NO ___

WATER SUPPLY:

Public _____
Private _____
Other _____

FOODBORNE ILLNESS NOTIFICATION PROCEDURE ON FILE

YES ___ NO ___

SEWAGE:

Public _____
Private _____
Other _____

EFFECTIVE CLEANING SCHEDULE

YES ___ NO ___

MANAGEMENT CERTIFIED:

YES ___ NO ___

DATE AND RATING OF MOST RECENT DEPT. OF HEALTH INSPECTION: _____

DISHWASHING DATA

MANUAL

Wash temp _____ Rinse temp _____
Sanitize temp _____
Sanitizer type _____
Concentration _____

MECHANICAL

Name _____ Model # _____
Wash temp _____ Rinse temp _____
Final rinse temp _____
Sanitizer type _____
Concentration _____

TEMPERATURES

Cold Foods

| Recd | Equipment | Location | Equip. Therm. Read | Intern. Therm. Read | Audit Air Temp | Food Item | Audit Food Temp |
|-------|-----------|----------|--------------------|---------------------|----------------|-----------|-----------------|
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ |

Hot Foods

| | | | | | | | |
|-------|-------|-------|-------|-------|-------|-------|-------|
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ |

MARRIOTT CONFERENCE CENTER MANAGEMENT

RETAIL OPERATION AUDIT FORM

| | | | | | | | | | | | | | | | | |
|--|---|---|-------------|-----------|-------------|---------------------|----------------|-----------------------|------|--|------------|---------------|---------------------|----------------|------------------|------|
| <p>Purpose: To establish an ongoing focus and awareness of quality checkpoints at the unit level in order to improve the overall perception of the dining experience in the eyes of our customers/clients.</p> | <p>Minimum Temperature Standards (on the serving line): Soups 160° Entrées 160° Sliced meats/eggs 150° Sauces/gravies 180° Hot beverages 160° Vegetables/starch 160° All cold foods 40°</p> | <p>Customer Service: Our customers are paying for and expect good service from courteous employees. The image and attitude of your employees and management are all part of the customer expectations. Employees must present a pleasant, caring attitude toward customers in include.</p> <ul style="list-style-type: none"> • Friendly smile • Efficiency and responsiveness • Courteous service | | | | | | | | | | | | | | |
| <p>Instructions: The gold program is geared to help assure management and staff awareness of the last three feet of the quality chain. Please review the following quality expectation, making notations on items of particular significance. CIRCLE the numerical score that describes the operation on that day or meal.</p> | <p>Food standards: All à la carte operations shall incorporate the principles of good nutrition in their menu and merchandising plans.</p> <p>Variety:</p> <ul style="list-style-type: none"> • 3 entrée L & D – all solid meats will be hand-carved or sliced by machine on the line. • 2 entrée breakfast and 1 fresh bread type product. • 3 vegetables – contrasting colors, fresh whenever possible, includes "starch" item • Minimum of 1 soup – homemade except tomato and mushroom. | <p>Menuing & merchandising statements:</p> <ol style="list-style-type: none"> 1) Menus shall be flexible, allowing based on customer preferences and product movements 2) Price Changes will be done at least weekly. Examples include: <table border="0" data-bbox="1842 842 2284 940"> <tr> <td>Potato Bars</td> <td>Taco Bars</td> </tr> <tr> <td>Sundae Bars</td> <td>Gourmet Burger Bars</td> </tr> <tr> <td>Donut Specials</td> <td>Self-Topping Specials</td> </tr> <tr> <td>Etc.</td> <td></td> </tr> </table> 3) Promotions will be monthly and have specific business objectives. Examples are: <table border="0" data-bbox="1842 1012 2213 1093"> <tr> <td>Nation Day</td> <td>Indoor Picnic</td> </tr> <tr> <td>Thanksgiving Buffet</td> <td>Nutrition Week</td> </tr> <tr> <td>% Off With Trial</td> <td>Etc.</td> </tr> </table> 4) Every à la carte/cash operation will have a signage program which will consist of at least: <ol style="list-style-type: none"> a. Area identification b. Daily menu c. Point of sales d. Handwritten signage (except as part of a chalkboard) is not acceptable | Potato Bars | Taco Bars | Sundae Bars | Gourmet Burger Bars | Donut Specials | Self-Topping Specials | Etc. | | Nation Day | Indoor Picnic | Thanksgiving Buffet | Nutrition Week | % Off With Trial | Etc. |
| Potato Bars | Taco Bars | | | | | | | | | | | | | | | |
| Sundae Bars | Gourmet Burger Bars | | | | | | | | | | | | | | | |
| Donut Specials | Self-Topping Specials | | | | | | | | | | | | | | | |
| Etc. | | | | | | | | | | | | | | | | |
| Nation Day | Indoor Picnic | | | | | | | | | | | | | | | |
| Thanksgiving Buffet | Nutrition Week | | | | | | | | | | | | | | | |
| % Off With Trial | Etc. | | | | | | | | | | | | | | | |
| <p>Garnish & Presentation:</p> <ul style="list-style-type: none"> • All items pan garnished, rotated throughout meal, fresh appearing all meals 7 days per week. • All items should be placed carefully in the appropriate pan – the shallower and closer to the customer the better. • Salad bars should be covered with greens – no ice showing – to include fresh fruits, vegetables and flowers. • All salad bar vessels shall be professional containers, i.e., crock-type pots. • If lids are used, organizers will be used. • Utensils for salad bar shall be appropriate and be given thought and planning. • Like items displayed together, neatly and orderly. • Condiments should be displayed attractively, clean and filled throughout meal. Bulk displays are preferred, appropriate utensils used. • There should be line garnishes in each service area • Sample plates for entrees should be used. | <p>Salad Bar:</p> <ul style="list-style-type: none"> • Green salad – fresh unit prepared. Two greens plus 1 other item (i.e., cucumbers, radishes, red cabbage, carrots, tomatoes) • 8 toppings, (i.e., fresh mushrooms, sprouts, pepper, purple onions, croutons, sunflower seeds, fresh broccoli, fresh cauliflower, macaroni salad, three bean salad, hot peppers, cherry tomatoes, cherry peppers, shredded cheese, pickled beets, etc.) • 4 dressings – at least one is low-cal. All homemade except low-cal may be purchased. • Vinegar and oil always available in units. Spice rack, also. <p>Desserts:</p> <ul style="list-style-type: none"> • 5 minimum (i.e., pies, cakes, bar, cookies, custards, parfaits, layered cakes, fruit & ice cream). <p>Beverages:</p> <ul style="list-style-type: none"> • Minimum of 5 • 3 sizes of cold cups • 2 sizes of hot cups | | | | | | | | | | | | | | | |

MARRIOTT CONFERENCE CENTER MANAGEMENT

RETAIL OPERATION AUDIT FORM

Rating Circle one or Yes/No
 0 No Action/Action Needed
 1 Substantially Incomplete/Inconsistent
 2 Does Not Consistently Meet Standards/Not All Areas Covered
 3 Consistently Meets Minimum Standards - Improvement Is Necessary
 4 Exceeds Standards - Minor Inconsistencies
 5 Consistently Superior/Highest Possible Standards

Appearance & Orderliness

Serving/cashier/condiment area is organized and neat

_____ 5 4 3
 _____ 2 1 0

Effective food replenishing/restocking systems evident

_____ 5 4 3
 _____ 2 1 0

Tables are clean and attractively arranged

_____ 5 4 3
 _____ 2 1 0

Food areas are convenient to customers and identified

_____ Y = 2
 _____ N = 0

Professional signage program in place. Nothing taped to walls, doors, windows, equipment

_____ Y = 2
 _____ N = 0

Convenience/Line of Service

Point of sale pricing where appropriate

_____ 5 4 3
 _____ 2 1 0

Menus are professional and appropriately placed

_____ Y = 2
 _____ N = 0

Good customer traffic flow

_____ Y = 2
 _____ N = 0

Carry out packaging available and evident

_____ Y = 2
 _____ N = 0

Food Display

Organized, abundant & dramatic

_____ 5 4 3
 _____ 2 1 0

Garnish at high levels - all areas

_____ 5 4 3
 _____ 2 1 0

Appropriate size food containers are used

_____ Y = 2
 _____ N = 0

Bulk displays are attractive

_____ Y = 2
 _____ N = 0

Food Quality

Fresh/crimp food presented (all areas)

_____ 5 4 3
 _____ 2 1 0

Full bodied taste - "Scratch" cooking emphasized

_____ 5 4 3
 _____ 2 1 0

Temperature of food: (see reverse)

_____ 5 4 3
 _____ 2 1 0

Hot - all products

_____ Y = 2
 _____ N = 0

Cold - all products

_____ Y = 2
 _____ N = 0

Portion size, utensils and scales are checked before all meals

_____ Y = 2
 _____ N = 0

Wholesome ingredients used and marketed: 100% cheese, 100% beef, lemon wedges, Ham & Ham, etc.

_____ Y = 2
 _____ N = 0

All roasted meats carved or sliced to order

_____ Y = 2
 _____ N = 0

Courtesy and Service

Good speed of service including cashiers

_____ 5 4 3
 _____ 2 1 0

Suggestive selling is evident

_____ 5 4 3
 _____ 2 1 0

Staff friendly, uniforms and hair coverings in place, name tags worn, neat and clean appearance

_____ 5 4 3
 _____ 2 1 0

Efficient (right tool for product)

_____ Y = 2
 _____ N = 0

Management/supervisors visible, aware, active

_____ Y = 2
 _____ N = 0

Sanitation

Equipment/counters/displays/pantry areas (including can openers) CLEAN

_____ 5 4 3
 _____ 2 1 0

Stainless steel and glass shines!

_____ Y = 2
 _____ N = 0

Dining room/tables/chairs/entranceway

_____ Y = 2
 _____ N = 0

Quality assurance program to insure wholesomeness of food display and storage with proper handling/dates

_____ Y = 2
 _____ N = 0

Handwash cloths with wash hand signs, adequate soap and paper products, CLEAN

_____ Y = 2
 _____ N = 0

Wet floor signs clean, in use. No other trip hazards

_____ Y = 2
 _____ N = 0

General/Managerial

Checklist for the following:

Portion factors and census forecasting are used for key items, and routinely adjusted

_____ 5 4 3
 _____ 2 1 0

Opening-closing managers, weekly sanitation inspection, daily/weekly special cleaning, refrigerator temps, dishwasher temps

_____ Y = 5
 _____ N = 0

Office neat and organized

_____ Y = 2
 _____ N = 0

Program Ambiance

Entranceway and display is inviting

_____ Y = 2
 _____ N = 0

Emphasis is non-impersonal/contrast of colors, lighting levels, presentation materials

_____ Y = 2
 _____ N = 0

Good overall comfort/ventilation and temp

_____ Y = 2
 _____ N = 0

Food displays are highlighted with focused lighting

_____ Y = 2
 _____ N = 0

Merchandising & Merchandising

Evidence of regular price changes and promotions

_____ 5 4 3
 _____ 2 1 0

Merchandising emphasis on high contribution production

_____ 5 4 3
 _____ 2 1 0

Menu variety is appropriate for customers by time of day

_____ 5 4 3
 _____ 2 1 0

Minimum 3 sizes cold drinks, 2 sizes hot drinks - value priced

_____ Y = 2
 _____ N = 0

Daily special in place

_____ Y = 2
 _____ N = 0

Food accompaniments offered to enhance flavor

_____ Y = 2
 _____ N = 0

Breaktime "Add-on" sales are promoted

_____ 5 4 3
 _____ 2 1 0

RATING CATEGORIES

Total Potential 150
 Gold Category 113+
 Silver Category 101+
 Standard Category 88+
 Below Standard 88

Actual Rating: _____

Suggested Quality Actions:

Distribution:
 Food Service Director
 District Manager
 H V P

MARRIOTT CONFERENCE CENTER MANAGEMENT

FOOD PRODUCTION AUDIT FORM

| | | | | | | | | | | | | | | | | | | | | | | | | |
|---|--|--|---|--|---|---|------------|--------------------|--------------|------------------------|-----------------------|----------------------------------|--------------|--------------------|----------|----------|--------|------|-------------|-------|--|----------|--|--|
| <p>Purpose: To establish an ongoing locus and awareness of quality checkpoints at the unit level in order to improve the overall perception of the dining experience in the eyes of our patients/customers/clients.</p> | <p>Back to basics:</p> <ul style="list-style-type: none"> • Raw corned beef should be purchased and prepared according to recipes. • All chicken and turkey products to come from cooked whole birds when used in recipes • Bread and batter-dip all products from scratch • Use a full range of spices as per recipes • Bread is wrapped individually from bulk loaves • Fresh brewed coffee and decaffeinated coffee served. • Half and Half or milk is offered for hot beverages in retail and catering operations. • Bulk condiment dispensers are in use. P/C usage is at a minimum. <p>Soups: Small quantities of special diet is acceptable as well as tomato and mushroom.</p> | <p>Safety/Inservice</p> <p>Safety equipment includes:</p> <table> <tr> <td>Eye protectors</td> <td>Slicer guards</td> </tr> <tr> <td>Rubber gloves</td> <td>Slicer gloves</td> </tr> <tr> <td>Oven mitts</td> <td>Spray bottles</td> </tr> </table> <p>Control tower or measuring utensils Economics Lab Solution Test Kit Freezer coat and gloves</p> | Eye protectors | Slicer guards | Rubber gloves | Slicer gloves | Oven mitts | Spray bottles | | | | | | | | | | | | | | | | |
| Eye protectors | Slicer guards | | | | | | | | | | | | | | | | | | | | | | | |
| Rubber gloves | Slicer gloves | | | | | | | | | | | | | | | | | | | | | | | |
| Oven mitts | Spray bottles | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Instructions: The goal of program is geared to help assure management and staff awareness of all aspects of the quality chain. Please review the following quality expectation, making notations on items of particular significance. CIRCLE the numerical score that describes the operation on that day or meal.</p> | <p>Production: Personnel TRAINED in the use of a full assortment of knives, knife sharpening, slicer blade sharpening, use of a full assortment of pots and pans, recipes, making roasts, meat roasting.</p> <p>Key equipment is available and used for proper yield and productivity:</p> <table> <tr> <td>COOKS vegetable knife 6" boning knife 12" french knife fork carving set sharpening stone</td> <td>SALADS lettuce chopper tomato slicer tomato shark lemon wedger</td> </tr> <tr> <td>OTHERS blender pound scale ounce scale measuring utensils</td> <td>potato peeler robot coup vegetable slicer</td> </tr> </table> | COOKS vegetable knife 6" boning knife 12" french knife fork carving set sharpening stone | SALADS lettuce chopper tomato slicer tomato shark lemon wedger | OTHERS blender pound scale ounce scale measuring utensils | potato peeler robot coup vegetable slicer | <p>Minimum Temperature Standards (on the serving line):</p> <table> <tr> <td>Soups 180°</td> <td>Hot beverages 180°</td> </tr> <tr> <td>Entrées 160°</td> <td>Vegetables starch 160°</td> </tr> <tr> <td>Sliced meats eggs 150</td> <td>All cold foods 40</td> </tr> <tr> <td></td> <td>Sauces gravies 180</td> </tr> </table> | Soups 180° | Hot beverages 180° | Entrées 160° | Vegetables starch 160° | Sliced meats eggs 150 | All cold foods 40 | | Sauces gravies 180 | | | | | | | | | | |
| COOKS vegetable knife 6" boning knife 12" french knife fork carving set sharpening stone | SALADS lettuce chopper tomato slicer tomato shark lemon wedger | | | | | | | | | | | | | | | | | | | | | | | |
| OTHERS blender pound scale ounce scale measuring utensils | potato peeler robot coup vegetable slicer | | | | | | | | | | | | | | | | | | | | | | | |
| Soups 180° | Hot beverages 180° | | | | | | | | | | | | | | | | | | | | | | | |
| Entrées 160° | Vegetables starch 160° | | | | | | | | | | | | | | | | | | | | | | | |
| Sliced meats eggs 150 | All cold foods 40 | | | | | | | | | | | | | | | | | | | | | | | |
| | Sauces gravies 180 | | | | | | | | | | | | | | | | | | | | | | | |
| <p>General: AUTHORIZED PERSONNEL ONLY and HAIR COVERING MUST BE WORN UPON ENTERING KITCHEN signs in place.</p> | <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Scratch Cookery Fresh produce program:</p> <table> <tr> <td>Squash</td> <td>Potatoes</td> </tr> <tr> <td>Zucchini</td> <td>Mushrooms</td> </tr> <tr> <td>Carrots</td> <td>All Salads</td> </tr> <tr> <td>Broccoli</td> <td>Seasonal Produce</td> </tr> <tr> <td>Cauliflower</td> <td></td> </tr> </table> <p>Fresh bakery program:</p> <table> <tr> <td>Scratch Cookies</td> <td>Scratch Preferred - Box Mix Okay</td> </tr> <tr> <td>Quick Breads</td> <td>Coffee Cakes</td> </tr> <tr> <td>Cobblers</td> <td>Brownies</td> </tr> <tr> <td>Crisps</td> <td>Bars</td> </tr> <tr> <td>Cake Donuts</td> <td>Cakes</td> </tr> <tr> <td></td> <td>Puddings</td> </tr> </table> <p>Proof-n-Bake Puffed Pastry Yeast Products Pies - Frozen shell with scratch filling preferred - frozen okay</p> | Squash | Potatoes | Zucchini | Mushrooms | Carrots | All Salads | Broccoli | Seasonal Produce | Cauliflower | | Scratch Cookies | Scratch Preferred - Box Mix Okay | Quick Breads | Coffee Cakes | Cobblers | Brownies | Crisps | Bars | Cake Donuts | Cakes | | Puddings | | |
| Squash | Potatoes | | | | | | | | | | | | | | | | | | | | | | | |
| Zucchini | Mushrooms | | | | | | | | | | | | | | | | | | | | | | | |
| Carrots | All Salads | | | | | | | | | | | | | | | | | | | | | | | |
| Broccoli | Seasonal Produce | | | | | | | | | | | | | | | | | | | | | | | |
| Cauliflower | | | | | | | | | | | | | | | | | | | | | | | | |
| Scratch Cookies | Scratch Preferred - Box Mix Okay | | | | | | | | | | | | | | | | | | | | | | | |
| Quick Breads | Coffee Cakes | | | | | | | | | | | | | | | | | | | | | | | |
| Cobblers | Brownies | | | | | | | | | | | | | | | | | | | | | | | |
| Crisps | Bars | | | | | | | | | | | | | | | | | | | | | | | |
| Cake Donuts | Cakes | | | | | | | | | | | | | | | | | | | | | | | |
| | Puddings | | | | | | | | | | | | | | | | | | | | | | | |

MARRIOTT CONFERENCE CENTER MANAGEMENT

FOOD PRODUCTION AUDIT FORM

Rating: Circle score or Yes/No
 0 No Activity/Action Needed
 1 Substantially Incomplete/Inconsistent
 2 Does Not Consistently Meet Standards/Not All Areas Covered
 3 Consistently Meets Minimum Standards - Improvement Is Necessary
 4 Exceeds Standards - Above Expectations
 5 Consistently Superior/Highest Possible Standards

General Managerial

Staff friendly, uniforms and nametags worn, hair coverings in place, neat & clean appearance
 _____ 5 4 3
 _____ 2 1 0

Checklist for the following
 Operating closing managers, weekly sanitation inspection, daily weekly special cleaning, dish machine temps, refrigeration temps
 _____ Y = 5
 _____ N = 0

Management/supervisors visible, aware, active production, trouble & retail areas
 _____ Y = 2
 _____ N = 0

Entranceways neat, clean, and orderly (see reverse side)
 _____ Y = 2
 _____ N = 0

Professional signage program in place
 Nothing taped to walls, doors, windows or equipment
 _____ Y = 2
 _____ N = 0

All offices organized and neat
 _____ Y = 2
 _____ N = 0

Sanitation (1/A)

The following are properly stored, sanitized, and CLEAN

Cutting boards: Knives, Knife Rack
 Mezzets Veg. Mezz Cutting Boards
 Shavers Choppers Utensils
 Potato Peelers
 _____ 5 4 3
 _____ 2 1 0

Refrigeration CLEAN, equipped with plastic curtains, no raw foods stored adjacent to cooked foods, thermometers in place
 _____ 5 4 3
 _____ 2 1 0

Quality assurance program to assure wholesomeness of all foods with proper handling/dates
 _____ 5 4 3
 _____ 2 1 0

Leftovers: Stored in max 2" deep pans, covered, labeled and dated. Used or frozen within 24 hours
 _____ 5 4 3
 _____ 2 1 0

Equipment/containers/cups/pot & pan area CLEAN
 _____ 5 4 3
 _____ 2 1 0

Dress/hands/tyres CLEAN
 _____ Y = 2
 _____ N = 0

Trash receptacles are cleaned throughout the day and sanitized
 _____ Y = 2
 _____ N = 0

Stainless steel & windows shine!
 _____ Y = 2
 _____ N = 0

Hand wash sinks and restrooms labeled with "WASH HANDS" signs, adequate soap and paper products, CLEAN!
 _____ Y = 2
 _____ N = 0

Scratch Cookery

Fresh produce program (see reverse side)
 _____ 5 4 3
 _____ 2 1 0

Fresh bakery program (see reverse side)
 _____ 5 4 3
 _____ 2 1 0

Bak to Blast (see reverse side)
 _____ 5 4 3
 _____ 2 1 0

Soups made from scratch (see reverse side)
 _____ Y = 2
 _____ N = 0

Eggs pasteurized eggs are used (low cholesterol egg substitutes for special diets are acceptable)
 _____ Y = 2
 _____ N = 0

Hot cheese shredded daily
 _____ Y = 2
 _____ N = 0

All sauces and gravies made according to recipes, e.g.:
 Pizza sauce - Tur sauce
 Tomato sauce - (M) sauce
 Cheese sauce
 _____ Y = 2
 _____ N = 0

Roasted meats are cooked the same day of service and sliced to order
 _____ Y = 2
 _____ N = 0

Production/Purchasing

Portion factors and costs forecasting are used for key items, and routinely adjusted
 _____ 5 4 3
 _____ 2 1 0

Evidence of organized food tasting for all meals in place to include all levels of management and staff
 _____ 5 4 3
 _____ 2 1 0

Production personnel are trained routinely on equipment and in techniques (see reverse)
 _____ 5 4 3
 _____ 2 1 0

Key equipment is available and used for proper yield and productivity (see reverse)
 _____ 5 4 3
 _____ 2 1 0

Routine production staff meetings are held with agenda
 _____ 5 4 3
 _____ 2 1 0

Base recipes will be used in all areas
 _____ Y = 2
 _____ N = 0

Meeting of all master distributor capabilities
 _____ Y = 2
 _____ N = 0

Specific personnel trained in receiving goods are assigned for each shift 7 days a week
 _____ Y = 2
 _____ N = 0

The following areas are forecast on production sheets: fresh bakery program, cold salads and desserts, catering, fresh vegetables
 _____ Y = 2
 _____ N = 0

Appropriate portion size, utensils and scales are checked before all meals
 _____ Y = 2
 _____ N = 0

Safety/Inservice

All stock off floor/away from cuttings per code
 _____ Y = 2
 _____ N = 0

"WET FLOOR" signs are clean and in use, no other slip hazards
 _____ Y = 2
 _____ N = 0

Staff is wearing proper shoes (no open toes) or canvas
 _____ Y = 2
 _____ N = 0

Key safety equipment is available for your staff's use (see reverse)
 _____ Y = 2
 _____ N = 0

Training and development boards up-to-date with 12 inservice programs/year
 _____ Y = 2
 _____ N = 0

Food Quality

Evidence of batch (progressive) cookery using systematic production timetables
 _____ 5 4 3
 _____ 2 1 0

Fresh/crimp food presented (all areas)
 _____ 5 4 3
 _____ 2 1 0

Full funded taste on all products
 _____ 5 4 3
 _____ 2 1 0

Temperature of food:
 Hot - all products
 _____ Y = 5
 _____ N = 0

Cold - all products
 _____ Y = 5
 _____ N = 0

Wholesome ingredients used and washed: 100% cheese, 100% beef, lemon wedges, no artificial whitener
 _____ Y = 2
 _____ N = 0

Fresh brewed coffee, decaf coffee, iced tea unflavored
 _____ Y = 2
 _____ N = 0

RATING CATEGORIES

Total Potential 156
 Gold Category 113+
 Silver Category 101+
 Standard Category 88+
 Below Standard 88

Actual Rating: _____

Suggested Quality Actions:

Distribution:
 Food Service Director
 District Manager
 RVP
 General Manager

**MARRIOTT CONFERENCE CENTER MANAGEMENT
HOUSEKEEPING AUDIT FORM**

S = Satisfactory
NI = Needs Improvement

PROPERTY _____
DEPT HEAD _____
DATE _____

| ITEM | S | NI | COMMENTS |
|--|---|----|----------|
| GENERAL: SOP Available & Current | | | |
| VR Room Check Done in AM | | | |
| Discrepancies Reported To Desk by _____ | | | |
| 100% Room Check Done Daily | | | |
| Following Available to Guests Only on On-Call Basis: Cots | | | |
| ----- Extra Blankets | | | |
| ----- Irons | | | |
| ----- Hair Dryers | | | |
| ----- Bed Boards | | | |
| ----- Non-Allergenic Pillows | | | |
| Procedure in Effect to Insure Recovery of Foregoing Items | | | |

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HOUSEKEEPING AUDIT FORM**

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DATE _____

| ITEM | S | NI | COMMENTS |
|--|---|----|---------------------|
| Key Controls in Effect. Sign In & Out Sheets in Use | | | |
| Review Breakout of House: Number of Rooms Assigned to each Housekeeper _____ | | | |
| Number of Sec- tions/Rms Per Senior _____ | | | |
| Number of Sec- tions/Rms Per Houseman _____ | | | |
| System Used to Insure C/O Cleaned First | | | |
| Staffing: | | | |
| Number of Housekeepers | | | CURRENT RECOMMENDED |
| Number of Seniors | | | |
| Number of Housemen | | | |
| Exec. Housekeeper/Supervisors | | | |
| Other _____ | | | |

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|--|---|----|----------|
| Incentive Program in Place for Housekeepers | | | |
| Incentive Program in Place for Others | | | |
| Review Carpet Care Program | | | |
| Review Floor Care Program | | | |
| Review General Clean Program for Guest Rooms | | | |
| ----- Goal Per Year | | | |
| Tracking Form Used for All Program | | | |
| Are Approved Vendors Used? | | | |
| Lost and Found: Items from all Departments Turned into Housekeeping | | | |
| ----- Items Securely Held for 90 Days | | | |
| ----- Valuables Held for _____ | | | |
| ----- | | | |

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DATE _____

| ITEM | S | NI | COMMENTS |
|---|---|----|----------|
| Lost and Found Inquiry Log Correctly Maintained | | | |
| Linen/Laundry - Owned/In House Inventory Taken Every Other Period | | | |
| ----- | | | |
| Proper Inventory Forms in Use | | | |
| ----- | | | |
| Linen Losses Tracked | | | |
| ----- | | | |
| Review House Set and Pars | | | |
| ----- | | | |
| Linen at Proper Levels | | | |
| ----- | | | |
| Linen/Terry - New/In Sotrage Sufficient for Next Quarter Losses | | | |
| ----- | | | |
| Issued each Period to Insure Proper Levels | | | |
| ----- | | | |
| Perpetual Log Correctly Main- tained | | | |
| ----- | | | |
| Perpetual Log Discrepancies Investigated and Resolved | | | |

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|---|---|----|----------|
| Linen - General | | | |
| ----- | | | |
| Linen & Terry Pars Posted in Linen Rooms | | | |
| ----- | | | |
| Deliveries and Stored Linen Based on Pars | | | |
| ----- | | | |
| Linen/Laundry - Rented/Outside Counts Logged and Maintained at each Delivery | | | |
| ----- | | | |
| Discrepancies Reported to Vendor for Proper Adjust- ments to Billing | | | |
| ----- | | | |
| Bills Reconciled Before Payment | | | |
| ----- | | | |
| Quarterly Inventory Taken | | | |
| ----- | | | |
| Linen Adjusted to Pars after Inventory | | | |
| ----- | | | |
| Review House Set and Pars | | | |
| ----- | | | |
| Proper Forms In Use | | | |
| ----- | | | |
| Quality of Linen Satisfactory | | | |

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|---|---|----|----------|
| Discarded Linen: Inventoried at Regular Inter- vals | | | |
| ----- Inspected by Management | | | |
| ----- Discard Linen Log Correctly Maintained | | | |
| ----- Blankets, Bed Pads, Pillows, Inventoried Quarterly | | | |
| ----- Cleaning/Guest Supplies Inventoried Every Period | | | |
| ----- Purchase Logs Maintained | | | |
| ----- Invoices Paid in Timely Manner | | | |
| ----- When NEEDED, Expense Spread Over Quarter | | | |
| ----- Stored in Locked Area, Issued by Requisition | | | |
| ----- List Brands Used: Facial Tissue | | | |
| ----- Toilet Tissue | | | |

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|---|---|----|----------|
| General Purpose Cleaner | | | |
| Paper Towels | | | |
| Carpet Care Products | | | |
| Floor Care Products | | | |
| Is Turndown Service Available, Proper Procedure Followed? | | | |
| Training Procedure in Effect | | | |
| Is There a Designated Housekeeper Trainer? | | | |
| Are Written Materials Used? | | | |
| Is Hospitality Segment Included in Training? | | | |
| Are Regularly Scheduled Meetings Held? | | | |
| Review Monthly Meeting Minutes | | | |
| Is Department Represented at Unit Accident Prevention Program Meetings? | | | |
| Does Department Have Own Safety Awareness Program or Incentive? | | | |

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|--|---|----|----------|
| Are All Employees in Complete Uniform? Name Tags | | | |
| Clean and Well Fitted | | | |
| Property Tour: Lobby/Entry Clean | | | |
| Carpet Free of Debris, Tears, Worn Spots, Holes & Gum | | | |
| Glass Free of Dirt & Streaks | | | |
| Floors Free of Debris, Tile Clean & Dry | | | |
| Furniture and Upholstry Free of Dust, Mars, Tears & Stains | | | |
| All Flat Surfaces Free of Dust | | | |
| High Dusting Done | | | |
| Ashtrays Empty and/or Sand Strained | | | |
| Ceiling Clean and Free of Cobwebs | | | |

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|--|---|----|----------|
| All Lights Operational & Free of Dust | | | |
| Artifacts Free of Cobwebs and Dust | | | |
| Furniture Correctly Placed | | | |
| Plants in Good Care | | | |
| Public Restrooms: Odor Free | | | |
| Mirrors Spotless | | | |
| Sinks Clean, Fixtures Polished | | | |
| All Commodes and Urinals Free of Stain & Dirt Build Up | | | |
| Absence of Graffiti | | | |
| Air Grills and Returns Clean | | | |
| Floors Clean, Dry & Free of Debris | | | |
| Adequate Supplies of Toilet Tissue Hand Towels, Liquid Soap, Plus Visible Extras | | | |

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|--|---|----|----------|
| All Lights Operational | | | |
| All Trash Containers Clean | | | |
| Elevators: Tracks Clean and Polished | | | |
| No Graffiti Present | | | |
| Ashtray Polished and Empty | | | |
| Doors & Walls Free of Dust Smears and Fingerprints | | | |
| Operation Smooth | | | |
| Rugs Free of Debris, in Good Repair | | | |
| Telephones Operational | | | |
| Lighting Fully Operational and Clean | | | |
| Public Stairwells: Stairs Free of Debris | | | |

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| ITEM | S | NI | COMMENTS |
|---|---|----|----------|
| All Lights Operational and Dust Free | | | |
| Railing Secure and Dust Free | | | |
| Doors Unmarred and Dust Free | | | |
| Walls Clean & Free of Dust, Cobwebs & Stains | | | |
| Guest Room Corridors: Walls Clean, Free of Marks & Rips | | | |
| Carpets in Acceptable Condition, Free of Stains, Tears, Pulls, Gum & Debris | | | |
| Baseboards Free of Dust | | | |
| Lamp Fixtures Free of Dust, Secure on Walls, Fully Operational Sufficient Wattage | | | |
| Fire Hose Cabinets Marked and Free of Dust & Debris, Fire Extinguishers Charged Correctly | | | |

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| ITEM | S | NI | COMMENTS |
|---|---|----|----------|
| All Exit Lights Operational and Clean | | | |
| Corridor Ashtrays in Good Repair and Clean | | | |
| All Ceiling Tiles Clean and Free of Water Marks | | | |
| Maids Carts Not Blocking Corridors | | | |
| Electrical Cabinets Locked | | | |
| Guest Room, Linen, and Stairwell Doors in Good Repair & Not in Need of Paint | | | |
| Vending: Machines Clean and Operating. Price Signs & Tax Stamps Are Neat & Current | | | |
| Ice Machine Operational, Scoops Available, No Rusty Chains, Ice Machines Clean Inside | | | |
| Tile Areas Clean and Free of Marks, Waxed, No Trash Behind Machines | | | |

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| ITEM | S | NI | COMMENTS |
|---|---|----|----------|
| Trash Can Present and Clean | | | |
| Vinyl & Ceiling Clean & in Good Repair | | | |
| Guest Rooms (Inspect 10 Rooms): Bedroom: | | | |
| Room Clean and Odor Free | | | |
| Maintenance OK, Check TV, Radio, and Lights | | | |
| Soft Goods Not Work, Faded, Stained or Torn | | | |
| Guest Supplies in Proper Amounts | | | |
| Case Goods in Good Condition | | | |
| Thermostat & Fan Setting Correct | | | |
| Review Light Bulb Wattage, Are They Correct | | | |
| Bathroom: | | | |
| Clean and Odor Free | | | |
| Brite Work Shined | | | |

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|--|---|----|----------|
| Linen in Proper Amounts, Placement is Neat, Towels Properly Folded | | | |
| Guest Supplies in Proper Amounts and Neat | | | |
| Floor Clean | | | |
| Mirror Free of Streaks | | | |
| Vent Clean and Free of Rust | | | |
| Tub and Toilet Clean & Free of Mold | | | |
| Grout Clean | | | |
| Linen Rooms/Storage Rooms: | | | |
| Doors Locked when Unoccupied | | | |
| Clean & Orderly | | | |
| Supplies & Linen Uniformly Stored | | | |
| Mops, Sink Area, Buckets Clean | | | |
| Areas Equipped with Sprinkler System | | | |
| Maids Carts in Good Repair | | | |

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DATE _____

| ITEM | S | NI | COMMENTS |
|--|---|----|----------|
| Maids Carts Neat, Trash & Linen Bags Clean | | | |
| ----- All Equipment Clean and with Proper Ground- ing Plug | | | |

Overall Comments:

AUDITED BY: _____ DATE: _____

ATTACHMENT "C"
GUEST SATISFACTION FORM

UTMDACC Management Agreement
Marriott

Mr.
On behalf of our staff, we hope we were able to make your stay at the Jesse H. Jones Rotary International guest quarters more comfortable. We sincerely hope that our standard of service and facilities met with your satisfaction.

Your comments and suggestions are important. They help us identify areas in which our services and products can be enhanced. Please let us know how we're doing and return the attached evaluation form.

Thank you!

JHJ
Jesse H. Jones
Rotary International
Conference Center

1600 Holcombe Blvd.
Houston, TX 77030
(713) 794-0750

Managed by Marriott

Jesse H. Jones
JHJ
Rotary International
Conference Center

PLEASE
LET
US
KNOW

We need your assistance to help us provide the service you expect.

1. How would you rate us on an overall basis?
 Excellent Good Average Fair Poor

2. How would you rate the overall attitude of our staff?
 Excellent Good Average Fair Poor

3. How would you rate the following?

| | Excellent | Good | Average | Fair | Poor |
|--------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Check-in Procedure | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Cleanliness of Room Upon Check-in | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Cleanliness of Room During Your Stay | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Comfort of Room | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Maintenance Service (if required) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Check-out Procedure | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Comments _____

4. How would you rate the following in terms of their friendly and efficient service?

| | | | | | |
|----------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Front Desk Staff | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Housekeeping Staff | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Telephone Operations | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Maintenance Staff | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mail Services | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Comments _____

5. Dining Room

| | Excellent | Good | Average | Fair | Poor |
|------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Friendly Service | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Prompt Service | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Quality of Food | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Menu Variety | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Comments _____

6. Lounge

| | | | | | |
|----------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Friendly Service | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Prompt Service | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Quality of Drinks | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Value for Price Paid | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Comments _____

7. Snack Bar

| | | | | | |
|----------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Friendly Service | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Prompt Service | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Quality of Products | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Value for Price Paid | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Comments _____

8. Transportation

| | | | | | |
|---------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Timeliness | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Safety | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Courtesy | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Efficiency | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Accessibility | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Comments _____

9. Recreation and Exercise

| | Excellent | Good | Average | Fair | Poor |
|------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Overall | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Condition of Equipment | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Comments _____

10. Did any member of our staff merit special comments?

General Comments:

James H. Jones
 Rotary International
 Conference Center

*Learn and
 Patient (how
 program) after?*

Please complete and leave in room or return to the front desk.

REPORT AND RECOMMENDATIONS OF THE PERSONNEL AND AUDIT COMMITTEE (Pages 105 - 112).--Committee Chairman Roden reported that the Personnel and Audit Committee had met in open session to consider those matters on its agenda and to formulate recommendations for the U. T. Board of Regents. Unless otherwise indicated, the action set forth in the Minute Order which follows was recommended by the Personnel and Audit Committee and approved in open session and without objection by the U. T. Board of Regents:

U. T. Board of Regents - Regents' Rules and Regulations, Part One: Amendments to Chapter II, Sections 6 and 7 Regarding the Delegation of Authority for the University Lands Accounting Office and the Management of the Permanent University Fund Lands.--Pursuant to action by the U. T. Board of Regents in August 1990, the Board, upon recommendation of the Personnel and Audit Committee, amended the Regents' Rules and Regulations, Part One, Chapter II, Sections 6 and 7 as set out below. These changes involve primarily the shift of reporting responsibility for the University Lands Accounting Office and the management of the Permanent University Fund Lands to the Vice Chancellor for Business Affairs.

Sec. 6. Executive Vice Chancellor for Asset Management.

The Executive Vice Chancellor for Asset Management has line responsibility for the conduct of all investments and for the management of the assets of the System. The Offices of Asset Management, Finance, Investments, Endowments and Trusts, and Endowment Real Estate report to and are responsible to the Executive Vice Chancellor for Asset Management. The Executive Vice Chancellor for Asset Management reports to and is responsible to the Chancellor. The Executive Vice Chancellor for Asset Management has direct access to the Board of Regents and is expected to work directly with the appropriate committees of the Board in discharging the duties of the office.

6.1 Appointment and Tenure.

The Executive Vice Chancellor for Asset Management shall be elected by an affirmative vote of a majority of the Regents in office upon nomination by the Chancellor. The Executive Vice Chancellor for Asset Management shall hold office without fixed term, subject to the pleasure of the Chancellor. The Chancellor's actions concerning the Executive Vice Chancellor for Asset Management are subject to review and approval by the Board.

6.2 Duties and Responsibilities.

The Executive Vice Chancellor for Asset Management has responsibility for the management of trust and endowment lands and noncampus lands held in the name of the Board of Regents including the investment and management of trusts, trust assets, endowments and management

of the investment of the Permanent University Fund. This office has as a prime responsibility the management of the trust and endowment lands, trusts, endowments, and other such funds of the System in such a manner as to maximize the monies available for excellence in all activities of the System. This office also has a prime responsibility for policies on receipt, disbursement, and custody of funds; for terms of depository agreements with banks; and for custody (with the Director of Accounting) for bearer securities owned by System funds that are maintained in bank safety deposit boxes and are not in custody with the State Treasurer. This office in conjunction with the Vice Chancellor and General Counsel prepares debt issues. The Executive Vice Chancellor for Asset Management will coordinate and cooperate with the Vice Chancellor for Business Affairs in bringing to the Board recommendations on those policy issues which impact upon the asset management aspects of the Permanent University Fund Lands. In consultation with the Chancellor, the Executive Vice Chancellor for Asset Management shall prepare recommendations and supporting information on his or her responsibilities for consideration by the appropriate standing committees of the Board and the Board of Regents.

6.3 Officers for Finance, Investments, and Endowments and Trusts.

The Executive Vice Chancellor for Asset Management and his or her delegates, Executive Director - Finance, Executive Director for Investments, and Executive Director of Endowment Management and Administration implement policies and actions approved by the Board with respect to:

- 6.31 Investing, managing, and administering of all endowment funds belonging to the System and its component institutions, including the Permanent University Fund and all trusts and special funds.
- 6.32 Issuing, managing, and paying all bonds and other evidences of indebtedness issued by the Board for System and its component institutions.
- 6.33 Presenting to the Board through the Chancellor periodic reports of the status and prospect of funds for which he or she has responsibility and that will be available for expenditure by the System and its component institutions.
- 6.34 Consulting with the Executive Associate for Economic Affairs with respect to the development of long-range plans for the

development and management of the economic resources of the System and its component institutions.

- 6.4 Office of Endowment Real Estate.
Subject to delegation by the Executive Vice Chancellor for Asset Management, the Executive Director of Endowment Real Estate is responsible for the management of all real estate held in the name of the Board of Regents, except for Permanent University Fund Lands and campus real estate, with a view toward maximizing the income to be realized from the operation and/or sale of these properties. In fulfilling this responsibility, the Executive Director of Endowment Real Estate will:
- 6.41 Work closely with the appropriate Executive Vice Chancellor, the chief administrative officer of a component institution of the System and that officer's delegates with regard to the management of trust lands and other noncampus real estate interests held by the Board of Regents for and on behalf of a particular institution.
 - 6.42 Establish procedures that insure effective coordination with the Executive Director for Endowment Management and Administration with regard to the management of trust lands other than University Lands.
 - 6.43 Be responsible to the Vice Chancellor for Business Affairs for the acquisition or disposal of nonendowment and campus lands.

Sec. 7. Vice Chancellor for Business Affairs.

The Vice Chancellor for Business Affairs reports to the Chancellor and is responsible for the direction of those offices and supervision of those areas of responsibility set forth in Section 7.3 of this Chapter. The Vice Chancellor for Business Affairs provides staff assistance to the Chancellor and the Executive Vice Chancellors in the exercise of their responsibilities. The Vice Chancellor for Business Affairs has direct access to the Board of Regents of The University of Texas System and is expected to work directly with the appropriate committees of the Board in discharging the duties of the office.

- 7.1 Appointment and Tenure.
The Vice Chancellor for Business Affairs shall be appointed by the Board after nomination by the Chancellor. The Vice Chancellor for Business Affairs shall hold office without fixed term, subject to the pleasure of the Chancellor. The Chancellor's actions regarding the Vice Chancellor for Business Affairs are subject to review and approval by the Board.

7.2 Duties and Responsibilities.

The primary responsibilities of the Vice Chancellor for Business Affairs include:

- 7.21 The provision of staff assistance to the Chancellor and the Executive Vice Chancellors in the execution of their responsibilities.
- 7.22 Submitting recommendations to the Chancellor and to the appropriate Executive Vice Chancellor on business operations of the components of the System.
- 7.23 Reviewing and making recommendations on uniform business systems and management.
- 7.24 Submitting recommendations relating to programs for the most efficient management of personnel and resources.
- 7.25 Submitting recommendations for program development for training of personnel in nonacademic areas.
- 7.26 Reviewing and making recommendations on programs of long-range planning for physical facilities and financial resources.
- 7.27 Reviewing and making recommendations relating to police and security matters within the System.
- 7.28 Coordinating the business affairs of the System with other officers and members of the System Administration staff.
- 7.29 In consultation with the appropriate Executive Vice Chancellor, coordinating the activities of business administrative operations of the component institutions.
- 7.2(10) Managing the operations of the offices of Facilities Planning and Construction, Budget, Comptroller, System Personnel, Police, West Texas Lands, Management Information Systems and Special Services.
- 7.2(11) Supervising and coordinating the acquisition and/or disposition of all nonendowment and campus lands at the component institutions and the U. T. System.
- 7.2(12) Directing the management of the purchasing, accounting, equipment inventories, and voucher-ing operations for the offices of the System Administration and coordinating the building services for the System buildings.

7.2(13) Directing the management of the System-wide insurance programs (except the System Plan for Professional Medical Liability Self-Insurance), including approval of all policies and coverages, such programs to include:

Fire and Extended Coverage;
Liability;
Health;
Life;
Accidental Death and Dis-
memberment;
Income Replacement; and
Retirement.

7.2(14) Performing such other duties as may be assigned by the Chancellor.

7.3 Duties of Officers Reporting to the Vice Chancellor for Business Affairs.

7.32 Comptroller.

Subject to delegation by the Vice Chancellor for Business Affairs, the Comptroller formulates and recommends procedures to be followed in the business operations of the System for:

7.329 University Lands
Accounting Office.

7.37 West Texas Lands Management.

The Vice Chancellor for Business Affairs provides direction and management for all transactions relative to Permanent University Fund Lands (hereinafter sometimes referred to as "University Lands"). In the exercise of those responsibilities, the Vice Chancellor for Business Affairs:

7.371 Works closely with the Board for Lease of University Lands in the discharge of its duties and responsibilities.

7.372 Develops procedures to ensure the involvement of the Executive Vice Chancellor for Asset Management in the development of recommendations which impact upon the asset management aspects of the Permanent University Fund Lands.

- 7.373 Directs and manages the operation of the following budgeted activities which are part of the Office of West Texas Lands:
 University Lands - Oil, Gas, and Mineral Interests;
 University Lands - Surface Interests (Oil Field Supervision); and
 University Lands - Surface Interests (Leasing and Agricultural Projects).
- 7.374 Manager of University Lands - Oil, Gas, and Mineral Interests. Subject to delegation by the Vice Chancellor for Business Affairs, the Manager of University Lands - Oil, Gas, and Mineral Interests is responsible for providing field supervision of System operations, activities and transactions involving oil, gas, and mineral development and production on the University Lands. Within limits of authority set by the Vice Chancellor for Business Affairs, the Manager's regular duties include:
- 7.3741 Making recommendations to the Board for Lease of University Lands, and the Board of Regents, as appropriate, for periodic oil and gas lease sales of University Lands, and for unitization, pooling and other transactions involving oil and gas leasehold and royalty interests and other mineral interests in University Lands.
- 7.3742 Organizing, directing, guiding, setting objectives and standards for, and assigning and evaluating the work of all personnel reporting to him or her.
- 7.3743 Reviewing periodically the terms and conditions of forms and transactions involving oil and gas interests in University Lands, and making recommendations with respect thereto to the Vice Chancellor for Business Affairs and the Board for Lease of University Lands.

- 7.3744 Reporting regularly to the Vice Chancellor for Business Affairs and the Board for Lease of University Lands all activities, developments and problems which could significantly affect System interests and University Lands, together with his or her recommendations with respect thereto.
- 7.3745 Working closely with the Board for Lease of University Lands in the discharge of its duties and responsibilities.
- 7.3746 Coordinating with the Manager of University Lands - Surface Interests in the discharge of their respective duties and responsibilities.
- 7.375 Manager of University Lands - Surface Interests. Subject to delegation by the Vice Chancellor for Business Affairs, the Manager of University Lands - Surface Interests is responsible for providing field supervision of System operations, activities, and transactions pertaining to surface interests, water rights and oil and gas field operations in or on University Lands. Within limits of authority set by the Vice Chancellor for Business Affairs, the Manager's regular duties include:
 - 7.3751 Making recommendations to the Board with respect to all transactions involving surface interests in University Lands, including research projects, right-of-way easements, agricultural, grazing and other surface use leases, and geophysical permits.
 - 7.3752 Organizing, directing, guiding, setting objectives and standards for, and assigning and evaluating the work of all personnel reporting to him or her.

- 7.3753 Reviewing periodically the terms and conditions of forms and transactions involving surface interests in University lands, and making recommendations with respect thereto to the Vice Chancellor for Business Affairs.
- 7.3754 Reporting regularly to the Vice Chancellor for Business Affairs all activities, developments and problems which could significantly affect System interests and University Lands, together with his or her recommendations with respect thereto.
- 7.3755 Working closely with federal and state agencies in connection with research and development projects and activities, involving utilization and husbandry of University Lands, of mutual interest to the System and such agencies.
- 7.3756 Coordinating with the Manager of University Lands - Oil, Gas, and Mineral Interests in the discharge of their respective duties and responsibilities, and acts as oil and gas fields supervisor.

REPORT AND RECOMMENDATIONS OF THE ACADEMIC AFFAIRS COMMITTEE (Pages 113 - 121).--Committee Chairman Barshop reported that the Academic Affairs Committee had met in open session to consider those matters on its agenda and to formulate recommendations for the U. T. Board of Regents. Unless otherwise indicated, the actions set forth in the Minute Orders which follow were recommended by the Academic Affairs Committee and approved in open session and without objection by the U. T. Board of Regents:

1. U. T. Board of Regents - Regents' Rules and Regulations, Part One: Amendments to Chapter III, Section 1, Subsection 1.8, Subdivision 1.83 (Academic Titles).--In order to allow certain individuals of component institutions of The University of Texas System to be appointed as Lecturer or Senior Lecturer for a renewable term of up to three years, the Board, upon recommendation of the Academic Affairs and Health Affairs Committees, amended the Regents' Rules and Regulations, Part One, Chapter III, Section 1, Subsection 1.8, Subdivision 1.83 (Academic Titles) to read as set forth below:

1.8 Academic Titles

1.83 The following academic titles may also be used within University of Texas System component institutions. Tenure cannot be awarded to a person appointed to these ranks and, with the exception of the rank of Instructor, academic service within these ranks cannot be counted toward the satisfaction of any required probationary period. Appointments to these titles shall be for a period of time not to exceed one academic year except in the case of Lecturer or Senior Lecturer when, in individual cases, appointment may be for periods of time not to exceed three academic years. With the exception of the title of Instructor, such appointments shall terminate at the expiration of the stated period of appointment without the notification of nonrenewal required by Subsection 6.7 of this Chapter. If a component institution determines that it is to the benefit of the institution, it may offer reappointments to these titles.

- (a) Instructor. This title denotes a probationary appointment as a member of an institutional faculty. During the period of probationary appointment to this rank the scholarly competence, teaching performance, and professional promise of the candidate will be evaluated.

- (b) Lecturer. This title may be used for individuals who will serve as teachers and whose experience and qualifications are comparable to those of faculty members in untenured, tenure-track positions.
- (c) Senior Lecturer. This title may be used for special teachers who will augment and complement regular teaching faculty and whose experience and qualifications are comparable to those of faculty members in tenure positions.

2. U. T. Arlington: Initial Appointments to Endowed Academic Positions in the College of Engineering - Dr. John J. Mills to the Automation and Robotics Research Institute Chair Effective August 13, 1990, and Dr. Frank L. Lewis to the Moncrief - O'Donnell Chair for the Automation and Robotics Research Institute (ARRI) Effective September 1, 1990.--The Board approved the following initial appointments to endowed academic positions in the College of Engineering at The University of Texas at Arlington effective as indicated:

- a. Dr. John J. Mills, Professor of Mechanical Engineering and Director of the Automation and Robotics Research Institute, to the Automation and Robotics Research Institute Chair effective August 13, 1990
- b. Dr. Frank L. Lewis, Professor of Electrical Engineering, to the Moncrief - O'Donnell Chair for the Automation and Robotics Research Institute (ARRI) effective September 1, 1990.

3. U. T. Arlington - College of Business Administration Advisory Council: Approval of Nominee Thereto.--A nominee for membership on The University of Texas at Arlington College of Business Administration Advisory Council was approved for a three-year term to expire in 1993.

The name of the nominee will be reported for the record after he has been contacted and acceptance has been received.

4. U. T. Austin: Appointment of Dr. Karl Hess as Initial Holder of the George T. and Gladys H. Abell Endowed Chair of Engineering in the College of Engineering for the Period October 15-28, 1990.--Approval was given to appoint Dr. Karl Hess, Professor of Electrical and Computer Engineering and Associate Director of the Beckman Institute, University of Illinois at Urbana-Champaign, as initial holder of the George T. and Gladys H. Abell Endowed Chair of Engineering in the College of Engineering at The University of Texas at Austin for the period October 15-28, 1990.

5. U. T. Austin: Approval to Name Room 415 in Waggener Hall in the College of Liberal Arts the O. K. Bouwsma Undergraduate Advising Center (Regents' Rules and Regulations, Part One, Chapter VIII, Section 1, Subsection 1.2, Naming of Facilities Other Than Buildings).-- In accordance with the Regents' Rules and Regulations, Part One, Chapter VIII, Section 1, Subsection 1.2, relating to the naming of facilities other than buildings, approval was given to name Room 415 in Waggener Hall in the College of Liberal Arts at The University of Texas at Austin the O. K. Bouwsma Undergraduate Advising Center.

The naming of this room is in recognition of a bequest from the Gertrude Bouwsma-Bos Trust to establish a permanent endowment in the College of Liberal Arts in memory of her husband, Dr. Oets K. Bouwsma.

See Page 236 related to the O. K. Bouwsma Undergraduate Excellence Fund in Philosophy.

6. U. T. Austin: Permission for Dr. Arthur E. Maxwell to Serve as a Member of the Sea Grant Review Panel [Regents' Rules and Regulations, Part One, Chapter III, Section 13, Subsections 13.(10) and 13.(11)].--Permission was given for Dr. Arthur E. Maxwell, Director of the Institute for Geophysics and Professor of Geological Sciences at The University of Texas at Austin, to serve a three-year term beginning immediately as a member of the Sea Grant Review Panel.

Dr. Maxwell's appointment to this Panel by U. S. Secretary of Commerce Robert A. Mosbacher is of benefit to the State of Texas, creates no conflict with his regular duties at U. T. Austin, and is in accordance with approval requirements for positions of honor, trust, or profit provided in Article 6252-9a of Vernon's Texas Civil Statutes and Part One, Chapter III, Section 13, Subsections 13.(10) and 13.(11) of the Regents' Rules and Regulations.

7. U. T. El Paso: Approval of Affiliation Agreement with El Centro De Investigaciones En Optica, A.C., Leon, Guanajuato, Mexico, and Authorization for the Executive Vice Chancellor for Academic Affairs to Execute Agreement.--Approval was given to the affiliation agreement set out on Pages 116 - 119 by and between The University of Texas at El Paso and El Centro De Investigaciones En Optica, A.C., Leon, Guanajuato, Mexico.

Further, the Executive Vice Chancellor for Academic Affairs was authorized to execute, on behalf of the U. T. Board of Regents, this agreement with the understanding that any and all specific agreements arising from this agreement are to be submitted for prior administrative review and subsequent approval as required by the Regents' Rules and Regulations.

This agreement is designed to establish the general conditions for cooperation in fields of mutual interest and benefit, particularly in education and research relating to optics, optoelectronics, and related fields.

AFFILIATION AGREEMENT

COLLABORATION COMPACT BETWEEN THE UNIVERSITY OF TEXAS AT EL PASO, HEREAFTER DENOMINATED "UTEP" REPRESENTED BY ITS PRESIDENT, DIANA S. NATALICIO, AND EL CENTRO DE INVESTIGACIONES EN OPTICA, A.C., HEREAFTER DENOMINATED, "CIO," REPRESENTED BY ITS GENERAL DIRECTOR, M.C. ARQUIMEDES MORALES ROMERO, IN ACCORDANCE WITH THE FOLLOWING DECLARATIONS AND CLAUSES:

DECLARATIONS

1. "UTEP" declares:
 - 1.1 That it is a component institution of the University of Texas System, an agency of the State of Texas, United States of America.
 - 1.2 That it is a comprehensive urban university with a mission that includes the transmission of knowledge through instruction of students, the advancement of knowledge as demonstrated by research and scholarly publication, and the application of knowledge through professional consultation, artistic performance, continuing education and service to agencies and organizations.
2. The "CIO" declares:
 - 2.1 That it was founded through a compact between the National Council of Science and Technology, the National Autonomous University of Mexico, the Administration of the State of Guanajuato and the Administration of the Municipality of Leon, Guanajuato, signed April 21, 1989.
 - 2.2 According to what is established in the above mentioned compact the objectives of the institution are:

Carry out basic and applied investigation in optics, optoelectronics and related fields.

Give service and technical help in optics and optoelectronics to other domestic institutions requesting this.

Propel higher education in the fields mentioned above.

Interact and collaborate academically with the rest of the educational and/or research institutions in the country or abroad.

- 2.3 That the legal address for the "CIO" is: Loma del Pocito s/n, Leon, Guanajuato, C.P. 37150.

CONSIDERING

That the two educational institutions are concerned with scientific and technical research, and that the academic resources of these institutions represent opportunities for cooperative and complementary exchange in a spirit of international cooperation, it is mutually agreed as follows:

CLAUSES

GOALS AND OBJECTIVES

The goal of this collaboration compact is to establish the general conditions for cooperation in fields of mutual interest and benefit, particularly in education and research relating to optics, optoelectronics, and related fields. To address this goal, "UTEP" and "CIO" will:

1. Collaborate in planning and carrying out related research projects;
2. Collaborate on seminars, conferences and workshops;
3. Promote the participation and exchange of students, faculty, and research staff in appropriate programs at the two institutions;
4. Facilitate the use of available equipment in the institutions' laboratories for projects;
5. Facilitate the exchange of technical, statistical and educational data related to this compact.

BILATERAL OBLIGATIONS

Both institutions agree:

1. To assign to an administrator of each respective

University the responsibility for the biennial renewal of this agreement or the negotiation of changes or additional agreements on the development of projects in specific areas of mutual interest, as appropriate and feasible;

2. To appoint a Coordination Committee consisting of at least two representatives of each institution within one month of the signing of this document. The Committee will:
 - a. Advise the appropriate administrator at each institution about renewal or revision of this agreement and about additional agreements covering specific projects;
 - b. Promote, facilitate, and develop specific plans for collaborative research projects or other activities, involving UTEP and CIO;
 - c. Develop written proposals for specific projects, which, if approved, will form the basis for additional written agreements;
 - d. Plan ways to make available, to the extent possible, resources of the respective institutions for projects under the specific terms of future agreements.


VALIDITY

1. This agreement will come into force on the day of signature and will be valid for two years. Furthermore, this agreement may be modified or canceled by giving written notice received by the other party three weeks in advance without interfering with or calling off specific projects being carried out.
2. Future agreements concerning any program agreed to by the two parties shall provide details concerning the specific commitments being made by each party and shall not become effective until they have been put in writing and executed by the duly authorized representatives of the two parties, and approved in writing by the Office of the Chancellor of The University of Texas System. Such agreements may be canceled by either party by giving written notice to the other of its intention to terminate the program.

EXECUTION


EXECUTED by the Board of Regents of The University of Texas System and El Centro de Investigaciones en Optica, A.C. on the 12th day of OCTOBER, 1990, in duplicate copies, each of which shall be deemed an original.

THE UNIVERSITY OF TEXAS
AT EL PASO

BY: 

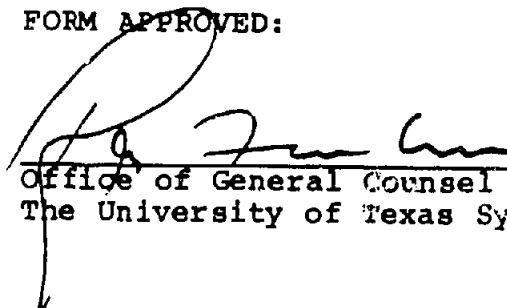
TITLE: President

EL CENTRO DE INVESTIGACIONES
EN OPTICA, A.C.

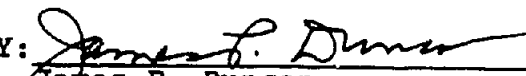
BY: 

TITLE: General Director

FORM APPROVED:



Office of General Counsel
The University of Texas System

BOARD OF REGENTS OF THE
UNIVERSITY OF TEXAS SYSTEM:

BY: 
James P. Duncan
Executive Vice Chancellor
for Academic Affairs

CERTIFICATE OF APPROVAL

I hereby certify that the foregoing Agreement was approved by the Board of Regents of The University of Texas System on the 12th day of OCTOBER, 1990 and that the person whose signature appears above is authorized to execute such agreement on behalf of the Board.


Executive Secretary, Board of Regents
The University of Texas System

8. U. T. Pan American: Establishment of a Bachelor of Business Administration Degree (B.B.A.) in International Business and Authorization to Submit the Proposal to the Coordinating Board for Approval (Catalog Change).--Upon recommendation of the Academic Affairs Committee, the Board established a Bachelor of Business Administration (B.B.A.) degree in International Business at The University of Texas - Pan American and authorized submission of the proposal to the Texas Higher Education Coordinating Board for review and appropriate action. Implementation of the program is planned for Fall 1991.

U. T. Pan American currently has the only business program south of San Antonio which is accredited by the American Assembly of Collegiate Schools of Business. The B.B.A. in International Business will build on current program resources to develop a strong offering in the specialized area of international business. This is a much needed specialized program for U. T. Pan American because of its location near the Texas/Mexico international border and that region's growing maquiladora economy. This new high quality program will help strengthen the Texas and U. S. position in the global marketplace by producing managers and employees knowledgeable in international operations, in general, and inter-American operations, in particular.

In addition to a background in basic education and core business subjects, the B.B.A. in International Business will offer U. T. Pan American students 24 semester credit hours of advanced instruction in the international aspects of business and will provide a firm foundation for successful employment in businesses whose activities extend beyond domestic borders.

U. T. Pan American has several Business faculty members whose areas of teaching and research interests are in international business and who hold the terminal degree in their areas of responsibility, and natural growth in the School of Business Administration will support the addition of new faculty positions.

Little additional cost will be involved with the start-up of this new degree program since only five new regular courses are being added and those will substitute for extra sections of other business courses now being offered. No new facilities are planned for the program, and few additional equipment items, supplies, or library materials will be necessary to initiate the program. No new faculty will be required.

The program is consistent with U. T. Pan American's Strategic Plan and approved role and scope Table of Programs.

Upon Coordinating Board approval, the next appropriate catalog published at U. T. Pan American will be amended to reflect this action.

9. U. T. Pan American: Establishment of a Master of Science Degree in Mathematics and Authorization to Submit the Degree Program to the Coordinating Board for Approval (Catalog Change).--In response to a growing national shortage of mathematicians and mathematics teachers, the Board, upon recommendation of the Academic Affairs Committee, established a Master of Science Degree in Mathematics at The University of Texas - Pan American and authorized submission of the proposal to the Texas Higher Education Coordinating Board for review and approval. Implementation of the program is planned for Fall 1991.

The master's degree program in mathematics will be administered by the Department of Mathematics and Computer Science at U. T. Pan American. In addition to an 18-hour core, the nonthesis degree program will offer students a choice of two options: mathematics teaching and mathematical sciences. The mathematics teaching option will provide an opportunity for secondary mathematics teachers to add to their knowledge of mathematics and to improve pedagogical skills. Most will become leaders within their school districts in the areas of mathematics curriculum and instruction. The mathematical sciences option will provide the mathematics content needed by students to pursue careers in professional areas requiring advanced mathematics and will prepare students for advanced graduate study in mathematics.

All students applying for admission to the master's program in mathematics must meet the University's grade point and GRE requirements for admission to graduate studies and hold a bachelor's degree in mathematics. Those students selecting the mathematics teaching option must complete the teacher certification process before beginning the 12-hour block of mathematics teaching courses within the mathematics teaching option.

The University currently has 14 faculty members whose educational qualifications or experience in the field render them qualified to teach graduate mathematics courses.

Any additional costs involved with the start-up of this new degree program will be minimal. Many of the courses for the program will substitute for courses already offered in support of the mathematics concentration in the M.S. in Interdisciplinary Studies program. The projected total additional five-year cost of \$110,160 will be covered by reallocating existing funds. No new faculty, equipment, library materials, facilities, or other funds will be necessary to initiate the program.

This program will strengthen the State of Texas by meeting three major needs in the U. T. Pan American service area: accessibility of graduate programs, need for graduate-trained mathematics teachers in the rapidly growing public schools, and need for mathematically educated employees and leaders for technically-oriented maquiladora industries.

The program is consistent with U. T. Pan American's Strategic Plan and approved role and scope Table of Programs.

Upon Coordinating Board approval, it was ordered that the next appropriate catalog published at U. T. Pan American be amended to conform to this action.

REPORT AND RECOMMENDATIONS OF THE HEALTH AFFAIRS COMMITTEE (Pages 122 - 126).--Committee Chairman Blanton reported that the Health Affairs Committee had met in open session to consider those items on its agenda and to formulate recommendations for the U. T. Board of Regents. Unless otherwise indicated, the actions set forth in the Minute Orders which follow were recommended by the Health Affairs Committee and approved in open session and without objection by the U. T. Board of Regents:

1. U. T. Southwestern Medical Center - Dallas: Approval to Appoint Eugene P. Frenkel, M.D., Initial Holder of the Raymond D. and Patsy R. Nasher Distinguished Chair in Cancer Research, in Honor of Eugene P. Frenkel, M.D. Effective Immediately.--The Board approved the appointment of Eugene P. Frenkel, M.D., Professor of Internal Medicine, as initial holder of the Raymond D. and Patsy R. Nasher Distinguished Chair in Cancer Research, in Honor of Eugene P. Frenkel, M.D. at The University of Texas Southwestern Medical Center at Dallas effective immediately.

See Page 250 related to the establishment of this Chair.

2. U. T. Medical Branch - Galveston: Luther B. Travis, M.D., Appointed Initial Holder of the William W. Glauser Professorship in Pediatric Nephrology Effective Immediately.--The Health Affairs Committee recommended and the Board approved the appointment of Luther B. Travis, M.D., Professor of Pediatrics, as initial holder of the William W. Glauser Professorship in Pediatric Nephrology at The University of Texas Medical Branch at Galveston effective immediately.

See Page 250 related to the establishment of this Professorship.

3. U. T. Health Science Center - San Antonio: Robert L. Leon, M.D., and Kenneth D. Rudd, D.D.S., Appointed Ashbel Smith Professors Effective Immediately.--Approval was granted to appoint the following as Ashbel Smith Professors at The University of Texas Health Science Center at San Antonio effective immediately:

- a. Robert L. Leon, M.D., Professor and Chairman of the Department of Psychiatry
- b. Kenneth D. Rudd, D.D.S., Associate Dean for Continuing Dental Education.

4. U. T. Health Science Center - San Antonio: Appointment of Dr. Bettie Sue Masters as Initial Holder of The Robert A. Welch Chair in Chemistry Effective Immediately.--The Board, upon recommendation of the Health Affairs Committee, approved the appointment of Dr. Bettie Sue Masters, Professor of Chemistry, as initial holder of The Robert A. Welch Chair in Chemistry at The University of Texas Health Science Center at San Antonio effective immediately.

5. U. T. Health Science Center - San Antonio, U. T. Health Science Center - Houston, and U. T. Pan American: Authorization to Offer Expanded Nursing Education Opportunities in the Lower Rio Grande Valley and to Submit the Proposal to the Coordinating Board for Approval (Catalog Changes).--Upon recommendation of the Health Affairs and Academic Affairs Committees and subject to approval by the Texas Higher Education Coordinating Board, the Board authorized The University of Texas Health Science Center at San Antonio, The University of Texas Health Science Center at Houston, and The University of Texas - Pan American to expand nursing education opportunities in the Lower Rio Grande Valley in accordance with an agreement developed by the three institutions. Major elements of that agreement are as follows:

- a. The U. T. Health Science Center - San Antonio in cooperation with the U. T. Health Science Center - Houston and U. T. Pan American will offer a Bachelor of Science in Nursing (BSN) and Master of Science in Nursing (MSN) in Brownsville.
- b. The U. T. Health Science Center - Houston in cooperation with U. T. Pan American will add a new major in women's health care and new minors in teaching, administration, and nurse practitioner to the Master of Science in Nursing (MSN) now offered on the U. T. Pan American campus.
- c. Through team teaching, joint faculty recruiting, and shared creation of appropriate new courses, both health science centers will assist U. T. Pan American in developing the capability to assume full responsibility for nursing education at both the BSN and MSN levels throughout the Lower Rio Grande Valley.
- d. The initial commitment of both health science centers is for five years with subsequent involvement dependent on need and availability of funding.
- e. By prior agreement, comparable courses offered by one institution will be accepted for credit in the programs of the other institutions and all courses will be scheduled to complement rather than compete with courses offered by the other institutions.

The U. T. Nursing School - Houston is currently working with U. T. Pan American to offer cooperatively a Master of Science in Nursing degree with an emphasis on critical care nursing. Under this cooperative arrangement, the master's degree is awarded under the authority of the U. T. Nursing School - Houston with U. T. Pan American faculty assisting in teaching the Houston curriculum. Courses are taught in Edinburg. As a part of the cooperative arrangement, the U. T. Nursing School - Houston is assisting U. T. Pan American in recruiting additional faculty and developing the capability to offer its own Master of Science in Nursing degree. When the U. T. Nursing School - San Antonio master's program with an emphasis on medical/surgical care becomes available in the Lower Rio Grande Valley, it will be possible for the Houston program emphasis to be

shifted from critical care nursing to women's health care. This shift will permit several area needs to be met through this coordinated cooperative effort.

The U. T. Nursing School - San Antonio offers integrated bachelor's and master's degree programs for students with prior nursing experience. The programs include several bachelor's level courses in which students may earn credit by examination, an option which is not now available in the Valley. The master's program will provide a medical/surgical major. Funding for the Brownsville offerings will come from a federal grant. The U. T. Nursing School - San Antonio will also work with U. T. Pan American to build its capability to offer both bachelor's and master's level work in the Brownsville area. U. T. Pan American will assume a larger teaching role in these programs each year.

Upon approval by the Coordinating Board, the respective institutions will amend their catalog(s) to reflect the availability of these programs in the Lower Rio Grande Valley. Joint brochures will be published to describe course transferability and planned semesters for course availability in order to minimize duplication at the Edinburg and Brownsville locations in the same semester.

Committee Chairman Blanton noted that the foregoing action illustrates the Board's continued successful follow-up to the U. T. Pan American merger and to the ongoing commitment to ensure that the resources of the several U. T. components are directed toward enhancing the scope and quality of the educational programs available in the Lower Rio Grande Valley.

He stated that the efforts and resources of the U. T. Nursing School - San Antonio and the U. T. Nursing School - Houston will be coordinated with the programs of the U. T. Pan American campuses at Edinburg and Brownsville to provide increased access for both baccalaureate and masters level nursing education with opportunities to focus on nursing specialties of importance to the Valley. There is an obvious need to increase the quantity and quality of health care personnel in the Rio Grande area and this proposal offers a way to begin that process immediately. Regent Blanton pointed out that, by the end of the five-year commitment by San Antonio and Houston, it is anticipated that the U. T. Pan American campus will have these expanded programs on a free-standing basis.

On behalf of the Health Affairs Committee, Regent Blanton congratulated Presidents Howe, Low, Nevarez, and Pena for yet another example of the value and meaning of the merger.

Presidents Howe, Low, Nevarez, and Pena reiterated the importance of enhancing the scope and quality of the educational programs in the Lower Rio Grande Valley and cited this program as an excellent example of performing a service for people who want to move forward in the resolution of a critical regional problem.

6. U. T. M.D. Anderson Cancer Center: Appointment of Initial Holders - (a) Philip Frost, M.D., Ph.D., to the Hubert L. and Olive Stringer Professorship in Cancer Research Effective October 1, 1990, (b) Dr. Kenneth R. Hogstrom to The P. H. and Fay Etta Robinson Professorship in Cancer Research Effective October 1, 1990, and (c) Raymond Sawaya, M.D., to the Mary Beth Pawelek Chair in Neurosurgery in Honor of Dr. and Mrs. Samuel Dickens Bugg and Mr. and Mrs. Albert F. Pawelek Effective November 1, 1990.--The Board approved the following initial appointments to endowed academic positions at The University of Texas M.D. Anderson Cancer Center effective as indicated:

- a. Philip Frost, M.D., Ph.D., Professor of Medicine and Professor of Cell Biology, to the Hubert L. and Olive Stringer Professorship in Cancer Research effective October 1, 1990
- b. Dr. Kenneth R. Hogstrom, Professor and Chairman of the Department of Radiation Physics, to The P. H. and Fay Etta Robinson Professorship in Cancer Research effective October 1, 1990
- c. Raymond Sawaya, M.D., Professor and Chairman of the Department of Neurosurgery, to the Mary Beth Pawelek Chair in Neurosurgery in Honor of Dr. and Mrs. Samuel Dickens Bugg and Mr. and Mrs. Albert F. Pawelek effective November 1, 1990.

See Page 252 related to the establishment of this Chair.

7. U. T. M.D. Anderson Cancer Center: Report on Plans for the 50th Anniversary Celebration in 1991.--Executive Vice Chancellor for Health Affairs Mullins and President LeMaistre commented on The University of Texas M.D. Anderson Cancer Center's 50th anniversary celebration planned for 1991. This year-long event will begin with the U. T. M.D. Anderson Cancer Center hosting the Board of Regents' meeting in December 1990. A special ceremony prior to the meeting will recognize past members of the Board of Regents and include a proclamation from the Governor.

"Shining Past/Brilliant Future" has been chosen as the theme for the celebration. Plans being developed by a steering committee include a special celebration in the Texas Legislature on February 5, 1991, to symbolize the 50th anniversary date when H. B. 268 was introduced to establish this institution. Other events will include employee/volunteer appreciation receptions, special symposia and conferences throughout the year, a golden jubilee fun run, a celebrity golf tournament, a community open house, and a black tie gala to be held in the Fall of 1991.

8. U. T. Health Science Center - San Antonio: Comments Regarding Appointment of Dr. Wen-Hwa Lee as Director of the Institute of Biotechnology.--Committee Chairman Blanton congratulated President Howe and The University of Texas Health Science Center at San Antonio on the appointment of Dr. Wen-Hwa Lee as Director of the Institute of Biotechnology.

President Howe reported that Dr. Lee is a noted biologist and pioneer in cancer genetics from the University of California - San Diego and his reputation is for excellent science. Dr. Howe expressed appreciation to the Board, General Robert F. McDermott, and the Texas Research and Technology Foundation for their very pivotal role in attracting Dr. Lee to the U. T. Health Science Center - San Antonio.

9. U. T. Board of Regents: Comments by Regent Blanton Regarding Activities of the Health Affairs Committee.--Committee Chairman Blanton reported that the Health Affairs Committee held an excellent meeting at The University of Texas M.D. Anderson Cancer Center on October 2, 1990, and heard reports on that component's basic science and clinical research programs as well as discussions concerning the priorities of the Center for the next decade as they relate to personnel resources and physical plant. He noted that, at the December 1990 meeting of the Board, the Health Affairs Committee will present some thoughts as to appropriate ways in which the unique missions of the Cancer Center might be encouraged and supported.

Mr. Blanton stated that the Cancer Center is clearly somewhat different from the academic health centers, and the Board must be concerned with ways in which to enhance this component's international reputation for excellence in patient care and research.

Regent Blanton reported that, at the initiation of Regent Ramirez, the Health Affairs Committee will meet again on November 7, 1990, in McAllen, Texas, where the agenda will center on The University of Texas System's involvement in family practice programs and rural health initiatives. He invited any member of the Board with an interest in these matters to attend that meeting.

REPORT AND RECOMMENDATIONS OF THE FINANCE AND FACILITIES COMMITTEE (Pages 127 - 232).--Committee Chairman Moncrief reported that the Finance and Facilities Committee had met in open session to consider those items on its agenda and to formulate recommendations for the U. T. Board of Regents. Unless otherwise indicated, all actions set forth in the Minute Orders which follow were recommended by the Finance and Facilities Committee and approved in open session and without objection by the U. T. Board of Regents:

I. FINANCE MATTER

U. T. System: Approval of Chancellor's Docket No. 54 (Catalog Change).--Upon recommendation of the Finance and Facilities Committee, the Board approved Chancellor's Docket No. 54 in the form distributed by the Executive Secretary. It is attached following Page 263 in the official copies of the Minutes and is made a part of the record of this meeting.

It was expressly authorized that any contracts or other documents or instruments approved therein had been or shall be executed by the appropriate officials of the respective institution involved.

It was ordered that any item included in the Docket that normally is published in the institutional catalog be reflected in the next appropriate catalog published by the respective institution.

Regent Ratliff abstained from voting on items within the Docket related to Exxon Corporation and Southwest Texas Electric Cooperative due to a possible conflict of interest.

II. FACILITIES MATTERS

1. U. T. Board of Regents - Regents' Rules and Regulations, Part Two: Approval of Amendments to Chapter VIII (Physical Plant Improvements).--The 71st Legislature renewed the Texas Higher Education Coordinating Board's enabling legislation through the enactment of Senate Bill 457 which changed the threshold of the Coordinating Board's authority to review and approve major repair and rehabilitation projects from \$300,000 to \$600,000.

In accordance therewith, the Board amended the Regents' Rules and Regulations, Part Two, Chapter VIII (Physical Plant Improvements) as set forth below:

- a. A new Section 1 was added to read as follows:

Sec. 1. General Policies Regarding Approval of Construction and Major Repair and Rehabilitation Projects.

- 1.1 The U. T. Board of Regents shall appoint architects, approve plans and execute contracts for all new construction projects exceeding \$300,000 and for major repair

projects exceeding \$600,000 via the agenda process. Such projects shall normally have been previously recognized in the Capital Improvement Program and their funding authorized through the annual Capital Budget. New construction projects costing less than \$300,000, and adding space to the building inventory, and repair and rehabilitation projects costing between \$300,000 and \$600,000 shall be approved by the Executive Vice Chancellor for Academic Affairs or the Executive Vice Chancellor for Health Affairs as appropriate, and shall be ratified by the Board via standard docket procedures. The Office of General Counsel shall approve all contracts for major construction projects and shall approve as to form contracts for minor construction projects. Payment bonds and performance bonds shall be approved as to form by the Office of General Counsel for all construction contracts greater than \$25,000.

- b. Present Section 7 was renumbered as Section 2 and amended to read as follows:

Sec. 2. Institutional Building Advisory Committees.

- 2.1 At each of the component institutions there shall be an Institutional Building Advisory Committee.
- 2.2 The committee shall be appointed by the chief administrative officer in the same manner as other institution-wide committees are appointed.
- 2.3 The composition of the Institutional Building Advisory Committee shall be set forth in the Institutional Handbook of Operating Procedures of each component institution.

- c. Present Sections 1 through 6 were renumbered as Sections 3 through 8 and amended to read as follows:

Sec. 3. Major New Building Construction and Construction of Improvements Other Than Buildings Exceeding the Amount of \$300,000 Per Project.

- 3.1 After the Board approves the construction of new buildings, the procedures shall be as follows:
- 3.11 The Institutional Building Advisory Committee shall hold necessary hearings and make proper investigations to translate the approved academic program into priorities

for new construction, with suggestions as to total project area and function, and make such recommendations to the chief administrative officer.

- 3.12 The Institutional Building Advisory Committee shall be relieved of further direct responsibility whenever a building contract is awarded, but shall be available for consultation as the building progresses, as requested by the chief administrative officer, the appropriate Executive Vice Chancellor, the Chancellor, or his or her delegate, and the project architect.
 - 3.13 New projects shall be submitted to the Board for approval, including proposed funding, upon recommendation of the chief administrative officer, the appropriate Executive Vice Chancellor, the Chancellor, or his or her delegate.
- 3.2 Project Development.
- 3.21 The Board will employ a project architect for each new major building project at all component institutions.
 - 3.22 The chief administrative officer may appoint, according to the institutional Handbook of Operating Procedures, an Ad Hoc Project Building Committee composed of, but not limited to, representatives of the departments or divisions that will occupy the building. The committee shall work with the Office of Facilities Planning and Construction to prepare a detailed program of the needs for each project.
 - 3.23 The chairperson of the Institutional Building Advisory Committee, or his or her delegate, shall be an ex officio member of each Ad Hoc Project Building Committee.
 - 3.24 The project architect shall be given the detailed program and will work in conjunction with the Office of Facilities Planning and Construction to prepare preliminary plans, exterior design, outline specifications, cost

estimates, etc., which shall be submitted to the Board for approval upon the recommendation of the chief administrative officer, the appropriate Executive Vice Chancellor, the Chancellor, or his or her delegate.

3.25 After approval of the preliminary plans, the Board shall authorize the preparation of the working drawings and specifications. In the preparation of the final plans and specifications, the project architect shall work with the Ad Hoc Project Building Committee and the Office of Facilities Planning and Construction.

3.26 The final working drawings and specifications shall be submitted to the Board for approval upon the recommendation of the chief administrative officer, the appropriate Executive Vice Chancellor, the Chancellor, or his or her delegate.

3.3 Bidding and Construction Phase of Project.

3.31 After the Board approves the final plans and specifications, the Board shall authorize the Office of Facilities Planning and Construction to advertise for bids. Advertisements for bids for buildings shall be in accordance with state law.

3.32 The Chancellor, or his or her delegate, shall receive and open bids, with the project architect and others, tabulate and study such bids, and make recommendations to the Board.

3.33 The Board will approve and award the contracts for all new construction projects exceeding \$300,000 in total project cost and all major repair projects exceeding \$600,000 in total project cost. The contract will be signed by the contractor(s) involved and an authorized representative of the Board.

- 3.331 In the event the lowest bidder is found to be not responsible, or other facts and circumstances necessitate award of contract to other than the lowest bidder, the bidder(s) submitting proposal(s) lower than the bidder to whom award is proposed shall be notified of the Board's proposed decision for award.
- 3.332 If the lowest bidder fails to timely file notice of protest, the Board's proposed award will be final.
- 3.333 If the lowest bidder timely files notice of protest, the Board will hear the protest or will delegate to the Chancellor the authority to appoint a Hearing Officer who shall promptly convene and conduct a hearing and subsequently prepare and submit a report of his or her findings through the Chancellor to the Board. The Board shall make a final decision based upon the records of the hearing before the Hearing Officer.
- 3.334 The contract documents will be prepared by the Project Architect and approved by the Chancellor, or his or her delegate, and the Vice Chancellor and General Counsel for the System, or his or her delegate, before submission to the Chairman of the Board.
- 3.34 The Chancellor, or his or her delegate, shall approve contractor's estimates, sign change orders, and provide general supervision of all new construction. The Chancellor shall advise the Board if developments during construction require additional funds or other decisions of the Board.
- 3.35 The Chancellor, or his or her delegate, shall inspect the completed building and recommend final acceptance and final payment.

Sec. 4. Minor New Building Construction.--Minor new building construction and construction of improvements other than buildings that involve a total expenditure of \$300,000 or less per project may be handled at the component institution. However, any project involving the addition of space to the building inventory must have advance approval by the appropriate Executive Vice Chancellor and the Chancellor and then be approved by the U. T. Board of Regents via standard docket procedures. If the proposed construction or renovation is to accommodate program changes requiring approval beyond the campus level, such program approvals must be secured in advance of requests for construction approval or must be included with the construction request. Funds must have been approved through standard U. T. System budgetary procedures and the project must have been approved by the institution's director of physical plant, chief business officer, and chief administrative officer. All contracts for minor new building construction, minor repairs, or remodeling shall be let on a standard form contract approved by the Office of Facilities Planning and Construction and the Office of General Counsel and shall be submitted to the Board of Regents through the institutional docket. Any such contract that involves the expenditure of more than \$25,000 shall be submitted to the Office of General Counsel for approval as to form prior to its execution by the institution.

Sec. 5. Major Repairs and Remodeling.

5.1 Any repair or remodeling project of the physical plant involving an estimated expenditure that exceeds \$600,000 shall be deemed a construction project and shall be handled under the procedures set out in Section 3.

5.2 Any repair or remodeling project of the physical plant involving an estimated expenditure of between \$300,000 and \$600,000 shall be approved by the appropriate Executive Vice Chancellor for ratification by the Board in the institutional docket.

Sec. 6. Professional Services.--Each component institution is authorized to make use of architects, engineers, and other professional services up to a maximum cost of \$50,000 with the approval of the appropriate Executive Vice Chancellor, the Vice Chancellor for Business Affairs and the Chancellor on recommendation of the chief administrative officer and the chief business officer.

Sec. 7. Constitutional and Legislative Restrictions.

7.1 Sections 17 and 18 of Article VII of the Texas Constitution (regarding the Permanent University Fund and the Higher Education Assistance Fund) require approval by the Legislature, or an agency designated by the Legislature, prior to the construction of physical improvements financed by bonds authorized under these Sections at the component institutions other than The University of Texas at Austin.

7.2 New construction projects not otherwise authorized by law, in excess of \$300,000 and all major repair and rehabilitation projects in excess of \$600,000, must be approved by the Texas Higher Education Coordinating Board. Format for submission will be as prescribed by the Coordinating Board. Submission will be prepared by the component institution, in consultation with and assisted by the Office of Facilities Planning and Construction, if necessary, and forwarded to System Administration for review, approval and handling of submission. It is the objective to submit the necessary documents to the Coordinating Board when the project scope and estimated cost are sufficiently defined to meet the Texas Higher Education Coordinating Board's requirements for approval. Normally, submission will be made when the U. T. Board approves preliminary plans and specifications and the related cost estimate.

Sec. 8. Modification of Bids.

8.1 No bid shall be changed, amended, or modified by telegram or otherwise after the deadline for bid filing set out in the advertisement for bids in connection with the construction or erection of permanent improvements at any of the component institutions of the System under Section 51.907, Texas Education Code, V.T.C.S.

8.2 The substance of this requirement shall be stated in the advertisement for such bids; provided, however, that this requirement shall not be construed to prohibit the submission of filing of more than one separate and independent bid by any bidder.

It was noted that repair and rehabilitation projects between \$300,000 and \$600,000 will be approved by the appropriate Executive Vice Chancellor for ratification by the Board through the institutional docket process.

The dollar threshold for Board approval of the appointment of architects, engineers, and other professional services is increased from \$25,000 to \$50,000.

The Capital Improvement Program and Capital Budget processes will not be altered except that major repair projects funded from sources other than Permanent University Fund Bond Proceeds costing between \$300,000 and \$600,000 will no longer be included in these documents.

2. U. T. System: Authorization to Upgrade the Center for High Performance Computing (CHPC) by Replacement of Presently Installed Equipment with New State-of-the-Art Computers.--In 1985, the U. T. Board of Regents established The University of Texas System Center for High Performance Computing (CHPC) to enable the students and faculties of all component institutions of the U. T. System to have a significant competitive advantage in their research and scholarly endeavors and to recognize the economic importance of advanced high technology to the future of this State. The Cray X-MP/24 supercomputer acquired at that time has enabled the U. T. System to greatly expand its computationally based research programs. The success of the application of computational science to disciplines of physical science, engineering, business, and medicine using supercomputers has moved the research programs to higher planes of investigation.

The Cray X-MP/24 and the smaller Cray X-MP EA/14se supercomputer, acquired in 1988, no longer have sufficient computing power to meet the needs of the research programs for 1990 and beyond.

Committee Chairman Moncrief called on Chancellor Mark who summarized the recommendations of the System Administration regarding the supercomputer proposal. Dr. Mark then introduced Dr. Sidney Karin, Director of the San Diego Supercomputer Center, which is a national supercomputing resource center supported by the National Science Foundation, and Dr. Charles Fox, Deputy Director of the San Diego Supercomputer Center, and noted that, in accordance with the Board's request, Dr. Karin was the outside consultant charged with the responsibility of reviewing the upgrade of the CHPC.

Dr. Karin presented a comprehensive overview of the goals to be met in upgrading a supercomputer center and recommended that the Board authorize the proposed upgrades to the CHPC and that the U. T. System move forward in the near future to upgrade local campus facilities. A summary of Dr. Karin's review is on file in the Office of the Board of Regents.

In order to enhance the ability of U. T. System component institutions to compete most effectively for research funds, the Board, upon motion of Regent Ramirez, seconded by Regent Blanton, authorized the upgrade of the U. T. System Center for High Performance Computing by trading in existing computers and replacing with new state-of-the-art computers from the same manufacturers.

In compliance therewith, the Board:

- a. Authorized the Chancellor, upon the concurrence of the Office of General Counsel, to execute on behalf of the U. T. Board of Regents a Purchase Agreement, Maintenance Service Agreement, and Software License Agreement with Cray Research, Inc., Minneapolis, Minnesota, substantially equivalent to the draft set forth in Attachment A (Pages 138 - 175) and a Purchase Agreement, Support Services Agreement, and Software License Agreement with Convex Computer Corporation, Dallas, Texas, substantially equivalent to the draft set forth in Attachment B (Pages 176 - 209).

In accordance with the terms of the agreements in Attachment A, Cray Research, Inc. will sell to the U. T. System Administration a Cray Research Y-MP supercomputer with eight processors, 64 million words of central memory, 512 million words of solid state disk, and a total of 57 billion bytes of disk storage. Cray Research, Inc. will also maintain that computer and license the use of Cray Research software on the computer in accordance with the terms of the agreements. In return, the U. T. System Administration will pay \$20,452,000 from Permanent University Fund (PUF) Bond Proceeds and trade-in the Cray X-MP/24 and the smaller Cray X-MP EA/14se supercomputer.

The agreements in Attachment B provide for the sale to the U. T. System Administration of a Convex C220 computer with two processors, 64 million words of central memory and a total of 20 billion bytes of disk storage. The Convex Computer Corporation will maintain the computer in accordance with the Maintenance Agreement and will license the use of Convex Computer Corporation provided software. The U. T. System Administration will trade-in the existing Convex C120 computer and pay \$1,450,000 from PUF Bond Proceeds.

- b. Authorized the Chancellor, upon the concurrence of the Office of General Counsel, to execute a Research and Development Agreement with Cray Research, Inc. substantially equivalent to the draft set forth in Attachment C (Pages 210 - 219) and authorized the Executive Director of Academic Information Systems to continue to receive research grants and supervise the research program extended by this agreement. This agreement provides a new grant of \$4,250,000 from Cray Research, Inc. to be paid in five annual installments and permits up to \$3,500,000 to be used by the U. T. System Center for High Performance Computing for equipment purchases with computer time of equivalent value being provided to research scholars.

The upgrade of the CHPC was included in the U. T. System Capital Improvement Program (CIP) approved by the U. T. Board of Regents at the June 1989 meeting. At the June 1990 meeting, the Board approved the U. T. System Capital Budget, Part A, as amended, which included

the upgrade of the CHPC, and appropriated funds in the amount of \$22,500,000. (The original request of \$25,500,000 was reduced by the allocation of \$3,000,000 to the Institute of Biotechnology at The University of Texas Health Science Center at San Antonio.) The Board authorized the use of Permanent University Fund Bond Proceeds for Fiscal Year 1991 for the upgrade, subject to the review by the Board of the actual procurement actions and subject to the review of the CHPC Upgrade Plan by a knowledgeable third party.

By negotiating to trade-in existing computers and extend for five additional years the research program sponsored by Cray Research, Inc., the primary computers in the CHPC can be replaced with new state-of-the-art computers and some funds will remain for future equipment acquisitions. Future equipment acquisitions are expected to include both special purpose computers and remotely located general purpose computers which can be linked over the network for parallel processing tasks.

The transaction can be summarized as follows:

Capital Budget

| | |
|--------------------------------|---------------------|
| PUF Bond Proceeds Budgeted | \$22,500,000 |
| Convex purchase less trade | (1,450,000) |
| Cray purchase less trade | (20,452,000) |
| Plus Cray research program | 3,500,000 |
| Balance for future acquisition | <u>\$ 4,098,000</u> |

Operations

| | |
|---------------------------------|------------|
| Cray research program extension | \$ 750,000 |
|---------------------------------|------------|

The net capital cost of the Cray Y-MP configuration, after deduction of the \$3,500,000 in grant funds provided by Cray Research and applied to capital equipment acquisition, will be \$16,948,000. The net price of the Cray Y-MP supercomputer configuration, after trade-in of the Cray X-MP computers, but excluding the research grant program, is \$20,452,000. Under the proposed Program of Research Grants, Cray Research, Inc. will provide a total \$4,250,000 in grant funds to the U. T. System Administration to be awarded to research programs throughout the U. T. System through a competitive proposal process. Individual grant programs will receive awards of computer time with an aggregate value of \$3,500,000 and a like amount of grant funds provided under the Program of Research Grants will be used to acquire additional computer systems as recommended in the CHPC Upgrade Plan. In addition, \$750,000 will be awarded to the grant research programs to cover other expenses. The grant funds provided by Cray Research, Inc. will be paid in five annual payments of \$850,000, beginning on the purchase date.

The net price for the Convex Computer C220 system configuration, after trade-in of the Convex C120 computer, is \$1,450,000. After payments of the amounts specified in the Agreements referenced above and after receipt of the first payment of research grant funds by Cray Research, Inc., there will remain a balance of \$1,298,000 in the capital account for the CHPC Upgrade Plan. Allocations of \$2,800,000 to the capital account from subsequent payments of research grant funds

from Cray Research, Inc. increase the capital balance to \$4,098,000 for further higher performance computing equipment acquisitions as approved by the U. T. Board of Regents. The total annual cost of operation of the CHPC computing systems will decrease by \$270,000 after acquisition of the upgrades as a result of replacing five computers, three which are to be traded-in and two which are to be used elsewhere in the U. T. System, with two computers of greater capacity and efficiency.

Regent Blanton commended Chancellor Mark, Dr. George Kozmetsky, Dr. Gerhard Fonken, and Dr. Charles Warlick for their efforts in bringing in a knowledgeable outside person to review the CHPC upgrade and noted that this upgrade was a very favorable investment for the U. T. System.

ATTACHMENT A

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SUPERCOMPUTER PURCHASE AGREEMENT

Cray Research, Inc.

**The Board of Regents of
The University of Texas System**

October 1990

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SUPERCOMPUTER PURCHASE AGREEMENT**

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Exhibit 1: Equipment List

Exhibit 2: Software License Agreement

Exhibit 3: Maintenance Service Agreement

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SUPERCOMPUTER PURCHASE AGREEMENT

THIS SUPERCOMPUTER PURCHASE AGREEMENT, made and entered into this _____, by and between Cray Research, Inc., a private, for-profit corporation, incorporated under the laws of the State of Delaware, and the Board of Regents of The University of Texas System, a tax-exempt state agency of the State of Texas,

WITNESSETH:

WHEREAS, the Board of Regents of The University of Texas System has established The University of Texas System Center for High Performance Computing to include the following system equipment components and related software: (a) supercomputer mainframe, including power distribution and cooling equipment; input and output subsystems; (b) disk storage subsystem; (c) solid-state storage system; (d) magnetic tape subsystem; (e) two front-end computer systems which will include input and output components, communications subsystems and magnetic tape and disk storage subsystems; (f) graphics subsystems; and (g) the necessary equipment and software for all component institutions to communicate with the System Center from their respective remote locations; and

WHEREAS, the Board of Regents and Cray Research, Inc. have determined that the scope of this Agreement is for Cray Research, Inc., to provide to the Board of Regents of The University of Texas System for The University of Texas System Center for High Performance Computing: (a) supercomputer mainframe including power distribution and cooling equipment; input and output subsystem; disk storage subsystem; and training support; (b) the installation of equipment and software and license to use same; and (c) the software support services and authorization of an agreement for maintenance services,

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

Section 1. Definitions and Exhibits

- (a) The following definitions apply throughout this Agreement, unless expressly indicated otherwise or unless the context clearly indicates another meaning:
- (1) "Acceptance Date" means the date of completion of the acceptance test as provided for in Section 12.
 - (2) "Board of Regents" means the Board of Regents of The University of Texas System or its authorized representatives.
 - (3) "Cray" means Cray Research, Inc. or its authorized representatives.
 - (4) "Equipment" means the supercomputer equipment as more fully described in Exhibit 1.

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- (5) "Installation Date" means the date that Cray notifies the Board of Regents that the Equipment is installed and ready for use, as provided for in Section 9.
 - (6) "Software" means the then current versions of software listed and described in the attached Software License Agreement.
 - (7) "The U. T. System CHPC" means The University of Texas System Center for High Performance Computing. The central site of the CHPC is located in the Commons Building of the Balcones Research Center, 10100 Burnet Road, Austin, Texas.
- (b) All Exhibits attached to this Agreement are incorporated herein as if recited verbatim; the following is a list of the Exhibit titles:
- Exhibit 1: Equipment List
 - Exhibit 2: Software License Agreement
 - Exhibit 3: Maintenance Service Agreement

Section 2. Equipment and Software

Pursuant to the terms and conditions of this Agreement, and in consideration for the prices agreed herein to be paid, Cray agrees to sell and the Board of Regents agrees to buy the Equipment as listed in Exhibit 1; and approves the purchase of a non-exclusive license to use the Software, as provided for in and subject to the terms of the Software License Agreement. (Exhibit 2 hereof).

Section 3. Maintenance Services

Pursuant to the terms and conditions of this Agreement Cray and the Board of Regents approve the Maintenance Service Agreement (Exhibit 3 hereof).

Section 4. Equipment Quality

Equipment provided shall be newly manufactured, or may consist in whole or in part of refurbished components which are warranted equivalent to new in performance. Equipment, when installed, shall be available for the exclusive and unlimited use of the Board of Regents, except during required periods of maintenance.

Section 5. Confidentiality

The parties recognize that in the course of performance of this Agreement each may be exposed to or come into possession of confidential or proprietary material of the other. When such material is in illustrated or written form, marked as confidential or proprietary, or when it is disclosed orally, identified at the time as confidential, and identified as confidential or proprietary in writing to the receiving party within twenty (20) days after disclosure, then the material shall be protected and held as confidential by the receiving party to the same extent

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that party protects its own confidential or proprietary material, but at least reasonable care. This obligation shall continue for a period of five (5) years following receipt of the material and shall survive any termination of this Agreement, but it shall not cover any information which: is disclosed to a third party, by the disclosing party, without restrictions on disclosure; has been or is developed independently by the receiving party without violation of obligations of confidentiality; falls into the public domain; is rightly obtained by the receiving party from a third party without restriction; or is rightly in the possession of the receiving party at the time of disclosure by the disclosing party.

Section 6. Training

- (a) **Training to be Provided:** With the Y-MP8/864 System ordered, Cray Research will provide the Board of Regents with (400) training units. A training unit is defined as one student-day of training. These training units can be used in lieu of tuition for standard courses offered at any Cray facility, or for any Cray conducted training held at the Board of Regents site or other location, during the period beginning with contract award, and ending 12 months after acceptance of the system. The training units can be used only for courses that relate directly to the Cray system and Software listed in this contract. Any additional training requested in excess of that covered by training units will be provided if available and will be charged at the current rate in effect when the training is ordered.

For training conducted at a site other than a Cray facility, the minimum charge will be for ten (10) students per course and there will be an additional on-site fee to the Board of Regents for every week, or partial week, of a training course.

- (b) **On-Site Training:** The Board of Regents requests for on-site training requires a minimum of 90 days lead time. Cray requires a minimum of 10 students per on-site course. Cray will make every reasonable attempt to schedule classes after the 90 day cutoff but does reserve the right to schedule based on resource availability. Half day classes may be scheduled for the Board of Regents' convenience, but the Board of Regents will be charged training units at the full day rate. Once a class is scheduled, a 30-day advance notice is required for cancellation. Classes cancelled after the 30 day deadline will be charged units based on a minimum enrollment of 10. The maximum charge will not exceed 50 training units. If a class is cancelled with less than 30-days notice, non-refundable charges incurred by Cray (e.g. airplane tickets, hotel room charges) will be billed to the Board of Regents. Most courses require interactive terminal access to an appropriate Cray system for each student, and the instructor. Therefore, it is recommended that on-site courses be conducted after the installation of the Cray system. Due to the nature of some systems courses, not all standard training courses are available for on-site presentation. For training not conducted at a Cray facility there is an additional charge to the Board of Regents for every week, or partial week of a training course.
- (c) **Headquarters Training:** The Board of Regent's requests for enrollment into the Cray Headquarter's Eagan, Minnesota training facility require a minimum of

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three weeks notice. If space is available, Cray will accept late registrations. Cancellations of a registered student without giving Cray three weeks notice will result in the deduction of the same number of training units as if the student attended the class. Cray reserves the right to schedule courses, change schedules, and restrict the number of students in any Eagan, Minnesota course. If for any reason a course must be cancelled, all enrolled students will be notified at least two weeks in advance. All requests for enrollment must be submitted to the regional software Training Registrar. Everyone enrolled will receive a letter of confirmation.

All standard training courses are designed for experienced computer personnel who meet all prerequisites for a particular course.

The Board of Regents is responsible for the travel and living expenses of their employees attending training at a Cray facility. Upon request, Cray will provide assistance with reservations for students.

- (d) **Operator Training:** The Operator Training course is normally given on-site by local Cray personnel to up to 12 experienced operators immediately after the installation of the system. Cray does not charge for operator training if conducted on-site; however, it is subject to charge if conducted off-site.

Section 7. Manuals

Cray shall provide, on or prior to the Installation Date, 20 copies of the most recent and complete user reference manuals at no charge to the Board of Regents. Upon request, Cray will provide additional manuals if available and at an additional charge. The Board of Regents is hereby granted the right to reproduce any manuals for its own use provided that each copy, or partial copy clearly shows the appropriate proprietary notices of Cray and, as applicable, of third party licensors.

Section 8. Site Preparation

The Board of Regents shall, at its expense, have the central CHPC site prepared in accordance with Cray's written specifications ten (10) days before the Scheduled Delivery Date. If for any reason the site will not be prepared prior to the Scheduled Delivery Date, the Board of Regents may defer delivery of the Equipment by no more than 15 days. If for any reason Cray is unable to ship the Equipment by the Scheduled Delivery Date, the Board of Regents will be notified immediately. The Scheduled Delivery Date is _____.

Section 9. Shipment and Installation of Equipment and Software

Cray will be responsible for the shipment of the Equipment and Software to the installation site by common carrier of its choice, and prepay all charges for transportation. Such charges will be invoiced to the Board of Regents. The Board of Regents at its own expense shall arrange for the physical movement of equipment from the common carrier's vehicle to the designated location in the CHPC computer room. Cray will supervise the movement of the Equipment to the

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computer room, will install the Equipment and Software, and will notify the Board of Regents that the Equipment and Software is installed, ready for use. The date of notification will be the Installation Date.

Section 10. Trade-In

In partial consideration for purchase of the Equipment, the Board of Regents will trade in the X-MP/24 supercomputer, Serial No. 130, and the X-MP EA/14se supercomputer, Serial No. 1303. (referred to herein as "Trade-In Equipment"). Cray will dismantle and move the Trade-In Equipment. Title to the Trade-In Equipment will pass to Cray when Cray begins the dismantling process.

After title passes to Cray, Cray assumes all risk of loss or damage to the Trade-In Equipment, except that the Board of Regents will be responsible for any loss or damage to the Trade-In Equipment caused by negligence of the Board of Regents.

The Trade-In Equipment is identified in Exhibit 1 of this Agreement.

Section 11. Risk of Loss or Damage

Cray assumes all risks of loss or damage to Equipment and Software during periods of transportation and installation, and at all times prior to the Acceptance Date, except that the Board of Regents will be liable for loss or damage caused by (A) negligence of the Board of Regents, (B) improper use of the Equipment by the Board of Regents or (C) causes external to the Equipment while at the Installation Site not caused by Cray, or (D) nuclear radiation, reaction, or contamination. The Board of Regents becomes responsible for loss or damage to purchased Equipment and Software that has not been caused by Cray or its employees as of and after the Acceptance Date.

Section 12. Standard of Performance

- (a) This Section establishes a standard of performance which must be met before the Equipment listed in Exhibit 1 is accepted by the Board of Regents.
- (b) The "Standard of Performance" is defined as the operation of the Equipment in accordance with the official published specifications as described in the Cray Hardware Reference Manual at a minimum effectiveness level of 95 percent for a period of 7 consecutive calendar days beginning on the Installation Date. The period of time beginning on the Installation Date and continuing through the Acceptance Date will be referred to hereafter as the "performance period".
- (c) In the event the Equipment does not meet the Standard of Performance during the initial 7 consecutive calendar days, the Standard of Performance test shall continue on a day-by-day basis until the Standard of Performance is met for a total of 7 consecutive calendar days.
- (d) If the Equipment fails to meet the Standard of Performance after 60 calendar days

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from the commencement of the performance period, the Board of Regents may terminate this Agreement and Cray shall remove its Equipment at Cray's expense.

- (e) The effectiveness level is the percentage figure determined by dividing the number of operational use time hours of the processor during the performance period by the number of such hours plus equipment failure downtime.
- (f) Operational use time for performance testing for a system is defined as the accumulated time during which the Equipment is in actual operation or available for operation, including any interval of time between the start and stop of the Equipment.
- (g) During the performance period, Equipment failure downtime for each incident shall be measured by those periods of time between the time that Cray is notified of Equipment failure in the system and the time that the entire system undergoing the performance test is returned to the Board of Regents in proper operating condition, exclusive of actual travel time required by Cray's maintenance personnel, not to exceed one hour on the day such services were requested. Equipment failure downtime means Equipment failure of such a nature as to prevent the execution of the performance tests.
- (h) During the performance period, a minimum of 100 hours of operational use time on the processor with productive or simulated work will be required as a basis for computation of the effectiveness level; however, in computing the effectiveness level, the actual number of operational use hours shall be used when in excess of the minimum of 100 hours. In scheduling use during the performance period, the Board of Regents shall schedule enough hours to achieve the minimum 100 hours required and shall make provisions for preventive maintenance required for the system.
- (i) The Board of Regents shall maintain appropriate daily records to satisfy the requirements of this Section.
- (j) When the Equipment has successfully met the Standard of Performance, the Board of Regents shall give notice of acceptance of the Equipment to Cray.
- (k) Equipment shall not be accepted and no charges shall be paid until the Standard of Performance is met.

Section 13. Equipment Warranty

- (a) Cray warrants that on the Installation Date and on the Acceptance Date the Equipment will be in good working order and will conform to Cray's published specifications, copies of which shall be made available by Cray to the Board of Regents prior to the Installation Date. Cray further warrants that in the event of defect in material or workmanship on purchased Equipment discovered within one (1) year after the Installation Date, Cray will, at its option, repair or

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replace the defective Equipment at no additional charge to the Board of Regents. This one (1) year warranty on design, material, and workmanship does not include components that are expended in the normal operation of the Equipment and which are routinely replaced during maintenance service periods as may be provided in the Maintenance Service Agreement, (Exhibit 3 hereof). Cray shall have no obligation under this warranty to make repairs or replacement required through normal wear and tear, or necessitated in whole or in part by causes external to the Equipment, negligence of the Board of Regents or improper use of the Equipment by the Board of Regents.

- (b) The Board of Regents understands that it is responsible for the proper selection of equipment and software to achieve its intended results, use of same and the results obtained therefrom.

Section 14. Implied Equipment Warranties and Remedies

EXCEPT AS OTHERWISE REQUIRED BY LAW, THE EXPRESS WARRANTY SET FORTH IN THE EQUIPMENT WARRANTY SECTION HEREOF SHALL BE THE EXCLUSIVE WARRANTY AND SHALL BE IN LIEU OF ALL WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY. THE REMEDY STATED THEREIN SHALL BE THE EXCLUSIVE REMEDY UNDER THE EXPRESS WARRANTY CONTAINED THEREIN AND UNDER ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, REQUIRED BY LAW TO THE EXTENT PERMITTED BY LAW. CRAY SHALL NOT BE LIABLE IN ANY EVENT FOR ANY LOSS OR DAMAGES CAUSED BY DELAY IN FURNISHING THE EQUIPMENT OR ANY OTHER PERFORMANCE UNDER THIS CONTRACT, NOR SHALL CRAY BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL OR INDIRECT DAMAGES.

Section 15. Equipment Substitutions

The Board of Regents agrees that Cray may substitute other equipment for the Equipment originally ordered provided that the Board of Regents is notified in writing in advance of the substitution and the Board of Regents agrees in writing to the substitution.

Section 16. Equipment Title

Title to purchased Equipment shall pass to the Board of Regents on the Acceptance Date. The Board of Regents agrees not to dispose of or encumber any interest in the Equipment so long as any amount remains due Cray by the Board of Regents under this Agreement.

Section 17. Security Interest

- (a) The Board of Regents hereby grants Cray a purchase money security interest in the Equipment and all proceeds to secure the Board of Regents' prompt payment and performance of its obligations under this Agreement. Upon the Board of Regents' failure to pay any amounts when due or upon the breach by the Board of Regents of any of its other material obligations under this Agreement, Cray may exercise any one or more of the following rights and remedies:

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- (1) Suspend all performance under this Agreement and declare the entire unpaid balance of the purchase price, with any accrued interest, late fees, additional charges and any other amounts due under this Agreement, to be immediately due and payable and the same will thereupon become due and payable without further notice or demand;
 - (2) Require the Board of Regents to make the Equipment and Software available at the installation site and to permit Cray to enter upon the site during normal business hours and repossess and remove the Equipment and Software and, at the Board of Regents' expense, ship the Equipment and Software fully insured to a place designated by Cray;
 - (3) Exercise any one or more of the rights and remedies of a secured party under the Uniform Commercial Code as adopted in the State of Texas; or
 - (4) Pursue any other remedy Cray may otherwise have, at law, in equity or under any statute and recover such other actual damages as may be incurred by Cray.
- (b) If notice to the Board of Regents of any intended disposition of the Equipment is required, such notice will be deemed commercially reasonable if given at least ten (10) calendar days prior to such intended disposition.
 - (c) All of Cray's rights and remedies under this Agreement are cumulative and may be exercised concurrently or separately without any election or waiver of any other remedy.
 - (d) Time is of the essence in this Agreement. Cray may accept past due payments without modifying the terms of this Agreement and without waiving any further rights of Cray.
 - (e) The Board of Regents will provide, upon Cray's request, either before or after installation, the written consent, in a form reasonably satisfactory to Cray, of the owner, if other than the Board of Regents, and any mortgagee of the installation site for Cray's entry onto the installation site for the removal of the Equipment or the exercise by Cray of any of its rights or remedies under this Agreement.
 - (f) At the request of Cray, the Board of Regents will immediately join Cray in executing one or more Uniform Commercial Code financing statements or other documents reasonably required by Cray to evidence or perfect Cray's security interest in the Equipment. The Board of Regents hereby grants Cray a limited power of attorney to execute and file on the Board of Regents' behalf any such financing statements or documents not immediately executed by it as provided above. Upon satisfaction of all of the Board of Regents' obligations under this Agreement, Cray will promptly terminate such financing statements or other such documents.

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- (g) The Board of Regents agrees to maintain the Equipment as personal property and not permit it to become a fixture.

Section 18. Software Service Support

Software Service Support shall be provided by Cray in accordance with the terms and conditions of the attached Software License (Exhibit 2, Section 3).

Section 19. Invoices and Payment

The Equipment invoice shall be issued on or about the Installation Date and payment shall be due no later than 35 days after Acceptance Date. Invoices for transportation and insurance shall be issued after the Acceptance Date and shall be due no later than 30 days after the date of invoice. Maintenance invoices and Software invoices shall be issued monthly in advance and shall be due no later than 30 days after the date of invoice. Payment of invoices will be to the address specified on the invoice.

A prompt payment discount of one-half percent (1/2%) of invoiced amounts will be granted for payments received by Cray within fifteen (15) days of the invoice date or the Acceptance Date, whichever is later. A late payment charge of one-half percent (1/2%) of invoice amounts will be paid by the Board of Regents for each fifteen (15) day period (or part thereof) of delay in payment beyond the due date of the invoice.

Section 20. Patents and Copyrights

- (a) Cray will hold harmless, indemnify, and defend the Board of Regents, The University of Texas System or any of its component Institutions, or any of the component institution's auxiliary enterprises, or the CHPC, against any claim or suit brought against any one of them alleging that the Equipment or any part thereof, Software or any part thereof, furnished by Cray or data supplied under this Agreement constitutes an infringement of any United States patent, trade secret, or copyright; provided, however, that such shall be conditioned upon receipt by Cray of prompt notification in writing of such claim. The Board of Regents shall have the right to participate in the defense by naming an additional attorney at its expense. Cray shall defend or settle any suit or proceeding based on such a claim and the Board of Regents will provide authority, information and assistance (at Cray's expense) for the defense of such a suit or proceeding, and in such case Cray will pay all damages and costs awarded therein against the aforesaid. In case the Equipment or any part thereof is likely to become or is held to constitute an infringement and the use of the Equipment or any part thereof, Software or any part thereof, or data supplied under this Agreement is likely to be enjoined, or is enjoined, Cray shall, at its own expense and at its option, either:

- (1) procure for the Board of Regents the right to continue using the Equipment or Software or the infringing part thereof;

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- (2) replace same with non-infringing Equipment or Software;
 - (3) modify it so the Equipment or Software which is the subject of the claimed infringement to the extent that it becomes non-infringing; or
 - (4) accept return of the infringing Equipment or Software, or part thereof, and grant the Board of Regents a credit equal to the trade-in value of the Equipment, Software, or part thereof.
- (b) Cray shall not be liable to the Board of Regents or to any other party mentioned above for any claim or suit which is based upon the use of the Equipment, or any part thereof, in connection with Equipment, Software, or devices not delivered by Cray or the use thereof in a manner for which the Equipment, Software, or devices are not designed.

Section 21. Assignments

Neither party shall have the right to assign or otherwise transfer its rights or obligations under this Agreement except with the written consent of the other party after written notice as provided in Section 24, below.

Section 22. Applicable Law

This Agreement shall be governed by the laws of the State of Texas.

Section 23. No Partnership or Joint Venture

No partnership or joint venture is intended or created by this Agreement.

Section 24. Notices

Any notice, communication, request, reply or advice, or duplicate thereof (hereinafter severally and collectively, for convenience, called "Notice") in this Agreement provided or permitted to be given, made or accepted by the parties to any other party must be in writing, and may, unless otherwise in this instrument expressly provided, be given or be served by depositing the same in the United States mail, postpaid and registered or certified and addressed to the party to be notified, with return receipt requested, or by delivering the same in person to such party, or if the party or parties to be notified be incorporated, to an officer of such party, or by prepaid telegram when appropriately addressed to the party to be notified. Notice deposited in the mail in the manner hereinabove described shall be effective, unless otherwise stated in this Agreement, from and after the expiration of five (5) days after it is so deposited. Notice given in any other manner shall be effective only if and when received by the party to be notified. For purposes of notice the addresses of the parties shall, until changed as hereinafter provided, be as follows:

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If to Cray, addressed to:

Cray Research, Inc.
5847 San Felipe, Suite 3050
Houston, Texas 77057
Attention: District Manager/Contracts Manager

If to the Board of Regents of The University of Texas System, addressed to:

The Board of Regents of The University
of Texas System
c/o The University of Texas System
Office of the Board of Regents
201 West Seventh Street
Austin, Texas 78701
Attention: Executive Secretary, Arthur H. Dilly

with copies to:

The University of Texas System
Center for High Performance Computing
Commons Building
Balcones Research Center
10100 Burnet Road
Austin, Texas 78758-4497
Attention: Director, James C. Almond

Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701
Attention: Attorney, Peter S. Hanke

However, the parties hereto and their respective heirs, successors, legal representatives and assigns shall have the right from time to time and at any time to change their respective addresses and shall have the right to specify as their respective addresses and other addresses within the United States of America by at least fifteen (15) days' written notice to the other party; provided, however, if at any one time more than one person or party owns an interest in the Agreement, nevertheless such persons or parties may not designate more than two places or addresses to receive notice pursuant to the terms hereof. Each party shall have the right to change such party's address for purposes of notice, by giving written notice to the other party in the manner herein set forth.

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Section 25. Amendments

This Agreement may be amended only by written instrument executed by authorized representatives of the parties hereto.

Section 26. Condition

This Agreement is expressly conditioned upon the signatories hereto having the appropriate authority to bind each of the parties hereto.

Section 27. Entire Agreement

The terms, conditions, and provisions stated herein constitute the complete and exclusive statement of the Agreement regarding the Equipment, Software and services between the Board of Regents and Cray, and shall supersede all prior oral and written statements of any kind whatsoever made by either party or their representatives including any Order from the Board of Regents to Cray.

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Executed on this _____ day of _____, 1990

Cray Research, Inc.

By _____
Name:
Title:

The Board of Regents of The
University of Texas System

Attest:

By:

Approved as to Form:

Recommended for Approval:

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Exhibit 1: EQUIPMENT LIST

SALE PRICE

| <u>Model No.</u> | <u>Qty</u> | <u>Description</u> | <u>Unit</u> | <u>Total</u> |
|----------------------|------------|--|--------------|----------------------------|
| Y-MP8/864 SN 1051 | 1 | Eight CPU's in a chassis wired for eight CPU's; 64 million words of central memory; 256 memory banks; I/O subsystem Model D with four IOP-D's; Two very high speed channels; Eight high speed channels; Eight low speed channels; Power Distribution unit; Motor Generators; Heat Exchange Unit; Operator Workstation. | \$19,950,000 | \$19,950,000 |
| SSD-7 | 1 | 512 million word Solid-State Storage Device | \$5,000,000 | \$5,000,000 |
| DS-41 | 2 | 19.2 GByte Disk Subsystem | \$750,000 | \$1,500,000 |
| DCU-5 | 2 | Disk Controller Unit | \$50,000 | \$100,000 |
| HIPPI | 1 | 100 MByte External HIPPI Channel | \$50,000 | \$50,000 |
| | | | Subtotal: | <u>\$26,600,000</u> |
| | | Less Trade-In of S/N 130 and S/N 1303 (1): | | <u>\$8,148,000</u> |
| | | TOTAL PURCHASE PRICE (2): | | <u>\$20,452,000</u> |

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- (1) The following Trade-In Equipment will be turned over to Cray by the Board of Regents:

| <u>Qty</u> | <u>S/N</u> | <u>Model No.</u> |
|------------|------------|--|
| 1 | 130 | X-MP/24 |
| 1 | 26 | SSD-3 |
| 1 | 16 | XIOP |
| 1 | 37 | BMC-4 |
| 1 | 1303 | X-MP EA/14se (S/N 1303, 8.5 nsecond clock) |
| 1 | 36 | XIOP |
| 1 | 7 | BM-4se |
| | | Maintenance Peripheral Items |

The following equipment is excluded from the trade in of the SN 130 and SN 1303 supercomputer systems, and will be configured into the Y-MP8 system upon installation:

| <u>Qty</u> | <u>Model No.</u> |
|------------|-------------------|
| 9 | DD-49 (one spare) |
| 7 | DD-39 |
| 4 | DCU-5 |
| 1 | BMC-5 |
| 1 | FEI-1 |
| 1 | FEI-3s |

- (2) The Total Purchase Price is a price certain and is not subject to change due to any increases or decreases in Cray's published list prices.

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EXHIBIT 2

SOFTWARE LICENSE AGREEMENT

Cray Research, Inc.

**The Board of Regents of
The University of Texas System**

October 1990

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Section 1. General Purpose

The Board of Regents and Cray Research, Inc. ("Cray"), agree that the following terms and conditions apply to the provisions of Software, Documentation, and Software Service Support as specified in Exhibit I of this Agreement. Some Software or Documentation may be owned in whole or in part by a third party provider to Cray, and so references to items supplied by Cray and reservations of rights in Cray shall be deemed to include such Software and documentation and the reservation of rights in such third party provider.

Section 2. License

Cray, as owner or sub-licensor, grants and the Board of Regents accepts a single, non-transferable and non-exclusive license to use Cray supplied Software and applicable Documentation subject to all of the terms and conditions of this Agreement, solely for the Board of Regents' internal data processing applications and for certain authorized third parties' data processing applications as provided below, and on or for only the Cray computers and other computers specified in this Supercomputer Purchase Agreement.

This license permits data processing applications to be performed using Cray Software and applicable Documentation by employees and representatives of the Board of Regents, and certain third parties and representatives of third parties authorized by the Board of Regents to perform such data processing applications. The Board of Regents shall so authorize only third parties that either (a) are research consortia which occupy real estate owned by the Board of Regents and of which the Board of Regents is an associate program member, or (b) will perform the applications in a research project which is funded in whole or in part by the U. S. Government or in which the U. S. Government is a participant, or (c) will perform the applications in research programs that are consistent with the goals of the Board of Regents to increase scientific and engineering knowledge and to serve as an educational resource for and facilitator of scientific and engineering research of significance.

No rights to sublicense or market the Software or Documentation are transferred hereby, and all other rights not specifically granted to the Board of Regents by this License shall similarly remain in Cray.

Section 3. Software Service Support

Software Service Support will include resolution of general or technically complex problems relating to the installation and configuration of the Software. Cray will use reasonable efforts to resolve problems arising from the Board of Regents' use of Cray supplied Software which are not resolved by the Board of Regents' employees provided that the Board of Regents reports such problems in a format prescribed by Cray to a location specified by Cray. The Board of Regents will use reasonable efforts to utilize the corrective information supplied by Cray. Cray may decline to support Software which has been modified by or at the direction of the Board of Regents if in Cray's opinion such modifications have caused or contributed to problems for which support has been requested.

Cray will provide full time Austin analyst support for as long as (a) the Equipment is installed and in use by the Board of Regents', and (b) this Software License Agreement is in effect. The Board of Regents will provide Cray with office space for analyst support work.

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No service problem that is the result of a failure to comply with published specifications shall be considered remedied by the mere publication of an amended set of specifications, as described in any appropriate Software Documentation. The specifications may be corrected if typos or other mistakes are discovered.

Cray warrants, in lieu of all other remedies, to spend a reasonable effort to remedy Software problems that may arise. Cray does not, however, guarantee service results or represent or warrant that any or all errors or problems will be corrected.

Section 4. Nondisclosure

The Board of Regents acknowledges that the Software products and related Documentation are proprietary products developed by Cray or its suppliers and shall remain the property of Cray before, during, and after termination of this Agreement. The Board of Regents will not disclose or otherwise make available to any third party any Software product or Documentation or any information contained therein or related thereto in any form in whole or in part without Cray's prior written permission except to (a) employees of the Board of Regents necessarily involved in the normal use and operation of the Software or to Cray; or, except for those sensitive manuals that may be marked by Cray as "Confidential", "Cray Private", "Company Private", or the like, (b) to those authorized third parties described in Section 2 (License) above. The Board of Regents will take appropriate action by instruction, contract, or otherwise, with any persons permitted access to a Software product or Documentation so as to satisfy the Board of Regents' obligations with respect to nondisclosure, limitations on use, copying, protection, and security of all Cray supplied proprietary information. If for any reason the Board of Regents gains access to: (1) Cray Software technical manuals marked "Company Private" or "Cray Private", (2) Cray software source listings, or (3) Cray software source code; which the Board of Regents does not have a right of access under a written agreement between the Board of Regents and Cray, the Board of Regents agrees to not examine, use, copy, or keep such items, but shall return them promptly to Cray. The Board of Regents obligation of confidentiality and nondisclosure shall apply to all forms of software received. Because harm not adequately compensable might result from unauthorized disclosure of Cray supplied proprietary or confidential information, Cray may in the event of the Board of Regents' breach of its obligations of nondisclosure hereunder seek injunctive relief. Provisions of this Section shall survive any termination of this Agreement.

Section 5. Patent and Copyright Notice

The Board of Regents recognizes that certain parts of any Software or Documentation may have been patented or copyrighted by Cray or its third party provider. It is understood that patent or copyright notice has been included in the Software and Documentation for protective purposes, and such notice shall not itself cause or be construed as causing publication of the Software and Documentation. The Board of Regents agrees that it shall affix to any and all copies in whole or part, including partial copies and modifications of those parts of the Software or Documentation that may be copyrighted or patented, the form of copyright or patent indicated by Cray or such third party.

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Section 6. Use

Software provided by Cray hereunder may be used by the Board of Regents only on a computer for which the Software was designed and only for the Cray computer and other computers specified in Exhibit 1 of this Supercomputer Purchase Agreement, at the site specified in accordance with the License granted in Section 2 of this Software License Agreement. The Board of Regents may duplicate Cray supplied Software for such business purposes as backup, archiving, security, etc., but all appropriate copyright or proprietary notices of Cray and third party licensors must be included. The Board of Regents is not licensed to and agrees not to "clone," reverse assemble, reverse compile, or otherwise investigate, adopt as its own, or adopt the algorithms of any part of the Software, without the consent of Cray. The Board of Regents shall not translate the Software or Documentation into a language different from the language in which it was originally disclosed or provided to the Board of Regents by Cray.

The Board of Regents may modify the Software for its own purposes but must include the copyright or proprietary notices of Cray or third party licensors, as appropriate. Such modifications may affect Software Service Support.

Section 7. Form of Code Provided

Cray will provide the Software in machine readable format without additional charge for the media. One copy of the "source" code will also be provided at no additional charge if so specified, and may be supplied in any case, at Cray's option.

Section 8. The Board of Regents' Control

The Board of Regents is responsible for the supervision, management, and control of its use of the licensed Software and Documentation, including establishing backup plans and implementing sufficient procedures to satisfy the requirement in this Agreement for protection of proprietary and copyrighted materials. As a part of the foregoing responsibility, the Board of Regents shall at all times maintain records showing the location of each original and copy of Software issued by Cray to the Board of Regents or made by the Board of Regents and the serial number of the Equipment on which it is used and shall supply such records to Cray on written request by Cray at reasonable intervals and as deemed necessary by Cray. The Board of Regents consents to an examination of such records by Cray at reasonable times and on reasonable notice.

Section 9. Releases

From time to time Cray may release a new release of an existing Software product. The new release may contain enhancements, bugfixes, or both. A release that contains significant enhancements is called a Major Release. A release that contains primarily bugfixes is called a Minor Release. Cray will notify the Board of Regents and will make the new release available on the same terms, conditions, and prices as it supplies it to its other customers.

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After Cray distributes a Major Release, Cray will distribute Minor Releases for the previous Major Release only for a limited time. Cray will notify the Board of Regents at the time of the new Major Release of when Minor Releases for the previous Major Release will cease.

Support for old Major Releases will continue on a reasonable efforts basis. Documentation for old Major Releases will be supplied only if still available.

New software products may be added to this Agreement by amendment in writing by both parties.

Section 10. Third Party License

Certain Software to be supplied hereunder may require a license from a third party. Such requirement is noted on Exhibit I. The Board of Regents agrees to secure such license from the third party at the Board of Regents' expense and by separate agreement and so certify to Cray in writing, before delivery of the affected Software, and agrees to make the payments required by this Agreement to Cray in any event. If such third party issues a new version or release of such software, and Cray then incorporates that software into any newer Software version or release covered by this Agreement, then the Board of Regents must comply with any additional licensing or fee requirements imposed by such third party. If the Board of Regents elects not to do so, then the revised Software from Cray will not be provided and Cray Support may change in accordance with provisions of the END OF PRODUCT LIFE Section. In some instances, the Board of Regents may be licensed by such third party or Cray for other than source code, but source code of the licensed Software may be kept on site for use by Cray analysts. In such cases, and in the event of inadvertent act or known, intentional violation of Cray requirements, such source code is presented or made available to the Board of Regents, the Board of Regents agrees not to copy, examine, or use the source code, but to return it to Cray representatives and report to Cray representatives the details of the disclosure.

Section 11. Networking and Communications Software

Networking and communications Software provides a communication link between a Cray computer and other computer systems, typically not manufactured by Cray (and therefore certain types of such Software are sometimes called interface or Link Software). Such Software is dependent upon the Operating System of both the Cray computer and the other computer system. Cray will provide modifications for the networking and communications Software when such modification is necessitated by Cray supplied changes to the Operating System of the Cray computer. Cray does not promise to provide modifications for the networking and communications Software when such modifications are necessitated by changes in the Operating System of the other computer system. However, if in Cray's opinion such modifications are possible and economically feasible, Cray will use reasonable efforts to provide the modifications. Certain networking and communications Software requires a change to the Operating System of the other computer system. In this case, Cray shall provide information to the Board of Regents which shall permit the Board of Regents to make the necessary changes. The Board of Regents agrees to make the necessary changes in a timely fashion.

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Section 12. Charges and Adjustment of Charges

The Board of Regents agrees to pay to Cray the Monthly License Fee as specified. The Monthly License Fee includes any applicable monthly support charges.

After the first year of license support of Software, charges are subject to change by Cray on ninety (90) days written notice to the Board of Regents, but only once in any twelve (12) month period. In the event that charges for Software are increased, the Board of Regents may, upon prior written notice to Cray of its intent to do so, terminate its license and use of the affected Software as of the effective date of such price increases. Otherwise, the new charges will become effective.

Discontinuance of license or support of any Software hereunder shall not relieve the Board of Regents of any obligation to pay charges which become due and payable prior to the date of such discontinuance.

Cray will allow a three and six-tenths percent (3.6%) discount off the total contracted Monthly License Fees when twelve (12) months of license fees are paid in advance.

In the event of determination by Cray that certain Software has reached the end of its product life, special pricing provisions of the END OF PRODUCT LIFE Section shall apply.

Section 13. End of Product Life

Cray will support the latest release of a Cray supplied Software product for as long as the Board of Regents wishes to use that product in accordance with the terms of this Agreement. But the Board of Regents understands that when a comparable successor product is offered by Cray, the earlier product may enter a circumstance of modified support; that circumstance shall be called Maintenance Mode. In this stage, any applicable license and license charges will still apply, support charges may be introduced or may increase annually at a substantial rate. The Board of Regents will be given twelve (12) months advance written notice in the event that Cray decides to place a product in Maintenance Mode. Cray agrees, however, that except for cases of nonpayment, or breach of this Agreement by the Board of Regents, or termination according to the TERMINATION Section, License to use a Software product shall not be terminated as long as the Board of Regents is owner or lessee of the Cray computer for which such Software is licensed.

Section 14. Warranty

The current release of Software products supplied by Cray will perform substantially in accordance with functional specifications contained in the current release of relevant technical manuals. Cray reserves the right to correct errors in manuals due to typographical or clerical errors and to update specifications and manuals with future releases.

Support is provided on a "reasonable efforts" basis. Cray does not, however, guarantee the results from use of the Software or Software Service Support or warrant that any or all errors or problems will be corrected.

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Section 15. LIMITATION OF LIABILITY

CRAY SHALL NOT BE LIABLE FOR ANY DAMAGES CAUSED BY DELAY IN FURNISHING THE SOFTWARE OR SOFTWARE SERVICE SUPPORT OR ANY OTHER PERFORMANCE UNDER THIS AGREEMENT. THE SOLE AND EXCLUSIVE REMEDIES FOR ANY BREACH IN THE WARRANTY, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATIONS, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS, AND THE SOLE REMEDIES FOR CRAY'S LIABILITY OF ANY KIND, INCLUDING LIABILITY FOR NEGLIGENCE WITH RESPECT TO SERVICE PROVIDED UNDER THIS AGREEMENT, AND ALL OTHER PERFORMANCE BY CRAY UNDER OR PURSUANT TO THIS AGREEMENT, SHALL BE LIMITED TO THE WARRANTY PROVIDED IN THE WARRANTY SECTION AND IN NO EVENT SHALL INCLUDE ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES. IN ANY AND ALL CASES, CRAY'S MAXIMUM LIABILITY IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT SHALL BE THE EQUIVALENT OF SIX (6) MONTHS OF CHARGES FOR THE RELEVANT SOFTWARE.

Section 16. The Board of Regents Warranty

When any computer program material to which rights are owned by a third party are to be copied, disclosed to Cray, or otherwise used in association with the Software, the Board of Regents warrants that it has any necessary permission, express or otherwise, to enable it to copy, disclose to Cray, or otherwise use such computer programs without infringing said third party's rights and agrees, to the extent permitted by the Constitution and the laws of the State of Texas, to indemnify and hold Cray harmless from all liability in connection therewith.

Section 17. Termination

This Agreement or the license of any Software may, prior to commencement of charges, be terminated by the Board of Regents at no charge to the Board of Regents upon written notice to Cray.

After commencement of charges, this Agreement or the license of any Software may be terminated as follows: (A) by the Board of Regents upon ninety (90) days written notice, provided that, if charges are applicable, such termination date is at least twelve (12) months after the commencement date for charges for the Agreement or for the Software as to which termination is sought; or (B) by Cray upon the occurrence of any of the following events, to the extent permitted by law: (i) the filing by the Board of Regents of petition for relief under the bankruptcy or insolvency laws; (ii) the filing of any involuntary petition against the Board of Regents under the bankruptcy or insolvency laws if the petition is not dismissed within twenty (20) days; (iii) adjudication of the Board of Regents as a bankrupt; (iv) appointment of a receiver for the Board of Regents's business; (v) assignment by the Board of Regents for the benefit of creditors; (vi) default by the Board of Regents in payment of any sum due under this Agreement and failure of the Board of Regents to cure such default within ten (10) days after written notice to the Board of Regents of such default; or (vii) failure of the Board of Regents to fulfill any material obligation under this Agreement including multiple instances of late payment of monthly invoices, regardless of whether the Board of Regents has paid any applicable

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late payment charges.

Upon termination of this Agreement or of the license of any of the Software, for any reason, the Board of Regents shall return to Cray all copies of the Software and Documentation involved or certify in writing to Cray that all copies have been destroyed. In the event that the Board of Regents has made modifications to the Software and/or merged it into other computer program material, the Board of Regents agrees that, upon termination, the Software will be completely removed, and the Board of Regents agrees to certify in writing that such removal has been completed. The Board of Regents further agrees that upon termination of this Agreement or of the license of any of the Software, the Board of Regents shall not use, disclose, reproduce, or market in any fashion the Software or Documentation previously provided or licensed hereunder.

Further, on any termination of this Agreement, Cray shall without further notice have the immediate right to enter upon the Board of Regents's premises to repossess and remove (or render unusable) any Cray supplied Software or Documentation and any copies thereof.

The Board of Regents's obligations of security, secrecy, return or destruction of Software, nondisclosure, and the like, shall survive any termination of this Agreement.

Section 18. Relocation

The Board of Regents has agreed not to remove any Cray supplied Software from the location or the computer(s) in which it is installed, except in an emergency or for storage purposes, without the prior written consent of Cray.

Section 19. Indemnification

Recognizing that the Board of Regents will make many choices of applications and users without control by or knowledge of Cray, the Board of Regents agrees, to the extent permitted by the Constitution and the laws of the State of Texas, to indemnify and hold Cray harmless in respect of any and all claims of or liability to third parties arising from the use of the results of use of the Cray system or the Software supplied under this Agreement.

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Executed on this _____ day of _____, 1990

Cray Research, Inc.

By _____
Name:
Title:

The Board of Regents of The
University of Texas System

Attest:

By:

Approved as to Form:

Recommended for Approval:

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EXHIBIT I: SOFTWARE LIST

| <u>SOFTWARE</u> | <u>QUANTITY</u> | <u>MONTHLY LICENSE FEE (a)</u> |
|---------------------|-----------------|--------------------------------|
| UNICOS Set (A) (b) | 1 | N/C |
| TCP/IP | 1 | \$250 (c) |
| IBM/MVS Link | 1 | \$3,450 |
| VAX/VMS Link | 1 | \$1,750 |
| UNIX Multiuser Link | 1 | \$1,750 |
| BCSLIB (d) | 1 | N/C |
| BCSLIB-EXT (d) | 1 | N/C |

- (a) Includes applicable Software Service Support fees.
- (b) Third Party License Required for source code of UNICOS, C
Type of License: AT&T UNIX
- (c) \$35,000 paid-up license fee previously paid to Cray. \$250 is the monthly support fee.
- (d) BCSLIB and BCSLIB-EXT are provided without Patent and Copyright protection and without any Warranty. The Board of Regents agrees to the disclosure of its name, address and phone number to Boeing Computer Service. Support for BCSLIB and will terminate December 1, 1994, unless terminated earlier by thirty (30) days advance written notice.

Definition of Set is subject to modification by Cray. All Software delivered by Cray shall be covered by the restrictions of this Agreement, even if not specifically listed.

- (A) The UNICOS Set presently includes 1) UNICOS operating system; 2) UNICOS commands; 3) Associated libraries; 4) I/O Subsystem; 5) Cray C Compiler; 6) Cray Standard C Compiler and corresponding Binaries (binary code only) 7) CFT; 8) CFT77 (binary code only); 9) Pascal (binary code only); 10) UNICOS-to-COS link; 11) Operator Workstation (binary code only); 12) Catalog Maintenance Component (binary code only); 13) Additional network Software including rpc/xdr, X-Windows, Sun Microsystems NSF network file system. This network Software requires TCP/IP.

The Software for hardware diagnostics are included in the restrictions of this Agreement.

Documentation: All manuals and supplements which by their titles refer or apply to the Software.

Source code will be provided for all except portions of UNICOS Sets noted above.

Dates when Fees become applicable and billable:

When the Software is installed, but in no event earlier than the Installation Date.

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EXHIBIT 3

MAINTENANCE SERVICE AGREEMENT

Cray Research, Inc.

**The Board of Regents of
The University of Texas System**

October 1990

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MAINTENANCE SERVICE AGREEMENT

Section 1. General Provisions

- A. The Board of Regents of The University of Texas System (the Board of Regents) agrees to purchase and Cray Research, Inc. (Cray) agrees to furnish at the place of installation indicated below maintenance service on the Equipment listed in Exhibit A, in accordance with the terms and conditions contained in this Agreement.**
- B. The site of the installation is The University of Texas System Center for High Performance Computing, Commons Building, Balcones Research Center, 10100 Burnet Road, Austin, Texas, (referred to hereafter as the "Installation Site").**

Section 2. Maintenance Service

- A. Cray will provide Maintenance Service for the periods of coverage chosen by the Board of Regents and agreed to by Cray, as defined in Exhibit A of this Agreement, provided that the Board of Regents makes the Equipment available for Maintenance Service as required. Cray will maintain the Equipment in good working condition in accordance with Cray's maintenance specifications then in effect.**
- B. Cray will assign an engineer to the Installation Site for the on-site maintenance coverage agreed on in this Agreement. The engineer will be based primarily at the Installation Site. Cray reserves the right, however, to remove the engineer from the Installation Site. Cray will arrange for an on-call engineer to attend the Installation Site at such times within one (1) hour of the Board of Regents' placing a telephone call for Maintenance Service. During each eight (8) hour period of on-site coverage, the engineer may leave the Installation Site for a one (1) hour meal period.**
- C. To accommodate special cases, Cray may negotiate temporary relaxation from on-site coverage to on-call coverage. Special cases would include such circumstances as: (1) Retraining of existing on-site staff to support system upgrades; (2) Periods of staff restrictions caused by security clearance processes; (3) Holiday periods observed at the Installation Site; (4) Business related errands.**
- D. During any period of on-call Maintenance Service coverage, Cray will ensure that an engineer arrives at the Installation Site within two (2) hours after a call is received by the Cray engineer or other authorized Cray representative. Response to a request for on-call maintenance during an on-call portion of the Maintenance Service Period assumes that the Computer System is down and productive work cannot be performed. If this assumption proves incorrect, then the Board of Regents will be charged the normal price for Emergency Maintenance.**

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- E. Cray will provide to the Board of Regents on or before commencement of the Maintenance Service the names and telephone numbers of authorized Cray representatives for the Board of Regents to contact to report system problems and to request Maintenance Service when there is no engineer on site.
- F. Preventive Maintenance will be scheduled by Cray, in consultation with the Board of Regents, during the on-site maintenance period, unless otherwise agreed, and will be for a total duration of no more than eight (8) nor less than four (4) hours per week, unless otherwise agreed by both parties. Preventive Maintenance performed other than during the period of on-site coverage or hours contiguous to on-site coverage carries an additional charge. Preventive Maintenance for all of the Equipment will occur in the same designated period (that is, during on-site, on-site-contiguous, on-call, or emergency periods). Preventive Maintenance will be conducted only as necessary and minimized where possible.
- G. Maintenance Service includes all necessary parts, labor, and test equipment required as the result of normal operation of the Equipment and necessary to maintain the Equipment in good operating condition, but it excludes repairs required due to other causes.
- H. At an additional charge, Cray will use all reasonable efforts to provide Maintenance Service or make repairs required due to causes not attributable to normal wear and tear. Such causes include, but are not limited to, unauthorized attempts by the Board of Regents or the Board of Regents' agents to repair or maintain the Equipment, negligence of the Board of Regents, improper or unauthorized use of Equipment by the Board of Regents, air-conditioning failure, problems of power supply to the Equipment, or causes external to the Equipment.
- I. Remedial Maintenance commenced by Cray prior to the end of a period of on-site Maintenance Service will continue beyond such service period, at the request of the Board of Regents, without additional charge.
- J. For the duration of the Agreement, Cray will maintain at the Installation Site a supply of spare parts deemed by Cray to be those most likely to be required.
- K. Cray will use reasonable efforts to provide Maintenance Service during periods for which the Board of Regents has not contracted for either on-site or on-call coverage. Maintenance Service during such periods is termed Emergency Maintenance and will be provided at the then current Emergency Maintenance rate, which bears a minimum charge of two (2) hours in each instance.

Section 3. Agreements of the Board of Regents

- A. The Board of Regents agrees to notify Cray immediately upon Equipment failure, to operate the Equipment in accordance with applicable manuals and instructions, to maintain site environment conditions in accordance with Cray's specifications.

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to refrain from attempting repairs or performing maintenance to Equipment, to allow reasonable access to the Equipment for remedial maintenance purposes (subject to Government Security rules, if applicable), and to provide free of charge to Cray reasonable storage and working space and utilities, as defined in the Cray Site Planning Manual. The Board of Regents will provide a telephone for business use of Cray personnel.

- B. The Board of Regents will not remove any Equipment maintained by Cray from the location where it is installed, except in an emergency, without prior written approval by Cray, which approval will not be unreasonably withheld.
- C. The Board of Regents will not use additional attachments, features, or devices on, or make changes or alterations to, the Equipment maintained by Cray, without Cray's prior written consent. Cray approved alterations to Equipment may be maintained by Cray upon mutual agreement to do so and the Monthly Maintenance Service Charge will be adjusted to cover any increase in cost to Cray.

Section 4. Inspection

Any Equipment that was not maintained by Cray immediately before commencement of Maintenance Service under this Agreement will be inspected by Cray to determine if it is in good operating condition, which is defined as the level established for equipment maintained by Cray. Repairs or alterations deemed necessary by Cray will be made at the Board of Regents' expense before commencement of Maintenance Service.

Section 5. Title

Title to all test equipment, parts, and diagnostic tools will remain with Cray except that title to parts installed in the Board of Regents' owned Equipment will pass to the Board of Regents on installation and, for and in consideration of the provision of this maintenance agreement, title to removed parts will pass to Cray on removal. Only new standard parts or reconditioned parts equivalent to new in performance will be used. If any parts cannot be removed from the site because of the Board of Regents' (or Government) requirements, title to such parts shall be retained by or passed to the Board of Regents, and the Board of Regents shall pay to Cray on receipt of invoice the price quoted by Cray for such used parts at published commercial rates.

Section 6. Change of Options

After twelve (12) months from the Installation Date, the Board of Regents may choose different Maintenance Service coverage at any time out of the choices of coverage then offered by Cray, and with the appropriate adjustment in price the new coverage so chosen will become effective ninety (90) days after written notice to Cray of the change. If requested, Cray will use all reasonable efforts to change the Maintenance Service to correspond to the new coverage request (and adjust pricing) within the ninety day period. All Equipment at the same site, however, must at all times be subject to the same coverage.

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Section 7. Denial of Access

Both routine Preventive Maintenance and Field Change Order Modifications are critically important to the ongoing performance of the System. Therefore, on continuing refusal by the Board of Regents to allow Cray to perform such Preventive Maintenance or such modification, Cray may either increase the Monthly Maintenance Service Charge on thirty (30) days written notice or terminate this Agreement.

Section 8. Refurbishment

If non-Cray owned Equipment being maintained under this Agreement is, in Cray's opinion, in need of factory refurbishment, repair, or overhaul, after five (5) years from its Installation Date, Cray shall notify the Board of Regents of the required work and the additional charges. (Equipment usage and site environment will significantly affect the refurbishment cycle.) Refurbishment, however, will be conducted as required and at the then current standard rates.

If Cray advises the Board of Regents of the need for factory refurbishment or repairs, and the Board of Regents does not authorize the work, then Cray will have no further maintenance responsibility for the Equipment, and the Board of Regents' obligation to pay future Maintenance Service fees will terminate at that time also.

Section 9. Commencement Date; Invoices and Payments

- A. The Maintenance Service for each piece of equipment specified herein shall begin on the Commencement Date, which is the Installation Date of Equipment.
- B. Maintenance charges shall commence monthly in advance. All other charges hereunder shall be invoiced after the month in which charges accrue. Invoices issued pursuant to this Agreement shall be due and payable within thirty (30) days after receipt of invoice.
- C. Cray may adjust the maintenance prices once in any twelve-month period, after the first year of charges, or at the end of any calendar month thereafter, by giving at least ninety (90) days written notice. The adjusted prices, however, will not exceed Cray's published prices in effect on the date of the adjustment.
- D. Cray will allow a three and six-tenths percent (3.6%) discount off the total contracted monthly maintenance charges when twelve (12) months of maintenance charges are paid in advance.

Section 10. Additional Charges and Price Adjustments

Charges for Maintenance Service provided for elsewhere in this Agreement and identified as additional or extra charges will be based on Cray's then current prices and terms for the work performed and shall include travel time to and from the Installation Site calculated to the nearest one-half hour, with a minimum charge per call according to Cray's then current

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policies and standard charges. Travel expenses, including but not limited to transportation, per diem, lodging, and parking, shall be based on Cray's rates and policies in effect at the time the work is performed. Prices do not include expendable supplies.

Section 11. Maintenance Credit

If Equipment being maintained under this Agreement becomes inoperative due to its malfunction through no fault of the Board of Regents and remains inoperative for a continuous period of twelve (12) hours or more from the time the Board of Regents notifies Cray until it is returned in good operating condition, Cray shall, providing the Board of Regents is not in default hereunder, grant a credit for each such hour beginning with the thirteenth such hour at the rate of 1/720th of the monthly maintenance charge for such Equipment. The maximum credit for any calendar day shall not exceed 1/30th of the monthly maintenance charge for such Equipment. A like credit shall be granted for each interconnected Cray Equipment being maintained under this Agreement which is not usable due to the malfunction.

In the event the Board of Regents believes such a credit is due, the Board of Regents shall promptly request such credit in writing giving the pertinent details and giving Cray a reasonable opportunity to verify such occurrence. Upon verification, Cray shall promptly issue a credit to the Board of Regents which shall be used against the charges hereunder.

Section 12. LIMITATION OF REMEDY AND DISCLAIMER

CRAY WILL USE ITS DILIGENT EFFORTS TO PROVIDE THE MAINTENANCE SERVICES SPECIFIED HEREIN. CRAY SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY DELAY IN FURNISHING THE SERVICES OR PARTS OR ANY OTHER PERFORMANCE UNDER THIS AGREEMENT, NOR SHALL CRAY BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, OR INDIRECT DAMAGES. TO THE EXTENT THAT A DISCLAIMER OF WARRANTY IS PERMITTED BY APPLICABLE LAW, THERE SHALL BE NO WARRANTY APPLICABLE TO PARTS SUPPLIED UNDER THIS AGREEMENT, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

Section 13. Termination

Maintenance of Equipment hereunder may be terminated as follows: (A) by the Board of Regents or Cray after the expiration of the first twelve (12) months of maintenance service by giving ninety (90) days advance written notice; (B) by Cray alone with respect to Equipment requiring factory refurbishment, repair, or overhaul if the Board of Regents does not authorize such work within thirty (30) days after the date of Cray's notification to the Board of Regents of the need for such work; (C) by Cray upon the occurrence of any of the following events, to the extent permitted by law: (i) the filing by the Board of Regents of petition of relief under bankruptcy or insolvency laws, (ii) the filing of any involuntary petition against the Board of Regents under the bankruptcy or insolvency laws if the petition is not dismissed within twenty (20) days, (iii) adjudication of the Board of Regents as a bankrupt, (iv) appointment of a receiver for the Board of Regents' business, (v) assignment by the Board of Regents for the benefit of Creditors, or (vi) default by the Board of Regents in payment of any sum due under this Agreement if such default is not cured within ten (10) days after written notice to the

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Board of Regents of such default.

Either party may terminate this Agreement in the event of the failure of the other party to fulfill any material obligation under this Agreement providing that the defaulting party is given thirty (30) days advance written notice and providing further that if the defaulting party cures the default within the thirty (30) day period, the notice of termination shall be considered cancelled.

If an event of Termination occurs, Cray may enter upon the premises of the Board of Regents during the Board of Regents' normal business hours and repossess and remove any equipment owned by Cray without delay or obstruction by the Board of Regents. The Board of Regents' obligations to pay all accrued charges shall survive any termination of this Agreement. Termination of this Agreement by Cray or such taking of possession shall be without prejudice to any other remedies Cray may have, including, without limitation, all remedies with respect to the unperformed obligations of the Board of Regents under this Agreement.

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Executed on this ____ day of _____ .

Cray Research, Inc.

By _____
Name:
Title:

The Board of Regents of The
University of Texas System

Attest:

By:

Approved as to Form:

Recommended for Approval:

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EXHIBIT A

MONTHLY MAINTENANCE SERVICE CHARGES

| <u>PRODUCTS</u> <u>MODEL NO.</u> | | <u>QTY.</u> | <u>UNIT (1)</u> | <u>TOTAL</u> |
|--|---|-------------|-----------------|-----------------------|
| Y-MP8/864 | Y-MP Mainframe 8CPU's, 64MW IOS-D w/4 IOP's | 1 | \$41,400 | \$41,400 |
| SSD-7 | Solid State Storage Device 512 MW | 1 | \$4,005 | \$4,005 |
| BMC-5 | Block Mux Channel (From S/N 1303) | 1 | \$616 | \$616 |
| DS-41 | Disk Subsystem (19.2 GB each) | 2 | \$2,800 | \$5,600 |
| DD-49 | Disk Drive 1.26B (From S/N 130) | 8 | \$454 | \$3,632 |
| DD-39 | Disk Drive 1.26B (From S/N 1303) | 7 | \$362 | \$2,534 |
| DCU-5 | Disk Control Unit | 2 | \$409 | \$818 |
| DCU-5 | Disk Control Unit From S/N 130) | 2 | \$409 | \$818 |
| DCU-5 | Disk Control Unit (From S/N 1303) | 2 | \$409 | \$818 |
| HIPPI | HIPPI Channel | 1 | \$500 | \$500 |
| FEI-1 | Front End Interface (From S/N 130) | 1 | \$280 | \$280 |
| FEI-3s | Front End Interface | 1 | \$123 | \$123 |
| Total Monthly Maintenance Service Charge: | | | | <hr/> \$61,144 |

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(1) Prices shown are for 5 x 8 coverage (See Actual Coverage below).

Effective Date for Service is the Installation Date for the Computer.

Effective Date for charges is the first day month after the Acceptance Date for the Equipment.

Initially Effective Emergency Maintenance Charge: \$ 125 per Engineer-hour.

Actual Coverage:

On-Site: 5 Days 7 Days

Days (8 a.m. to 4 p.m., less one (1) hour for meal)

Evenings (4 p.m. to midnight, less (1) hour for meal)

Nights (Midnight to 8 a.m., less (1) hour for meal)

On-Call: Remainder of 24 hours per day, 7 days per week excluding Holidays.

Preventive Maintenance Period: On-Site On-Call

ATTACHMENT B

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SUPERCOMPUTER PURCHASE AGREEMENT

**Submitted To
The Board of Regents of
The University of Texas System**

**By
CONVEX Computer Corporation
October 1990**

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**THE UNIVERSITY OF TEXAS SYSTEM
CENTER FOR HIGH PERFORMANCE COMPUTING**

C220 PURCHASE AGREEMENT

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PURCHASE AGREEMENT

THIS SUPERCOMPUTER PURCHASE AGREEMENT, made and entered into this _____ day of October 1990, by and between CONVEX Computer Corporation, a public, for-profit corporation, incorporated under the laws of the State of Delaware, and the Board of Regents of The University of Texas System, a tax-exempt state agency of the State of Texas,

WITNESSETH:

WHEREAS, the Board of Regents and CONVEX Computer Corporation, have determined that the scope of this Agreement is to provide to the Board of Regents of The University of Texas System for The University of Texas System Center For High Performance Computing: (a) supercomputer mainframe including peripherals (b) software and license to use same; and (c) the software support services and authorization of a separate agreement for maintenance services,

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

SECTION 1. DEFINITIONS AND EXHIBITS

(a) The following definitions apply throughout this Agreement, unless expressly indicated otherwise or unless the context clearly indicates another meaning:

- (1) "Acceptance Date" means the date of completion of the acceptance test as provided for in Section 7.
- (2) "Authorized Representatives" means those persons authorized in writing by the Office of the Chancellor of the University of Texas System or by CONVEX Computer Corporation, respectively, to administer the terms and conditions of this Agreement, with the current authorized representatives being those listed in Exhibit 8, and subsequently authorized representatives to be named by giving notice thereof.
- (3) "Board of Regents" means the Board of Regents of The University of Texas System or its authorized representatives.
- (4) "CONVEX" means CONVEX Computer Corporation or its authorized representatives.
- (5) "Equipment" means the supercomputer mainframe and peripherals; all as more fully described in Exhibit 1.
- (6) "Installation Date" means the date that CONVEX notifies the

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Board of Regents that the equipment is installed and ready for use, as provided for in Section 7.

(7) "Software" means the then current versions of software listed and described in the Software License Agreement specified in Exhibit 3.

(8) "The University of Texas System Center For High Performance Computing" or "CHPC" means The University of Texas System Center For High Performance Computing. The central site of the CHPC is located in the Commons Building of the Balcones Research Center, 10100 Burnet Road, Austin, Texas.

(b) All Exhibits attached to this Agreement are incorporated herein as if recited verbatim; the following is a list of the Exhibit titles:

- Exhibit 1: Equipment List
- Exhibit 2: Acceptance Certificate
- Exhibit 3: Software License Agreement
- Exhibit 4: Support Services Agreement
- Exhibit 5: Site Preparation Specification

SECTION 2. EQUIPMENT AND SOFTWARE

Pursuant to the terms and conditions of this Agreement, and in consideration for the prices agreed herein to be paid, CONVEX agrees to sell and the Board of Regents agrees to buy the equipment thereof as listed in Exhibit 1; and approves the purchase of a non-exclusive license to use the software, as provided for in and subject to the terms of the Software License Agreement, Exhibit 3, hereof.

SECTION 3. MAINTENANCE SERVICES AND EXTENDED WARRANTY

(a) Pursuant to the terms and conditions of this Agreement CONVEX and the Board of Regents approve the Support Service Agreement, Exhibit 4, hereof.

SECTION 4. INVOICE AND PAYMENT

(a) CHPC shall pay the purchase price of \$1,452,325 the Equipment according to the following terms:

(i) 100% is due upon acceptance as evidenced by execution of the Acceptance Specification Form included in Supplement 2.

CHPC shall pay interest upon all past due amounts at 1 and 1/2% per month of the unpaid balance, or such lesser rate as may be required by applicable law. Such calculation of interest shall commence thirty (30) days after due date.

(b) Prices quoted are exclusive of, and CHPC shall pay all transportation and

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delivery costs and any federal, state, or local excise, sales, use, and similar taxes or amounts in lieu thereof. CHPC agrees to pay for any such costs prepaid by CONVEX upon receipt of invoice.

SECTION 5. DELIVERY

(a) CHPC shall provide and maintain the site for Equipment according to the CONVEX published User Site Specification which is attached as Exhibit 5.

(b) Delivery shall be F.O.B. CONVEX's plant in Richardson, Texas, and the Equipment shall be deemed delivered when placed aboard a carrier at such location.

SECTION 6. INSTALLATION

(a) CONVEX or its designee shall install equipment at CHPC's address as specified above, and it shall be deemed installed when CHPC is notified by CONVEX that it is available for the test of Equipment as defined in the Acceptance Specification attached as Supplement 2.

(b) CONVEX will at its own expense provide to CHPC a ninety (90) day warranty period which shall commence on the date of installation and CHPC shall use the Acceptance Specification as the standard of acceptable operation.

(c) CONVEX shall be under no obligation to install Equipment unless (i) it is properly treated, (ii) all prerequisite products and installation site are properly prepared and (iii) the Equipment, products and site are made available to CONVEX within thirty (30) days after delivery. If CONVEX is prevented from installing Equipment, by causes beyond its control, for more than thirty (30) days from the date of delivery, the date of installation and date of acceptance will be deemed the thirtieth (30th) day after delivery.

SECTION 7. ACCEPTANCE

(a) CONVEX or its designee shall demonstrate to CHPC the test of Equipment as defined in Section 7 (c). Upon satisfactory completion of the test, CHPC shall notify CONVEX that the Equipment has been accepted by executing the Acceptance Specification Form included in Exhibit 2. The equipment will be deemed accepted by CHPC thirty (30) days from date of installation unless CONVEX has been notified in writing as to the nature of any claimed nonconformity to the Acceptance Specification or has previously received an executed Acceptance Specification Form.

(b) If the Equipment does not satisfactorily complete the Acceptance Specification test thereby resolving any claimed nonconformity within one hundred and twenty (120) days of installation, CHPC may return Equipment to CONVEX for a refund of all monies paid to CONVEX relating to this Agreement. If Equipment is retained by CHPC beyond this one hundred and twenty (120) day period, it will be deemed to have been accepted and any claimed nonconformity waived.

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(c) Acceptance Specification

1. This is the acceptance criteria for the CONVEX C-2 processor system described in the Schedule of Equipment that is to be sold to CHPC.
2. Acceptance will occur when all equipment specified in the Schedule of Equipment is installed at CHPC's designated location.
3. CHPC must have sufficient electrical power and air conditioning available at the installation site.
4. Acceptance shall consist of tests demonstrating the proper functioning of the following components:
 - a. The hardware and the peripherals delivered by CONVEX,
 - b. The CONVEX Unix Operating System,
 - c. The CONVEX C Compiler,
 - d. The CONVEX Fortran Compiler.
5. Proper functioning of the C-2 hardware and peripherals delivered by CONVEX shall be demonstrated by successful execution of the appropriate diagnostic tests for:
 - a. The service processor unit and its peripherals,
 - b. The central processor and main memory,
 - c. The input output subsystem,
 - d. The disk storage subsystem,
 - e. The tape subsystem.
6. Proper function of the CONVEX Unix Operating System shall be demonstrated by successful performance of the following, by two simultaneous users:
 - a. Ability to log into the system and converse with the Unix shell
 - b. Ability to create, list, rename, and delete files
 - c. Execution of a Unix editor to create and modify a text file.
7. All software tests shall be performed using a Digital Equipment Corporation VT100 compatible terminal, or a device similar to those supplied by CONVEX.

SECTION 8. INFRINGEMENT INDEMNITY

CONVEX shall defend, at its expense, any claim (or suit) brought against CHPC alleging that any Equipment furnished hereunder infringe a United States patent or copyright, and shall pay all costs and damages finally awarded, provided that CONVEX is given prompt written notice of such claim and is given information, reasonable assistance, and sole authority to defend or settle the claim. In defense or settlement of the claim, CONVEX may obtain for CHPC the right to continue using the Equipment, replace or modify the Equipment so that they become noninfringing or, if such remedies are not reasonably available, refund monies to CHPC for the

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equipment as depreciated to fair market value and accept their return. CONVEX shall not have any liability if the alleged infringement is based upon the use or sale of the Equipment in combination with other products or devices not furnished by CONVEX. CONVEX disclaims all other liability for patent and copyright infringement, including any incidental or consequential damages.

SECTION 9. CONTINGENCIES

CONVEX and CHPC shall be excused from failures or delays in delivery or performance hereunder if such failure or delay is attributable to cause beyond its control which makes such delivery or performance commercially impracticable. Such causes may include, but are not limited to, acts of God or the public enemy, acts of any civil or military authority, whether or not valid, inability to obtain materials or machinery, fires, strikes, or other labor disputes, floods, epidemics, wars, riots, energy shortages, embargos, or failures or delays in transportation. In the event of delay, unless otherwise specified in this agreement, the time of delivery or performance shall be extended for a period of time equal to the time lost by reason of such delay.

SECTION 10. CANCELLATION AND RESCHEDULING CHARGES

In the event CHPC (i) fails to meet any obligation hereunder, causing cancellation or rescheduling of any order or portion, or (ii) requests a rescheduling of scheduled equipment and the request is accepted by CONVEX, or (iii) cancels all or any part of any order, CHPC agrees to pay to CONVEX the following cancellation/rescheduling charges:

| NOTICE RECEIVED: | CHARGE (of Equipment List Price): |
|--|------------------------------------|
| 61-90 days prior to Scheduled Delivery Month | 5% or \$400, whichever is greater |
| 31-60 days prior to Scheduled Delivery Month | 10% or \$400, whichever is greater |
| 00-30 days prior to Scheduled Delivery Month | 15% or \$400, whichever is greater |
| During Scheduled Delivery Month | 20% or \$400, whichever is greater |

SECTION 11. AMENDMENTS

(a) This Agreement is the complete and exclusive statement of the terms of the Agreement between CHPC and CONVEX and supercedes all prior agreements and communications with respect to the subject matter. The terms of this agreement shall apply notwithstanding any proposed variation or additions which may be contained in any purchase order or other communications submitted by CHPC, and no CONVEX employee other than an authorized representative of CONVEX at its offices in Richardson, Texas shall have any actual or apparent authority to modify the terms of this Agreement in any way. All authorized modifications shall be in writing and signed by such authorized representatives of CONVEX.

(b) No provision of this Agreement shall be deemed waived or amended unless such waiver or amendment is in writing and signed by the authorized representative of the party against whom it is sought to be enforced.

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SECTION 12. NOTICE

Any notice which is required under this Agreement shall be in writing and shall be deemed to have been duly given when delivered or deposited in the United States mail, postage prepaid, certified, return receipt requested, and addressed to the other party at its address shown above. Such address may be changed by either party's giving the other written notice. However, routine invoices, shipping papers and general engineering information need not be mailed as above but shall be given as the parties may agree.

SECTION 13. APPLICABLE LAW

This Agreement shall be governed by the laws of the State of Texas. Performance is deemed to be called for, in whole or in part, in Richardson, Collin County, Texas. If any provision of this Agreement shall be held invalid or unenforceable, the remaining provisions of this Agreement shall be unaffected.

SECTION 14. ASSIGNMENTS

This Agreement shall inure to the benefit of and be binding upon the parties, their representatives, successors, and assigns. CONVEX may subcontract any of its obligations under this agreement without the prior written permission of CHPC. No right or interest of CHPC in this Agreement shall be assigned by CHPC without prior written permission of CONVEX.

SECTION 15. COPYRIGHTS

CHPC will comply with all legal requirements to protect CONVEX's trademarks, service marks, and copyrights and agrees to furnish CONVEX with one (1) copy of all training and printed material for CONVEX's approval.

SECTION 16. EXPORT REGULATIONS

CHPC understands that CONVEX Products are subject to regulation by agencies of the U.S. Government, including the U.S. Department of Commerce, which prohibit export or diversion of CONVEX Products and Software to certain countries. CHPC agrees it will not assist or participate in any such diversion or other violation of applicable U.S. laws and regulations. CHPC agrees specifically to comply in fact and in spirit with the U.S. Export-Rexport Regulations, including but not limited to Sections 373.3 and 378.3 of these Regulations.

EXECUTION OF ENTIRE AGREEMENT

The terms, conditions, and provisions stated herein constitute the complete and exclusive statement of the Agreement regarding the Equipment, Software and Services between the Board of Regents and CONVEX, and shall supersede all prior oral and written statements of any kind whatsoever made by either party or their representatives including any Order from the Board of Regents to CONVEX.

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EXECUTED ON THIS

_____ Day of October 1990

CONVEX COMPUTER CORPORATION

William G. Bock
Senior Vice President Of Finance
Chief Financial Officer

The Board of Regents Of
The University of Texas System
On Behalf of The University
Of Texas System Center for
High Performance Computing

Attest:

By:

Arthur H. Dilly
Executive Secretary to the
Board of Regents

Dr. Hans Mark
Chancellor

Approved As To Form:

Recommended For Approval:

John L. Darrouzet
Office of General Counsel
The University of Texas System
Systems

Dr. Charles Warlick
Executive Director
Academic Information

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SUPERCOMPUTER PURCHASE

EXHIBITS 1 THRU 3

**CONVEX Computer Corporation
October 1990**

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SUPERCOMPUTER PURCHASE

**EQUIPMENT LIST
EXHIBIT 1**

**CONVEX Computer Corporation
October 1990**

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EXHIBIT 1

EQUIPMENT LIST FOR THE CONVEX C220 SUPERCOMPUTER

| Qty | Part # | DESCRIPTION | UNIT LIST | EXTENDED TOTAL |
|-----|-------------|--|-----------|----------------|
| 1 | C220-128 | C220 Central Processor configuration includes: 128MB Memory Two (2) Processors Video Console with Hardcopy Service Processor Unit ConvexOS for 32 Users System Documentation | 1,140,000 | 1,140,000 |
| 15 | DSW-900 | User Documentation Kits | 1,000 | 15,000 |
| 12 | MEM-200 | 32Mbyte Memory Module | 57,600 | 691,200 |
| 2 | MCM-200 | Memory Control Module | 45,000 | 90,000 |
| 1 | IDC-001 | Integrated Disk Controller | 65,000 | 65,000 |
| 16 | DKD-502 | High Performance 1GByte Disk Drive | 29,400 | 470,400 |
| 1 | MTC-201 | VME Tape Controller (for existing tape) | 24,000 | 24,000 |
| 1 | TBC-001 | IBM 3480 Block Mux Tape Interface | 60,000 | 60,000 |
| 1 | ETH-202 | ETHERNET Controller (DECnet) | 12,000 | 12,000 |
| 1 | ACM-202 | Comms. Controller (16 asyncs/printer port) | 12,000 | 12,000 |
| 1 | EXP-105 | High capacity expansion cabinet | 10,000 | 10,000 |
| 1 | EXP-240 | 4 Cpu/2 PIA cabinet | 155,000 | 155,000 |
| 1 | CFT-001-200 | CONVEX FORTRAN Compiler | 25,000 | 25,000 |
| 1 | CVC-001-200 | CONVEX Vector C Compiler | 25,000 | 25,000 |
| 1 | CSD-001-200 | CONVEX Consultant | 5,825 | 5,825 |
| 1 | NET-001-200 | TCP/IP Networking Software (includes TCP/IP, HYPERchannel, ftp, rlogin) | 8,250 | 8,250 |
| 1 | NFS-001-200 | Network File System | 12,500 | 12,500 |
| 1 | COV-001-200 | COVUEshell | 7,820 | 7,820 |
| 1 | COV-202-200 | COVUEnet | 22,500 | 22,500 |
| 1 | COV-003-200 | COVUEedt | 3,325 | 3,325 |
| 1 | CXW-001-200 | CX Windows | 6,250 | 6,250 |
| 1 | CXB-001-200 | CX Batch Subsystem | 6,250 | 6,250 |
| 1 | CTB-001-200 | CONVEX Toolbox | 5,000 | 5,000 |
| 1 | CXP-001-200 | CXpa Profiler | 2,750 | 2,750 |
| 1 | CSS-001-200 | CONVEX Share Scheduler | 12,500 | 12,500 |
| | | Configuration List Price | | 2,885,370 |
| | | Less C1 equipment Trade-In Credit* | | (57,090) |
| | | CONVEX Grant to UT CHPC | | 1,375,955 |
| | | NET PURCHASE COST | | 1,452,325 |
| | | * C1 Trade In Items | | |
| 1 | C1-4770 | C1 CPU | | |
| 1 | MBC-001 | Multibus Channel controller | | |
| 3 | ACM-001 | Async Multiplexor | | |
| 1 | MTC-001 | Magnetic Tape Controller | | |
| 2 | ETH-001 | ETHERNET Controller | | |
| 2 | HYP-001 | HYPERchannel Controller | | |

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EXHIBIT 1

User Documentation to be supplied with CONVEX C220 Supercomputer

| Qty | Part # | DESCRIPTION | UNIT LIST | EXTENDED TOTAL |
|-----|---------|-------------------------------------|-----------|----------------|
| 15 | DSW-002 | ConvexOS Tutorial Papers | 95 | 1,425 |
| 15 | DSW-035 | CONVEX FORTRAN Documentation Kit | 75 | 1,125 |
| 15 | DSW-135 | CONVEX COVUEshell Documentation Kit | 50 | 750 |
| 15 | DSW-139 | CONVEX COVUEedt Reference Manual | 35 | 525 |
| 15 | DSW-085 | CONVEX C Documentation Kit | 70 | 1,050 |
| 15 | DSW-240 | CONVEX CXwindows Documentation Set | 395 | 5,925 |
| 15 | DSW-130 | CONVEX VECLIB Documentation Kit | 200 | 3,000 |
| 15 | DSW-183 | CONVEX CXbatch User's Guide | 20 | 300 |
| 15 | DSW-250 | CONVEX CXpa Documentation Kit | 35 | 525 |
| 15 | DSW-133 | ConvexOS Primer | 25 | 375 |
| | | Documentation List Price | 1,000 | 15,000 |

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SUPERCOMPUTER PURCHASE

**ACCEPTANCE CERTIFICATE
EXHIBIT 2**

**CONVEX Computer Corporation
October 1990**

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ACCEPTANCE CERTIFICATE

EXHIBIT 2

1. Per CUSTOMER Purchase Contract Number _____, this completed form verifies the satisfactory delivery, installation and acceptance of the subject equipment as defined in Section 7.
2. CUSTOMER hereby notifies CONVEX Computer Corporation of the complete acceptance of all items listed on the Schedule of Equipment and Licensed Software - EXHIBIT 1.

Accepted by:

CONVEX COMPUTER CORPORATION THE UNIVERSITY OF TEXAS SYSTEM CENTER FOR HIGH
(CONVEX) PERFORMANCE COMPUTING
(CUSTOMER)

Authorized Signature

Authorized Signature

Name (type or print)

Name (type or print)

Title

Title

Date

Date

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**SUPERCOMPUTER PURCHASE
SOFTWARE LICENSE AGREEMENT
EXHIBIT 3**

**CONVEX Computer Corporation
October 1990**

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SOFTWARE LICENSE AGREEMENT

License Agreement No. UT-021C

CONVEK Computer Corporation, 3000 Waterview Parkway, Richardson, Texas 75080 (hereinafter CONVEK) agrees to grant to The University of Texas System Center for High Performance Computing (CHPC) (hereinafter Customer), having its place of business at Balcones Research Center, 10100 N. Burnet Road, Austin, Texas 78758, and Customer agrees to accept, for valuable consideration the sufficiency of which is hereby acknowledged, a non-exclusive, nontransferable license to use the following Licensed Software on Designated Equipment only in accordance with the terms and conditions contained herein.

Schedule of Licensed Products

Serial # To Be Determined
Location - CHPC

| Product | Description | Serial # | System Location |
|-------------|--------------------------------|----------|-----------------|
| CFT-001-200 | CONVEK FORTRAN Compiler (1) | TBD | Austin, TX |
| CVC-001-200 | CONVEK Vector C Compiler | TBD | Austin, TX |
| CSD-001-200 | CONVEK Consultant (1) | TBD | Austin, TX |
| NET-001-200 | TCP/IP Networking Software (1) | TBD | Austin, TX |
| NFS-001-200 | Network File System (1) | TBD | Austin, TX |
| COV-001-200 | COVUEshell | TBD | Austin, TX |
| COV-202-200 | COVUEnet (1) | TBD | Austin, TX |
| COV-003-200 | COVUEedt | TBD | Austin, TX |
| COV-005-200 | COVUElib | TBD | Austin, TX |
| COV-006-200 | COVUEbinary | TBD | Austin, TX |
| CXW-001-200 | CX Windows | TBD | Austin, TX |
| CXB-001-200 | CONVEK Batch Subsystem | TBD | Austin, TX |
| CTB-001-200 | CONVEK Toolbox | TBD | Austin, TX |
| CXP-001-200 | CXps Profiler | TBD | Austin, TX |
| CSS-001-200 | CONVEK Share Scheduler | TBD | Austin, TX |

NOTE: (1) Existing Licenses Upgraded.

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**CONVEX COMPUTER CORPORATION
STANDARD TERMS AND CONDITIONS FOR LICENSED SOFTWARE**

1. DEFINITIONS

- a) "Licensed Software" shall be each program in machine readable form furnished by CONVEX to Customer and described in this Agreement including related supporting materials in machine readable form, and any related updated program or program portion furnished to Customer by CONVEX.
- b) "Designated Equipment" shall mean a system containing a processor and associated equipment. Identification of each designated equipment shall be by a CONVEX assigned Serial Number identified on facing page.
- c) "Use" means entering any portion of any Licensed Software from storage units or media into any equipment or executing any Licensed Software in the course of the operation of any equipment or in support of the operation of any equipment or software.

2. TERM

This License shall be in effect from the date of execution until Customer or CONVEX terminates in accordance with the terms and conditions herein.

3. LICENSE GRANT

Customer, on a non-exclusive basis, is authorized to use each Licensed Software only on the respective specified Designated Equipment. Customer will not transfer Licensed Software to any other third party or export Licensed Software without the written consent of CONVEX. Customer is authorized to use the Licensed Program solely on CONVEX provided Computer Systems for Customer's internal business purposes only.

4. TITLE

The original, all copies, and any modification of Licensed Software in whole or in part, which are made by Customer, shall be the property of CONVEX.

5. CHARGES

Customer agrees not to use Licensed Software on each particular Designated Equipment unless Customer has first paid all applicable charges normally charged by CONVEX, including any Software License Charges when the particular Designated Equipment is more than the defined configuration. The Charges for use of each Licensed Software are identified in CONVEX's current applicable price list at the time of order placement. Charges for Licensed Software are exclusive of any federal, state, or local excise, sales, use, personal property and similar taxes.

6. REPRODUCTION RIGHTS

Customer may make copies of each Licensed Program for safekeeping or for back up purposes. Additional copies may exist within primary or secondary storage in support of the normal operation of the Designated Equipment. Customer shall keep accurate records of all copies regarding number and location of each and will upon request provide CONVEX with this information. Reproduction rights to all supporting Software documentation, schematics, manuals, etc., are not granted as a part of this section.

7. PROPRIETARY DATA

Except as expressly provided in this Agreement, Customer agrees not to provide, disclose, or otherwise make available any Licensed Software or copy thereof in any form, to any person other than Customer's Employees, Consultants hired by Customer, and CONVEX employees without the prior written consent of CONVEX. Customer acknowledges that the Licensed Software materials are confidential and proprietary information of CONVEX and shall be kept confidential by Customer unless CONVEX gives its express prior written consent to disclose such information, unless such information becomes public knowledge through no fault of Customer. Methods used to safeguard the foregoing information will be equivalent to or better than those methods used by Customer in protecting its own proprietary information.

8. TERMINATION

Customer may terminate this Agreement upon thirty (30) days written notice to CONVEX. This license shall terminate thirty (30) days after notice from CONVEX that Customer is in breach of this Agreement unless within that time Customer gives notice satisfactory to CONVEX that such breach has been corrected. Upon termination, Customer shall immediately destroy the Licensed Software and all copies thereof including any copies contained in any storage apparatus or medium and shall cease use of the Licensed Software and notify CONVEX in writing that all copies have been destroyed, or return all Licensed Software and all copies to CONVEX. The obligations of Customer under Section 7 shall survive this Agreement.

9. LIMITED WARRANTY

CONVEX warrants that each Licensed Program will be free of material defects when delivered to Customer and for ninety (90) days thereafter if properly used by Customer. CONVEX makes no warranty as to the Licensed Software after said 90-day period except as provided for in the Support Services Agreement available to Customer. CONVEX's sole and exclusive liability, and Customer's sole and exclusive remedy, under this Limited Warranty shall be at CONVEX's option, to provide program services to correct any material program defect discovered within the 90-day warranty period or to replace the defective Licensed Software Materials. The above remedies are available only if CONVEX is promptly notified in writing, within the warranty period, upon discovery of the defect by Customer, and CONVEX's examination of the Licensed Software discloses that such defect exists.

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EXCEPT FOR THE EXPRESS LIMITED WARRANTY STATED ABOVE, CONVEX MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO ANY LICENSED SOFTWARE, AND CONVEX SPECIFICALLY EXCLUDES ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND THE EXPRESS LIMITED WARRANTY STATED ABOVE IS IN LIEU OF ALL LIABILITIES OR OBLIGATIONS OF CONVEX FOR DAMAGES INCLUDING, BUT NOT LIMITED TO, SPECIAL INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSS OF PROFITS, INTERRUPTION OF BUSINESS OCCURRING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF LICENSED SOFTWARE.

10. GENERAL

a) **ENTIRE AGREEMENT.** This Agreement represents the entire agreement between the parties, may only be amended by a written agreement signed by both parties, and supersedes all prior agreements and understandings with respect to the matters covered by this Agreement.

b) **GOVERNING LAW.** This Agreement shall be interpreted and construed in accordance with the laws of the State of Texas. If any provision of this Agreement shall be held invalid or unenforceable, the validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby. The waiver of one breach or default or any delay in exercising any rights shall not constitute a waiver of any subsequent breach or default.

c) **NOTICES.** All notices permitted or required under this Agreement shall be in writing and shall be delivered in person or mailed by first class, registered or certified mail, postage prepaid, to the address of the party specified in this Agreement or such other address as either party may specify in writing.

d) **ATTORNEYS FEES.** In any litigation or arbitration between the parties, the prevailing party shall be entitled to reasonable attorneys fees and all costs of proceedings incurred in enforcing this Agreement.

e) **FORCE MAJEURE.** Neither party hereto shall be liable for any default hereunder if such default is due to causes beyond the reasonable control of the party charged.

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EXECUTED ON THIS

_____ Day of October 1990

CONVEX COMPUTER CORPORATION

William G. Bock
Senior Vice President of Finance
Chief Financial Officer

The Board of Regents of
The University of Texas System
On Behalf of The University
Of Texas System Center For
High Performance Computing

Attest:

By:

Arthur H. Dilly
Executive Secretary to the
Board of Regents

Dr. Hans Mark
Chancellor

Approved As To Form:

Recommended For Approval:

John L. Darrouzet
Office of General Counsel
The University of Texas System
Systems

Dr. Charles Warlick
Executive Director
Academic Information

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**SUPERCOMPUTER PURCHASE
SUPPORT SERVICES AGREEMENT
EXHIBIT 4**

**CONVEX Computer Corporation
October 1990**

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SUPPORT SERVICES AGREEMENT

| Srvc Cntr No | Location | Phone | Agmt No | F O No | Cust No | Cust PO No |
|--------------|----------|-------|---------|--------|---------|------------|
| | | | | | | |

Invoice Address

THE UNIVERSITY OF TEXAS SYSTEM-CHPC
Street Address: 10100 N. Burnet Road
City: Austin
State: Texas Zip: 78758
Contact: Accounts Payable
Telephone:

Installation Location

THE UNIVERSITY OF TEXAS SYSTEM-CHPC
Street Address: 10100 N. Burnet Road
City: Austin
State: Texas Zip: 78758
Contact: Gary Smith
Telephone: (512) 471-2411

Initial Term from expiration of warranty to 8-31-91
Thereafter for 12 month periods

Annual Maintenance Cost is \$167,916 (see SSA Equipment Schedule A-Exhibit 2)

Principal Period of Maintenance (PPM) 8 AM to 5 PM Monday thru Friday
(Excluding Convex Holidays)

CUSTOMER agrees to purchase and CONVEX COMPUTER CORPORATION (CONVEX) agrees to furnish, at the Installation Location specified, maintenance service on the equipment listed in accordance with the terms and conditions specified herein. BY SIGNING THIS CONTRACT, CUSTOMER ACKNOWLEDGES THAT HE HAS READ, UNDERSTOOD AND AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT CONTAINED HEREIN.

CUSTOMER agrees to purchase and CONVEX COMPUTER CORPORATION (CONVEX) agrees to furnish, at the Installation Location specified, maintenance service on the equipment listed in accordance with the terms and conditions specified herein. BY SIGNING IN THE SPACE PROVIDED BELOW, CUSTOMER ACKNOWLEDGES THAT HE HAS READ, UNDERSTOOD AND AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT CONTAINED HEREIN.

The terms of the Agreement are Agreed to by:

CONVEX COMPUTER CORPORATION THE UNIVERSITY OF TEXAS SYSTEM CENTER FOR
(CONVEX) FOR HIGH PERFORMANCE COMPUTING
(CUSTOMER)

Authorized Signature

Authorized Signature

Name (type or print)

Name (type or print)

Title

Title

Date

Date

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1. INTENT

CONVEX COMPUTER CORPORATION (CONVEX), 3000 Waterview Parkway, Richardson, Texas 75080 agrees to provide and the CUSTOMER agrees to accept the Support Services described herein. Detailed descriptions of the Support Services offered are contained in the Exhibit(s) which are attached or subsequently added.

2. TERM

This Agreement shall commence on the Effective Date and continue indefinitely subject to termination by either party on the anniversary date with at least sixty (60) days notice. CUSTOMER may cancel this agreement at any time upon ninety (90) days written notice to CONVEX if CUSTOMER disposes of the equipment or discontinues operation thereof.

This Agreement may be terminated by either party in the event of default under any provision hereof, upon thirty (30) days prior written notice provided such default goes uncorrected for such thirty (30) day period.

3. ELIGIBLE PRODUCTS

Products which, immediately prior to receipt by CONVEX of an order for Support Services, are either covered under a CONVEX warranty, or covered under an existing CONVEX Support Services Agreement, are eligible for inclusion under this Agreement upon expiration of that Warranty or Agreement.

All other products are subject to inspection and approval by CONVEX prior to inclusion under this Agreement. CUSTOMER shall pay the then prevailing Time and Material rates for the inspection, and for all parts and labor necessary to return the product to normal operating condition or to bring the product to the required Hardware and Software revision level.

4. CHARGES

The charges set forth in this Agreement are those offered to CUSTOMER per Exhibit 2. These charges are subject to change by CONVEX on any anniversary of the Effective Date of this Agreement, with sixty (60) days prior written notice to CUSTOMER. CONVEX will not charge CUSTOMER maintenance fees in excess of those which Convex charges other like customers for maintenance of equipment of the same type.

Support Services fees do not include any export or local excise, sales, use, property, or other taxes. All such taxes shall be invoiced to and paid by CUSTOMER.

Any Support Services provided outside the Support Services hours specified in Schedule A and all services provided which are not expressly covered by this Agreement are subject to charge at the then prevailing CONVEX Time and Material rates for such services.

Convex will not perform any services which would cause CUSTOMER to incur charges in excess of the monthly fee specified in Schedule A without CUSTOMER's prior written approval from an authorized representative. Authorized customer representatives are listed in attachment contained herein as Exhibit 4.

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5. PAYMENT

Beginning with year two (2) of maintenance coverage, CUSTOMER agrees to pay to CONVEX at its offices in Richardson, Texas the monthly fee specified in Schedule A, the first payment being a prorated amount from the Effective Date of this Agreement to the last day of that month, and the last payment being a prorated amount from the first day of that month to the last day of the term of this agreement. CONVEX will invoice CUSTOMER monthly in advance for the monthly fee, and as incurred for any other charges, and payment will be due within thirty (30) days of receipt of invoice. Each invoice will contain sufficient detail to identify the equipment covered and the nature of the charges.

6. EXCLUSIONS

CONVEX's obligation to provide Support Services under this Agreement is contingent on the proper use of all products and does not cover products which are modified without CONVEX's written approval or have been subjected to unusual physical or electrical stress.

CONVEX shall not be obligated to furnish services under this Agreement (a) if adjustments, repair or parts replacement is required because of accident, neglect, misuse, improper programming, failure or fluctuation of electrical power, air conditioning or humidity control, fire, vandalism, transportation or causes other than normal use; (b) if products are maintained or repaired, or attempts are made to maintain or repair by other than CONVEX approved personnel without the prior written approval of CONVEX; (c) if CUSTOMER fails to maintain the site specifications recommended by CONVEX; (d) if CUSTOMER fails to perform any of Customer's obligations under this Agreement; (e) if products, in CONVEX's reasonable opinion, cannot be repaired to a maintainable condition.

Support Services under this Agreement do not include (a) furnishing of supplies, accessories or media; (b) installation, maintenance or removal of accessories, attachments or products not specified in this Agreement; (c) painting or refinishing the equipment; or (d) electrical work external to the product.

7. WARRANTY

CONVEX warrants that all parts and material necessary to maintain the product will be new or equivalent, and that the products covered by this agreement will perform according to CONVEX published specifications so long as said products are maintained under a CONVEX authorized maintenance agreement. Otherwise, CONVEX DISCLAIMS ALL WARRANTIES, EXPRESSED OR IMPLIED, WITH REGARD TO THE SERVICES AND MATERIALS PROVIDED IN CONNECTION WITH THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT.

8. LIMITATIONS OF LIABILITY

(a) CONVEX's maximum liability for damages in connection with this Agreement, for any cause whatsoever and regardless of the form of action, whether in contract or in tort and including but not limited to negligence, shall not exceed the fees paid under this contract coverage for the previous twelve (12) month period.

(b) Notwithstanding the foregoing, CUSTOMER agrees that CONVEX shall not be liable for any incidental, indirect, special or consequential damages in connection with this Agreement or services or materials provided, or for the loss of data or information of any kind, however caused.

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9. GENERAL

(a) All written notices referred to in this Agreement shall be sent to the CUSTOMER invoice address on this Agreement when from CONVEX or to CONVEX's address on this Agreement with attention to "Customer Service Administrator" using registered or certified mail, return receipt required.

(b) This Agreement is the complete and exclusive statement of the Agreement between the parties and supersedes all prior agreements and communications with respect to the subject matter. The terms of this Agreement shall apply notwithstanding any proposed variations or additions which may be contained in any purchase order or other communications submitted by CUSTOMER, and no CONVEX employee other than an authorized representative of CONVEX at its offices in Richardson, Texas shall have any actual or apparent authority to modify the terms of this Agreement in any way. All authorized modifications shall be in writing and signed by such authorized representatives of CONVEX.

(c) Neither party shall assign this Agreement without the prior written approval of the other party.

(d) This agreement, and all transactions under it, shall be governed by the laws of the State of Texas. Any item or service furnished by CONVEX in furtherance of this agreement, as authorized by CUSTOMER, although not specifically identified in it, shall nevertheless be covered by this agreement unless specifically covered by some other written agreement executed by CUSTOMER and an authorized representative of CONVEX.

(e) This Agreement is accepted by CONVEX only after being signed by an authorized person at CONVEX's offices in Richardson, Texas. A copy of this executed Agreement shall be returned to CUSTOMER at the time of acceptance.

10. EXHIBITS

Exhibits which are applicable and considered a part of this agreement are listed below.

- Exhibit 1 -- On-Site Hardware and Software Repair Services
- Exhibit 2 -- Equipment Schedule A
- Exhibit 3 -- CONVEX Official Holidays
- Exhibit 4 -- Customer Personnel Authorized to Issue Time and/or Materials Charges

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EXHIBIT 1

ON-SITE HARDWARE AND SOFTWARE REPAIR SERVICES

1. SERVICES PROVIDED BY CONVEX

CONVEX will provide telephone technical assistance for applications assistance and technical consultation for products covered under On-Site Hardware Repair Service. Technical telephone assistance is provided by the Technical Assistance Center (TAC) during normal operating hours which shall be at least 8 AM to 5PM Customer local time.

CONVEX will provide CUSTOMER's Authorized Representative access to TAC through a toll free telephone number.

CONVEX will provide all travel, labor, parts and material necessary to maintain in good operating condition those hardware products covered under this agreement. Replacement parts shall be new or equivalent; replaced parts become the property of CONVEX.

CONVEX will provide updates and enhancements to CONVEX software and documentation which have been licensed to the Customer. The Customer is entitled to access the latest versions of Licensed Software through CONVEX TAC. The Customer is entitled to one copy of appropriate software manuals for licensed products as CONVEX makes them available.

Maintenance service includes the diagnosis and correction of product malfunctions and failures. Repaired products are retested to verify proper operation of the product. CONVEX specified engineering changes may be installed at the time of repair. Services designed to minimize product failure and extend useful product life such as cleaning, lubrication, inspection, and testing may also be performed at the time of repair. Frequency of preventive maintenance will be by mutual agreement with the Customer. Preventive maintenance will be scheduled by CONVEX at times agreeable to both parties, such services normally to be provided during the principal period of maintenance.

CONVEX will provide on-site remedial service with next day response following prompt notification by the Customer to CONVEX within the local center's principal period of maintenance. A continuous effort will be provided to repair the equipment malfunction.

2. LIMITATIONS OF SERVICE

On-site Hardware Repair service is available to installed product located within 100 miles of a CONVEX Authorized Service Center.

A zone charge will not apply to the Austin site, but would ordinarily apply for product installed outside of the 100 mile Service Area if a reasonable response time is agreed to by CUSTOMER and CONVEX Customer Service Manager. The zone charge and response time must be documented and made part of Schedule A.

CONVEX will provide support for the current and immediately preceding versions of the covered software.

Diagnosis and maintenance is limited to the specific products covered by this service, as well as interconnections of those products. Service calls for malfunctions and failures resulting from other causes are subject to charge at the then prevailing CONVEX Time and Material rates.

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3. RELOCATION

CUSTOMER shall give CONVEX thirty (30) days written notice prior to the relocation of products covered by this service.

Products moved to a location within the contiguous United States shall continue to be covered under this service only if the requirements under section 2. "Limitations of Service" are satisfied.

For product which will continue to be serviced, CONVEX may, at its option, supervise the dismantling and packing of the products and inspect and reinstall the products at the new location. These services, if provided, shall be at an additional charge based on CONVEX's then prevailing Time and Materials rates. CUSTOMER shall furnish all labor and materials for the dismantling, packing and placement of products at the old and new locations.

4. RESPONSIBILITIES OF CUSTOMER

CUSTOMER shall prepare and maintain the site in conformance with specification provided for the products covered by this service.

CUSTOMER's Authorized Representative will contact the CONVEX Technical Assistance Center to participate in verifying the need for and to request On-Site Hardware Repair Service.

CUSTOMER shall provide, at no charge to CONVEX, (a) full and free access to the product, (b) reasonable working and storage facilities within a reasonable distance of the product, and (c) the use of any machine, attachment, feature, or other equipment ordinarily connected to the CONVEX equipment necessary to enable CONVEX to diagnose or duplicate a reported malfunction.

CUSTOMER will install and maintain an available telephone line for the Diagnostic Modem supplied by CONVEX. CUSTOMER will connect the Diagnostic Modem to the product when so requested by CONVEX. CONVEX personnel will have priority use of this telephone line and Diagnostic Modem for providing this service.

CUSTOMER is responsible for maintaining a procedure external to the products for reconstruction of lost or altered files, data or programs to the extent deemed necessary by CUSTOMER, and for actually reconstructing any lost or altered files, data or programs.

CUSTOMER will follow all routine operator procedures as specified in the CONVEX Operating Manuals for the product.

CUSTOMER will provide operating supplies and consumables such as paper, magnetic tapes, and such similar items as CUSTOMER would use during normal operation.

A representative of CUSTOMER will be present at the site at all times service is being performed.

CUSTOMER is responsible for the security of its proprietary and classified information, provided that any employees of CONVEX who have access to such confidential information sign non-disclosure agreements prior to being granted access to the site or information, and provided that CONVEX complies with any other reasonable request to maintain confidentiality of Customer's information.

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SUPPORT SERVICES AGREEMENT EXHIBIT 2
 EQUIPMENT SCHEDULE A
 SERIAL # TO BE DETERMINED
 LOCATION - CHPC

| Qty | Part # | DESCRIPTION | MONTHLY MAINT |
|-----|-------------|--|---------------|
| 1 | C220-128 | CONVEX C220 Central Processing Unit including: 128MB Memory (16Mword) (expandable to 2 Gigabytes), Two (2) Processors Video Console with Hardcopy Service Processor Unit ConvexOS for 32 Users Documentation | 8,710 |
| 12 | MEM-200 | 32Mbyte Memory Module | 4,200 |
| 2 | MCM-200 | Memory Control Module | 680 |
| 1 | VIOP-001 | VMEbus I/O Processor | 210 |
| 1 | VBS-004 | VMEbus Chassis split 2x4 | 100 |
| 1 | IDC-001 | Integrated Disk Controller | 650 |
| 16 | DKD-502 | High Performance 1GByte Disk Drive | 2,640 |
| 2 | DKD-308 | 1Gbyte Disk with Controller | 670 |
| 2 | DKD-208 | 1Gbyte Add-on Disk | 500 |
| 1 | MTD-304 | 50/100ips Magnetic Tape Subsystem | 295 |
| 1 | TBC-001 | Tape Block Mux Channel Interface | 600 |
| 1 | ETH-201 | ETHERNET Controller (TCP/IP) | 120 |
| 1 | ETH-202 | ETHERNET Controller (DECnet) | 120 |
| 1 | ACM-202 | Comms. Controller (16 asyns and printer) | 120 |
| 1 | EXP-101 | Expansion Cabinet with Full Door | 45 |
| 1 | EXP-102 | Expansion Cabinet with Split Door | 45 |
| 1 | EXP-105 | High capacity expansion cabinet | 100 |
| | | SOFTWARE Licenses: | |
| 1 | CFT-001-200 | CONVEX FORTRAN Compiler | 625 |
| 1 | CVC-001-200 | CONVEX Vector C Compiler | 625 |
| 1 | CSD-001-200 | CONVEX Consultant | 140 |
| 1 | NET-001-200 | TCP/IP Networking Software | 155 |
| 1 | NFS-001-200 | Network File System | 315 |
| 1 | COV-001-200 | COVUEshell | 195 |
| 1 | COV-202-200 | COVUEnet | 582 |
| 1 | COV-003-200 | COVUEedt | 85 |
| 1 | CXW-001-200 | CX Windows | 155 |
| 1 | CXB-001-200 | CONVEX Batch Subsystem | 155 |
| 1 | CTB-001-200 | CONVEX Toolbox | 125 |
| 1 | CXP-001-200 | CXpa Profiler | 70 |
| 1 | CSS-001-200 | CONVEX Share Scheduler | 310 |
| | | List Monthly Maintenance Charge | 23,322 |
| | | CONVEX Grant to CHPC Program | (9,329) |
| | | NET Monthly Maintenance Charge | 13,993 |

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**EXHIBIT 3
OFFICIAL CONVEX HOLIDAYS**

- 1) New Year's Day
- 2) Independence Day
- 3) Memorial Day
- 4) Labor Day
- 5) Thanksgiving Day
- 6) The Day After Thanksgiving
- 7) Christmas Day

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EXHIBIT 4

CUSTOMER PERSONNEL AUTHORIZED TO ISSUE TIME AND/OR MATERIALS CHARGES

- 1.) Authorized Representative # 1 Bruce Whittington
- 2.) Authorized Representative # 2 Dean Nobles
- 3.) Authorized Representative # 3 Gary Smith

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EXECUTED ON THIS

_____ Day of October 1990

CONVEX COMPUTER CORPORATION

William G. Bock
Senior Vice President of Finance
Chief Financial Officer

The Board of Regents of
The University of Texas System
On Behalf of The University
Of Texas System Center For
High Performance Computing

Attest:

By:

Arthur H. Dilly
Executive Secretary to the
Board of Regents

Dr. Hans Mark
Chancellor

Approved As To Form:

Recommended For Approval:

John L. Darrouzet
Office of General Counsel
The University of Texas System
Systems

Dr. Charles Warlick
Executive Director
Academic Information

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**SUPERCOMPUTER PURCHASE
SITE PREPARATION SPECIFICATION
EXHIBIT 5**

**CONVEX Computer Corporation
October 1990**

ATTACHMENT C

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RESEARCH AND DEVELOPMENT AGREEMENT

BETWEEN

CRAY RESEARCH, INC.

and

THE BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM

Cray Research, Inc., hereafter referred to as "Cray" and The Board of Regents of the University of Texas System, hereafter referred to as "The Board of Regents", have entered into this Agreement dated the _____ day of _____, 19____, under which The Board of Regents will perform Research and Development efforts on behalf of Cray in exchange for which Cray will pay to The Board of Regents the sum of \$4,250,000.00 in the form of direct cash payments in equal annual installments of \$850,000 beginning January 1, 1991.

The Research Projects described in Attachment A hereto represent those projects initially of interest to Cray. It is understood by the parties hereto that this list of Research Projects will be reviewed on a periodic basis by Cray and, upon mutual agreement, 1) new projects may be added, or 2) existing projects may be expanded, redirected or deleted.

Each year each Researcher shall prepare an Application in the attached format for the research and development effort to be carried out by such Researcher during the following year. Cray agrees, in good faith, to evaluate all such proposals received.

The Board of Regents has, by separate written Agreement (see attached Agreement), secured the understanding of the Researcher in charge of the Research Project(s) listed that he/she fully understands the provisions of this Agreement and that he/she will abide by same.

The following Terms and Conditions apply to this Agreement:

1. Period of Agreement and Renewal: This Agreement begins on the 1st day of January, 1991 and continues for a period of five years from that date. In the event that The Board of Regents does not fulfill its obligations hereunder, Cray will notify The Board of Regents of such failure and shall allow The Board of Regents 60 days to remedy the failure. In the event such remedy is not forthcoming, Cray and The Board of Regents may negotiate a solution to resolve the problems. In the event no solution can be reached, Cray may terminate the Agreement.
2. Certification: The Board of Regents hereby certifies that it is a "qualified" organization within the meaning of Section 41(e)(6) of the Internal Revenue Code. In the event The Board of Regents ceases to be a "qualified" organization, this Agreement shall terminate forthwith.
3. Type of Research: The parties hereto understand and mutually agree that no research being funded under this Agreement will be performed outside the United States. Both parties further agree that the research being funded by Cray will be in computer-related techniques, algorithms, software and hardware and will not include research in the social sciences, arts or the humanities.
4. Reports: The Board of Regents will provide to Cray on an annual basis a report on each project summarizing the effort undertaken for Cray and the results achieved including a brief summary of any algorithms developed. Included with the report will be the Deliverables as spelled out in the Application. It is recognized by both parties that the only product of the research funded hereunder may be this report.

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5. **Demonstration:** The Board of Regents will assist Cray in making arrangements with each Researcher for a demonstration annually for Cray personnel for each item of software developed hereunder. It is recognized that the demonstration may not be successful and may, in fact, be of partially developed software.
6. **Publication Rights:** The Board of Regents through its authors has the right to publish any new research findings arising out of the effort performed under this Agreement, provided that any Proprietary Information provided by Cray in support of the effort has been removed from the material to be published.
7. **Patents, Copyrights, and Related Software Rights:** Cray acknowledges that the Research Projects listed above may also be funded in whole or in part by others (i.e., U.S. and/or State Government Agencies, Commercial Concerns, etc.). The intellectual property policies of The Board of Regents, together with the provisions of this paragraph, shall govern the determination of rights in and to all patents, copyrights, trade secrets or other intellectual property which may arise from such Research Projects. Cray is hereby granted a royalty-free, non-exclusive license to all patents, equipment, copyrights, and unpublished technology or trade secrets which result from, and during the terms of, such Research Projects, except for copyrights in scholarly journals which must be assigned to a journal for purposes of publication.
8. **Claims:** Each party agrees to release the other party from any and all claims which such party might otherwise have for all damages to persons or properties sustained as a result of, or arising out of the work performed or information provided under this Agreement, provided such damages are not caused by the other party's willful act or gross negligence or that of its assignees.
9. **Assignment:** The rights and obligations of the parties are not assignable except as contemplated herein.
10. **Termination:** This Agreement may be terminated upon the mutual agreement of the parties to do so.
11. **Amendments:** This Agreement may be amended only by the mutual written agreement of the parties.
12. **General Conditions:** This Agreement is to be governed by and construed in accordance with the laws of the State of Texas. Neither party can bring an action against the other party beyond two years after the cause of action has accrued. All notices will be delivered or sent to an address specified by each of the parties and will be effective when received by that party.

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For Cray:

Technical Information: Cray Research, Inc.
Cray Research Park
655F Lone Oak Drive
Eagan, MN 55121

ATTN: Eric J. Pitcher
Director, University Programs
(612) 683-3414

Contractual Information: Cray Research, Inc.
608 Second Avenue South
Minneapolis, MN 55402

ATTN: Rodgers Naylor
Manager of Contracts
(612) 333-5889

For The Board of Regents:

Technical Information:

ATTN:

Contractual Information:

ATTN:

This Agreement embodies the entire understanding of the parties and shall supersede all previous communications, either verbal or written, between the parties relating to this Agreement, and the terms and conditions herein shall have priority over, and supersede, any subsequent documents that may be issued by Cray to facilitate payment or otherwise.

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

CRAY RESEARCH, INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

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Cray Research Inc.

19__ University Research & Development Grant Program

Guidelines to Applicants

Objective of the Program

Cray Research Inc. has entered into an agreement with certain University Supercomputer Centers to provide Research and Development grants to users of CRAY computer systems. The objective of this grant program is to encourage R&D projects which further the commercial or academic application of CRAY supercomputer systems by:

- a) significantly, and uniquely, increasing scientific, engineering or computer system knowledge or
- b) developing software and/or algorithmic techniques for supercomputer architectures, thereby providing efficient or improved programming solutions to real-world problems.

The program also serves to complement the internal research efforts of Cray Research in selected areas of hardware and software development.

Categories of Permissible Research

Each proposal submitted should describe a project which is germane to actual or potential applications of high performance computing on CRAY computers in one or more of the following disciplines:

- (1) health sciences
- (2) physical sciences
- (3) biological sciences
- (4) mathematical and computational sciences
 - Efficient vector/parallel implementation of Karmarkar's algorithm for solving the linear programming problem
 - Efficient vector/parallel implementation of a large-scale nonlinear programming code
 - Fast methods for 3-D surface interpolation
 - Direct methods for nonsymmetric sparse linear systems and sparse least squares problems
 - Effective preconditioning techniques for sparse unsymmetric linear systems
 - Algorithms for large sparse nonsymmetric eigenvalue problems
 - Parallel algorithms for solving large nonlinear systems
 - Effect of memory hierarchy on Cray-style architecture
 - Parallel algorithms on distributed Crays
- (5) engineering
- (6) material sciences
- (7) microelectronics
 - Design for testability/test vector generation
 - Fault tolerance system design
- and (8) other disciplines as mutually agreed upon in writing in advance of research proposal submission.

The specific subtopics listed above are of special interest to Cray Research.

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Limitations on Use of Funds

Research funds provided by Cray Research under this program are to be used only for direct costs related to research projects. No funds shall be used for the acquisition of capital equipment.

Grant Application Process

Research proposals are to be submitted on an annual basis. Prior to each year researchers should complete the attached grant application form. The application form is deliberately short. It should be completed using single-spaced type. Appropriate supporting papers and reports may be attached, but unfortunately cannot be returned. Guidelines for individual sections of the form are:

Section 1. Objectives of Proposed Research

The researcher should state concisely the objectives of the work to be performed. Wherever possible a quantifiable scientific value of the research products should be specified.

Section 2. Computational Requirements

The researcher should state the computational requirements of the work, specifying in particular the role of, and time required on, the CRAY system. Other related requirements, such as local computer facilities, graphics equipment and networks, should be included.

Section 3. Research Project Costs

The amount of money requested to support project costs (e.g. personnel, computer time, supplies etc.) for one calendar year should be delineated. Complementary funding from other sources should be mentioned. If this is a multi-year project, then one-line costs should be added for subsequent years. The researcher must apply for funds in each subsequent year. Funding for one year does not guarantee funding in subsequent years.

Section 4. Deliverables

The deliverable results of the R & D work should be clearly stated. Deliverables can include (but are not restricted to) reports, refereed papers, documented computer code, conference proceedings or a motion picture. At the end of the yearly grant period, Cray Research expects to receive a brief (2-3 pages) project report together with other deliverable products resulting from this research - products, which from Cray's perspective, are important in satisfying the objective of the R & D program.

Section 5. Timetable

A timetable should be given for the next year indicating, by month, when major milestones are anticipated.

Grant Review Process

The University Supercomputer Center will collect, and submit to Cray Research, an appropriate set of proposals on an annual basis. Cray Research will then evaluate all proposals through an internal or peer-consultant review procedure. Approved projects will represent those topics of priority interest to Cray Research. The proposals will then be returned to the University Supercomputer Center with recommendations for funding. The University will then have the right to substitute other proposals or modify existing ones and resubmit them to Cray Research.

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Management of Grant Funds

The University Supercomputer Center is responsible for the management and disbursement of grant funds to researchers.

Research Results

Cray Research acknowledges that the research projects may also be funded in whole or in part by others (i.e., U.S. and/or State Government Agencies, Commercial Concerns, etc.). The intellectual property policies of The Board of Regents of The University of Texas System, together with the provisions of this paragraph, shall govern the determination of rights in and to all patents, copyrights, trade secrets or other intellectual property which may arise from this research project. Cray Research is hereby granted a royalty-free, non-exclusive license to all patents, equipment, copyrights, and unpublished technology or trade secrets which result from, and during the terms of, the research projects, except for copyrights in scholarly journals which must be assigned to a journal for purposes of publication.

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CRAY RESEARCH INC.

19__ UNIVERSITY RESEARCH & DEVELOPMENT GRANT PROGRAM

THE UNIVERSITY OF TEXAS SYSTEM

GRANT APPLICATION FORM

Applicant: (Name) _____
(Title) _____
(Institution) _____
(Address) _____

(Phone) _____
(Email) _____

Project
Title: _____

1. Objectives of Proposed Research:

2. Computational Requirements: (Include estimate of CRAY CPU hours required):*

*Supporting attachments (papers, reports, etc.) are encouraged.

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3. Research Project Costs:

4. Deliverables: (Reports, Computer Code, Film, etc.)

5. Timetable: (Major milestones and month anticipated)

Signature of Applicant

Signature of University Director

Date

Date

DRAFT

THE UNIVERSITY OF TEXAS SYSTEM

19__ CRAY-SPONSORED UNIVERSITY RESEARCH & DEVELOPMENT GRANT PROGRAM

The University of Texas System has entered into a Research and Development Agreement with Cray Research Inc. Your project has been selected as one of the 19__ Cray-sponsored projects. If this is acceptable to you, you will receive a grant of \$_____. You should review your proposal and the terms listed herein and then sign below indicating your understanding and acceptance of this agreement.

Terms of Cray Sponsored Project:

1. The intellectual property policies of The University of Texas System, together with the relevant provisions of its approved agreement for the Program of Research Grants with Cray Research, shall govern the determination of rights in and to all patents, copyrights, trade secrets, or other intellectual property which may arise from this research work. Cray Research is granted a royalty-free, non-exclusive license to all patents, equipment, copyrights, and unpublished technology or trade secrets which result from, and during the terms of, the research work, except for copyrights in scholarly journals which must be assigned to a journal for purposes of publication.
2. Each project grant recipient will prepare a brief (2-3 pages) project report at the end of the (calendar year) grant period, and submit it, together with all deliverable research products described in the Grant Application Form, a copy of which is attached, to the Office of Academic Information Systems at the University of Texas System by _____, 19__.
3. Cray-sponsored research project funds are awarded and are to be expended in accordance with the provisions of the Guidelines to Applicants for the 19__ University R & D Grant Program.

I have read and understand the terms described above. I understand that it is very important that Cray Research, Inc. receive the project's deliverables as well as an annual report. I agree to participate in, and abide by the terms of, a Cray sponsored research project.

Name of
Researcher: _____ Signed: _____

Institution: _____ Date: _____

3. U. T. Austin - Air-Conditioning of Andrews, Brackenridge, Carouthers, Littlefield, Prather, and Roberts Dormitories: Request for Project Authorization (Deferred).-- Committee Chairman Moncrief reported that the item related to the air-conditioning of Andrews, Brackenridge, Carouthers, Littlefield, Prather, and Roberts Dormitories at The University of Texas at Austin had been deferred until a future meeting at the request of the institution.

4. U. T. Dallas - Cecil and Ida Green Center for the Study of Science and Society (Project No. 302-717): Approval of Preliminary Plans; Authorization to Submit Project to the Coordinating Board; and Authorization to Prepare Final Plans.--Following opening remarks by President Rutford, Mr. Ron Shaw, representing the Project Architect, F&S Partners Incorporated, Dallas, Texas, presented the preliminary plans and specifications for the Cecil and Ida Green Center for the Study of Science and Society at The University of Texas at Dallas to the Finance and Facilities Committee.

Based upon this presentation and the recommendation of the Finance and Facilities Committee, the Board:

- a. Approved the preliminary plans and specifications for the Cecil and Ida Green Center for the Study of Science and Society at U. T. Dallas at an estimated total project cost of \$2,433,000
- b. Authorized submission of the project to the Texas Higher Education Coordinating Board
- c. Authorized the Project Architect to prepare final plans and specifications to be presented to the U. T. Board of Regents for consideration at a future meeting.

This facility will be a two-story building of approximately 18,000 gross square feet to be constructed on a centrally located site on the U. T. Dallas campus. The Center will serve as an archive for the papers, books, slides, and other memorabilia of Cecil and Ida Green and will also house exhibit space, a faculty commons for general group meetings, seminars and workshops, and administrative space for operations and visiting fellows.

This project was included in the Capital Improvement Program approved by the U. T. Board of Regents in June 1989, and the FY 1991 Capital Budget approved in June 1990 appropriates \$37,920 for FY 1990 and \$380,132 for FY 1991.

The project will be considered by the Texas Higher Education Coordinating Board at the October 25, 1990 meeting. Although this project is to be funded with gift funds, the Coordinating Board request includes the prospect that Permanent University Fund Bond Proceeds for another U. T. Dallas project may be used for interim financing.

5. U. T. El Paso - Burges Hall - Renovation for Institute for Manufacturing and Materials Management: Authorization for Project; Appointment of Fouts, Gomez Architects, Inc., El Paso, Texas, as Project Architect to Prepare Preliminary Plans; Authorization for Submission to the Coordinating Board; and Appropriation Therefor.--

The Institute for Manufacturing and Materials Management at The University of Texas at El Paso is a catalyst and facilitator for combining resources of the university and community to support industrial development through technical support, technology transfer, materials research, and related activities. Two federal grants have provided significant support for development and expansion of the Institute's facilities and programs.

The FY 1989 federal grant from the Defense Logistics Agency enabled the Institute to establish infrastructure and begin programs. The FY 1990 grant from the General Services Administration is available for use to remodel and renovate Burges Hall, an existing U. T. El Paso building strategically located at the main entrance to the campus. This federal grant also provides administrative support and funds building operations and maintenance over a four-year period. The renovation includes the placement of special Institute functions and laboratories in the building, including the acquisition and installation of necessary furnishings and laboratory equipment.

In order to make use of the FY 1990 grant available through the General Services Administration, the Board:

- a. Authorized a project for the renovation of Burges Hall at U. T. El Paso for the Institute for Manufacturing and Materials Management at an estimated total project cost of \$2,275,000 to be financed with federal funds
- b. Appointed the firm of Fouts, Gomez Architects, Inc., El Paso, Texas, as Project Architect to prepare preliminary plans and a detailed cost estimate to be presented to the U. T. Board of Regents at a future meeting
- c. Authorized submission of the project to the Texas Higher Education Coordinating Board
- d. Appropriated \$120,000 from federal grant funds to cover professional fees and administrative expenses through completion of preliminary plans.

The current Capital Improvement Program and the FY 1991 Capital Budget will be amended to include this project.

6. U. T. Pan American - Academic Services Building (Project No. 901-739): Approval of Final Plans and Authorization to Advertise for Bids and for the Executive Committee to Award Contracts.--Upon recommendation of the Finance and Facilities Committee, the Board:

- a. Approved the final plans and specifications for the Academic Services Building at The University of Texas - Pan American at an estimated total project cost of \$7,100,000

- b. Upon completion of final review, and subject to availability of funds, authorized the Office of Facilities Planning and Construction to advertise for bids
- c. Authorized the Executive Committee of the U. T. Board of Regents to award all contracts associated with this project within the authorized total project cost. Funding for this project will be from Higher Education Assistance Fund (HEAF) bond proceeds and/or a combination of HEAF balances, future HEAF appropriations, Building Use Fee (General Use Fee) balances, and existing Ad Valorem Tax balances.

This project is within the Capital Improvement Program and the FY 1991 Capital Budget. The Texas Higher Education Coordinating Board approved the project in July 1990.

The total project cost of \$7,100,000 is to be funded from Higher Education Assistance Fund (HEAF) bond proceeds if bonds with a maturity date ten years from the date of issue can be sold. Such a bond issue appears to be authorized by the Texas Constitution, although no other institution has previously made such an issue.

Consequently, an Attorney General's opinion has been requested. When a favorable Attorney General's opinion is received, the project will be initiated with a combination of HEAF balances, Building Use Fee (General Use Fee) balances and existing Ad Valorem Tax balances pending the actual sale of the HEAF bonds. In the unlikely event of an unfavorable opinion, HEAF reserves, future HEAF appropriations, Building Use Fee (General Use Fee) balances, and existing Ad Valorem Tax balances will be combined to finance the construction of the Academic Services Building.

7. U. T. Pan American - Allied Health Annex (Project No. 901-742): Approval of Final Plans and Authorization to Advertise for Bids and for the Executive Committee to Award Contracts.--The Finance and Facilities Committee recommended and the Board:

- a. Approved the final plans and specifications for the Allied Health Annex at The University of Texas - Pan American at an estimated total project cost of \$2,850,000
- b. Upon completion of final review, and subject to availability of funds, authorized the Office of Facilities Planning and Construction to advertise for bids
- c. Authorized the Executive Committee of the U. T. Board of Regents to award all contracts associated with this project within the authorized total project cost. Funding for this project will be from Higher Education Assistance Fund (HEAF) bond proceeds and/or a combination of HEAF balances, future HEAF appropriations, Building Use Fee (General Use Fee) balances, and existing Ad Valorem Tax balances.

This project is within the Capital Improvement Program and the FY 1991 Capital Budget. This project was approved by the Texas Higher Education Coordinating Board in July 1990.

The total project cost of \$2,850,000 is to be funded from Higher Education Assistance Fund (HEAF) bond proceeds if bonds with a maturity date ten years from the date of issue can be sold. Such a bond issue appears to be authorized by the Texas Constitution, although no other institution has previously made such an issue.

Consequently, an Attorney General's opinion has been requested. When a favorable Attorney General's opinion is received, the project will be initiated with a combination of HEAF balances, Building Use Fee (General Use Fee) balances, and existing Ad Valorem Tax balances pending the actual sale of the HEAF bonds. In the unlikely event of an unfavorable opinion, alternate funding will need to be developed for the Allied Health Annex and additional Board concurrence sought as appropriate.

8. U. T. Southwestern Medical Center - Dallas - Aston Ambulatory Care Center - Additions and Renovations (Project No. 303-692): Approval of Final Plans and Authorization to Advertise for Bids and for the Executive Committee to Award Contracts, and Approval of Use of Revenue Financing System Parity Debt, Receipt of Certificate, Finding of Fact with Regard to Financial Capacity, Amendment of the Master Resolution, and Pledge of Practice Plan Revenue.--Following opening remarks by President Wildenthal, Mr. Jack Denton and Mr. Rick Carter, representing the Project Architect, HKS, Inc., Dallas, Texas, presented the final plans for the construction of Additions and Renovations to the Aston Ambulatory Care Center at The University of Texas Southwestern Medical Center at Dallas to the Finance and Facilities Committee.

Based upon this presentation and the recommendation of the Finance and Facilities Committee, the Board:

- a. Approved final plans and specifications for the construction of Additions and Renovations to the Aston Ambulatory Care Center at the U. T. Southwestern Medical Center - Dallas at an estimated total project cost of \$26,750,000
- b. Subject to Coordinating Board approval, authorized the Office of Facilities Planning and Construction to advertise for bids upon completion of final review
- c. Authorized the Executive Committee to award all contracts associated with this project within the authorized total project cost.

Further, following a presentation by Executive Vice Chancellor for Asset Management Patrick with regard to the qualifications of this project for the U. T. System Revenue Financing System and in compliance with

Section 5 of the Master Resolution Establishing The University of Texas System Revenue Financing System approved by the U. T. Board of Regents in April 1990, and the delivery of the Certificate of an Authorized Representative as set out on Page 226, the Board resolved that:

- a. Subject to Texas Higher Education Coordinating Board approval of the project, Parity Debt shall be issued to pay the project's cost
- b. Sufficient funds will be available to meet the financial obligations of the U. T. System including sufficient Pledged Revenues as defined in the Master Resolution to satisfy the Annual Debt Service Requirements of the Financing System and to meet all financial obligations of the Board relating to the Financing System
- c. With the commitment of the annual Revenues and Fund Balances of the Medical Service, Research and Development Plan as proposed by President Wildenthal in his letter to the Board dated October 12, 1990, U. T. Southwestern Medical Center - Dallas, which is a "Member" as such term is used in the Master Resolution, possesses the financial capacity to satisfy its Direct Obligation as defined in the Master Resolution relating to the issuance by the U. T. Board of Regents of Parity Debt in the amount of \$26,750,000 for the expansion of Aston Ambulatory Care Center (the "Project")
- d. Pursuant to Section 13 (a) (iii) of the Master Resolution, Amendment 1 to the Master Resolution, as set out in Exhibit A on Page 227, is hereby approved by amending the definition of "Pledged Practice Plan Funds." It is further resolved that Amendment 1 to the Master Resolution shall be attached to the copy of the Master Resolution filed in the records of the Executive Secretary to the U. T. Board of Regents and that the Executive Secretary shall take all actions necessary, including the giving of any required notices, to make this amendment to the Master Resolution effective immediately.
- e. By amendment to the Master Resolution, the Practice Plan Funds of U. T. Southwestern Medical Center - Dallas are pledged to the payment and security of Parity Debt to the extent, in the amount, and for the time set forth in Exhibit A.

This project will contain approximately 129,764 gross square feet of new construction divided among two levels of finished clinic space, two levels of unfinished shell space, and six levels of structured parking. In addition, approximately 80,336 gross square feet of the existing six-level Clinic Building will be renovated.

This project is included in the Capital Improvement Program approved in June 1989 and the FY 1991 Capital Budget approved in June 1990 by the U. T. Board of Regents.

Total project funding in the amount of \$26,750,000 will be from the issuance of Revenue Financing System Parity Debt to be serviced out of medical practice plan revenues.

This project has been submitted to the Texas Higher Education Coordinating Board for approval at the October 25-26, 1990 meeting.

PARITY DEBT CERTIFICATE OF U.T. SYSTEM REPRESENTATIVE

I, the undersigned Executive Vice Chancellor for Asset Management of The University of Texas System, a U.T. System Representative under the Master Resolution Establishing The University of Texas System Revenue Financing System adopted by the Board on April 12, 1990 (the "Master Resolution"), do hereby execute this certificate for the benefit of the Board of Regents pursuant to Section 5(a)(ii) of the Master Resolution in connection with the authorization by the Board to issue "Parity Debt" pursuant to the Master Resolution to finance the cost of Research Building - Phase I North Campus Expansion and the Aston Ambulatory Care Center at The University of Texas Southwestern Medical Center at Dallas, and do certify that to the best of my knowledge the Board of Regents is in compliance with all covenants contained in the Master Resolution and in the First Supplemental Resolution Establishing an Interim Financing Program and is not in default of any of the terms, provisions and conditions in said Master Resolution or First Supplemental Resolution.

EXECUTED this

Executive Vice Chancellor for
Asset Management

EXHIBIT A
AMENDMENT 1
TO
MASTER RESOLUTION

"Pledged Practice Plan Funds" as defined is hereby amended to include: The following amounts per fiscal year from the revenues and fund balances of the Medical Service, Research and Development Plan of the Member referenced shall be included commencing in the fiscal year in which Parity Debt is first issued for the project and ending when said institution's Direct Obligation relating to said project has been fully paid and satisfied.

| <u>Member</u> | <u>Project</u> | <u>Amount</u> |
|---|---------------------------------|---------------|
| U. T. Southwestern Medical Center - Dallas | Aston Ambulatory Care Center | \$4,500,000 |

9. U. T. Southwestern Medical Center - Dallas - Research Building - Phase I North Campus Expansion (Project No. 303-702): Approval of Final Plans for Stage Three; Authorization to Advertise for Bids and for the Executive Committee to Award Contracts; and Approval of Use of Revenue Financing System Parity Debt, Receipt of Certificate, and Finding of Fact with Regard to Financial Capacity.--Upon recommendation of the Finance and Facilities Committee, the Board:

- a. Approved final plans and specifications for the third stage of construction of the Research Building - Phase I North Campus Expansion at The University of Texas Southwestern Medical Center at Dallas at an estimated total project cost of \$52,500,000 for all stages, exclusive of institutional equipment
- b. Authorized the Office of Facilities Planning and Construction to advertise for bids upon completion of final review
- c. Authorized the Executive Committee to award all contracts associated with this project within the authorized total project cost.

Further, following a presentation by Executive Vice Chancellor for Asset Management Patrick with regard to the qualifications of this project for the U. T. System Revenue Financing System and in compliance with Section 5 of the Master Resolution Establishing The University of Texas System Revenue Financing System approved by the U. T. Board of Regents in April 1990, and the delivery of the Certificate of an Authorized Representative as set out on Page 230, the U. T. Board of Regents resolved that:

- a. Parity Debt shall be issued to pay the project's cost
- b. Sufficient funds will be available to meet the financial obligations of the U. T. System including sufficient Pledged Revenues as defined in the Master Resolution to satisfy the Annual Debt Service Requirements of the Financing System and to meet all financial obligations of the Board relating to the Financing System
- c. U. T. Southwestern Medical Center - Dallas, which is a "Member" as such term is used in the Master Resolution, possesses the financial capacity to satisfy its Direct Obligation as defined in the Master Resolution relating to the issuance by the U. T. Board of Regents of Parity Debt in the amount of \$27,500,000 for the construction of Research Building - Phase I North Campus Expansion (the "Project").

This third stage of work consists of construction for both the Research Building and the Thermal Energy Plant Building at an estimated cost of \$39,890,000. Stages one and two which relate to general civil construction and the prepurchase of energy plant equipment have already received Regental approval and are included in the estimated project cost of \$52,500,000.

The Thermal Energy Plant Building will be a large volume two-level facility containing approximately 16,950 gross square feet of mechanical space equipped to serve this project.

Funds for this project are included in the U. T. System Capital Improvement Program approved in June 1989 and in the FY 1991 Capital Budget approved in June 1990 by the U. T. Board of Regents.

This project was approved by the Texas Higher Education Coordinating Board in October 1989.

PARITY DEBT CERTIFICATE OF U.T. SYSTEM REPRESENTATIVE

I, the undersigned Executive Vice Chancellor for Asset Management of The University of Texas System, a U.T. System Representative under the Master Resolution Establishing The University of Texas System Revenue Financing System adopted by the Board on April 12, 1990 (the "Master Resolution"), do hereby execute this certificate for the benefit of the Board of Regents pursuant to Section 5(a)(ii) of the Master Resolution in connection with the authorization by the Board to issue "Parity Debt" pursuant to the Master Resolution to finance the cost of Research Building - Phase I North Campus Expansion and the Aston Ambulatory Care Center at The University of Texas Southwestern Medical Center at Dallas, and do certify that to the best of my knowledge the Board of Regents is in compliance with all covenants contained in the Master Resolution and in the First Supplemental Resolution Establishing an Interim Financing Program and is not in default of any of the terms, provisions and conditions in said Master Resolution or First Supplemental Resolution.

EXECUTED this

Executive Vice Chancellor for
Asset Management

10. U. T. Health Science Center - San Antonio: Approval to Deed Approximately 60,000 Square Feet of Land Near the Central Energy Plant to Bexar County for Construction of a Medical Examiner's Building.--Approval was given to deed approximately 60,000 square feet of land near the Central Energy Plant on The University of Texas Health Science Center at San Antonio campus to Bexar County for the construction, at their expense, of a Medical Examiner's facility. This approval was conditioned upon President Howe's being able to successfully negotiate with the County an acceptable resolution to such problems as parking and related surface interests.

Further, the Executive Vice Chancellor for Health Affairs was authorized to execute the deed following the approval of President Howe, the actual completion of the construction process, and the approval of the deed and related documents by the Office of General Counsel.

In October 1973, the U. T. Board of Regents approved a similar request from the Bexar County Commissioners Court to deed a parcel of land for the construction of a Medical Examiner's building, but the Commissioners Court did not proceed with the construction at that time.

The initial structure will contain approximately 45,000 square feet of which 12,000 square feet will be shell space which will be allocated for approximately 15 years to the U. T. Health Science Center - San Antonio for office and laboratory use. Certification of the Pathology Department by the American Medical Association will be aided by the convenient access to the facility by students. Expansion of research activities utilizing the facilities will enhance the ability to obtain grants and greatly improve the programs.

11. U. T. M.D. Anderson Cancer Center - Rotary House International (Project No. 703-740): Authorization to Increase Project Scope to Include Connection to Pedestrian Bridge; Approval of Preliminary Plans and Authorization to Prepare Final Plans; Approval to Name the Facility the Jesse H. Jones Rotary House International; and Additional Appropriation Therefor.--Following a brief overview by President LeMaistre, the preliminary plans for the construction of Rotary House International at The University of Texas M.D. Anderson Cancer Center were presented to the Finance and Facilities Committee by Mr. Michael Sheppard and Mr. Pete Garrett, representing the Project Architect, Morris Architects, Houston, Texas.

Upon recommendation of the Finance and Facilities Committee and based upon the presentation of the Project Architect, the Board:

- a. Approved an increase in the project scope of Rotary House International at the U. T. M.D. Anderson Cancer Center to include connection to the pedestrian bridge at a cost of \$638,000, thus increasing the authorized total project cost to \$17,638,000

- b. Approved the preliminary plans for the construction of Rotary House International at an estimated total project cost of \$17,638,000
- c. Authorized the Project Architect to prepare final plans and specifications
- d. Approved the naming of this facility as the Jesse H. Jones Rotary House International
- e. Appropriated an additional \$638,000 from Revenue System Proceeds.

The Jesse H. Jones Rotary House International will be an eleven-story, 168,500 gross square foot patient hotel structure with two public levels and nine typical floors of 22 units each. Total capacity will be 198 units composed of 144 single bay efficiencies and 54 bedroom/sitting room suites with 18 efficiencies designed to combine with suites to provide 18 two-bedroom suites. Surface parking for approximately 220 cars will be provided.

During the development of preliminary plans for Rotary House International, it became apparent that extending an all-weather connection from the existing overhead walkway to the second floor of this facility would be advantageous. Extension of the bridge as part of this project will allow the design to be an integral part of the building, will be more cost effective, and will avoid disruption of service once the building is in operation. Any approvals required to construct this connection across Texas Medical Center (TMC) property or TECO easements will be obtained by U. T. M.D. Anderson Cancer Center at the earliest possible date.

The naming of the patient housing facility as the Jesse H. Jones Rotary House International is in recognition of the late Jesse H. Jones, a well-known Houston philanthropist, who established Houston Endowment, Inc., Houston, Texas, which has pledged a major portion of the donated capital for this facility.

This project is included in both the Capital Improvement Program and the FY 1991 Capital Budget. These documents will be amended to include the pedestrian bridge addition.

The project will be submitted to the Texas Higher Education Coordinating Board for consideration at its October 25, 1990 meeting.

See Page 13 related to a Management Agreement with the Marriott Corporation.

REPORT AND RECOMMENDATIONS OF THE LAND AND INVESTMENT COMMITTEE (Pages 232 - 254).--Committee Chairman Ratliff reported that the Land and Investment Committee had met in open session to consider those matters on its agenda and to formulate recommendations for the U. T. Board of Regents. Unless otherwise indicated, all actions set forth in the Minute Orders which follow were recommended by the Land and Investment Committee and approved in open session and without objection by the U. T. Board of Regents.

I. PERMANENT UNIVERSITY FUND

INVESTMENT MATTER

Report on Clearance of Monies to the Permanent University Fund for July and August 1990 and Report on Oil and Gas Development as of August 31, 1990.--The following reports with respect to (a) certain monies cleared to the Permanent University Fund for July and August 1990 and (b) Oil and Gas Development as of August 31, 1990, were submitted by the Executive Vice Chancellor for Asset Management:

| | <u>July 1990</u> | <u>August 1990</u> | <u>Cumulative Through August of this Fiscal Year (1989-1990)</u> | <u>Cumulative Through August of Preceding Fiscal Year (1988-1989)</u> | <u>Per Cent Change</u> |
|---|------------------------|-----------------------|--|---|----------------------------|
| Permanent University Fund | | | | | |
| Royalty | | | | | |
| Oil | \$ 3,856,436.72 | \$4,696,430.72 | \$ 53,061,624.90 | \$ 46,623,252.94 | 13.81% |
| Gas | 1,301,943.46 | 1,131,133.94 | 18,283,932.38 | 20,338,203.37 | -10.10% |
| Sulphur | 0.00 | 0.00 | 193,919.75 | 284,744.34 | -31.90% |
| Water | 173,261.48 | 127,045.34 | 1,006,859.67 | 1,077,960.94 | -6.60% |
| Brine | 3,570.39 | 5,617.78 | 60,112.08 | 36,162.36 | 66.23% |
| Trace Minerals | 0.00 | 0.00 | 0.00 | 0.00 | -- |
| Rental | | | | | |
| Oil and Gas Leases | 40,663.44 | 22,775.62 | 883,053.35 | 867,786.21 | 1.76% |
| Other | 2,820.00 | 7,545.00 | 28,368.65 | 13,574.29 | -- |
| Sale of Sand, Gravel, Etc. | <u>3,602.40</u> | <u>14,130.90</u> | <u>43,563.80</u> | <u>35,330.25</u> | <u>23.30%</u> |
| Total University Lands Receipts Before Bonuses | 5,382,297.89 | 6,004,679.30 | 73,561,434.58 | 69,277,014.70 | 6.18% |
| Bonuses | | | | | |
| Oil and Gas Lease Sales | 2,752,662.34 | 0.00 | 4,913,077.50 | 2,554,807.73 | 92.31% |
| Amendments and Extensions to Mineral Leases | <u>0.00</u> | <u>0.00</u> | <u>160.00</u> | <u>641.11</u> | <u>-75.04%</u> |
| Total University Lands Receipts | 8,134,960.23 | 6,004,679.30 | 78,474,672.08 | 71,832,463.54 | 9.25% |
| Gain or (Loss) on Sale of Securities | <u>5,516,789.57</u> | <u>2,396,704.91</u> | <u>63,876,238.54</u> | <u>140,398,791.62</u> | <u>-54.50%</u> |
| TOTAL CLEARANCES | <u>\$13,651,749.80</u> | <u>\$8,401,384.21</u> | <u>\$142,350,910.62</u> | <u>\$212,231,255.16</u> | <u>-32.93%</u> |

Oil and Gas Development - August 31, 1990

Acreage Under Lease - 707,149

Number of Producing Acres - 537,840

Number of Producing Leases - 2,143

II. TRUST AND SPECIAL FUNDS

Gifts, Bequests and Estates

1. U. T. Arlington: Acceptance of Gifts from Various Donors and Establishment of The Ernest L. Buckley Undergraduate Scholarship.--The Board, upon recommendation of the Land and Investment Committee, accepted gifts totalling \$10,000 from various donors and established The Ernest L. Buckley Undergraduate Scholarship at The University of Texas at Arlington.

Income earned from the endowment will be used to provide support for qualified full-time Civil Engineering juniors or seniors at U. T. Arlington, with preference given to applicants with an active interest in construction and with the intent to pursue a career in the construction industry.

2. U. T. Arlington: Acceptance of Gift of Five Undivided Acres Out of a 181.185 Acre Tract in Baylor County, Texas, from Mr. Ted B. Court, Arlington, Texas.--Upon recommendation of the Land and Investment Committee, the Board accepted a gift of real property being five undivided acres out of a 181.185 acre tract in Baylor County, Texas, from Mr. Ted B. Court, Arlington, Texas, valued at \$2,500. Proceeds from the sale of the property are for the unrestricted use of the President of The University of Texas at Arlington.

3. U. T. Austin: Acceptance of Gift from Mr. and Mrs. Maurice W. Acers, Dallas, Texas; Establishment of the Maurice W. Acers Endowed Presidential Scholarship in Law in the School of Law; and Eligibility for Matching Funds Under The Regents' Endowed Student Fellowship and Scholarship Program.--The Land and Investment Committee recommended and the Board accepted a gift of \$25,000 from Mr. and Mrs. Maurice W. Acers, Dallas, Texas, and a \$12,500 transfer of previously reported gifts from current restricted funds for a total of \$37,500 and established the Maurice W. Acers Endowed Presidential Scholarship in Law in the School of Law at The University of Texas at Austin. Funds of \$25,000 are currently held and administered by The University of Texas Law School Foundation (an external foundation) in accordance with the Regents' Rules and Regulations.

Further, \$12,500 in matching funds will be allocated under The Regents' Endowed Student Fellowship and Scholarship Program and will be used to increase the endowment to a total of \$50,000. Upon approval of these matching funds, The University of Texas Law School Foundation will transfer the funds held for this endowment to the U. T. Board of Regents.

Income earned from the endowment will be used to award scholarships to first year law students, selected by the Dean of the School of Law or his designee, based on financial need or academic merit.

4. U. T. Austin: Approval to Accept Bequest from the Estate of Betty J. Alexander, Huntsville, Texas, and to Establish the Betty Alexander Endowed Scholarship for Intercollegiate Athletics for Women.--Approval was given to accept a \$10,000 specific bequest from the Estate of Betty J. Alexander, Huntsville, Texas, and to establish the Betty Alexander Endowed Scholarship for Intercollegiate Athletics for Women at The University of Texas at Austin.

Income earned from the endowment will be used annually to provide an award to a student athlete, with preference given to a fourth or fifth year senior basketball player who is committed to obtaining a baccalaureate degree and requires financial assistance.

5. U. T. Austin: Acceptance of Gifts from the Pharmaceutical Foundation Advisory Council for Addition to the Romeo T. Bachand, Jr. Regents Professorship in Pharmacy in the College of Pharmacy and Eligibility for Matching Funds Under The Regents' Endowed Teachers and Scholars Program.--The Board accepted \$20,000 in gifts from the Pharmaceutical Foundation Advisory Council for addition to the Romeo T. Bachand, Jr. Regents Professorship in Pharmacy in the College of Pharmacy at The University of Texas at Austin.

Further, \$10,000 in matching funds will be allocated under The Regents' Endowed Teachers and Scholars Program and will be used to increase the endowment to a total of \$130,200.

6. U. T. Austin: Authorization to Accept Bequests from the Estate of Margaret Batts Tobin, San Antonio, Texas; Establishment of the Harriet Fiquet Batts Scholarship Fund for Graduate Student Development in the College of Fine Arts and the Judge R. L. Batts Endowed Presidential Scholarship in Law in the School of Law; and Eligibility for Matching Funds Under The Regents' Endowed Student Fellowship and Scholarship Program.--Authorization was granted to accept specific bequests from the Estate of Margaret Batts Tobin, San Antonio, Texas, comprised of \$100,000 in cash and a Texana collection and library materials related to Southwest and Confederate history. The Texana collection and library materials will be placed with the General Libraries, Barker Texas History Center, at The University of Texas at Austin.

Further, the specific bequest of \$50,000 to the College of Fine Arts will be used to establish a quasi-endowment named the Harriet Fiquet Batts Scholarship Fund for Graduate Student Development in the College of Fine Arts at U. T. Austin.

Additionally, \$25,000 in matching funds will be allocated under The Regents' Endowed Student Fellowship and Scholarship Program and will be used to increase the endowment to a total of \$75,000.

Income earned from the endowment will be used to support deserving graduate students in all areas of the fine and performing arts.

In addition, the specific bequest of \$50,000 to The University of Texas Law School Foundation, which has already been transferred to the U. T. Board of Regents, will be used to establish a quasi-endowment named the Judge R. L. Batts Endowed Presidential Scholarship in Law in the School of Law at U. T. Austin.

Further, \$25,000 in matching funds will be allocated under The Regents' Endowed Student Fellowship and Scholarship Program and will be used to increase the Scholarship to a total of \$75,000.

Income earned from the endowment will be used to award scholarships to students, selected by the Dean of the School of Law or his designee, based on financial need or academic merit.

7. U. T. Austin: Acceptance of Distribution from the Gertrude Bouwsma-Bos Trust, Grand Rapids, Michigan, and Establishment of the O. K. Bouwsma Undergraduate Excellence Fund in Philosophy in the College of Liberal Arts.--Upon recommendation of the Land and Investment Committee, the Board accepted a \$10,000 distribution from the Gertrude Bouwsma-Bos Trust, Grand Rapids, Michigan, and established a quasi-endowment named the O. K. Bouwsma Undergraduate Excellence Fund in Philosophy in the Department of Philosophy, College of Liberal Arts, at The University of Texas at Austin.

Income earned from the endowment will be used for various purposes related to the enhancement of undergraduate teaching and advising at the discretion of the Chair and Budget Council of the Department of Philosophy.

See Page 115 related to naming a room in Waggener Hall.

8. U. T. Austin: Acceptance of Pledge from an Anonymous Donor for Addition to the Robert E. Boyer Centennial Professorship in Geology in the College of Natural Sciences; Redesignation as the Robert E. Boyer Chair in Natural Sciences; and Eligibility for Matching Funds Under The Regents' Endowed Teachers and Scholars Program.--The Board, upon recommendation of the Land and Investment Committee, accepted a \$357,970 pledge, payable by October 31, 1990, from an anonymous donor for addition to the Robert E. Boyer Centennial Professorship in Geology in the Department of Geological Sciences, College of Natural Sciences, at The University of Texas at Austin.

In accordance with the donors' request, the Professorship was redesignated as the Robert E. Boyer Chair in Natural Sciences.

Further, \$357,970 in matching funds will be allocated under The Regents' Endowed Teachers and Scholars Program and will be used to increase the endowment to a total of \$1,000,003.54.

9. U. T. Austin: Acceptance of Gift and Pledge from Judge Carl O. Bue, Jr., Houston, Texas, for Addition to the Judge Carl O. Bue, Jr. Endowed Presidential Scholarship in Law in the School of Law; Amendment of Scholarship Charter; and Eligibility for Matching Funds Under The Regents' Endowed Student Fellowship and Scholarship Program.--The Land and Investment Committee recommended and the Board accepted a \$5,000 gift and a \$7,500 pledge, payable by August 31, 1993, from Judge Carl O. Bue, Jr., Houston, Texas, and his family and a \$6,250 transfer of previously reported gifts from current restricted funds for a total of \$18,750 for addition to the Judge Carl O. Bue, Jr. Endowed Presidential Scholarship in Law in the School of Law at The University of Texas at Austin. Funds of \$5,000 are currently held and administered by The University of Texas Law School Foundation (an external foundation) in accordance with the Regents' Rules and Regulations.

Further, in accordance with the donor's request, the income restrictions were amended to designate the preferred, but not required, purpose to assist law students who have demonstrated an interest and performed well in courses in admiralty and maritime law.

Additionally, \$6,250 in matching funds will be allocated under The Regents' Endowed Student Fellowship and Scholarship Program and will be used to increase the endowment to a total of \$50,000. Upon approval of these matching funds, The University of Texas Law School Foundation will transfer any funds held for this endowment to the U. T. Board of Regents.

10. U. T. Austin: Approval to Accept Gifts from Mr. J. R. Parten, Houston, Texas, and Various Donors and to Establish the John Henry Faulk Endowment for the Bill of Rights in the General Libraries.--Approval was given to accept a \$100,000 gift from Mr. J. R. Parten, Houston, Texas, and \$6,315 in gifts from various donors for a total of \$106,315 and to establish the John Henry Faulk Endowment for the Bill of Rights in the General Libraries at The University of Texas at Austin.

Income earned from the endowment will be used for the general educational purpose of supporting the General Libraries' public programs, publications, library and archival purchases, and research activities directly related to the Bill of Rights of the U. S. Constitution, and the career and life of John Henry Faulk.

In accordance with the request of the donors and Mr. Faulk's family, priority use of the endowment income will be for the support of a biennial public conference or symposium for the discussion of contemporary issues related to the First Amendment.

11. U. T. Austin: Acceptance of Gifts from Mr. Richard T. Fleming and Establishment of the Richard T. Fleming University Writings Collection Endowment for the Barker Texas History Center.--The Board accepted gifts from Mr. Richard T. Fleming combined with reinvested income totalling \$7,384.21 and a \$2,700 transfer of current restricted funds for a total of \$10,084.21 and established the Richard T. Fleming University Writings Collection Endowment for the Barker Texas History Center at The University of Texas at Austin.

Income earned from the endowment will be used to support the Collection.

12. U. T. Austin: Authorization to Accept Remainder Interests in the Franke Life Trust and the Franke Marital Trust and to Establish the E. W. and Helen Franke Engineering Foundation Endowed Excellence Fund in the College of Engineering.--Authorization was granted to accept thirty percent remainder interests in the Franke Life Trust and the Franke Marital Trust, Corpus Christi, Texas, comprised of cash in the amount of approximately \$261,000, with distributions received to date totalling \$165,641.40, and to establish a quasi-endowment named the E. W. and Helen Franke Engineering Foundation Endowed Excellence Fund in the College of Engineering at The University of Texas at Austin.

Income earned from the endowment will be used to support the work of the Engineering Foundation.

13. U. T. Austin: Acceptance of Gift and Pledge from General Dynamics (Fort Worth Division), Fort Worth, Texas; Establishment of the General Dynamics Endowed Faculty Fellowship in the College of Engineering; Allocation of Funds from the College of Engineering Challenge Grant; and Eligibility for Matching Funds Under The Regents' Endowed Teachers and Scholars Program.--Upon recommendation of the Land and Investment Committee, the Board accepted a \$14,536 gift and a \$14,536 pledge, payable by August 31, 1991, from General Dynamics (Fort Worth Division), Fort Worth, Texas, for a total of \$29,072 and established the General Dynamics Endowed Faculty Fellowship in the College of Engineering at The University of Texas at Austin.

Further, \$41,856 will be allocated from the College of Engineering Challenge Grant, which was received from an anonymous donor, and will be used to increase the endowment to a total of \$70,928.

Additionally, \$29,072 in matching funds will be allocated under The Regents' Endowed Teachers and Scholars Program and will be used to increase the endowment to a total of \$100,000.

14. U. T. Austin: Approval to Establish the Gibbs & Ratliff Endowed Mock Trial Competition in the School of Law.--The Board, upon recommendation of the Land and Investment Committee, established the Gibbs & Ratliff Endowed Mock Trial Competition in the School of Law at The University of Texas at Austin.

The funding for the endowment (\$100,000) will be held and administered by The University of Texas Law School Foundation (an external foundation) in accordance with the Regents' Rules and Regulations.

Income earned from the endowment will be used to fund programs, competitions and teaching, in trial and appellate advocacy skills, as directed by the Dean of the School of Law or the Dean's designated representative.

15. U. T. Austin: Acceptance of Gifts and Pledges from Various Donors; Establishment of the Graduate Fellowships in Medieval Studies in the College of Liberal Arts; and Eligibility for Matching Funds Under The Regents' Endowed Student Fellowship and Scholarship Program.--The Land and Investment Committee recommended and the Board accepted \$20,440 in gifts and \$4,610 in pledges, payable by August 31, 1993, from various donors for a total of \$25,050 and established the Graduate Fellowships in Medieval Studies in the College of Liberal Arts at The University of Texas at Austin.

Further, \$12,525 in matching funds will be allocated under The Regents' Endowed Student Fellowship and Scholarship Program and will be used to increase the endowment to a total of \$37,575.

Income earned from the endowment will be used to award full fellowships to graduate students specializing in Medieval Studies and selected by the Dean of the College of Liberal Arts or the Dean's designee.

16. U. T. Austin: Approval to Accept Gift of Securities from Mr. Charles B. Grant, Evergreen, Colorado, and to Establish the Charles B. Grant Endowment in Engineering in the College of Engineering.--Approval was given to accept a gift of 7,000 shares of Grant Corporations common stock which realized proceeds of \$21,770 from Mr. Charles B. Grant, Evergreen, Colorado, and to establish the Charles B. Grant Endowment in Engineering in the College of Engineering at The University of Texas at Austin.

Income earned from the endowment will be used under the direction of the Dean of the College of Engineering for programs within the College of Engineering.

17. U. T. Austin: Acceptance of Bequest from the Estate of Robert Mark Gray, Houston, Texas, and Establishment of The Robert M. Gray Scholarship Fund in the College of Communication.--The Board accepted a \$20,000 bequest from the Estate of Robert Mark Gray, Houston, Texas, and established The Robert M. Gray Scholarship Fund in the Department of Advertising, College of Communication, at The University of Texas at Austin.

Income earned from the endowment will be used to award one or more scholarships to junior, senior and/or graduate students majoring in advertising. Recipients will be selected by the scholarship committee of the Department of Advertising on the basis of professional interest and ability. Special consideration will be given to students who are contributing to their own support and education.

18. U. T. Austin: Authorization to Accept Gift and Pledge from the William Randolph Hearst Foundation, San Francisco, California; Establishment of the William Randolph Hearst Endowment for Visiting Fellows in the College of Communication; and Eligibility for Matching Funds Under The Regents' Endowed Teachers and Scholars Program.--Authorization was granted to accept a \$100,000 gift and a \$100,000 pledge, payable by December 31, 1991, from the William Randolph Hearst Foundation, San Francisco, California, for a total of \$200,000 and to establish the William Randolph Hearst Endowment for Visiting Fellows in the College of Communication at The University of Texas at Austin.

Further, \$100,000 in matching funds will be allocated under The Regents' Endowed Teachers and Scholars Program and will be used to increase the endowment to a total of \$300,000.

Income earned from the endowment will be used to fund expenses for instructional visits by working members of all media.

19. U. T. Austin: Acceptance of Gifts from Mrs. Janice Hensen, Brenham, Texas, and Various Donors and Establishment of the E. N. (Ernie) Hensen Memorial Scholarship in the College of Business Administration.--Upon recommendation of the Land and Investment Committee, the Board accepted a \$7,250 gift from Mrs. Janice Hensen, Brenham, Texas, and her family and \$2,750 in gifts from various donors for a total of \$10,000 and established the E. N. (Ernie) Hensen Memorial Scholarship in the College of Business Administration at The University of Texas at Austin.

Income earned from the endowment will be used to award scholarships to upper division students in the College of Business Administration, with preference to be given to students concentrating their studies in Transportation Management.

20. U. T. Austin: Acceptance of Gift from the Houston Livestock Show and Rodeo, Houston, Texas; Establishment of the Houston Livestock Show and Rodeo Endowed Scholarship Program; and Eligibility for Matching Funds Under The Regents' Endowed Student Fellowship and Scholarship Program.--The Land and Investment Committee recommended and the Board accepted a \$25,000 gift from the Houston Livestock Show and Rodeo, Houston, Texas, and established the Houston Livestock Show and Rodeo Endowed Scholarship Program at The University of Texas at Austin.

Further, \$12,500 in matching funds will be allocated under The Regents' Endowed Student Fellowship and Scholarship Program and will be used to increase the endowment to a total of \$37,500.

Income earned from the endowment will be used to award scholarships to life sciences graduate students who utilize molecular biology techniques in research involving animals or plants that are relevant to the agriculture industry. Selection of recipients, who are to be citizens or permanent residents of the U. S. and residents of the State of Texas, will be managed by the College of Natural Sciences and be based on academic merit, involvement in leadership activities, and documented financial need.

21. U. T. Austin: Acceptance of Gifts from the Pharmaceutical Foundation Advisory Council for Addition to the Johnson & Johnson Centennial Professorship in Pharmacy in the College of Pharmacy and Eligibility for Matching Funds Under The Regents' Endowed Teachers and Scholars Program.--The Board, upon recommendation of the Land and Investment Committee, accepted \$50,000 in gifts from the Pharmaceutical Foundation Advisory Council for addition to the Johnson & Johnson Centennial Professorship in Pharmacy in the College of Pharmacy at The University of Texas at Austin.

Further, \$25,000 in matching funds will be allocated under The Regents' Endowed Teachers and Scholars Program and will be used to increase the endowment to a total of \$250,000.

22. U. T. Austin: Approval to Accept Gifts from Mr. Anthony Drew Kennard, Dallas, Texas, and Corporate Matching Funds from Oryx Energy Company, Dallas, Texas, and to Establish the Tony Kennard Friend of Alec Excellence Fund in the College of Engineering.--Approval was given to accept \$5,956 in gifts from Mr. Anthony Drew Kennard, Dallas, Texas, and \$5,000 in corporate matching funds from Oryx Energy Company, Dallas, Texas, for a total of \$10,956 and to establish the Tony Kennard Friend of Alec Excellence Fund in the College of Engineering at The University of Texas at Austin.

Income earned from the endowment will be used in accordance with policies established for the Friends of Alec Program by the College of Engineering and the Engineering Foundation Advisory Council.

23. U. T. Austin: Acceptance of Gifts and Pledges from Various Donors for Addition to the Robert D. King Dean's Distinguished Graduates Endowed Scholarship in the Liberal Arts in the College of Liberal Arts; Redesignation as the Robert D. King Dean's Distinguished Graduates Endowed Presidential Scholarship in the Liberal Arts; and Eligibility for Matching Funds Under The Regents' Endowed Student Fellowship and Scholarship Program.--The Board accepted \$6,623 in gifts and \$2,740 in pledges, payable by August 31, 1993, from various donors for a total of \$9,363 for addition to the Robert D. King Dean's Distinguished Graduates Endowed Scholarship in the Liberal Arts in the College of Liberal Arts at The University of Texas at Austin.

In accordance with the donors' request, the Scholarship was redesignated as the Robert D. King Dean's Distinguished Graduates Endowed Presidential Scholarship in the Liberal Arts.

Further, \$13,250 in matching funds will be allocated under The Regents' Endowed Student Fellowship and Scholarship Program and will be used to increase the endowment to a total of \$39,750.

24. U. T. Austin: Authorization to Accept Gifts from Matthews & Branscomb, San Antonio, Texas, and Various Donors; Establishment of the Wilbur L. Matthews Endowed Presidential Scholarship in Law in the School of Law; and Eligibility for Matching Funds Under The Regents' Endowed Student Fellowship and Scholarship Program.-- Authorization was granted to accept an \$80,000 gift from the law firm of Matthews & Branscomb, San Antonio, Texas, and \$20,000 in gifts from various donors for a total of \$100,000 and to establish the Wilbur L. Matthews Endowed Presidential Scholarship in Law in the School of Law at The University of Texas at Austin. These funds are currently held and administered by The University of Texas Law School Foundation (an external foundation) in accordance with the Regents' Rules and Regulations.

Further, \$50,000 in matching funds will be allocated under The Regents' Endowed Student Fellowship and Scholarship Program and will be used to increase the endowment to a total of \$150,000. Upon approval of these matching funds, The University of Texas Law School Foundation will transfer the funds held for this endowment to the U. T. Board of Regents.

Income earned from the endowment will be used to award scholarships to deserving students, selected at the discretion of the Dean of the School of Law or the Dean's designee, based on financial need or academic merit.

25. U. T. Austin: Approval to Accept Annuity Payments from the James R. and Louise H. Moffett Charitable Lead Annuity Trust Created by Mr. and Mrs. James R. Moffett, New Orleans, Louisiana, and to Establish The Mrs. James R. (Louise) Moffett Basketball Endowment for Intercollegiate Athletics for Men.--Upon recommendation of the Land and Investment Committee, the Board accepted annuity payments totalling \$1,500,000 from the James R. and Louise H. Moffett Charitable Lead Annuity Trust (held in trust by others), created by Mr. and Mrs. James R. Moffett, New Orleans, Louisiana, for current expenditure by the Department of Intercollegiate Athletics for Men and to establish The Mrs. James R. (Louise) Moffett Basketball Endowment for Intercollegiate Athletics for Men at The University of Texas at Austin.

The Trust provides for the distribution of annuity payments of \$100,000 each for fifteen years. Sixty percent (60%) of such annuity payments may be currently expended to provide reasonable compensation for one or more of the men's basketball coaches as the Men's Athletic Director for U. T. Austin shall from time to time deem necessary or appropriate. Forty percent (40%) of such annuity payments may be used to fund The Mrs. James R. (Louise) Moffett Basketball Endowment.

Income earned from the endowment will be used to continue the payment of reasonable compensation to one or more of the men's basketball coaches upon termination of the Trust.

26. U. T. Austin: Acceptance of Gift from Mr. Emory T. Carl, Bellaire, Texas; Establishment of the Lucy M. Moore Endowed Presidential Scholarship in Law in the School of Law; and Eligibility for Matching Funds Under The Regents' Endowed Student Fellowship and Scholarship Program.--The Land and Investment Committee recommended and the Board accepted a \$25,000 gift from Mr. Emory T. Carl, Bellaire, Texas, and a \$12,500 transfer of previously reported gifts from current restricted funds for a total of \$37,500 and established the Lucy M. Moore Endowed Presidential Scholarship in Law in the School of Law at The University of Texas at Austin. Funds of \$25,000 are currently held and administered by The University of Texas Law School Foundation (an external foundation) in accordance with the Regents' Rules and Regulations.

Further, \$12,500 in matching funds will be allocated under The Regents' Endowed Student Fellowship and Scholarship Program and will be used to increase the endowment to a total of \$50,000. Upon approval of these matching funds, The University of Texas Law School Foundation will transfer all funds held for this endowment to the U. T. Board of Regents.

Income earned from the endowment will be used to award scholarships to students, selected at the discretion of the Dean of the School of Law or the Dean's designee, based on merit or need.

27. U. T. Austin: Acceptance of Bequest from the Estate of Katherine Pollard Carter, Weslaco, Texas, for Addition to the Nonendowed Loan Fund Known as the William Terry Pollard and Claire Ford Pollard Memorial Loan Fund.--The Board, upon recommendation of the Land and Investment Committee, accepted a \$10,000 specific bequest and a ten percent residual bequest of \$7,454.30 from the Estate of Katherine Pollard Carter, Weslaco, Texas, for a total of \$17,454.30 for addition to the nonendowed William Terry Pollard and Claire Ford Pollard Memorial Loan Fund at The University of Texas at Austin.

28. U. T. Austin: Approval to Accept Gifts and Pledges from Various Donors; Establishment of the Regents Research Professorship in Bankruptcy Law and Practice in the School of Law; and Eligibility for Matching Funds Under The Regents' Endowed Teachers and Scholars Program.--Approval was given to accept \$109,234 in gifts and \$58,766 in pledges, payable by August 31, 1993, from various donors and a \$110,000 transfer of previously reported gifts from current restricted funds for a total of \$278,000 and to establish the Regents Research Professorship in Bankruptcy Law and Practice in the School of Law at The University of Texas at Austin.

Further, \$83,950 in matching funds will be allocated under The Regents' Endowed Teachers and Scholars Program and will be used to increase the endowment to a total of \$361,950.

Income earned from the endowment will be used to support the Professorship. The donors request that consideration for appointments to the Professorship be given to qualified faculty for use as a research grant during active research, or while acting as director of a specific research project in bankruptcy law and practice. Income earned may be used for salary supplementation, administrative and research support, and for symposia, seminars and conferences related to research projects in bankruptcy law and practice.

29. U. T. Austin: Acceptance of Gifts and Pledges from Various Donors; Establishment of the Larry Temple Scholarship Endowment; and Eligibility for Matching Funds Under The Regents' Endowed Student Fellowship and Scholarship Program.--Upon recommendation of the Land and Investment Committee, the Board accepted \$129,267.99 in gifts and \$223,541.01 in pledges, payable by August 31, 1993, from various donors for a total of \$352,809 and established the Larry Temple Scholarship Endowment at The University of Texas at Austin.

Further, \$176,404.50 in matching funds will be allocated under The Regents' Endowed Student Fellowship and Scholarship Program and will be used to increase the endowment to a total of \$529,213.50.

Income earned from the endowment will be used to award scholarships to students in need of financial assistance. Award administration will be coordinated by the Office of Student Financial Services with guidance from the President of U. T. Austin.

30. U. T. Austin: Acceptance of Gift from Dr. Archie W. Straiton, Austin, Texas; Establishment of the Charles W. Tolbert Endowed Presidential Scholarship in Electrical and Computer Engineering in the College of Engineering; and Eligibility for Matching Funds Under The Regents' Endowed Student Fellowship and Scholarship Program.--The Board accepted a \$25,000 gift from Dr. Archie W. Straiton, Austin, Texas, and established the Charles W. Tolbert Endowed Presidential Scholarship in Electrical and Computer Engineering in the Department of Electrical and Computer Engineering, College of Engineering, at The University of Texas at Austin.

Further, \$12,500 in matching funds will be allocated under The Regents' Endowed Student Fellowship and Scholarship Program and will be used to increase the endowment to a total of \$37,500.

Income earned from the endowment will be used to award scholarships to students in the Department of Electrical and Computer Engineering selected by that Department's Scholarship Committee.

31. U. T. Austin: Authorization to Accept Gifts and Pledges from Various Donors; Establishment of the Judge Jerre S. Williams Endowed Presidential Scholarship in Law in the School of Law; and Eligibility for Matching Funds Under The Regents' Endowed Student Fellowship and Scholarship Program.--Authorization was given to accept \$27,795 in gifts and \$11,850 in pledges, payable by August 31, 1993, from various donors and a \$12,500 transfer of previously reported gifts from current restricted funds for a

total of \$52,145 and to establish the Judge Jerre S. Williams Endowed Presidential Scholarship in Law in the School of Law at The University of Texas at Austin. Funds in the amount of \$27,795 are currently held and administered by The University of Texas Law School Foundation (an external foundation) in accordance with the Regents' Rules and Regulations.

Further, \$19,822.50 in matching funds will be allocated under The Regents' Endowed Student Fellowship and Scholarship Program and will be used to increase the endowment to a total of \$71,967.50. Upon approval of these matching funds, The University of Texas Law School Foundation will transfer all funds held for this endowment to the U. T. Board of Regents.

Income earned from the endowment will be used to award scholarships to students, selected at the discretion of the Dean of the School of Law or the Dean's designee, based on merit or need.

32. U. T. Austin: Appropriation of Matching Funds from The Regents' Endowed Student Fellowship and Scholarship Program for Previously Established Endowments.--The Board, upon recommendation of the Land and Investment Committee, appropriated matching funds totalling \$1,001,254.56 from The Regents' Endowed Student Fellowship and Scholarship Program to increase the following previously established endowments at The University of Texas at Austin:

| <u>Eligible Endowment and Date of Establishment</u> | <u>Qualifying Gift</u> | <u>Matching Amount</u> |
|---|----------------------------|----------------------------|
| <u>University</u> | | |
| Dads' Association's Patron Endowed Presidential Scholarship 12/7/89 | \$ 25,000.00 | \$ 12,500.00 |
| Victor and Myra Ravel Endowed Scholarship Fund in Children's Rights 2/8/90 | \$ 25,000.00 | \$ 12,500.00 |
| W. Gordon Whaley Graduate Fellowship 12/7/89 | \$ 50,000.00 | \$ 25,000.00 |
| <u>School of Architecture</u> | | |
| Lily Rush Walker and Coulter Hoppess Scholarship in Architecture 6/14/90 | \$ 26,000.00 | \$ 13,000.00 |
| <u>College of Engineering</u> | | |
| William Balfour and Geraldine Franklin Endowed Presidential Scholarship in Chemical Engineering 4/12/90 | \$ 27,070.75 | \$ 13,535.38 |

| <u>Eligible Endowment and Date of Establishment</u> | <u>Qualifying Gift</u> | <u>Matching Amount</u> |
|--|----------------------------|----------------------------|
| Dwight E. Huth Endowed Presidential Scholarship in Chemical Engineering 4/12/90 | \$ 50,000.00 | \$ 25,000.00 |
| Jodie and Mary Isenhower Endowed Presidential Scholarship in Engineering 4/12/90 | \$ 39,076.66 | \$ 19,538.33 |
| Marion Johnson • South Texas Section Society of Plastics Engineers Endowed Presiden- tial Scholarship in Chemical Engineering 4/12/90 | \$ 25,000.00 | \$ 12,500.00 |
| <u>School of Law</u> | | |
| Ira Butler Endowed Presidential Scholarship in Law 12/7/89 | \$ 25,000.00 | \$ 12,500.00 |
| Whitfield J. Collins Endowed Presidential Scholarship in Law 12/7/89 | \$ 30,000.00 | \$ 15,000.00 |
| Iva Spencer Finton Scholarship 8/9/90 | \$ 100,000.00 | \$ 50,000.00 |
| Judge Joe J. Fisher Chief Judge Emeritus Endowed Presidential Scholarship in Law 12/7/89 | \$ 56,036.53 | \$ 28,018.27 |
| Chief Justice Joe R. Greenhill Endowed Presidential Scholar- ship in Law 2/8/90 | \$ 31,230.00 | \$ 15,615.00 |
| Wayne R. Howell Endowed Presidential Scholarship in Law 4/12/90 | \$ 36,250.00 | \$ 18,125.00 |
| Winchester Kelso Endowed Presidential Scholarship in Law 6/14/90 | \$ 25,000.00 | \$ 12,500.00 |
| Roger L. Levy Endowed Presidential Scholarship in Law 4/12/90 | \$ 25,250.00 | \$ 12,625.00 |
| Locke Purnell Rain Harrell Endowed Presidential Schol- arship in Law 8/9/90 | \$ 25,000.00 | \$ 12,500.00 |

| <u>Eligible Endowment and Date of Establishment</u> | <u>Qualifying Gift</u> | <u>Matching Amount</u> |
|---|----------------------------|----------------------------|
| Clint C. Small, Jr. Endowed Presidential Scholarship in Law 2/8/90 | \$ 27,500.00 | \$ 13,750.00 |
| <u>College of Natural Sciences</u> | | |
| Laura Thomson Barrow Graduate Fellowship 12/7/89 | \$ 200,000.00 | \$100,000.00 |
| Chemistry Faculty - Regents Scholarship and Fellowship Fund 2/8/90 | \$ 65,575.00 | \$ 28,187.50 |
| Crawford Endowed Scholar- ship 8/9/90 | \$ 100,000.00 | \$ 50,000.00 |
| Mary Ellen Durrett Scholarship in Child Development 12/7/89 | \$ 50,000.00 | \$ 25,000.00 |
| Friends of Chemistry - Regents Scholarship and Fellowship Fund 2/8/90 | \$ 25,000.00 | \$ 12,500.00 |
| Memorial Scholarship Fund in Honor of Botany Faculty 4/12/90 | \$ 25,890.16 | \$ 12,945.08 |
| Debbie Ann Rock Scholar- ship in Interior Design 2/8/90 | \$ 30,000.00 | \$ 15,000.00 |
| James W. Vick Endowed Presidential Scholarship in Natural Sciences 12/7/89 | \$ 25,000.00 | \$ 12,500.00 |

The following endowments qualify for matching under The Regents' Endowed Student Fellowship and Scholarship Program by virtue of being existing student fellowship or scholarship endowments which have received a minimum of \$10,000 in additional gifts from private sources during the 1989-91 biennium:

| <u>Eligible Endowment and Date of Establishment</u> | <u>Qualifying Gift</u> | <u>Matching Amount</u> |
|---|----------------------------|----------------------------|
| <u>University</u> | | |
| American Association of University Women Fellowship Fund 5/5/34 | \$ 16,330 | \$ 8,165 |
| Carole L. Patterson Endowed Scholarship for Physically Disabled Female Students 4/6/89 | \$ 19,000 | \$ 9,500 |

| <u>Eligible Endowment and Date of Establishment</u> | <u>Qualifying Gift</u> | <u>Matching Amount</u> |
|--|----------------------------|----------------------------|
| The University of Texas at Austin Retired Faculty - Staff Association Scholar- ship Fund 4/12/85 | \$ 10,000 | \$ 5,000 |
| <u>School of Architecture</u> | | |
| Mike and Maxine K. Mebane Endowed Traveling Schol- arship in Architecture 8/10/89 | \$ 110,000 | \$ 55,000 |
| <u>College of Education</u> | | |
| Jewel Popham Raschke Endowed Presidential Scholarship in Mathe- matics Education 2/14/86 | \$ 10,000 | \$ 5,000 |
| <u>College of Engineering</u> | | |
| Uniden Corporation of America Endowed Scholar- ships in Engineering 12/8/88 | \$ 144,000 | \$ 72,000 |
| <u>School of Law</u> | | |
| Ronald D. Krist Endowment Fund 2/10/84 | \$ 17,500 | \$ 8,750 |
| <u>College of Liberal Arts</u> | | |
| Dedman Merit Scholars Program Endowment 6/6/86 | \$ 140,000 | \$ 70,000 |
| Bettie Johnson Halsell Endowed Presidential Scholarship in Liberal Arts 12/7/89 | \$ 15,000 | \$ 7,500 |
| James A. Michener Fellow- ships in Writing 8/11/88 | \$ 300,000 | \$150,000 |
| <u>College of Pharmacy</u> | | |
| Pharmacy Alumni Associa- tion Endowed Scholarship 8/11/88 | \$ 50,000 | \$ 25,000 |
| Glenn Smith Memorial Scholarship Endowment 6/8/89 | \$ 10,000 | \$ 5,000 |

33. U. T. Dallas: Acceptance of Gifts and Pledges from Various Donors; Establishment of the Andrew R. Cecil Chair in Applied Ethics and Eligibility for Matching Funds Under the Texas Eminent Scholars Program.-- Approval was given to accept \$70,427 in gifts and \$429,573 in pledges, payable by January 31, 1994, from various donors for a total of \$500,000 and to establish the Andrew R. Cecil Chair in Applied Ethics at The University of Texas at Dallas.

Further, the actual income which will be earned on the \$500,000 in gifts and pledges as received will be certified for matching under the Texas Eminent Scholars Program as set out in Chapter 51, Subchapter I of the Texas Education Code, when matching funds are made available under that act.

Income earned from the endowment will be used to support the Chair, the holder of which will address applied ethics issues impacting various academic disciplines, including the Social and Behavioral Sciences, Sciences, and Engineering.

34. U. T. El Paso: Acceptance of Gifts from Various Donors and Establishment of the Julie Greear MacQueen Memorial Library Fund.--The Board, upon recommendation of the Land and Investment Committee, accepted \$10,009 in gifts from various donors and established the Julie Greear MacQueen Memorial Library Fund at The University of Texas at El Paso.

Income earned from the endowment will be used to purchase books for the various collections at the University Library at U. T. El Paso.

35. U. T. Tyler: Approval to Redesignate the Charles L. Childers Endowed Presidential Scholarship Fund as the Mr. and Mrs. Charles L. Childers Endowed Presidential Scholarship.--In accordance with a request from Mr. Charles L. Childers, Tyler, Texas, the Board redesignated the Charles L. Childers Endowed Presidential Scholarship Fund as the Mr. and Mrs. Charles L. Childers Endowed Presidential Scholarship at The University of Texas at Tyler.

36. U. T. Tyler: Acceptance of Gift from Mrs. Rosalis Montgomery, Tyler, Texas, and Corporate Matching Funds from the Exxon Education Foundation, Florham Park, New Jersey, and Establishment of the James Robert and Rosalis Montgomery Endowed Academic Scholarship.--Upon recommendation of the Land and Investment Committee, the Board accepted a \$1,755.50 gift from Mrs. Rosalis Montgomery, Tyler, Texas, and \$8,286 in corporate matching funds from the Exxon Education Foundation, Florham Park, New Jersey, for a total of \$10,041.50 and established the James Robert and Rosalis Montgomery Endowed Academic Scholarship at The University of Texas at Tyler.

Income earned from the endowment will be used to award scholarships to students in the Humanities Department who are working toward either an English or history degree.

37. U. T. Southwestern Medical Center - Dallas: Establishment of The H. Ben and Isabelle T. Decherd Chair in Internal Medicine, in Honor of Henry M. Winans, Sr., M.D.-- Approval was given to establish The H. Ben and Isabelle T. Decherd Chair in Internal Medicine, in Honor of Henry M. Winans, Sr., M.D., at The University of Texas Southwestern Medical Center at Dallas. The funds for this endowment will be held and administered by the Southwestern Medical Foundation, Dallas, Texas.

Income earned from the endowment will be used to support the Chair.

38. U. T. Southwestern Medical Center - Dallas: Acceptance of Gifts from Mr. Raymond D. Nasher, an Anonymous Donor, Mr. Cecil Green, and the Southwestern Medical Foundation, All from Dallas, Texas; Establishment of the Raymond D. and Patsy R. Nasher Distinguished Chair in Cancer Research, in Honor of Eugene P. Frenkel, M.D.; and Eligibility for Matching Funds Under the Texas Eminent Scholars Program.--The Land and Investment Committee recommended and the Board accepted gifts totaling \$1,000,000 from the following donors and established the Raymond D. and Patsy R. Nasher Distinguished Chair in Cancer Research, in Honor of Eugene P. Frenkel, M.D. at The University of Texas Southwestern Medical Center at Dallas:

| <u>Donor</u> | <u>Gift</u> |
|---|-------------|
| Mr. Raymond D. Nasher, Dallas | \$650,000 |
| Accumulated Interest (Nasher Gift) | 100,000 |
| Anonymous Donor | 200,000 |
| Mr. Cecil Green, Dallas | 25,000 |
| Southwestern Medical Foundation, Dallas (to be held in trust by the Foundation) | 25,000 |

Further, the actual income which will be earned on \$875,000 in gifts will be certified for matching under the Texas Eminent Scholars Program as set out in Chapter 51, Subchapter I of the Texas Education Code, when matching funds are made available under that act.

See related item on Page 122 regarding an initial appointment to this Distinguished Chair.

39. U. T. Medical Branch - Galveston: Acceptance of Gift from The Pediatric Nephrology Foundation, Houston, Texas; Establishment of the William W. Glauser Professorship in Pediatric Nephrology; and Eligibility for Matching Funds Under the Texas Eminent Scholars Program.--The Board accepted a \$100,546.60 gift from The Pediatric Nephrology Foundation, Houston, Texas, and established the William W. Glauser Professorship in Pediatric Nephrology at The University of Texas Medical Branch at Galveston.

Further, the actual income which will be earned on \$100,546.60 in gifts will be certified for matching under the Texas Eminent Scholars Program as set out in Chapter 51, Subchapter I of the Texas Education Code, when matching funds are made available under that act.

Income earned from the endowment will be used to support the Professorship.

See Page 122 related to an initial appointment to this Professorship.

40. U. T. Medical Branch - Galveston: Acceptance of Pledge from Raleigh R. Ross, M.D., Burnet, Texas, and Accumulated Interest for Addition to the Alonzo Alverly Ross, M.D. Professorship in General Surgery; Redesignation as the Alonzo Alverly Ross, M.D. Chair in General Surgery; and Eligibility for Matching Funds Under the Centennial Scholars and Research Endowment Program.-- Authorization was granted to accept a \$100,000 pledge, payable by November 1, 1990, from Raleigh R. Ross, M.D., Burnet, Texas, and accumulated interest in the amount of \$130,469.34 for a total of \$230,469.34 for addition to the Alonzo Alverly Ross, M.D. Professorship in General Surgery at The University of Texas Medical Branch at Galveston for a total of \$400,000.

In addition, the Professorship was redesignated as the Alonzo Alverly Ross, M.D. Chair in General Surgery.

Further, \$100,000 in matching funds will be allocated under the Centennial Scholars and Research Endowment Program and will be used to increase the endowment to a total of \$500,000.

41. U. T. Medical Branch - Galveston: Acceptance of Gift from C. T. Stone, Jr., M.D., Galveston, Texas, and Establishment of the C. T. Stone, Sr., M.D. Endowment for the Gold-Headed Cane.--Upon recommendation of the Land and Investment Committee, the Board accepted a \$12,000 gift from C. T. Stone, Jr., M.D., Galveston, Texas, with \$10,000 to be used to establish the C. T. Stone, Sr., M.D. Endowment for the Gold-Headed Cane and \$2,000 to be used to obtain a secure display case for the "Gold-Headed Cane" at The University of Texas Medical Branch at Galveston.

Income earned from the endowment is to be used to offset the expenses of awarding the "Gold-Headed Cane."

42. U. T. Medical Branch - Galveston: Approval to Accept Gift and Pledge from L. Clarke Stout, Jr., M.D., Galveston, Texas, and to Establish the L. Clarke Stout, Jr. Professorship in Anatomic Pathology.--Approval was given to accept a \$10,000 gift and a \$90,000 pledge, comprised of annual installments of \$10,000, payable by December 31, 2000, from L. Clarke Stout, Jr., M.D., Galveston, Texas, and to establish the L. Clarke Stout, Jr. Professorship in Anatomic Pathology at The University of Texas Medical Branch at Galveston.

Income earned from this gift and pledge will be reinvested in the principal of the endowment until funding has been completed.

43. U. T. Health Science Center - San Antonio: Acceptance of Transfer of Funds for Addition to the Distinguished Professorship in Oral and Maxillofacial Surgery.--The Land and Investment Committee recommended and the Board accepted a \$100,000 transfer of MSRDP funds for addition to the Distinguished Professorship in Oral and Maxillofacial Surgery at The University of Texas Health Science Center at San Antonio for a total of \$350,000.
44. U. T. M.D. Anderson Cancer Center: Acceptance of Bequest from the Estate of Robert Mark Gray, Houston, Texas.--The Board, upon recommendation of the Land and Investment Committee, accepted a bequest of \$50,000 from the Estate of Robert Mark Gray, Houston, Texas, for use in cancer research at The University of Texas M.D. Anderson Cancer Center.
45. U. T. M.D. Anderson Cancer Center: Acceptance of Remainder Interest in the Murphy Family Charitable Remainder Annuity Trust Funded by Mr. and Mrs. Edwin C. Murphy, Cape Nettick, Maine.--Upon recommendation of the Land and Investment Committee, the Board accepted a 19.40 percent remainder interest, initially valued at approximately \$350,000, in the Murphy Family Charitable Remainder Annuity Trust, funded by Mr. and Mrs. Edwin C. Murphy, Cape Nettick, Maine (to be held in trust by the Shawmut Arlington Trust Company, Lawrence, Massachusetts), to establish an endowment at The University of Texas M.D. Anderson Cancer Center upon termination of the Trust. A final report will be made at a later date.
46. U. T. M.D. Anderson Cancer Center: Authorization to Establish the Mary Beth Pawelek Chair in Neurosurgery in Honor of Dr. and Mrs. Samuel Dickens Bugg and Mr. and Mrs. Albert F. Pawelek.--Authorization was granted to use previously accepted estate distributions from the Estate of Mary Beth Pawelek, Houston, Texas, in the amount of \$600,000, to establish a quasi-endowment to be named the Mary Beth Pawelek Chair in Neurosurgery in Honor of Dr. and Mrs. Samuel Dickens Bugg and Mr. and Mrs. Albert F. Pawelek at The University of Texas M.D. Anderson Cancer Center.

Income earned from the endowment will be used to support the Chair.

See Page 125 related to an initial appointment to this Chair.

III. INFORMATIONAL ITEM

U. T. System: Report by Regent Ratliff on the Process Being Developed for the Evaluation of Special Investments.--Committee Chairman Ratliff presented the following report related to the evaluation of special investments for The University of Texas System.

Report

As members of the Board are aware, the Land and Investment Committee has been taking a close look at special investments which are outside of our traditional investments in stocks and bonds. Recent articles in the Wall Street Journal, as well as our reports from Dr. Kozmetsky, Mr. Patrick, and the Investment Advisory Committee, testify to our need to diversify into these types of investments in order to enhance the likelihood that long term the Permanent University Fund will overcome the effects of inflation.

We are attempting to develop a process and a procedure which, coupled with appropriate guidelines, will enable the Board of Regents to have a sense of comfort with these special investments as being within the fiduciary responsibility of the Board.

To further that effort, the Land and Investment Committee has accepted the fact that it must take a more active role in the overview of these investments, and we are in the process of meeting with those people and organizations who have special expertise in this area of investments and with whom we are joining in investment opportunities. These meetings will continue and I hope that all members of the Board will join with us in these meetings.

With the assistance of the Investment Advisory Committee, and especially Jack Trotter, Ed Randall, and Mickey Roth, we are developing a complete inventory of these investments, refining a responsible method to value them, and drafting guidelines which will provide a sense of comfort to the Board while allowing responsible decisions to be made by the Asset Management staff in a timely manner.

The Land and Investment and Investment Advisory Committees realize that, while the Board appreciates the reasons for these special investments, it also wants to have sufficient understanding and control to be comfortable that there is due diligence in the review process and the Board's fiduciary responsibility

is served. If we are to approach a ten percent level in these investments, it will be a substantial amount of money which the Board must accept as being in the best interests of the Permanent University Fund.

As the next steps in the process, we hope to have an additional meeting with some investor groups and a special meeting of the Investment Advisory Committee prior to our December Board meeting. We hope that at the December meeting we will have available for your review a draft set of guidelines which will enable the Board to be comfortable with both the pace and the direction of these special investments.

You will be advised regarding these investment related meetings, and I would urge your attendance.

Reconvene.--At 12:40 p.m., the Board reconvened as a committee of the whole to consider those items remaining on the agenda.

ITEMS FOR THE RECORD

1. U. T. System: Legislative Appropriations Requests for the 1992-1993 Biennium.--Chancellor Mark reported that, in accordance with Part Two, Chapter II, Section 6 of the Regents' Rules and Regulations, the Legislative Appropriations Requests for The University of Texas System for the 1992-1993 Biennium had been filed with the Governor and the Legislative Budget Board. These documents complied with instructions issued by the Texas Higher Education Coordinating Board, the Legislative Budget Board, and the Governor's Budget and Planning Office and with the policies approved at the June 1990 meeting of the U. T. Board of Regents. The official filing date was July 16, 1990, and supplemental information was included in an October 1, 1990 filing.

2. U. T. System: Report on Equity Ownership/Business Participation for the Fiscal Year 1989-90 [Regents' Rules and Regulations, Part Two, Chapter V, Section 2.48 (Intellectual Property)].--As required by Section 2.48, Chapter V, Part Two of the Rules and Regulations of the Board of Regents of The University of Texas System and Section 51.912 of the Texas Education Code, the report for the record set out on Pages 256 - 259 lists employees of The University of Texas System who hold equity interests in or are directors of business entities that have agreements with the U. T. System relating to research, development, licensing, or exploitation of intellectual property owned by the U. T. System.

This report for the Fiscal Year 1989-90 will be forwarded to Governor Clements and the Legislature as required by State law.

U. T. SYSTEM EQUITY OWNERSHIP/BUSINESS PARTICIPATION REPORT
FISCAL YEAR 1989-90

| Name U. T. Component | Business Entity | Date and Type of Agreement | Amount and Type of Stock | Position Held |
|-----------------------------|---|--|--------------------------------------|--|
| G. V. Kondraske UT/ARL | Human Performance Measurement, Incorporated | License from Board of Regents to HPM 8/27/87 | 50,000,000 shares of common stock | Chief Executive Officer Chairman of the Board of Directors |
| Joseph J. Beaman UT/AUS | DTM Corporation | Patent License 12/3/87 | 53 shares of common stock | Corporate Director |
| A. Bruce Buckman UT/AUS | Research Applications, Incorporated | Patent License 5/1/90 | | Part-time Research Project Director 6/1/90 to 8/31/90 only |
| G. Barrie Kitto UT/AUS | Research Applications, Incorporated and Biotect Corporation | Patent License 8/10/89 Sponsored Research 8/10/89 | 100,000 shares of common stock | Corporate Director and Vice President for Technology |
| Paul F. McClure UT/AUS | DTM Corporation | Patent License 12/3/87 | 250 shares of common stock | Corporate Director President and CEO |
| William F. Weldon UT/AUS | Astec Industries, Incorporated | Patent License 8/10/89 Sponsored Research 8/10/89 | | Corporate Director |
| James M. Gallas UT/SA | Photoprotective Technologies, Incorporated | Assignment of Patent and Know-How 12/17/89 | 60 percent of stock issued | Chairman of the Board of Directors |

**U. T. SYSTEM EQUITY OWNERSHIP/BUSINESS PARTICIPATION REPORT
FISCAL YEAR 1989-90**

| Name U. T. Component | Business Entity | Date and Type of Agreement | Amount and Type of Stock | Position Held |
|---------------------------------|---|---|---|-------------------------------|
| K. Lance Gould UTHSC/HOU | Positron Corporation | License 8/14/84 | 2 percent equity in the form of common, options, and preferred | Member, Board of Directors |
| John G. Linner UTHSC/HOU | LifeCell Corporation | License 5/6/86 | 650,000 shares of common stock | Consultant |
| N. A. Mullani UTHSC/HOU | Positron Corporation | License 8/14/84 | 3.2 percent equity in the form of common, options and preferred | Member, Board of Directors |
| L. Scott Rodkey UTHSC/HOU | Ampholife Technologies, Incorporated | License 9/1/88 | 8,000 shares of common stock | |
| Gregory R. Munday UTHSC/SA | OsteoTex Corporation | Joint Venture 7/27/88 Research 10/1/88 | 80,000 shares of common stock | President |
| A. Khokhar UTMDACC | The Liposome Company | License 1/86 | Option for 8,000 shares of common stock | |
| J. Klostergaard UTMDACC | Argus Pharmaceuticals, Incorporated | License and Joint Venture 10/86, 6/88 | 366,000 shares of common stock | |
| G. Lopez-Berestein UTMDACC | The Liposome Co. | License 1/86 | Options for a total of 22,000 shares of common stock | |

**U. T. SYSTEM EQUITY OWNERSHIP/BUSINESS PARTICIPATION REPORT
FISCAL YEAR 1989-90**

| Name U. T. Component | Business Entity | Date and Type of Agreement | Amount and Type of Stock | Position Held |
|--|--|--|---|----------------------|
| G. Lopez-Berestein UTMDACC | Argus Pharmaceuticals, Incorporated | License and Joint Venture 10/86, 6/88 | 554,000 shares of common stock | Director |
| K. Mehta UTMDACC | Argus Pharmaceuticals, Incorporated | License and Joint Venture 10/86, 6/88 | 68,500 shares of common stock | |
| R. Mehta UTMDACC | Argus Pharmaceuticals, Incorporated | License and Joint Venture 10/86, 6/88 | 68,500 shares of common stock | |
| T. Slaga (personally and as a trustee) UTMDACC | LifeScience Corporation | License 8/89 | 11,620 shares of common stock | |
| R. Perez-Soler UTMDACC | Argus Pharmaceuticals, Incorporated | License and Joint Venture 10/86, 6/88 | 366,000 shares of common stock | |
| R. Perez-Soler UTMDACC | The Liposome Company | License 1/86 | Option for 8,000 common shares of common stock | |
| W. Priebe UTMDACC | Argus Pharmaceuticals, Incorporated | License and Joint Venture 10/86, 6/88 | 366,000 shares of common stock | |
| C. P. Davis UTMB | Advanced Clinical Products | License 8/1/86 | 800 shares of common stock | |
| M. W. Warren UTMB | Advanced Clinical Products | License 8/1/86 | 900 shares of common stock | |
| J. Donald Capra UTSMC/DAL | GeneScreen | License 6/30/87 | 25,000 shares of Series A preferred stock | |

**U. T. SYSTEM EQUITY OWNERSHIP/BUSINESS PARTICIPATION REPORT
FISCAL YEAR 1989-90**

| Name U. T. Component | Business Entity | Date and Type of Agreement | Amount and Type of Stock | Position Held |
|---------------------------------|---|---|--|----------------------|
| Robert Munford UTSMC/DAL | ZymoGenetics, Incorporated | Sponsored Research and License 8/1/87 | 1,000 shares of common stock | |
| Phil Tucker UTSMC/DAL | GeneScreen | License 6/30/87 | 25,000 shares of Series A preferred stock | |
| Austin Long UT SYSTEM | Ampholife Technologies, Incorporated | Exclusive License 9/1/88 | 8,000 shares of common stock* | Director** |
| Thomas G. Ricks UT SYSTEM | DTM Corporation | Patent License 12/3/87 | 200 shares of common stock* | Director** |
| Thomas G. Ricks UT SYSTEM | Argus Pharmaceuticals, Incorporated | Exclusive License 10/15/86 | 400,000 shares of common stock* | Director** |
| Thomas G. Ricks UT SYSTEM | LifeCell Corporation | Exclusive License 6/6/86 | 650,000 shares of common stock* | Director** |

*Held by Board of Regents

**At Request of Board of Regents

RECESS TO EXECUTIVE SESSION.--At 12:42 p.m., the Board recessed to convene in Executive Session pursuant to Vernon's Texas Civil Statutes, Article 6252-17, Sections 2(e), (f) and (g) to consider those matters set out in the Material Supporting the Agenda.

RECONVENE.--At 3:30 p.m., the Board reconvened in open session.

EXECUTIVE SESSION OF THE BOARD OF REGENTS

Chairman Beecherl reported that the Board had met in Executive Session in Room E7.130 of the Fred F. Florence Bioinformation Center to discuss matters in accordance with Article 6252-17, Sections 2(e), (f) and (g) of Vernon's Texas Civil Statutes. In response to Chairman Beecherl's inquiry regarding the wishes of the Board, the following actions were taken:

1. U. T. Austin: Settlement of Pay Raise Litigation - Travis Donoho, et al.--Upon motion of Regent Moncrief, seconded by Regent Ratliff, the Board authorized the Chancellor and the Office of General Counsel to settle on behalf of The University of Texas at Austin the pay raise lawsuit filed by Travis Donoho, et al, in accordance with the proposal presented in Executive Session.
2. U. T. Southwestern Medical Center - Dallas, U. T. Medical Branch - Galveston, and U. T. M.D. Anderson Cancer Center: Settlements of Medical Liability Litigation.--Regent Blanton reported that in Executive Session the Board heard presentations from Executive Vice Chancellor for Health Affairs Mullins with regard to the three (3) cases in which the Administration recommended proposed settlements of medical liability litigation.

Regent Blanton then moved that the Chancellor and the Office of General Counsel be authorized to settle the following medical liability lawsuits in accordance with the individual proposals presented in Executive Session:

- a. On behalf of The University of Texas Southwestern Medical Center at Dallas, the suit brought by Charlene Smith
- b. On behalf of The University of Texas Medical Branch at Galveston, the suit brought by Mrs. Samuel E. Allgood, et al
- c. On behalf of The University of Texas M.D. Anderson Cancer Center, the suit brought by Richard C. Rucker and Phyllis Rucker.

Regent Ramirez seconded the motion which prevailed without objection.

3. U. T. System: Consideration of LULAC vs. Clements, et al.--Chairman Beecherl reported that an item related to the LULAC vs. Clements, et al litigation had been added to the agenda after the Material Supporting the Agenda was distributed and posted with the Secretary of State. He stated that General Counsel Farabee and Mr. George Bramblett, a member of the Texas Higher Education Coordinating Board, reviewed this matter with the Board, and no formal action by the Board was necessary at this time.
4. U. T. Austin: Authorization to Complete Negotiations for Lease of Approximately 13.2 Acres of Land in the Park Street Portion of the Brackenridge Tract with the Lower Colorado River Authority (LCRA), Austin, Travis County, Texas, and Approval for the Executive Vice Chancellor for Asset Management to Execute All Documents Related Thereto.--Upon motion of Regent Ratliff, seconded by Regent Moncrief, the Board authorized the Executive Director of the Office of Endowment Real Estate to complete negotiations on behalf of The University of Texas at Austin for the lease of approximately 13.2 acres of land in the Park Street portion of the Brackenridge Tract, and any improvements located thereon, to the Lower Colorado River Authority (LCRA), Austin, Travis County, Texas, under the terms and conditions outlined in Executive Session.
- Further, upon the successful completion of negotiations, the Executive Vice Chancellor for Asset Management was authorized to execute all documents pertaining to the lease following review and approval by the President of U. T. Austin, the Executive Vice Chancellor for Academic Affairs, and the Office of General Counsel.
5. U. T. Austin: Consideration of Employment of Personnel Related to New Program Development.--Chairman Beecherl reported that the item regarding possible employment of personnel related to new program development at The University of Texas at Austin does not require any formal action at this time.
6. U. T. Pan American: Report on Consideration of the Findings and Recommendations of the Hearing Tribunal Regarding Professor Daniel T. Lee, a Tenured Faculty Member.--Chairman Beecherl stated that the final item concerned the Board's consideration of the findings and recommendations of the hearing tribunal related to certain charges against Professor Daniel T. Lee, a tenured faculty member at The University of Texas - Pan American. He reported that in Executive Session the Board heard oral arguments from counsel for Dr. Lee and for U. T. Pan American. Mr. Beecherl then recognized Vice-Chairman Barshop.

In order that there would be no misunderstanding and the record would be clear, Vice-Chairman Barshop stated that he would offer four motions and suggested that the Board vote separately on each motion.

Motion #1: Vice-Chairman Barshop moved that the findings of the faculty hearing tribunal regarding the charges against Dr. Lee be accepted.

Regent Ratliff seconded the motion which prevailed by unanimous vote.

Motion #2: With regard to the recommended penalty, Vice-Chairman Barshop moved that the tribunal's recommendation of a letter of censure be accepted and that the letter contain a warning that further disciplinary action will be initiated if Dr. Lee engages in future conduct of the type found to be inappropriate and unacceptable by the hearing tribunal.

Regent Ratliff seconded the motion which carried without objection.

Motion #3: Vice-Chairman Barshop further moved that the recommendation regarding Dr. Lee's membership on the graduate faculty not be accepted. He stated that matters related to membership on the graduate faculty are decided by the institution's Graduate Council and are, therefore, not a matter appropriate for Board of Regents' consideration.

Regent Moncrief seconded the motion which prevailed by unanimous vote.

Motion #4: Because of the concern by the hearing tribunal on the lack of institutional guidelines regarding presentation of faculty research papers, the publication of such papers, the approval of travel for the presentation of papers before scholarly meetings, and consideration of such materials for merit credit, Vice-Chairman Barshop moved that the Board instruct the Office of Academic Affairs to work with the U. T. Pan American Administration to develop and implement appropriate policies and procedures to insure that faculty are adequately informed of expectations on these issues.

Regent Loeffler seconded the motion which carried without objection.

REPORT OF BOARD FOR LEASE OF UNIVERSITY LANDS

Regent Ramirez, Vice-Chairman of the Board for Lease of University Lands, reported that the Board for Lease had not met since the last Board of Regents' meeting in August 1990.

He noted that the Board has requested nominations for an oil and gas lease sale, and if there is sufficient demand, the Board will hold an oil and gas lease sale in early 1991.


All nominations for tract sales were due by October 12, 1990.

SCHEDULED MEETINGS.--Chairman Beecherl announced that the next meeting of the U. T. Board of Regents would be held on December 6, 1990, at The University of Texas M.D. Anderson Cancer Center as a part of its 50th Anniversary Program.

It was ordered that the meetings of the U. T. Board of Regents for the calendar year 1991 be scheduled as set forth below:

| <u>Dates</u> | <u>Locations/Hosts</u> |
|-------------------|---|
| February 14, 1991 | U. T. Austin - Balcones Research Center |
| April 11, 1991 | U. T. Medical Branch - Galveston |
| June 13, 1991 | Regents' Room, Austin |
| August 8, 1991 | Regents' Room, Austin |
| October 11, 1991 | U. T. Arlington |
| December 5, 1991 | U. T. Health Science Center - Houston |

ADJOURNMENT.--There being no further business, the meeting was adjourned at 3:40 p.m.


Arthur H. Dilly
Executive Secretary

October 18, 1990