

MATERIAL SUPPORTING THE AGENDA

VOLUME XXXVIIa

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

October 13, 1989
December 7, 1989

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

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

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

Yellow paper - emergency items distributed at the meeting.

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



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

Meeting No.: 845

Date: December 7, 1989

Location: San Antonio, Texas

BOARD OF REGENTS
OF
THE UNIVERSITY OF TEXAS SYSTEM

CALENDAR

Place: Room 1.208, Nursing School Building
The University of Texas Health
Science Center at San Antonio
7703 Floyd Curl Drive
San Antonio, Texas

Host Institution: The University of Texas Health
Science Center at San Antonio

Thursday, December 7, 1989

12:00 p.m. Convene in Open Session for the
sole purpose of recessing to
Executive Session

1:30 p.m. or Reconvene in Open Session to
upon recess continue until completion of
of Executive business
Session

See Pages B of R 1 - 163,
Items A - Q

Telephone Numbers

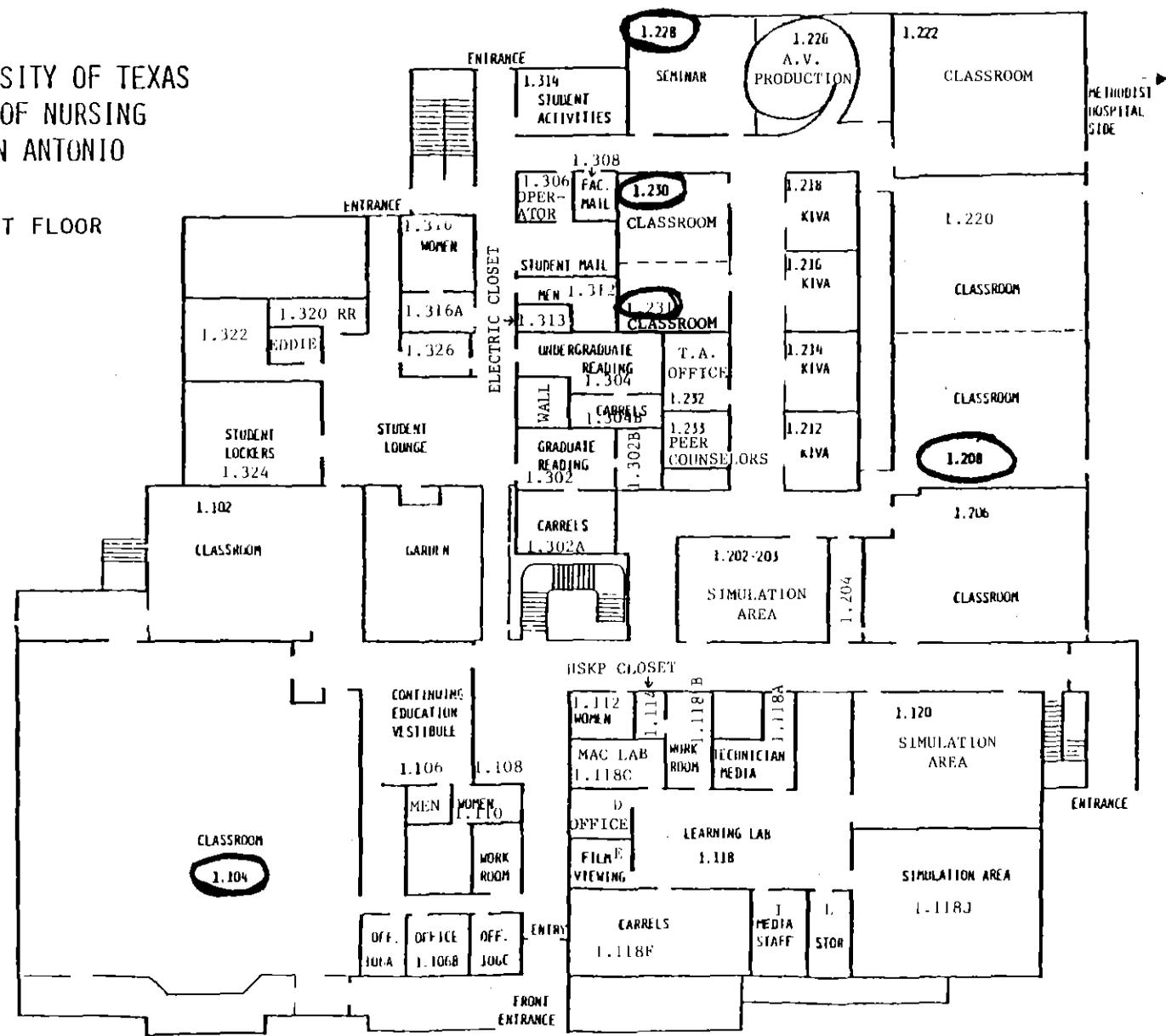
President Howe (512) 567-2000

Room 1.230, Nursing School Building (512) 567-6935
(for calls during the meeting)

Wyndham Hotel (9821 Colonnade) (512) 691-8888

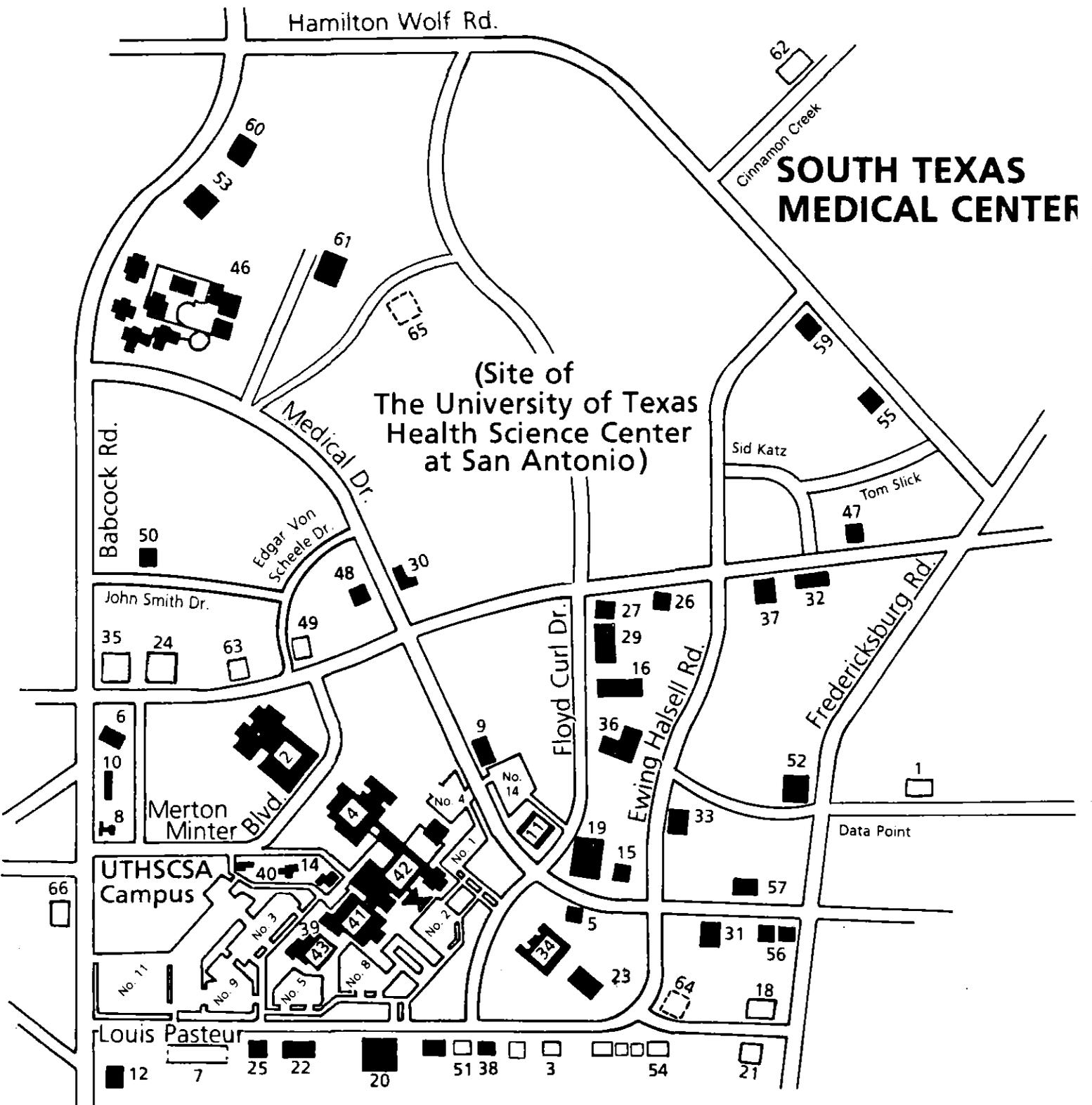
THE UNIVERSITY OF TEXAS SCHOOL OF NURSING AT SAN ANTONIO

FIRST FLOOR



- Room 1.208
- Room 1.228
- Room 1.230
- Room 1.231
- Room 1.104

- Meeting Room
- Executive Session
- Regents' Secretarial Office
- Telephones for Press
- Luncheon for those attending
- Board meeting

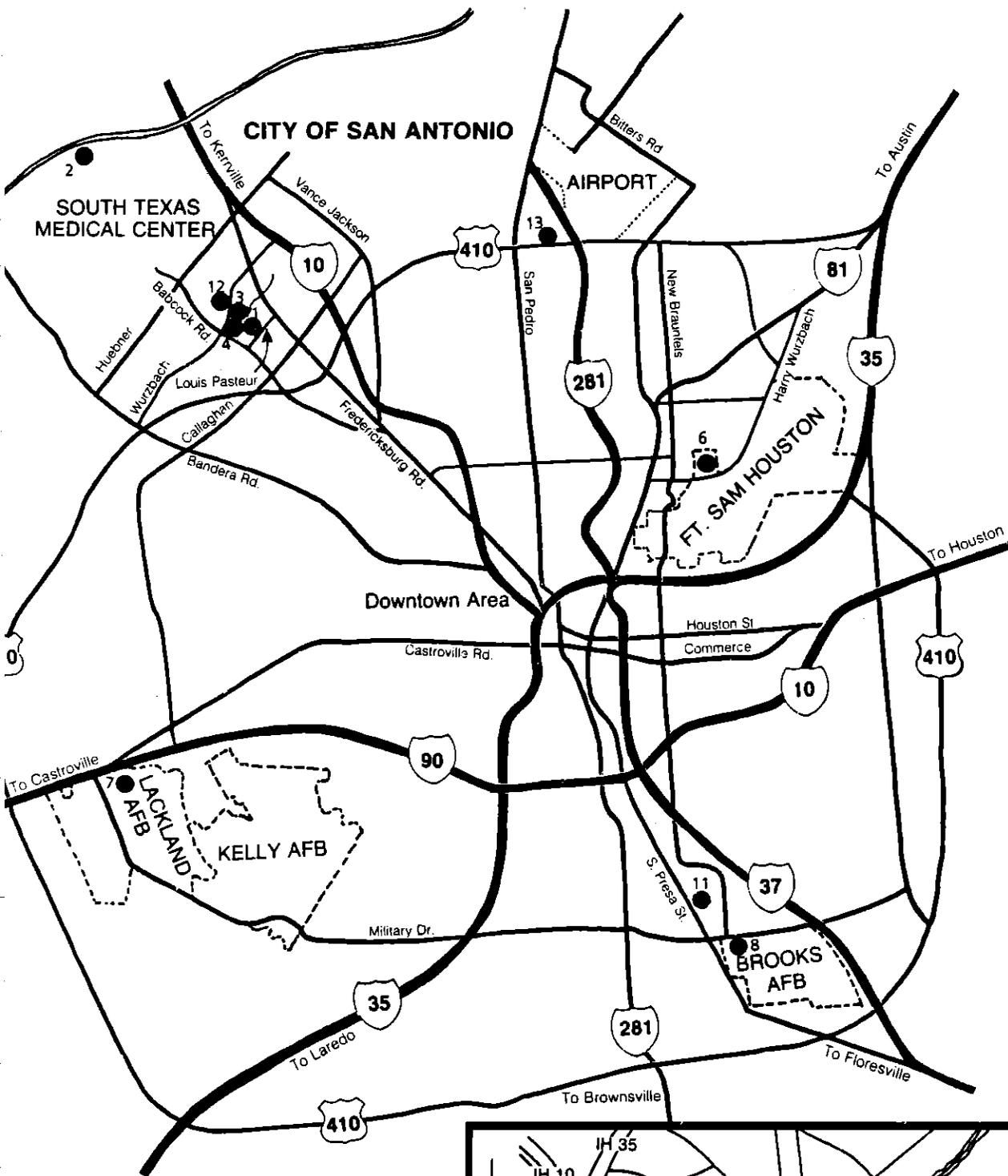


SOUTH TEXAS MEDICAL CENTER

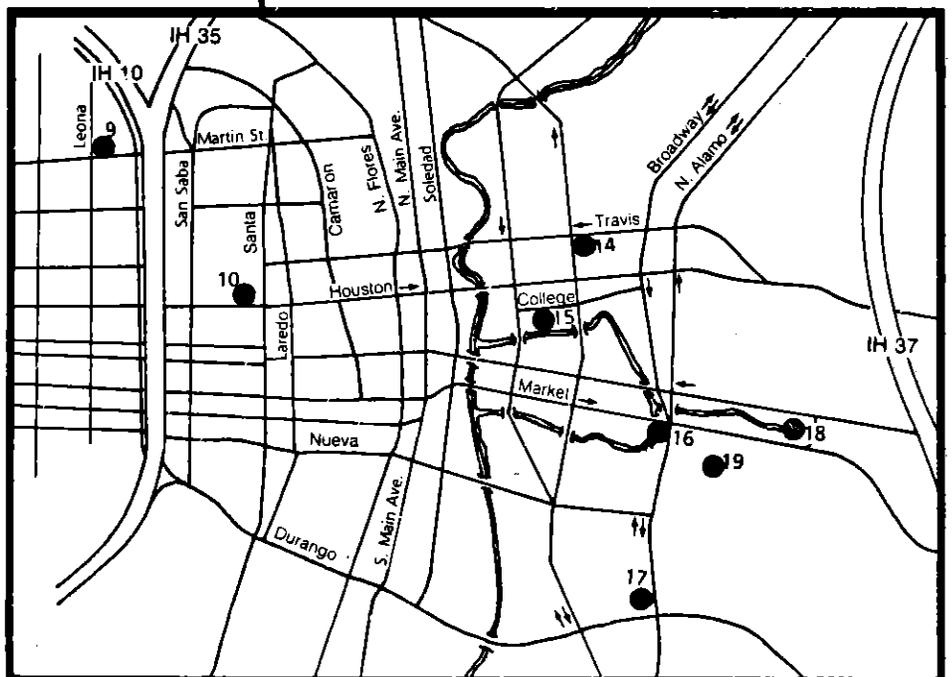
(Site of
The University of Texas
Health Science Center
at San Antonio)

- | | | | |
|--|---|--|--------------------------------------|
| 1. American Cancer Society | 18. Medical Park Plaza II | 36. St. Luke's Lutheran Hospital | 53. Saint Rose Hospital |
| 2. Audie Murphy VA Hospital | 19. Methodist Hospital Plaza | 37. Spring Hill Rehab. | 54. Pill Box Pharmacy |
| 3. Bethesda Care Center | 20. Oakdell Medical Professional Center | 38. University Plaza | 55. Goodwill Rehabilitation |
| 4. Medical Center Hospital | 21. Oak Garden Professional Building | 39. University Police | 56. Oak Hills Center |
| 5. Cancer Therapy & Research Center | 22. Oak Hills Manor Apts. | 40. UTHSCSA Administration Building | 57. Medical Park Plaza |
| 6. Children's Habilitation Center | 23. Oak Hills Medical & Professional Building | 41. UTHSCSA Dental School | 58. SW Neuropsychiatric Institute |
| 7. Medical Center Point Retail | 24. Oak Hills Inn | 42. UTHSCSA Medical School | 59. Health Careers High School |
| 8. Community Guidance Center | 25. Oak Hills Nursing Home | 43. UTHSCSA Nursing School | 60. St. Rose Medical Office |
| 9. Diagnostic Center | 26. Physician's Plaza - East | Parking Lots 1 through 14 | 61. Warm Springs Rehab. Hospital |
| 10. Easter Seal Rehab Center | 27. Physician's Plaza - West | 46. Villa Rosa Rehabilitation Pavilion | 62. Rehabilitation Institute of S.A. |
| 11. Ecumenical Center | 29. Humana Hospital of San Antonio | 47. American Heart Association | 63. Bank S.A. Med. Center |
| 12. Four Season's Nursing Home | 30. South Texas Medical Center - Post Office | 48. The Lodge Apartments | 64. S.A. Heart Institute |
| 14. Lone Star Energy Co.
(Heating & Cooling Facility) | 31. South Texas Surgical & Medical Building | 49. Milam Tower | 65. Clinical Research Building |
| 15. Medical Center Surgical Clinic | 32. Four Seasons Northwest | 50. Milam-Chardan Center | 66. Osteotex |
| 16. Medical Center Tower | 33. Surgicenter | 51. Medical Center Guest House | |
| 17. Medical Park Plaza | 34. Southwest Texas Methodist Hospital | 52. Humana Women's Hospital | |
| | 35. NCNB Texas | | |

NOTE: Parking Lot 8 will be available to those attending the Board meeting.



1. The University of Texas Health Science Center at San Antonio
2. The University of Texas at San Antonio
3. Medical Center Hospital
4. Audie Murphy Veterans Hospital
6. Brooke Army Medical Center (FL Sam Houston)
7. Wilford Hall USAF Medical Center
8. USAF School of Aerospace Medicine (Brooks AFB)
9. Brady/Green Community Health Center
10. Santa Rosa Hospital
11. San Antonio State Hospital
12. The Inn at Oak Hills
13. La Mansion del Norte
14. St. Anthony Hotel
15. La Mansion del Rio
16. Hilton Palacio del Rio
17. Plaza San Antonio
18. Marriott Hotel
19. Convention Center
20. The Alamo
21. Menger Hotel
22. Hyatt Regency Hotel



Meeting of the Board

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

Date: Thursday, December 7, 1989

Time: 12:00 p.m. Convene in Open Session for the sole purpose of recessing to Executive Session

1:30 p.m. Reconvene in Open Session to continue until completion of business
or upon recess of Executive Session

Place: Room 1.208 (Open Session) and Room 1.228 (Executive Session), Nursing School Building, U. T. Health Science Center - San Antonio

A. CALL TO ORDER

B. RECESS TO EXECUTIVE SESSION

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

C. RECONVENE IN OPEN SESSION

D. WELCOME BY PRESIDENT HOWE

E. APPROVAL OF MINUTES OF REGULAR MEETING HELD OCTOBER 13, 1989

F. SPECIAL ITEM

U. T. Board of Regents: Recommendation to Adopt Resolution Approving and Authorizing Issuance of Notes in an Aggregate Principal Amount at Any One Time Outstanding Not to Exceed \$250,000,000 (Except for a Promissory Note Under the Credit Agreement), Approval of an Amended and Restated Credit Agreement, and Reappointment of McCall, Parkhurst & Horton, Dallas, Texas, as Bond Counsel, Goldman Sachs & Co., New York, New York, as Dealer/Remarketing Agent, and Morgan Guaranty Trust Company, New York, New York, as Paying Agent/Registrar.--

RECOMMENDATION

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

- a. Adopt the Resolution (Attachment A) set out on Pages B of R 4 - 81
 1. Amending and restating the Resolution adopted by the Board of Regents of The University of Texas System on December 5, 1985, as amended on December 4, 1986, and on February 11, 1988, establishing an interim financing program for Permanent University Fund capital improvement projects
 2. Approving and authorizing the issuance of notes in an aggregate principal amount at any one time outstanding not to exceed \$250,000,000 except for a promissory note under the credit agreement to refinance principal and accrued interest which may not exceed \$269,000,000
 3. Authorizing such notes to be issued, sold and delivered in various forms, including commercial paper notes, variable rate notes and a revolving note, and prescribing the terms of such instruments
 4. Authorizing certain officers and employees of the U. T. System to act on behalf of the Board in the selling and delivery of such notes and to approve and execute a Paying Agent/Registrar Agreement, a Trust Agreement with the Texas State Treasurer, Official Statements and a Remarketing Agreement within the limitations and procedures specified in the Resolution
 5. Making certain covenants and agreements and resolving other matters related to the issuance, sale, security and delivery of the Notes.

- b. Approve the Amended and Restated Credit Agreement with Morgan Guaranty Trust Company of New York, New York (substantially in the form set forth in Attachment B on Pages B of R 82 - 159)
- c. Reappoint McCall, Parkhurst & Horton, Dallas, Texas, as Bond Counsel
- d. Reappoint Goldman Sachs & Co., New York, New York, as Dealer/Remarketing Agent
- e. Reappoint Morgan Guaranty Trust Company, New York, New York, as Paying Agent/Registrar.

BACKGROUND INFORMATION

At its December 1985 meeting, the U. T. Board of Regents authorized the issuance of Permanent University Fund Variable Rate Notes, Series A (the "Notes") in an original amount of \$100 million to fund a portion of the PUF Capital Improvement Program (CIP). The financing program underlying the issuance of the Notes anticipated financing in two stages: first, short-term variable rate financing during construction and second, refunding of variable rate notes at periodic intervals with fixed rate long-term bonds. This two-stage financing program was adopted because it permitted the U. T. System to minimize Available University Fund debt service during construction by borrowing at short-term interest rates and only as expenditures were incurred. At the February 1988 meeting, the U. T. Board of Regents increased the aggregate amount of notes outstanding at any one time not to exceed \$125 million.

As of October 31, 1989, there were \$75 million of Permanent University Fund Variable Rate Notes, Series A, outstanding with \$10.8 million of unexpended Note proceeds remaining. It is anticipated that an additional \$191.9 million will be needed through fiscal year 1991 to fund expenditures under the current Capital Improvement Program.

A RESOLUTION amending and restating a resolution adopted by the Board of Regents of The University of Texas System on December 5, 1985, as amended on December 4, 1986, and as amended and restated on February 11, 1988, establishing an interim financing program; approving and authorizing the issuance of obligations in an aggregate principal amount at any one time outstanding of not to exceed \$250,000,000 (except for a promissory note which may be in the principal amount of \$269,000,000) to provide interim financing to pay Project Costs for Eligible Projects; authorizing such obligations to be issued, sold and delivered in various forms, including commercial paper notes, variable rate notes and a revolving note, and prescribing the terms, features and characteristics of such instruments; approving and authorizing certain authorized officers and employees to act on behalf of the Board of Regents of The University of Texas System in the selling and delivery of such obligations, within the limitations and procedures specified herein; making certain covenants and agreements in connection therewith; resolving other matters incident and related to the issuance, sale, security and delivery of such obligations, including the approval of an Issuing and Paying Agent/Registrar Agreement, Credit Agreement, Trust Agreement with the Texas State Treasurer, Official Statement and Remarketing Agreement; and providing an effective date.

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EXHIBITS

Exhibit A Credit Agreement

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A RESOLUTION amending and restating a resolution adopted by the Board of Regents of The University of Texas System on December 5, 1985, as amended on December 4, 1986, and as amended and restated on February 11, 1988, establishing an interim financing program; approving and authorizing the issuance of obligations in an aggregate principal amount at any one time outstanding of not to exceed \$250,000,000 (except for a promissory note which may be in the principal amount of \$269,000,000) to provide interim financing to pay Project Costs for Eligible Projects; authorizing such obligations to be issued, sold and delivered in various forms, including commercial paper notes, variable rate notes and a revolving note, and prescribing the terms, features and characteristics of such instruments; approving and authorizing certain authorized officers and employees to act on behalf of the Board of Regents of The University of Texas System in the selling and delivery of such obligations, within the limitations and procedures specified herein; making certain covenants and agreements in connection therewith; resolving other matters incident and related to the issuance, sale, security and delivery of such obligations, including the approval of an Issuing and Paying Agent/Registrar Agreement, Credit Agreement, Trust Agreement with the Texas State Treasurer, Official Statement and Remarketing Agreement; and providing an effective date.

WHEREAS, the Board of Regents (the "Board") of The University of Texas System (the "System") hereby determines to issue obligations pursuant to the provisions of Section 18 of Article VII of the Constitution of the State of Texas, Article 717q, V.A.T.C.S., as amended and Chapter 919, Acts of the 69th Legislature, Regular Session, 1985 (codified as Section 65.46, Texas Education Code) to provide interim financing for Eligible Projects (hereinafter defined); and

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

materials, and refunding bonds or notes issued under such section or prior law, at or for the System administration and certain component institutions of the System; and

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

WHEREAS, the Board, by a resolution duly adopted on December 5, 1985, as amended by a resolution duly adopted on December 4, 1986, and as amended and restated on February 11, 1988 (collectively, the "Original Resolution"), authorized the issuance of its Board of Regents of The University of Texas System Permanent University Fund Variable Rate Notes, Series A, in an amount at any one time outstanding of not to exceed \$125,000,000 (the "Series A Notes"); and

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

WHEREAS, pursuant to the Credit Agreement (the "Original Credit Agreement") dated as of December 16, 1985, among the Board, MBank Dallas, National Association ("MBank Dallas") and MBank Austin, National Association ("MBank Austin"), MBank Dallas agreed to make certain loans to the Board in the amounts up to, but not exceeding \$109,000,000, such loans to be made to enable the Board to refund Project Notes (as defined in the Original Resolution), including interest thereon; and

WHEREAS, as of December 5, 1986, the Board discharged MBank Dallas and MBank Austin from all obligations under the Original Credit Agreement; and

WHEREAS, pursuant to the Amended and Restated Credit Agreement (the "Restated Credit Agreement") dated as of December 5, 1986, between the Board and Morgan Guaranty Trust Company of New York ("Morgan"), Morgan assumed the obligations of MBank Dallas and MBank Austin, and agreed to make certain loans to the Board in amounts up to, but not exceeding, \$109,000,000, such loans to be made to enable the Board to refund Project Notes, including interest thereon; and

WHEREAS, at the time the Board authorized an increase in the amount of Project Notes which at any time may be outstanding to \$125,000,000, the Restated Credit Agreement was amended to provide, inter alia, for an increase of the aforesaid loan limit to \$134,500,000; and

WHEREAS, the Board finds it necessary and advisable to increase the aggregate principal amount of notes that the Original Resolution initially authorized may be issued and be outstanding at any time; and

WHEREAS, Morgan and the Dealer (as defined in the Original Resolution) have been notified of the Board's intention to increase the authorized principal amount of such notes and neither entity has interposed an objection thereto; and

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

WHEREAS, the Board intends to fund or refund the herein authorized interim obligations through the issuance of such notes pursuant to the Constitutional Amendment (hereinafter defined); and

WHEREAS, arrangements relating to such interim financing have been settled and the Board hereby finds and determines that the issuance of obligations, including commercial paper notes, variable rate notes, and a promissory note, subject to the terms, conditions, and limitations hereinafter prescribed, should be approved and authorized at this time; now, therefore,

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

ARTICLE I

DEFINITIONS

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

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

"Advances" shall have the same meaning given said term in the Agreement.

"Agreement" or "Credit Agreement" shall mean the credit agreement approved and authorized to be entered into by Section 2.05, as from time to time amended or supplemented, or other credit facility provided in lieu thereof in accordance with the provisions of Section 6.04(a).

"Authorized Investments" shall mean those obligations, certificates or agreements as described in the Public Funds Investment Act of 1987, Article 842a-2, V.A.T.C.S., as amended from time to time.

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

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

"Bank" shall mean Morgan Guaranty Trust Company of New York, or any subsequent lender which becomes a party to the Agreement.

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

"Bond Counsel" shall mean Messrs. McCall, Parkhurst & Horton.

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

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

"Commercial Paper Note" shall mean a Note issued pursuant to the provisions of this Resolution, having the terms and characteristics specified in Section 2.03 and in the form described in Section 2.07(a).

"Constitutional Amendment" shall mean the 1984 Constitutional Amendment, and any amendment thereto or any other amendment to the

Constitution of the State of Texas relating to the Permanent University Fund hereafter approved by the voters of the State of Texas.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Holder" or "Noteholder" shall mean the Registered Owner or any person, firm, association, or corporation who is in possession

of any Note drawn, issued or endorsed to such person, firm, association or corporation or to the order of such person, firm, association or corporation or to bearer or in blank.

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

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

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

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

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

"Issuing and Paying Agent Agreement" or "Paying Agent/Registrar Agreement" shall mean the agreement approved and authorized to be entered into by Section 5.03, as from time to time amended or supplemented.

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

"Maximum Maturity Date" shall mean December 1, 2019.

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

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

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

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

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

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

"Note" or "Notes" shall mean the evidences of indebtedness authorized to be issued and at any time outstanding pursuant to this Resolution and shall include Commercial Paper Notes, Variable Rate Notes, or the Revolving Note as appropriate.

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

"Original Resolution" shall mean the resolution adopted by the Board on December 5, 1985, as amended on December 4, 1986, and as amended and restated on February 11, 1988, authorizing and establishing an interim financing program through the issuance of interim obligations.

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

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

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

"Project Note" shall mean, as appropriate, a Note or all the Notes other than the Revolving Note.

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

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

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

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

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

"Registration Books" shall mean the books or records relating to the registration, payment and transfer or exchange of the Project Notes maintained by the Issuing and Paying Agent pursuant to Section 2.10.

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

"Remarketing Agreement" shall mean the agreement approved and authorized to be entered into by Section 5.04, as from time to time amended or supplemented.

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

"Revolving Note" shall mean the refunding promissory bond issued pursuant to the provisions of this Resolution and the Agreement in evidence of Advances made by the Bank under the Agreement to refund a Project Note or Notes, or the interest thereon, having the terms and characteristics contained therein and issued in accordance therewith, including any renewals or modifications thereof.

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

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

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

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

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

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

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

"Standard & Poor's" or "S&P" shall mean Standard & Poor's Corporation or, if such corporation is dissolved or liquidated or otherwise ceases to perform securities rating services, such other nationally recognized securities rating agency as may be designated in writing by the Board.

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

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

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

"Trust Agreement" shall mean the Trust Agreement between the System and the State Treasurer, dated December 5, 1985, and any amendment or supplement thereto.

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

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

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

"Variable Rate Note" shall mean a Note issued pursuant to the provisions of this Resolution, having the terms and characteristics specified in Section 2.04 and Articles III and IV and in substantially the form described in Section 2.07(b).

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

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

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

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

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

ARTICLE II

AUTHORIZATION OF NOTES

Section 2.01. General Authorization. Pursuant to authority conferred by and in accordance with the provisions of the Constitution and laws of the State of Texas, particularly the Constitutional Amendment and the Acts, Project Notes shall be and are hereby authorized to be issued in an aggregate principal amount not to exceed TWO HUNDRED FIFTY MILLION DOLLARS (\$250,000,000) at any one time outstanding for the purpose of financing Project Costs of Eligible Projects and to refinance, renew, or refund Notes, including interest thereon; and a refunding bond herein called the Revolving Note shall be and is hereby authorized to be issued in an aggregate principal amount not to exceed Two Hundred Sixty Nine Million Dollars (\$269,000,000) at any one time outstanding for the purpose of refunding Project Notes, including interest thereon, and evidencing Advances under the Agreement relating thereto; all in accordance with and subject to the terms, conditions, and limitations contained herein and, with respect to the Revolving Note, in the Agreement. For purposes of this Section 2.01, any portion of outstanding Notes to be paid from money on deposit in the Series A Note Payment Fund or the Special System Account and from the available proceeds of Notes, Short Term Obligations, Fund Priority Obligations or other obligations of the Board issued pursuant to the Constitutional Amendment on the day of calculation shall not be considered outstanding.

Section 2.02. Terms Applicable to Notes - General. Subject to the limitations contained herein, Commercial Paper Notes herein authorized shall be dated as of their date of issuance or prior thereto, but within 30 days of the date of issuance as determined herein or as otherwise determined by an Authorized Representative, and Variable Rate Notes herein authorized shall be dated as of the date of authentication of such Variable Rate Notes (the "Note Date"), and Project Notes shall bear no interest or bear interest at such rate or rates (either fixed, variable, floating, adjustable, or otherwise) per annum computed either on the basis of (i) actual days elapsed and on a 365-day year, or (ii) a 360-

day year composed of twelve 30-day months (but in no event in any case to exceed the Maximum Interest Rate in effect on the date of issuance thereof), as provided herein or otherwise as may be determined by an Authorized Representative, and shall mature on or prior to the Maximum Maturity Date. Subject to the provisions of Articles III and IV, an Authorized Representative may establish a formula, index or other method for establishing the interest rates.

Project Notes issued hereunder may contain terms and provisions for the redemption or prepayment thereof prior to maturity, subject to any applicable limitations contained herein, as provided herein or otherwise as shall be determined by an Authorized Representative.

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

The Project Notes shall be issued in registered form, without coupons, provided, however, Commercial Paper Notes may be registered to bearer. Both principal of and interest on the Project Notes shall be payable in the manner provided in Section 2.07 for Commercial Paper Notes and Variable Rate Notes, respectively.

The selection and appointment of Morgan Guaranty Trust Company of New York, New York, New York to serve as Paying Agent/Registrar for the Project Notes is hereby confirmed and the Board covenants and agrees to keep and maintain the Registration Books at the principal corporate office of the Paying Agent/Registrar, all as provided herein and pursuant to such reasonable rules and regulations as the Paying Agent/Registrar may prescribe. The Board covenants to maintain and provide a Paying Agent/Registrar at all times while the Project Notes are outstanding, which shall be a national or state banking association or corporation organized and doing business under the laws of the United States of America or of any State and authorized under such laws to exercise trust powers. Should a change in the Paying Agent/Registrar for the Project Notes occur, the Board agrees to promptly cause a written notice thereof to be (i) sent to each Registered Owner of the Project Notes then outstanding by United States Mail, first class, postage prepaid and (ii) published in a financial newspaper or journal of general circulation in The City of New York, New York, once during each calendar week for at least two calendar weeks, provided, however, the publication of such notice shall not be

required if notice is given to each Holder. Such notice shall give the address of the successor Paying Agent/Registrar. A successor Paying Agent/Registrar may be appointed without the consent of the Holders.

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

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

Section 2.03. Commercial Paper Notes. Under and pursuant to the authority granted hereby and subject to the limitations contained herein, Commercial Paper Notes to be designated "Board of Regents of The University of Texas System Permanent University Fund Commercial Paper Notes, Series A" are hereby authorized to be issued and sold and delivered from time to time in such principal amounts as determined by an Authorized Representative in denominations of any multiple of \$1,000, with a minimum denomination of \$100,000, numbered in ascending consecutive numerical order in the order of their issuance and to mature and become due and payable on such dates as an Authorized Representative shall determine at the time of sale; provided, however, that no Commercial Paper Note shall (i) mature after the Maximum Maturity Date or (ii) have a term in excess of 270 days.

Interest, if any, on Commercial Paper Notes shall be payable at maturity with principal.

Section 2.04. Variable Rate Notes. Under and pursuant to authority granted hereby and subject to the limitations contained herein, Variable Rate Notes to be designated "Board of Regents of The University of Texas System Permanent University Fund Variable Rate Notes, Series A", are hereby authorized to be issued and sold and delivered from time to time in such principal amounts as determined by an Authorized Representative, such Variable Rate Notes to be in denominations provided in the Form of Variable Rate Notes in Section 2.07(b), to be numbered in ascending consecutive numerical order in the order of their issuance and to mature and become due and payable on the date selected by an Authorized Representative in accordance with this Resolution but not later than the Maximum Maturity Date. Variable Rate Notes shall be payable and subject to purchase on demand of the Holder and redemption prior to maturity under the terms and conditions and at

the redemption price or prices as set forth in Section 2.07(b) and Articles III and IV or as otherwise determined by an Authorized Representative; provided, however, any premium associated with a redemption prior to maturity of a Variable Rate Note shall not exceed three percent (3%) of the principal amount thereof.

Variable Rate Notes are hereby authorized to be issued bearing interest at a variable, floating, or adjustable rate not to exceed the Maximum Interest Rate and interest thereon shall be payable at maturity and at such intervals prior to maturity all as determined in accordance with the provisions of Articles III and IV and in the form of Variable Rate Notes set forth in Section 2.07(b).

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

notice of redemption or mailing thereof (including any failure to mail such notice) shall affect the validity of the redemption provisions for any other Variable Rate Notes.

Section 2.05. Credit Agreement. The Agreement, substantially in the form attached hereto as Exhibit A, is hereby approved, and shall be entered into with the Bank. The form of Revolving Note contained in the Agreement is also approved, including the interest rate to be determined as set forth therein. An Authorized Representative is hereby authorized to execute and deliver the Agreement and any other documents called for thereunder; and the Chairman of the Board and the Executive Secretary of the Board are hereby authorized and directed to execute and deliver the Revolving Note and the Executive Secretary of the Board is authorized to place the Board seal thereon.

Section 2.06. Revolving Note. Under and pursuant to authority granted hereby and by the Agreement and subject to the limitations contained herein and in the Agreement, the Revolving Note to be designated "Board of Regents of The University of Texas System Credit Agreement Promissory Note" is hereby authorized to refund outstanding Notes and interest thereon in accordance with the terms of this Resolution, the Agreement and the form of Revolving Note set forth in Exhibit A to the Agreement.

Section 2.07. Forms of Project Notes. The Project Notes and the Certificate of Authentication to appear on each of the Project Notes shall be substantially in the forms set forth in this Section with such appropriate insertions, omissions, substitutions and other variations as are permitted or required by this Resolution and may have such letters, numbers or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Banks Association) ("CUSIP" numbers) and such legends and endorsements thereon as may, consistently herewith, be approved by an Authorized Representative. Any portion of the text of any Project Notes may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Project Notes.

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

(a) Form of Commercial Paper Note:

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

Note Number _____ Interest Rate _____ Note Date _____
\$ _____

On _____ (the "Maturity Date") for value received, THE BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM (the "Board")

Promises To Pay To The Order Of _____
The Principal Sum Of _____
Payable At _____
(the "Issuing and Paying Agent").

on the Maturity Date specified above, and to pay interest, if any, on said principal amount specified above at said Maturity Date, from the above specified Note Date to said Maturity Date at the per annum Interest Rate shown above (computed on the basis of actual days elapsed and a 365-day year) solely from the sources hereinafter identified and as hereinafter stated; both principal and interest on this Commercial Paper Note being payable in immediately available lawful money of the United States of America at the principal corporate office of the Issuing and Paying Agent specified above, or its successor. No interest will accrue on the principal amount hereof after said Maturity Date.

This Commercial Paper Note is one of an issue of commercial paper notes (the "Commercial Paper Notes") which, together with other forms of obligations, including the below-referenced Revolving Note (such other obligations and the Commercial Paper Notes being hereinafter collectively referred to as the "Notes"), has been duly authorized and issued in accordance with the provisions of a resolution (the "Resolution") passed by the Board, an agency and political subdivision of the State of Texas, for the purpose of financing Project Costs of Eligible Projects (each as defined in the Resolution) and to refinance, renew, or refund the Notes issued pursuant to the provisions of the Resolution; all in accordance and in strict conformity with the provisions of Section 18 of Article VII of the Constitution of the State of Texas, Article 717q, V.A.T.C.S., as amended and Section 65.46, Texas Education Code. Capitalized terms used herein and not otherwise defined shall have the meaning given said terms in the Resolution.

This Commercial Paper Note, together with the other Notes, is payable from and equally secured by (i) the proceeds from (a) the sale of the Fund Priority Obligations, Short Term Obligations or other obligations of the Board under the Constitutional Amendment issued for such purpose and (b) the sale of Project Notes issued pursuant to the Resolution for such purpose, (ii) Advances under the Credit Agreement, (iii) the amounts held in the Series A Note Payment Fund and the Special System Account, and (iv) the Interest of the University in the Available University Fund, such lien on and pledge of the Interest of the University in the Available University Fund, however, being junior and subordinate to the lien and pledge thereof securing the payment of the Fund Priority Obligations now outstanding and hereafter issued by the Board.

This Commercial Paper Note, together with the other Notes, is payable solely from the sources hereinabove identified securing the payment thereof. The Notes do not constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the Board, except with respect to the Interest of the University in the Available University Fund, and the holder hereof shall never have the right to demand payment of this obligation from any sources or properties of the Board except as identified above.

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

This Commercial Paper Note has all the qualities and incidents of a negotiable instrument under the laws of the State of Texas.

This Commercial Paper Note shall not be entitled to any benefit under the Resolution or be valid or become obligatory for any purpose until this Commercial Paper Note shall have been authenticated by the execution by the Issuing and Paying Agent of the Certificate of Authentication hereon.

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

BOARD OF REGENTS OF THE UNIVERSITY
TEXAS SYSTEM

Chairman

ATTEST:

Executive Secretary

(SEAL)

ISSUING AND PAYING AGENT'S
CERTIFICATE OF AUTHENTICATION

This Commercial Paper Note is one of the Commercial Paper Notes delivered pursuant to the within-mentioned Resolution.

MORGAN GUARANTY TRUST COMPANY
OF NEW YORK
as Issuing and Paying Agent

By _____
Countersignature

(b) Form of Variable Rate Note.

\$ _____ Number _____

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

MATURITY DATE:

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

INTEREST RATE MODE:

Flexible Daily Weekly Monthly Quarterly Semiannual Term Fixed

REGISTERED OWNER:

THE BOARD OF REGENTS (the "Board") OF THE UNIVERSITY OF TEXAS SYSTEM (the "System") being an agency of the State of Texas, FOR VALUE RECEIVED, hereby promises to pay, solely from the sources hereinafter identified and as hereinafter stated, to the order of the registered owner set forth above, or the assignee thereof, on the Maturity Date specified above the principal amount specified above and to pay interest, if any, on said principal amount from the above specified Note Date to said Maturity Date or earlier redemption date or the date of payment pursuant to a demand for payment at the rate determined as herein provided from the most recent Interest Payment Date to which interest has been paid or duly provided for or from the Note Date if no interest has been paid, such payments of interest to be made on each Interest Payment Date until the principal hereof has been paid or provided for as aforesaid. Both principal of and interest on this note are payable in immediately available funds or clearing house funds, depending on the interest rate mode, the principal amount of notes owned and the instructions of the registered owner, in lawful money of the United States of America; the principal hereof being payable upon presentation and surrender of this note at the principal corporate office of the Paying Agent/Registrar executing the Certificate of Authentication appearing hereon, or its successor, and the interest hereon to be payable to the registered owner hereof whose name appears on the registration and transfer books (the "Registration Books") kept by the Paying Agent/Registrar as of the close of business on the record date by check mailed to such registered owner or by such other method requested by and at the risk and expense of the registered owner provided, that (i) if the registered owner has submitted a written request with the Paying Agent/Registrar prior to the record date, interest for any Daily, Weekly, Monthly or Quarterly Rate Period shall be paid by federal funds check, by deposit to the account of the registered owner if such account is maintained by the Paying Agent/Registrar or by wire transfer within the continental United States; or (ii) interest for Flexible Rate Periods will be paid in immediately available funds; provided further that interest accrued during any Flexible Rate Period and at the maturity of this Note shall be paid only upon its presentation and surrender. The record date for any Interest Payment Date shall be the close of business on the Business Day immediately preceding the Interest Payment Date, except that, while this note bears interest at Semiannual or Term Rates, or at a Fixed Rate the regular record date shall be the close of business on the 15th day of the calendar month immediately preceding such Interest Payment Date.

THIS NOTE is one of an issue of variable rate notes (the "Variable Rate Notes") which, together with other forms of obligations, including the below referenced Revolving Note (such other obligations and the Variable Rate Notes being hereinafter collectively referred to as the "Notes"), has been duly authorized

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

This note, together with the other Notes, is payable (which includes the obligation to purchase upon tender as provided herein) from and equally secured by (i) the proceeds from (a) the sale of Fund Priority Obligations, Short Term Obligations or other obligations of the Board under the Constitutional Amendment issued for such purpose and (b) the sale of Project Notes issued pursuant to the Resolution for such purpose, (ii) Advances under the Credit Agreement, (iii) the amounts held in the Series A Note Payment Fund and the Special System Account, and (iv) the Interest of the University in the Available University Fund, such lien on and pledge of the Interest of the University in the Available University Fund, however, being junior and subordinate to the lien and pledge thereof securing the payment of Fund Priority Obligations now outstanding and hereafter issued by the Board.

This note, together with the other Notes, is payable solely from the sources hereinabove identified securing the payment thereof. The Notes do not constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the Board, except with respect to the Interest of the University in the Available University Fund, and the holder hereof shall never have the right to demand payment of this obligation from any sources or properties of the Board except as identified above.

INTEREST ON VARIABLE RATE NOTES

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

The rate of interest applicable to any Rate Period shall be determined in accordance with the applicable provisions of the Resolution and, for Flexible Rate Periods and Rate Periods, as hereinafter defined pursuant to the terms of the Remarketing

Agreement between the Board and Goldman, Sachs & Co. or any successor thereto (the "Remarketing Agent"). All computations of interest shall be based on 365-day years for the actual number of days elapsed; except for interest at Semiannual or Term Rates, which shall be computed on the basis of 360-day years of twelve 30-day months.

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

The Variable Rate Notes may bear interest as follows:

Flexible Rate Mode.

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

Variable Rate Modes.

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

Daily Rate.

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

Weekly Rate.

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

Monthly Rate.

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

Quarterly Rate.

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

Semiannual Rate.

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

Term Rate.

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

Fixed Rate Mode.

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

An interest rate mode will remain in effect until changed. During each Rate Period, and unless otherwise established by an Authorized Representative, the rate of interest on the Variable Rate Notes shall be that rate which, in the determination of the Remarketing Agent, if borne by the Variable Rate Notes on the date of such determination under prevailing market conditions, would result in the market value of the Variable Rate Notes being 100% of the principal amount thereof. While this Note bears interest at the Flexible Rate Mode, and unless otherwise established by an Authorized Representative, each Flexible Rate and Flexible Rate Period shall be determined by the Remarketing Agent in connection with the sale of the Variable Rate Notes to which they relate by the offer and acceptance of purchase commitments for such Variable Rate Notes at a Flexible Rate or Rates and for such Flexible Rate Periods as it deems to be advisable in order to minimize the net interest cost on the Variable Rate Notes under prevailing market conditions. In the event that the Remarketing Agent is unable, or

fails, to determine the Variable Rate or the Flexible Rates, the Variable Rate or the Flexible Rates shall remain those in effect for the then current Rate Period or Flexible Rate Period.

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

OPTIONAL TENDERS

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

MANDATORY TENDERS

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

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

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

WRITTEN NOTICE OF RATE MODE CHANGE

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

INTEREST PAYMENT DATES

While this Variable Rate Note bears interest at a Flexible Rate, interest is payable on the last day of each Flexible Rate Period. While this Variable Rate Note bears interest at Daily, Weekly, or Monthly Rates, interest is payable on the first Business Day of each month. During Quarterly Rate Periods, interest is payable on the first Business Day of the third calendar month after the date each interest rate becomes effective. During any Semiannual or Term Rate Period, interest is payable on the first Business Day of the sixth calendar month after the date each

interest rate becomes effective. After the Variable Rate Notes have been converted to bear interest at a Fixed Rate, interest is payable on January 1 and July 1 of each year. Each such date is herein defined as an "Interest Payment Date".

OPTIONAL REDEMPTION

During any Flexible, Daily, Weekly, Monthly, Quarterly, or Semiannual Rate Period, this Variable Rate Note is subject to redemption by the Board on any Interest Payment Date, in whole or in part, at a redemption price equal to the principal amount thereof plus interest accrued to the redemption date.

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

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

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

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

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

BOARD OF REGENTS OF THE UNIVERSITY
OF THE TEXAS SYSTEM

Chairman

ATTEST:

Executive Secretary

(SEAL)

execute and the Paying Agent/Registrar shall authenticate and deliver a new Note of like tenor in lieu of and in substitution for the Note so lost, destroyed, or stolen. In the event any such Note shall have matured the Paying Agent/Registrar instead of issuing a duplicate Note may pay the same without surrender thereof after making such requirement as it deems fit for its protection, including a lost instrument bond. Neither the Board nor the Paying Agent/Registrar shall be required to treat both the original Note and any duplicate Note as being outstanding for the purpose of determining the principal amount of Notes which may be issued hereunder, but both the original and the duplicate Note shall be treated as one and the same. The Board and the Paying Agent may charge the Holder of such Note with their reasonable fees and expenses for such service.

Section 2.10. Negotiability, Registration and Exchangeability. The Notes issued hereunder shall be, and shall have all of the qualities and incidents of a negotiable instrument under the laws of the State of Texas, and each successive Holder, in accepting any of the obligations, shall be conclusively deemed to have agreed that such Notes shall be and have all of the qualities and incidents of a negotiable instrument under the laws of the State of Texas.

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

Upon surrender for transfer of any Project Note at the corporate trust office of the Registrar, the Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Project Notes, executed on behalf of

and furnished by the Board, of like tenor and character and of authorized denominations, and having the same maturity, bearing interest at the same rate, and of a like aggregate principal amount as the Project Note or Project Notes surrendered for transfer.

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

The Board and the Registrar may charge the Holder a sum sufficient to reimburse them for any expenses incurred in making any exchange or transfer after the first such exchange or transfer. The Registrar or the Board may also require payment from the Holder of a sum sufficient to cover any tax, fee, or other governmental charge that may be imposed in relation thereto. Such charges and expenses shall be paid before any such new Project Note shall be delivered.

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

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

The Board reserves the right to change the above registration and transferability provisions of the Project Notes at any time on or prior to the delivery thereof in order to comply with applicable laws and regulations of the United States of America in effect at the time of issuance thereof. In addition, to the extent that the provisions of this Section conflict with or are inconsistent with the provisions of Section 2.07(b) or Articles III and IV, such other provisions shall control.

Section 2.11. Series A Note Payment Fund. The Board hereby reaffirms that there is established with the Issuing and Paying Agent a separate and special fund designated as the "Board of

Regents of The University of Texas System Series A Note Payment Fund" (the "Series A Note Payment Fund"). The proceeds from the sale of Fund Priority Obligations issued for the purpose of refunding and retiring notes outstanding under the Original Resolution shall be deposited to the credit of the Series A Note Payment Fund and used for such purpose. In addition, all amounts required to be deposited by the Board pursuant to Section 2.12 shall be deposited to the Series A Note Payment Fund and shall be used to pay principal of, premium, if any, and interest on Notes at the respective interest payment, maturity, redemption, or purchase dates of each issue of such Notes as provided herein, including the repayment of any amounts owed with respect to the Revolving Note in evidence of Advances under the Agreement. Amounts remaining in the Series A Note Payment Fund not then necessary for the purposes thereof may be transferred to the Series A Note Construction Account (as described in Section 2.14) upon request of an Authorized Representative.

Additionally all Advances under the Agreement shall be deposited into the Series A Note Payment Fund and used to pay the principal of, premium, if any, and interest on the Project Notes, including the purchase price pursuant to Articles III and IV.

Pending the expenditure of moneys in the Series A Note Payment Fund for authorized purposes, moneys deposited therein may be invested at the direction of an Authorized Representative in Authorized Investments. Any income received from investments in the Series A Note Payment Fund shall be retained in the Series A Note Payment Fund.

Section 2.12. Pledge of Revenues; Payments. The Notes are special obligations of the Board payable from and secured solely by the funds pledged therefor pursuant to this Resolution. The Board agrees to make payments into the Series A Note Payment Fund at such times and in such amounts as are necessary to provide for the full payment of the principal of, premium, if any, and the interest on the Notes when due, whether by reason of maturity, redemption, or tender for purchase. Payments from the Series A Note Payment Fund shall be made from the first moneys deposited to the account of the Series A Note Payment Fund. Unless paid from the proceeds from the sale of Fund Priority Obligations, Short Term Obligations, Notes, or other obligations of the Board issued pursuant to the Constitutional Amendment, or, with respect to the Project Notes, the Advances under and pursuant to the Agreement, such payments are to be made from the amounts required to be deposited in the Series A Note Payment Fund.

To provide security for the payment of the principal of and interest on the Notes as the same shall become due and payable, there is hereby pledged, subject only to the provisions of this Resolution permitting the application thereof for purposes and on

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

Section 2.13. Application of Prior Covenants. The covenants and agreements (to the extent the same are not inconsistent herewith) contained in the Constitutional Amendment Bond Resolutions are hereby incorporated herein and shall be deemed to be for the benefit and protection of the Notes and the Holders thereof in like manner as applicable to the Fund Priority Obligations, provided, however, in the event of any conflict between the terms, covenants, and agreements contained herein and the terms, covenants, and agreements contained in the 1985 Constitutional Amendment Bond Resolution, the provisions of the 1985 Constitutional Amendment Bond Resolution shall control over the provisions hereof; and provided, further, that, with respect to furnishing Holders full audits and reports by the State Auditor of Texas, as described in the 1985 Constitutional Amendment Bond Resolution, the Board shall furnish such reports as the State Auditor of Texas is required by state law to prepare and distribute.

In accordance with the provisions of the Constitutional Amendment Bond Resolutions, the Notes represent obligations which are subordinate to the Fund Priority Obligations. As described in Section 9 of the 1985 Constitutional Amendment Bond Resolution, there heretofore has been established in the Treasury of the State of Texas a fund known as "Board of Regents of The University of Texas System Permanent University Fund Bonds Interest and Sinking Fund" (hereinafter called the "Interest and Sinking Fund"). The Fund Priority Obligations are payable from moneys required to be transferred to the Interest and Sinking Fund. After provision has been made for the payment of the principal of and interest on the

Fund Priority Obligations, based upon the projection of monies to be deposited into the Interest and Sinking Fund from the Available University Fund which demonstrates that the deposits to the Series A Note Payment Fund will not impair the obligation of the Board to pay the principal of and interest on the Fund Priority Obligations as the same mature and come due, the balance of the Interest of the University in the Available University Fund shall be made available to the Board to deposit into the Series A Note Payment Fund such amounts as are necessary to pay the interest on and/or the principal, and premium, if any, of the Notes to the extent not paid from the proceeds of Notes, Short Term Obligations, Fund Priority Obligations, or other obligations of the Board issued pursuant to the Constitutional Amendment, or with respect to the Project Notes, from the proceeds of Advances under the Agreement. After provision has been made for the payment of the interest and any premium on and/or principal of the Notes, the balance of the Interest of the University in the Available University Fund each year shall be made available to the Board in the manner provided by law and by regulations of the Board to be used by the Board as it may lawfully direct.

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

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

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

This Resolution is supplemental to and a restatement of the Original Resolution, and is adopted under authority reserved by the Board under the Original Resolution.

Section 2.14. Series A Note Construction Account. The Board hereby reaffirms that there is established a separate account designated as the "Board of Regents of The University of Texas System Series A Note Construction Account" (the "Series A Note Construction Account"). The Series A Note Construction Account is and shall be maintained by the Board in an official depository of the System. Moneys on deposit or to be deposited in the Series A Note Construction Account shall remain therein until from time to time expended for the Project Costs, and shall not be used for any other purposes whatsoever, except as otherwise provided below. Pending the expenditure of moneys in the Series A Note Construction Account, moneys deposited therein or credited thereto may be invested at the direction of an Authorized Representative in Authorized Investments. Any income received from investments in the Series A Note Construction Account shall be retained in the Series A Note Construction Account.

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

Section 2.15. Cancellation. All Project Notes which at maturity are surrendered to the Paying Agent/Registrar for the collection of the principal and interest thereof or are surrendered for transfer or exchange pursuant to the provisions hereof or are purchased on behalf of the Board through an Advance shall, upon

payment or issuance of new Project Notes, be cancelled by the Paying Agent/Registrar and forthwith transmitted to the Board, and the Board, thereafter shall have the custody of all thereof.

Section 2.16. Fiscal and Other Agents. In furtherance of the purposes of this Resolution, the Board may from time to time appoint and provide for the payment of such additional fiscal, paying or other agents or trustees as it may deem necessary or appropriate in connection with the Notes.

Section 2.17. Trust Agreement. An Authorized Representative is hereby authorized and directed to approve, execute and deliver to the Texas State Treasurer any certificate or document deemed necessary by such Authorized Representative to update the Trust Agreement to reflect the increase in the amount of Notes at any time outstanding as authorized by this Resolution.

ARTICLE III

INTEREST RATES ON VARIABLE RATE NOTES

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

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

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

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

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

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

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

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

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

(iii) Notice of Daily Rates determined for each Daily Rate Period shall be given by the Paying Agent by first class mail

to each Registered Owner by monthly statement within 7 Business Days after each Interest Payment Date on which Interest at a Daily Rate or Rates is to be paid.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) The Conversion Date of a conversion to a different Variable Rate Period shall be an Interest Payment Date on which interest is payable for the Variable Rate Period from which the conversion is to be made; provided, however, that if the conversion is from a Term Rate Period to a different Variable Rate Period, the Conversion Date shall be limited to an Interest Payment Date on which a new Term Rate Period would

otherwise have commenced pursuant to Section 3.02(g) above; and provided, further, that if the conversion is between Daily and Weekly Rate Periods, the Conversion Date may be any Wednesday, regardless of whether the Wednesday is an Interest Payment Date.

(ii) The Authorized Representative shall give written notice of any such conversion to the Paying Agent and the Bank, not fewer than forty-five (45) days prior to the proposed Conversion Date, or twenty (20) days in the case of conversions between Daily and Weekly Rate Periods. Such notice shall specify the proposed Conversion Date and the Variable Rate Period to which the conversion will be made, and in the case of conversion to a Term Rate Period, or to a new Term Rate Period if the previous Rate Period is a Term Rate Period, the number of years to be included within such Term Rate Period.

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

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

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

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

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

(v) Any conversion pursuant to this Section 3.02(h) from a Flexible, Daily, Weekly, Monthly, Quarterly, or Semiannual Rate Period to a Term Rate Period; or from a Term Rate Period to another Term Rate Period; or from a Term Rate Period to a Flexible, Daily, Weekly, Monthly, Quarterly, or Semiannual Rate

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

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

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

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

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

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

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

(i) The Flexible Rate Period for each Variable Rate Note shall be of such duration, not exceeding 180 days, as may be offered by the Remarketing Agent and specified by the purchaser pursuant to Section 4.02 or 4.03 hereof and any Variable Rate Note may bear interest at a Flexible Rate for a Flexible Rate Period different from any other Variable Rate Note; provided that each such Flexible Rate Period shall (A) commence on a Business Day (initially, the Flexible Rate Conversion Date), and (B) end on a day which is a Business Day.

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

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

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

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

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

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

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

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

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

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

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

(i) the proposed Fixed Rate Conversion Date;

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

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

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

(d) Not later than 12:00 p.m., New York City time, on the Business Day prior to the Fixed Rate Conversion Date an Authorized Representative shall determine the Fixed Rate for the Variable Rate Notes and make the Fixed Rate available to the Paying Agent. Such determination shall be conclusive and binding upon the Board, the Paying Agent and the Holders of the Variable Rate Notes to which

such rate will be applicable. Promptly after the date of determination, the Paying Agent shall give notice of such Fixed Rate by first class mail to the Board, the Remarketing Agent, the Bank and the Holders (as of the Fixed Rate Conversion Date).

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

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

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

Section 3.05. Notices to Registered Owners.

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

ARTICLE IV

TENDER AND PURCHASE OF VARIABLE RATE NOTES

Section 4.01. Tenders During Variable Rate Periods.

(a) Purchase Dates. The Holders of Variable Rate Notes bearing interest at Variable Rates may elect to have their Variable Rate Notes (or portions thereof in amounts equal to the lowest denomination then authorized pursuant to Section 2.07 hereof or whole multiples of such lowest denomination) purchased at a purchase price equal to 100% of the principal amount of such Variable Rate Notes (or portions), plus accrued interest, if any, on the following purchase dates and upon the giving of the following telephonic or written notices meeting the further requirements of subsection (b) below:

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

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

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

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

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

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

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

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

(ii) shall state, whether delivered in writing or by telephone (A) the principal amount of the Variable Rate Note to which the notice relates, (B) that the Holder irrevocably demands purchase of such Variable Rate Note or a specified portion thereof in an amount equal to the lowest denomination, then authorized pursuant to Section 2.07(b) hereof or a whole multiple of such lowest denomination, (C) the date on which such Variable Rate Note or portion is to be purchased, and (D) payment instructions with respect to the purchase price; and

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

such purchase price upon surrender of such Variable Rate Note to the Paying Agent and that after the purchase date such Registered Owner will hold an undelivered certificate as agent for the Paying Agent.

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

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

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

(e) Purchase of Tendered Variable Rate Notes.

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

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

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

commingled with other funds held by the Paying Agent; if any such monies exceed the amounts required to pay the purchase price of tendered Variable Rate Notes, such excess shall be paid to the Bank to the extent necessary to repay any Advance under the Credit Agreement and then to the Board.

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

(iv) Registration and Delivery of Tendered or Purchased Variable Rate Notes. On the date of purchase, the Paying Agent shall register and deliver (or hold) or cancel all Variable Rate Notes purchased on any purchase date as follows: (A) Variable Rate Notes purchased or remarketed by the Remarketing Agent shall be registered and made available (delivered in the case of Variable Rate Notes bearing interest at Flexible Rates) to the Remarketing Agent by 2:00 p.m. in accordance with the instructions of the Remarketing Agent; (B) Variable Rate Notes purchased with amounts drawn under the Credit Agreement, if any, or purchased for cancellation upon the directions of an Authorized Representative shall be cancelled; and (C) Variable Rate Notes purchased with amounts provided by the Board shall be registered in the name of the Permanent University Fund and shall be held in trust by the Paying Agent on behalf of the Permanent University Fund and shall not be released from such trust unless the Paying Agent shall have received written instructions from an Authorized Representative.

(v) Sale of Variable Rate Notes to Refund Advances Under Revolving Note. In the event that any Variable Rate Notes are purchased with amounts drawn under the Credit Agreement or are registered to the Permanent University Fund pursuant to subparagraph (iv) above to the extent requested by an Authorized Representative, the Remarketing Agent shall offer for sale and use its best efforts to sell such Variable Rate Notes registered to the Permanent University Fund or new

Variable Rate Notes in a principal amount equal to the principal amount of Variable Rate Notes purchased and cancelled pursuant to a draw under the Credit Agreement, as the case may be, at a price equal to the principal amount thereof plus accrued interest. Variable Rate Notes to be sold to refund the amounts due under the Revolving Note shall not be delivered upon remarketing unless the Credit Agreement is reinstated for the principal amount thereof and interest thereon in accordance with its terms and the Remarketing Agent has been advised of such reinstatement by the Bank.

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

Section 4.02. Tenders During Flexible Rate Periods.

(a) Purchase Dates. Each Variable Rate Note bearing interest at a Flexible Rate shall be subject to mandatory tender for purchase, on the last day of each Flexible Rate Period applicable to such Variable Rate Note at a purchase price equal to 100% of the

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

(b) Remarketing of Tendered Variable Rate Notes. Not later than 3:00 p.m., New York City time, on the Business Day immediately preceding each purchase date the Remarketing Agent shall offer for sale and use its best efforts to find purchasers for all Variable Rate Notes bearing interest at Flexible Rates required to be purchased on the ensuing purchase date. Subject to the provisions of Section 3.03, in remarketing the Variable Rate Notes, the Remarketing Agent shall offer and accept purchase commitments for the Variable Rate Notes for such Flexible Rate Periods and at such Flexible Rates as it deems to be advisable in order to minimize the net interest cost on the Variable Rate Notes under prevailing market conditions; provided, however, that the foregoing shall not prohibit the Remarketing Agent from accepting purchase commitments for longer Flexible Rate Periods (and at higher Flexible Rates) than are otherwise available at the time of any remarketing if the Remarketing Agent determines that, under prevailing market conditions, a lower net interest cost on the Variable Rate Notes can be achieved over the longer Flexible Rate Period. Notwithstanding the foregoing, no Flexible Rate Period may be established which exceeds 180 days or, if the Remarketing Agent has given or received notice of any conversion to a Variable Rate Period or Fixed Rate Period, the remaining number of days prior to the Conversion Date. The terms of any sale by the Remarketing Agent shall provide for the authorization of the payment of the purchase

price by the Remarketing Agent to the Paying Agent in immediately available funds in exchange for Variable Rate Notes registered in the name of the new Registered Owner delivered to the Remarketing Agent at or before 2:15 p.m., New York City time, on the purchase date. Such payment by the Remarketing Agent pursuant to authorization shall be made no later than 2:45 p.m., New York City time on such date, unless the Remarketing Agent shall notify the Paying Agent that the Variable Rate Notes are to be reauthenticated in accordance with instructions from the Remarketing Agent.

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

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

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

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

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

Section 4.03. Tender Upon Variable or Flexible Rate Conversion.

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

(i) Variable Rate Notes to be converted from Flexible Rate Periods to a Variable Rate Period or from any Variable Rate Period to a different type of Variable Rate Period (other than Variable Rate Notes to be converted from a Weekly Rate Period

to a Daily Rate Period or from a Daily Rate Period to a Weekly Rate Period) are subject to mandatory tender for purchase on the Conversion Date at a purchase price equal to the principal amount thereof;

(ii) Holders of Variable Rate Notes may elect to retain their Variable Rate Notes (or authorized portions as described above) notwithstanding a mandatory tender pursuant to this subparagraph and Section 4.05 hereof, as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

payments shall be made in clearing house funds; and

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

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

Section 4.04. Tender Upon Fixed Rate Conversion.

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

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

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

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

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

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

(c) Remarketing. At or before 4:00 p.m., New York City time, on the Business Day immediately following the last day on which notices of elections to retain Variable Rate Notes may be delivered to the Paying Agent pursuant to Section 4.04(a) above, the Paying Agent shall notify an Authorized Representative, the Remarketing Agent, and the Bank by telephone, telegraph, telecopy, telex, or other similar communication, of the principal amount of Variable Rate Notes to be tendered for purchase on the Fixed Rate Conversion Date. The Remarketing Agent shall offer for sale and use its best efforts to find purchasers for such Variable Rate Notes; provided that in no event shall the Remarketing Agent sell any such Variable Rate Note for sale to any person unless the Remarketing Agent has advised such person of the fact that, after the Fixed Rate Conversion Date, the Variable Rate Notes will no longer be subject to tender at the option of the Registered Owner. The terms of any sale by the Remarketing Agent shall provide for the payment of the purchase price to the Paying Agent of the tendered Variable Rate Notes in immediately available funds (or clearinghouse funds in the event of conversion from a Term Rate or Semiannual Rate) at or before 3:00 p.m., New York City time.

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

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

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

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

Section 4.05. Mandatory Tender Upon Expiration of Credit Agreement.

(a) At all times prior to conversion to a Fixed Rate, the Variable Rate Notes shall be subject to mandatory purchase upon

the expiration or termination of the Credit Agreement, subject to the right of the Registered Owner to retain his Variable Rate Note, which purchase shall occur:

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE V

ISSUE AND SALE OF NOTES

Section 5.01. Issuance and Sale of Notes. (a) Except as provided in subsection (b) of this Section, all Project Notes issued to provide funds to pay Project Costs shall be sold through competitive bidding in the manner set forth in this Resolution and as required by the Constitutional Amendment. In connection with sales of Project Notes to provide funds to pay Project Costs

(specifically excluding Project Notes described in Section 5.01(b)), an Authorized Representative shall prepare a Notice to Bidders and Bidding Instructions with respect thereto.

(b) All Project Notes sold to refund Notes, including amounts outstanding under the Revolving Note which evidence Advances under the Agreement are hereby deemed to be "refunding bonds" within the meaning of the Constitutional Amendment and therefore may be sold in the manner determined by an Authorized Representative to be most economically advantageous to the Board.

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

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

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

(iii) the Board is in compliance with the covenants set forth in Section 2.13 and Article VI as of the date of such instructions;

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

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

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

(d) The Revolving Note shall be delivered to the Bank and thereafter Advances may be made thereunder in accordance with the terms of the Agreement.

(e) Variable Rate Notes shall be issued and sold at public or private sale in the same manner provided for the issuance and sale of Commercial Paper Notes in subsections (a), (b) and (c) of this Section 5.01 and pursuant to the provisions of Articles III and IV; except that the certification described in Section 5.01(c)(iv) shall be calculated on the basis of a 360-day year of twelve 30-day months or a 365-day year and actual days elapsed, as applicable.

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

(i) Proceeds to be used for the payment and redemption or purchase of outstanding Project Notes at or before maturity and the refunding of any Advances (evidenced by the Revolving Note) under the Agreement shall be expended therefor.

(ii) Proceeds not to be retained in the Series A Note Payment Fund as provided in subparagraph (i) above shall be transferred to the Series A Note Construction Account and used and applied in accordance with the provisions of Section 2.14.

Section 5.03. Issuing and Paying Agent Agreement. That the Issuing and Paying Agent Agreement by and between the Board and Morgan Guaranty Trust Company of New York, New York, New York, relating to the Project Notes authorized to be issued pursuant to the terms of the Original Resolution was heretofore approved as to form and content by the Board. An Authorized Representative is hereby authorized and directed to approve, execute and deliver to the Issuing and Paying Agent any such changes, additions, or amendments thereto as may be necessary and proper to carry out the purpose and intent of the Board in authorizing the increase in the amount of Notes at any time outstanding as authorized by the Resolution. An Authorized Representative is hereby authorized to enter into any supplemental agreements with the Issuing and Paying Agent or with any successor Issuing and Paying Agent.

Section 5.04. Remarketing Agreement. That the Remarketing Agreement by and between the Board and Goldman, Sachs & Co. (the "Dealer" or "Remarketing Agent") pertaining to the sale, from time to time, of Project Notes or the purchase of Project Notes from the Board, all for a fee as set forth in said Remarketing Agreement, was heretofore approved as to form and content. An Authorized Representative is hereby authorized and directed to approve, execute and deliver to the Dealer such changes, additions, or amendments thereto as may be necessary and proper to carry out the purpose and intent of the Board in authorizing the increase in the amount of Notes at any time outstanding as authorized by this

Resolution. An Authorized Representative is hereby authorized to enter any supplemental agreements with the Dealer or with any successor Dealer selected by the Board.

Section 5.05. Initial Sale. There currently are outstanding \$75,000,000 in principal amount of Variable Rate Notes issued as Flexible Rate Notes. The Board hereby authorizes that, in addition to the \$75,000,000 in Variable Rate Notes outstanding, additional Project Notes may be issued as provided in this Resolution to the extent that the aggregate principal amount of Project Notes at any time outstanding shall not exceed \$250,000,000. The Board hereby directs an Authorized Representative to sell the additional Project Notes through competitive bid in accordance with the procedures described in the Official Notice of Sale and Official Bid Form attached hereto as Exhibit B; provided, that, an Authorized Representative may vary the date and times of such competitive sale.

ARTICLE VI

COVENANTS OF THE BOARD

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

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

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

Section 6.03. Payment of Fund Priority Obligations and Notes.

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

Section 6.04. Maintenance of Available Credit Facilities Requirement.

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

(b) The Agreement presently satisfies the covenant contained in paragraph (a) above with respect to the issuance of up to \$250,000,000 in aggregate principal amount at any one time outstanding of Commercial Paper Notes and Variable Rate Notes, which have not been converted to a Fixed Rate.

Section 6.05. Available Funds. To the extent Notes cannot be issued to renew or refund outstanding Notes, the Board in good faith shall endeavor to sell a sufficient principal amount of Fund Priority Obligations, Short Term Obligations, or other obligations of the Board under the Constitutional Amendment in order to have funds available, together with other moneys available therefor, to pay the Notes and the interest thereon, or any renewals thereof, as the same shall become due, and other amounts due under the Agreement.

Section 6.06. Notes to Remain Tax Exempt. (a) The Board covenants to refrain from any action which would adversely affect, or to take such action to ensure, the treatment of the Notes as obligations described in section 103 of the Internal Revenue Code of 1986 (the "Code"), the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the Board covenants as follows:

(i) to take any action to assure that no more than 10 percent of the aggregate proceeds of the outstanding notes (less amounts deposited to a reserve fund, if any) are used for any "private business use", as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds are so used, that amounts, whether or not received by the Board, with respect to such private business use, do not, under the terms of this Resolution or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the aggregate debt service on the outstanding notes, in contravention of section 141(b)(2) of the Code;

(ii) to take any action to assure that in the event that the "private business use" described in subsection (i) hereof exceeds 5 percent of the aggregate proceeds of the outstanding notes (less amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a "private business use" which is "related" and not "disproportionate", within the meaning of section 141(b)(3) of the Code, to the governmental use;

(iii) to take any action to assure that no amount which is greater than the lesser of \$5,000,000, or 5 percent of the aggregate proceeds of the outstanding notes (less amounts

deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(iv) to refrain from taking any action which would otherwise result in the Notes being treated as "private activity bonds" within the meaning of section 141(b) of the Code; and

(v) to refrain from taking any action that would result in the Notes being "federally guaranteed" within the meaning of section 149(b) of the Code.

(b) The Board further covenants that it will execute and deliver to the Issuing and Paying Agent a No-Arbitrage Certificate in the form set forth by Bond Counsel in connection with the original issuance of the Notes, and each issuance of Notes thereafter to pay Project Costs, and that in connection with any other issuance of Notes, it will execute and deliver to the Issuing and Paying Agent a confirmation that the facts, estimates, circumstances and reasonable expectations contained therein continue to be accurate as of such issue date. The Board represents and covenants that it will not expend, or permit to be expended, the proceeds of any Notes in any manner inconsistent with its reasonable expectations as certified in the No-Arbitrage Certificates to be executed from time to time with respect to the Notes; provided, however, that the Board may expend Note proceeds in any manner if the Board first obtains an unqualified opinion of Bond Counsel that such expenditure will not adversely affect the exemption from federal income taxation of interest paid on the Notes. The Board represents that it has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that it is an issuer whose arbitrage certifications may not be relied upon. The Board further covenants with the Holders of all Notes at any time outstanding that no use of the proceeds of any of the Notes or any other funds of the Board will be made which will cause any of such Notes to be "arbitrage bonds" subject to federal income taxation by virtue of being described in section 148 of the Code. In particular, but not by way of limitation, so long as any of the Notes are outstanding, the Board, with respect to such proceeds and other funds which may be treated as proceeds, will comply with all requirements of section 148 and the regulations of the United States Department of the Treasury issued thereunder, to the extent that such regulations are, at the time, applicable and in effect. In particular, but not by way of limitation, the Board covenants:

(i) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Notes to pay issued Project Costs) an amount that is at

least equal to 90 percent of the "Excess Earnings", within the meaning of section 148(f) of the Code and to pay to the United States of America, not later than 60 days after the Notes have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code; and

(ii) to maintain such records as will enable the Board to fulfill its responsibilities under this section and section 148 of the Code and to retain such records for at least six years following the final payment of principal and interest on the Notes.

(c) It is the understanding of the Board that the covenants contained in this Section 6.06 are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify, or expand provisions of the Code, as applicable to the Notes, the Board will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally-recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Notes under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Notes, the Board agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally-recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Notes under section 103 of the Code.

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

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

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

Section 6.10. Reservation of Right to Issue Obligations of Superior Lien, Obligations of Inferior Lien and Short Term Obligations. The Board hereby expressly reserves the right to hereafter issue obligations payable from and secured by a lien on and pledge of the Interest of the University in the Available University Fund prior in right and claim to the lien on and pledge of the Interest of the University in the Available University Fund covering the payment of the Notes. Furthermore, the Board expressly reserves the right to hereafter issue additional Notes or Short Term Obligations when and as the Board shall determine and authorize without any limitation as to principal amount or otherwise, which additional Notes or Short Term Obligations may be equally and ratably payable from and secured by a lien on and pledge of the Interest of the University in the Available University Fund of equal rank and dignity with the lien and pledge securing the payment of the Notes and may or may not be secured by the Agreement. The Board also retains the right to issue obligations or other evidences of indebtedness or to incur contractual obligations secured by a lien on and pledge of the Interest of the University in the Available University Fund junior and subordinate to the lien and pledge securing the Notes. Notwithstanding any of the above to the contrary, the Board covenants that the lien created by this Resolution will not be impaired in any manner as a result of any action or non-action on the part of the Board or officers of the System, and that the Board will, subject to the provisions hereof, continuously preserve the Fund and each and every part thereof.

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES OF NOTEHOLDERS

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

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

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

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

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

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

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

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

ARTICLE VIII

MISCELLANEOUS

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

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

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

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

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

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

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

(1) Make any change in the stated maturity of any of the outstanding Project Notes;

(2) Reduce the rate of interest borne by any of the outstanding Project Notes;

(3) Reduce the amount of the principal payable on any of the outstanding Project Notes;

(4) Modify the terms of payment of principal of or interest on the outstanding Project Notes, or impose any conditions with respect to such payment;

(5) Affect the rights of the Holders of less than all of the outstanding Project Notes; and

(6) Reduce or restrict the pledge made herein (Section 2.12) for payment of the Project Notes;

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

Section 8.02. Additional Actions. The Chairman of the Board, the Executive Secretary of the Board, the Authorized Representatives and the other officers of the Board are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to consummate the issuance, sale, and delivery of the Notes and otherwise to effectuate the purposes of this Resolution, the Agreement, the Remarketing Agreement, the Trust Agreement, and the Issuing and Paying Agent Agreement. In addition, the Chairman of the Board, the Chancellor, any Executive Vice Chancellor, the General Counsel to the System, and Bond Counsel are hereby authorized to approve, subsequent to the date of the adoption of this Resolution, any amendments to the Trust Agreement, the Issuing and Paying Agent Agreement, the Remarketing Agreement, and the documents attached hereto as Exhibits A and B, and any technical amendments to this Resolution as may be required by Moody's, Standard & Poor's, or Fitch as a condition to the granting of a rating on the Project Notes.

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

Section 8.04. Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held

invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other provisions hereof or of the Notes issued hereunder.

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

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

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

stipulations, promises, agreements, and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the Board, the Noteholders, the Issuing and Paying Agent/Registrar and the parties to the Remarketing Agreement and the Agreement as herein and therein provided.

Section 8.08. Approval of Attorney General. No Notes herein authorized to be issued shall be sold or delivered by an Authorized Representative until the Attorney General of the State of Texas shall have approved this Resolution, the Agreement, and other agreements and proceedings as may be required in connection therewith, and therefor the Notes to be issued in accordance with such proceedings, all as is required by the Constitutional Amendment and the Acts.

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

PASSED AND ADOPTED, this the 7th day of December, 1989.

ATTEST:

Executive Secretary

Chairman

(Seal)

\$269,000,000

AMENDED AND RESTATED
CREDIT AGREEMENT

dated as of

December 7, 1989

between

BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM

and

MORGAN GUARANTY TRUST COMPANY OF NEW YORK

EFFECTIVE DATE: _____, 19__

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AMENDED AND RESTATED
CREDIT AGREEMENT

This Amended and Restated Credit Agreement is effective and dated as of December 7, 1989, between the BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM (the "Board") and MORGAN GUARANTY TRUST COMPANY OF NEW YORK.

W I T N E S S E T H:

WHEREAS, The University of Texas System (hereinafter sometimes referred to as the "System") is governed by the Board; and

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

WHEREAS, an amendment to Section 18 of Article VII of the Texas Constitution, adopted by vote of the people of Texas on November 6, 1984 (the "1984 Constitutional Amendment") authorizes the Board to issue bonds and notes not to exceed a total amount of twenty percent (20%) of the cost value of investments and other assets (exclusive of real estate) of the Permanent University Fund (hereinafter defined) at the time of issuance thereof, and to pledge all or any part of its two-thirds (2/3) interest in the "Available University Fund" (hereinafter defined) to secure the payment and interest of those bonds and notes, for the purpose of acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, major repair and rehabilitation of buildings and other permanent improvements, acquiring capital equipment and library books and library materials, and refunding bonds or notes issued under the 1984 Constitutional Amendment or prior law, at or for System administration and certain component institutions of the System; and

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

WHEREAS, pursuant to its resolution, adopted December 5, 1985 (the "Original Resolution"), the Board authorized the issuance of obligations, to be evidenced by Notes (hereinafter defined), in an aggregate principal amount not to exceed One Hundred Nine Million Dollars (\$109,000,000) to provide interim financing to pay Project Costs for Eligible Projects (as such terms are hereinafter defined) and to refinance, renew or refund Notes including interest thereon, including Commercial Paper Notes, Variable Rate Notes, and a Promissory Note (as such terms are hereinafter defined) in an aggregate principal amount not to exceed One Hundred Nine Million Dollars (\$109,000,000) at any one time outstanding; and

WHEREAS, pursuant to the Credit Agreement (the "Original Credit Agreement") dated as of December 16, 1985, among the Board, MBank Dallas, National Association ("MBank Dallas") and MBank Austin, National Association ("MBank Austin"), MBank Dallas agreed to make certain loans to the Board in the amounts up to, but not exceeding \$109,000,000, such loans to be made to enable the Board to refund Project Notes (hereinafter defined), including interest thereon; and

WHEREAS, pursuant to a resolution amending the Original Resolution, adopted December 4, 1986 (as amended, the "1986 Amended Resolution"), the Board authorized the execution and delivery of an amended and restated credit agreement between the Board and Morgan Guaranty Trust Company of New York, and as of December 5, 1986, the Board discharged MBank Dallas and MBank Austin from all obligations under the Original Credit Agreement; and

WHEREAS, pursuant to the Amended and Restated Credit Agreement (the "1986 Restated Credit Agreement") dated as of December 5, 1986, between the Board and the Bank (hereinafter defined), the Bank assumed the obligations of MBank Dallas and MBank Austin, and agreed to make certain loans to the Board in amounts up to, but not exceeding, \$109,000,000, such loans to be made to enable the Board to refund Project Notes, including interest thereon; and

WHEREAS, on February 11, 1988, the Board adopted a resolution amending and restating the 1986 Amended Resolution (as amended, the "1988 Amended Resolution"), to provide for an increase in the maximum amount of outstanding obligations authorized to be issued, including an increase in the aggregate principal amount of the Promissory Note, to an aggregate principal amount not to exceed One Hundred Thirty-Four Million Five Hundred Thousand Dollars (\$134,500,000), to provide interim financing to pay Project Costs for Eligible Projects; and

WHEREAS, the Board and the Bank amended and restated the 1986 Restated Credit Agreement to provide for an increase in the amount of the Bank Loan Commitment (hereinafter defined) pursuant to an

Amended and Restated Credit Agreement dated as of February 11, 1988 (the "1988 Restated Credit Agreement"); and

WHEREAS, on December 7, 1989, the Board adopted a resolution (the "Resolution"), amending and restating the 1988 Amended Resolution to provide for an increase in the maximum amount of outstanding obligations authorized to be issued, including an increase in the aggregate principal amount of the Promissory Note, to an aggregate principal amount not to exceed Two Hundred Sixty-Nine Million (\$269,000,000) to provide interim financing to pay Project Costs for Eligible Projects; and

WHEREAS, the Board and the Bank desire to amend and restate the 1988 Restated Credit Agreement to provide for an increase in the amount of the Bank Loan Commitment (hereinafter defined) in the manner herein provided;

NOW THEREFORE, the parties hereto agree as follows:

[END OF RECITALS]

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. The terms defined below have the following meanings when used herein unless the context shall indicate a contrary meaning:

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

"Advance" shall mean a Prime Advance or a CD Advance and "Advances" shall mean Prime Advances or CD Advances or both.

"Adjusted CD Rate" shall mean Adjusted CD Rate as defined in Section 2.04(b).

"Amended Resolution" shall have the meaning set forth on recitals to of this Agreement.

"Assessment Rate" shall mean Assessment Rate as defined in Section 2.04(b).

"Agreement" shall mean this Amended and Restated Credit Agreement, as from time to time amended or supplemented.

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

"Available Bank Loan Commitment" shall mean, with respect to the Bank and at any date, the Bank Loan Commitment less the aggregate principal amount of Advances made by the Bank to the Board.

"Available University Fund" shall mean, as provided in Article VII, Section 18 of the Texas Constitution, all of the dividends, interest, and other income from the Permanent University Fund (less administrative expenses), including the net income attributable to the surface of Permanent University Fund land.

"Bank" shall mean Morgan Guaranty Trust Company of New York or its herein permitted successors or assigns.

"Bank Loan Commitment" shall mean Two Hundred Sixty-Nine Million Dollars (\$269,000,000), being the maximum principal amount

for which the Bank is committed to make Advances, as such amount may be reduced pursuant to Section 2.06.

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

"Bond Counsel" shall mean Messrs. McCall, Parkhurst & Horton.

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

"CD Advance" shall mean an Advance to be made as a CD Advance pursuant to the applicable Notice of Advance.

"CD Base Rate" shall mean CD Base Rate as defined in Section 2.04(b).

"CD Margin" shall mean CD Margin as defined in Section 2.04(b).

"Code" shall mean the Internal Revenue Code of 1986, as amended from time to time, and when reference is made to a particular section thereof, the applicable Treasury Regulations from time to time promulgated or proposed thereunder.

"Commercial Paper Note" shall mean a Note issued pursuant to the provisions of the Resolution, having the terms and characteristics specified in Section 2.03 of the Resolution and in the form described in Section 2.07(a) of the Resolution.

"Commitment Reduction Date" shall mean the first day of each January, April, July and October of each year, commencing on the second such day after the Term Loan Conversion Date, to and including the Maturity Date.

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

"Constitutional Amendment Bond Resolution" shall mean any resolution authorizing the issuance of the Constitutional Amendment Bonds.

"Constitutional Amendment Bonds" shall mean the Series 1985 Bonds, the Series 1988 Bonds and any additional bonds and notes, including refunding bonds and notes, issued on a parity with the Series 1985 Bonds and the Series 1988 Bonds pursuant to the

Constitutional Amendment, but not including the Notes and any Short Term Obligations not issued on a parity with the Series 1985 Bonds and the Series 1988 Bonds.

"Dealer" or "Remarketing Agent" shall mean the dealer or remarketing agent selected from time to time by the Board to remarket the Project Notes in accordance with Section 5.04 of the Resolution. The initial Dealer shall be Goldman, Sachs & Co.

"Default" or "Event of Default" shall mean any of the events described in Section 8.01.

"Domestic Reserve Percentage" shall mean Domestic Reserve Percentage as defined in Section 2.04(b).

"Effective Date" shall mean the Effective Date as defined in Section 3.01.

"Eligible Project" shall mean the acquisition of land either with or without permanent improvements, the construction and equipping of buildings or other permanent improvements, major repair and rehabilitation of buildings and other permanent improvements, the acquisition of capital equipment and library books and library materials, and refunding bonds or notes issued under the Constitutional Amendment or prior law (law in effect prior to November 6, 1984). The term "Eligible Project" shall not include the construction, equipping, repairing or rehabilitating of buildings or other permanent improvements that are to be used for student housing, intercollegiate athletics, or auxiliary enterprises.

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

"Fixed CD Rate" shall mean Fixed CD Rate as defined in Section 2.04(b).

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

"Holder" shall mean the Bank and any other holder of the Promissory Note or any entity to which the Bank or any such other holder sells a participation in the Promissory Note (whether or not the Board was given notice of such sale and whether or not the

Holder has an interest in the Promissory Note at the time amounts are payable to such Holder thereunder and under this Agreement) and any affiliated group (within the meaning of Section 1504 of the Code or any successor section thereto) of which any Holder is a member.

"Immediately Available Bank Loan Commitment" shall mean, as of any date of calculation, (i) from the Effective Date until the effective date of the initial Reduction Notice, an amount equal to (A) a principal amount of \$75,000,000 in Project Notes, together with the Interest Commitment on such principal amount, plus (B) an amount equal to the cumulative principal amount of any additional Project Notes issued in excess of \$75,000,000, together with the Interest Commitment on such cumulative principal amount, and (ii) from and after the effective date of the initial Reduction Notice, an amount equal to (X) the principal amount of Project Notes outstanding on the date of the most recently delivered Reduction Notice, together with the Interest Commitment on such principal amount, plus (Y) an amount equal to the cumulative principal amount of any additional Project Notes issued after the date of the most recently delivered Reduction Notice, together with the Interest Commitment on such cumulative principal amount.

"Increase Notice" shall mean a notice completed and executed by an Authorized Representative in substantially the form attached hereto as Exhibit "D".

"Interest Commitment" shall mean, with respect to any principal amount of Project Notes, interest on such principal amount for 185 days (calculated in the manner set out in Section 2.04(f)) at the rate of 15 percent per annum.

"Interest of the University" and "Interest" in the Available University Fund shall mean, with respect to the Constitutional Amendment Bonds, the System's two-thirds interest in the Available University Fund.

"Interest Period" shall mean: (i) with respect to each CD Advance, the period commencing on the date of such Advance and ending 30, 60, 90 or 180 days thereafter, as the Authorized Representative may elect in the applicable Notice of Advance; provided that:

(A) any Interest Period which begins before the first Commitment Reduction Date and would otherwise end after the first Commitment Reduction Date shall end on the first Commitment Reduction Date; and

(B) if any Interest Period includes a date on which a payment of principal of the Advances is required to be made

under Section 2.06 hereof but does not end on such date, then (1) the principal amount (if any) of each CD Advance required to be repaid on such date shall have an Interest Period ending on such date and (2) the remainder (if any) of each such CD Advance shall have an Interest Period determined as set forth above; and

(ii) with respect to each Prime Advance, the period commencing on the date of such Advance and ending 30 days thereafter; provided that:

(A) any Interest Period which begins before the first Commitment Reduction Date and would otherwise end after the first Commitment Reduction Date shall end on the First Commitment Reduction Date; and

(B) if any Interest Period includes a date on which a payment of principal of the Advances is required to be made under Section 2.06 but does not end on such date, then (1) the principal amount (if any) of each Prime Advance required to be repaid on such date shall have an Interest Period ending on such date and (2) the remainder (if any) of each such Prime Advance shall have an Interest Period determined as set forth above.

"Interest Recapture" shall mean as of any date the cumulative amount by which the amount of interest accrued and payable as of such date in respect of all Advances made and repaid or prepaid prior to such date is, as a result of the limitations contained herein on the rate or amount of interest which may be charged or collected hereunder, less than the cumulative amount thereof which would have otherwise accrued and been payable thereon at the rate determined under Section 2.04 (other than the provisions of subsection (d) thereof), but only to the extent that such deficiency has not been recovered by the Bank pursuant to clause (y) of Section 2.04(d)(ii).

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

"Lending Office" shall mean, as to the Bank, its office located at its address set forth on the signature pages hereof or such other office as the Bank may hereafter designate as its Lending Office by notice to the Board.

"Maturity Date" shall mean the date seven years after the first Commitment Reduction Date.

"Maximum Interest Rate" shall mean the lesser of (a) the maximum nonusurious rate of interest permitted to be charged by applicable federal or Texas law (whichever shall permit the higher lawful rate) from time to time in effect and (b) the maximum net effective interest rate permitted by law to be paid on obligations issued or incurred by the Board in the exercise of its borrowing powers (currently prescribed by Article 717k-2, V.A.T.C.S., as amended, or any successor provision).

"1988 Restated Credit Agreement" shall mean the 1988 Restated Credit Agreement as defined in the recitals to this Agreement.

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

"1986 Restated Credit Agreement" shall mean the 1986 Restated Credit Agreement as defined in the recitals to this Agreement.

"Note" or "Notes" shall mean the evidences of indebtedness authorized to be issued and at any time outstanding pursuant to the Resolution and shall include Commercial Paper Notes or Variable Rate Notes, or the Promissory Note, as appropriate.

"Notice of Advance" shall mean that notice completed and executed by an Authorized Representative in substantially the form attached hereto as Exhibit "B", which notice shall serve as a written request to borrow funds for the purposes and in the manner set forth in this Agreement.

"Notice of Default" shall mean a notice of Default or an Event of Default under this Agreement.

"Original Resolution" shall have the meaning set forth on recitals to this Agreement.

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

"Permanent University Fund Obligations" shall mean, collectively, all bonds or notes of the Board or the Board of Regents of The Texas A&M University System heretofore or hereafter issued and delivered pursuant to the provisions of the Constitutional Amendment, including without limitation the Promissory Note, payable from and secured by a lien on and pledge of income from the Permanent University Fund.

"Person" shall mean an individual, a corporation, a partnership, an association, a trust or any other entity or organization, including a governmental or political subdivision or an agency or instrumentality thereof.

"Prime Advance" shall mean an Advance to be made as a Prime Advance pursuant to the applicable Notice of Advance or Article IX.

"Prime Rate" shall mean the rate of interest publicly announced by Morgan Guaranty Trust Company of New York in New York City from time to time as its Prime Rate.

"Principal and Interest Requirements" shall mean, with respect to any Fiscal Year, the amounts of principal of and interest on Fund Priority Obligations, Notes and Short Term Obligations scheduled to be paid in such Fiscal Year from the Interest of The University in the Available University Fund. For purposes hereof, amortization of principal (i) with respect to Short Term Obligations shall be based on average annual amortization over the term of the obligation in question and (ii) with respect to the Notes, shall be based upon the repayment of principal amounts required under the Promissory Note and Sections 2.01(d) and 2.06 of this Agreement, assuming for purposes of such calculation that the full amount of the Bank Loan Commitment has been or will be converted to the Term Loan on the Term Loan Conversion Date. If the rate or rates of interest to be borne by any Fund Priority Obligations, Notes, or Short Term Obligations is not fixed, but is variable or adjustable by any formula, agreement, or otherwise, and therefore cannot be calculated as actually being scheduled to be paid in a particular amount for any particular period, then for the purposes of the previous sentence such Fund Priority Obligations, Notes, or Short Term Obligations shall be deemed to bear interest at all times to maturity or due date at the annual rate equal to (A) with respect to Short Term Obligations and Fund Priority Obligations, the lesser of (1) the maximum rate then permitted by law, or (2) the maximum rate specified therein to be borne by such Fund Priority Obligations or Short Term Obligations during the next Fiscal Year and (B) with respect to the Notes, the lesser of (1) the maximum rate then permitted by law, or (2) 12%.

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

reimbursement for such Project Costs attributable to Eligible Projects incurred prior to the issuance of any Project Notes.

"Project Note" shall mean, as appropriate, a Note or all the Notes, other than the Promissory Note.

"Promissory Note" shall mean the refunding promissory bond issued pursuant to the provisions of the Resolution and this Agreement in evidence of Advances made by the Bank under this Agreement to refund a Project Note or Project Notes, such refunding promissory bond to be substantially the form attached hereto as Exhibit "A", with appropriate completions, and any and all renewals, extensions or modifications thereof. The Promissory Note is the "Revolving Note" referred to in the Resolution.

"Reduction Notice" shall mean a notice completed and executed by an Authorized Representative in substantially the form attached hereto as Exhibit "C".

"Repayment Advance" shall mean an Advance which, after application of the proceeds thereof, results in no net increase in the outstanding principal amount of Advances made by the Bank.

"Resolution" shall mean the amended and restated Resolution adopted by the Board on December 7, 1989 relating to the issuance of Project Notes and authorizing this Agreement and the Promissory Note.

"Revolving Credit Period" shall mean the period from the Effective Date to but not including the Term Loan Conversion Date.

"Series 1988 Bonds" shall have the meaning set forth in the recitals to this Agreement.

"Series 1985 Bonds" shall have the meaning set forth in the recitals to this Agreement.

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

"Special System Account" shall mean the State Treasurer University of Texas Special System Account established by the Treasurer of the State of Texas pursuant to the Resolution.

"Standby Available Bank Loan Commitment" shall mean, as of the date of calculation, the Available Bank Loan Commitment less the Immediately Available Bank Loan Commitment.

"Term Loan" shall mean the Advances evidenced by the Promissory Note from, after, and including the Term Loan Conversion Date.

"Term Loan Conversion Date" shall mean January 1, 1993 or such later date, if any, as may be agreed to pursuant to Section 2.12(a) hereof.

"Variable Rate Note" shall mean a Note issued pursuant to the provisions of the Resolution, having the terms and characteristics specified in Section 2.04 and Articles III and IV thereof and in substantially the form described in Section 2.07(b) of the Resolution the interest rate on which is adjusted from time to time in accordance with Article III thereof.

Section 1.02. Incorporation of Certain Definitions by Reference. Any terms with an initial capital letter which are used herein and which are not otherwise defined herein shall have the meanings assigned to them in the Resolution as in effect on the Effective Date unless the context shall indicate a contrary meaning.

Section 1.03. Accounting Terms. All accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared in accordance with Section 61.065 of the Texas Education Code.

Section 1.04. Rules of Construction. For all purposes of this Agreement, unless the context requires otherwise, all references to designated Articles, Sections and other subdivisions are to the Articles, Sections and other subdivisions of this Agreement.

Section 1.05. Interpretations. The table of contents, titles and headings of this Agreement have been inserted for convenience of reference only and are not to be considered a part of this Agreement and shall not in any way modify or restrict any of the terms or provisions hereof.

[END OF ARTICLE I]

ARTICLE II

REVOLVING CREDIT

Section 2.01. Terms of Revolving Credit.

(a) Commitment to Lend. The Bank agrees that it will, during the Revolving Credit Period, on the terms and conditions set forth in this Agreement, lend to the Board from time to time amounts up to, but not to exceed, an aggregate principal amount at any one time outstanding equal to the Bank Loan Commitment. Each Advance hereunder shall be made in such amount as may be requested by an Authorized Representative to refund amounts due under one or more Project Notes, including any amounts payable as a result of the exercise of any demand provision contained in the Project Notes. All Advances other than Repayment Advances made pursuant to this Section 2.01(a) shall initially be Prime Advances and Repayment Advances may be either Prime Advances or CD Advances. Within the foregoing limits, the Board may borrow under this Section 2.01(a), prepay under Section 2.07 and reborrow under this Section 2.01(a) at any time and from time to time during the Revolving Credit Period.

(b) After the Revolving Credit Period. After the Revolving Credit Period the Bank agrees, on the terms and conditions set forth in this Agreement, to make a new Advance to the Board upon the repayment of an outstanding Advance pursuant to Section 2.01(d) or any optional prepayment of an outstanding Advance pursuant to Section 2.07; provided that the principal amount of the Bank's new Advance shall not exceed the principal amount of its outstanding Advance being repaid or prepaid; and provided further that the aggregate principal amount of the Bank's outstanding Advances shall at no time exceed the Bank Loan Commitment. Amounts required to be repaid pursuant to Section 2.06 shall not be reborrowed. The Advances made pursuant to this Section 2.01(b) may be Prime Advances or CD Advances.

(c) Consolidation of Outstanding Advances. On the first Commitment Reduction Date the Bank's outstanding Advances shall be consolidated into a single Advance and thereafter there shall be no more than one Advance outstanding hereunder at any time. If any combination of CD Advances or Prime Advances are outstanding immediately prior to the first Commitment Reduction Date, the Board shall borrow new Advances of one type on such date to the extent required to refund its outstanding Advances of the other type.

(d) Maturity of Advances. Each Advance shall mature, and the principal amount thereof shall be due and payable, on the last day of the Interest Period applicable thereto.

Section 2.02. Method of Borrowing.

(a) Each Advance shall be made to the Board (or as directed by it) pursuant to its borrowing request made to the Bank as prescribed in this Section 2.02, which request shall be so made not later than 2:15 p.m. (local time in New York, New York) on the date of the proposed Advance, which date shall be a Business Day. A request for an Advance shall be made to the Bank by delivery or telecopy of a completed and signed Notice of Advance or by telephonic notice confirmed as soon as possible by delivery or telecopy of a completed and signed Notice of Advance, provided that the Advance shall not be conditioned upon the receipt of the confirming Notice of Advance.

(b) Each Notice of Advance, whether by telephone, telecopy or in writing, requesting an Advance shall specify therein:

(i) the date of such Advance, which shall be a Business Day,

(ii) the amount of such Advance,

(iii) whether such Advance is to be a CD Advance or a Prime Advance, and

(iv) in the case of a CD Advance, the duration of the Interest Period applicable thereto, subject to the provisions of the definition of Interest Period.

(c) If the Bank makes a new Advance hereunder on a day on which the Board is to repay all or any part of an outstanding Advance from the Bank, the Bank shall apply the proceeds of its new Advance to make such repayment and only an amount equal to the difference (if any) between the amount being borrowed and the amount being repaid shall be made available by the Bank as provided in subsection (d) of this Section, or remitted by the Board as provided in Section 2.08, as the case may be.

(d) Upon receipt by the Bank of the Notice of Advance, the Board's request for an Advance as therein set out shall not be revocable by the Board. At or prior to 3:00 p.m. (local time in New York, New York) on the date for which the Advance is requested, except as provided in subsection (c) above, and subject to satisfaction of the applicable conditions set forth in Section 3.02, the Bank shall make available, in federal or other immediately available funds, to the Paying Agent, the funds necessary for such Advance, for the account of the holders of Project Notes, as directed by the Board in its Notice of Advance.

Section 2.03. Promissory Note. (a) The Advances of the Bank shall be evidenced by a single Promissory Note payable to the order of the Bank for the account of its Lending Office in a principal amount equal to the aggregate unpaid principal amount of the Bank's Advances. The Promissory Note shall bear interest and shall be due and payable on the dates, in the amounts and under the circumstances set forth herein with respect to the Advances and in the Promissory Note.

(b) The Bank shall record, and prior to any transfer of the Promissory Note shall endorse on the schedules forming a part thereof appropriate notations to evidence, the date, amount and maturity of each Advance made by it and the date and amount of each payment of principal made by the Board with respect thereto; provided that the failure of the Bank to make any such recordation or endorsement shall not affect the obligations of the Board hereunder or under the Promissory Note. The Bank is hereby irrevocably authorized by the Board so to endorse the Promissory Note and to attach to and make a part of the Promissory Note a continuation of any such schedule as and when required.

Section 2.04. Interest Rates. (a) Each Prime Advance shall bear interest on the outstanding principal amount thereof, for each day from the date such Advance is made until it becomes due, at a rate per annum equal to (i) the Prime Rate for such day, if such day falls prior to the Term Loan Conversion Date; (ii) the sum of $1/8$ of 1% plus the Prime Rate for such day, if such day falls on or after the Term Loan Conversion Date and prior to the third anniversary of the Term Loan Conversion Date; (iii) the sum of $1/4$ of 1% plus the Prime Rate for such day, if such day falls on or after the third anniversary of the Term Loan Conversion Date and prior to the fifth anniversary of the Term Loan Conversion Date; and (iv) the sum of $3/8$ of 1% plus the Prime Rate for such day if such day falls on or after the fifth anniversary of the Term Loan Conversion Date. Such interest shall be payable for each Interest Period on the last day thereof.

(b) Each CD Advance shall bear interest on the outstanding principal amount thereof, for the Interest Period applicable thereto, at a rate per annum equal to the applicable Fixed CD Rate; provided that if any CD Advance or any portion thereof shall, as a result of clause (i) of the definition of Interest Period, have an Interest Period of less than 30 days, such portion shall bear during such Interest Period at the rate applicable to Prime Advances during such period. Such interest shall be payable for each Interest Period on the last day thereof and, if such Interest Period is longer than 90 days, at intervals of 90 days after the first day thereof.

The "Fixed CD Rate" applicable to any CD Advance for any Interest Period means a rate per annum equal to the sum of the CD Margin plus the applicable Adjusted CD Rate.

"CD Margin" means (i) 1/2 of 1% prior to the Term Loan Conversion Date; (ii) 5/8 of 1% on and after the Term Loan Conversion Date and prior to the third anniversary of the Term Loan Conversion Date; (iii) 3/4 of 1% on and after the third anniversary of the Term Loan Conversion Date and prior to the fifth anniversary of the Term Loan Conversion Date; and (iv) 7/8 of 1% on and after the fifth anniversary of the Term Loan Conversion Date.

The "Adjusted CD Rate" applicable to any Interest Period means a rate per annum determined pursuant to the following formula:

$$\begin{aligned} \text{ACDR} &= \left[\begin{array}{c} \text{CDBR} \\ \text{-----} \\ 1.00 - \text{DRP} \end{array} \right] * + \text{AR} \\ \text{ACDR} &= \text{Adjusted CD Rate} \\ \text{CDBR} &= \text{CD Base Rate} \\ \text{DRP} &= \text{Domestic Reserve Percentage} \\ \text{AR} &= \text{Assessment Rate} \end{aligned}$$

* The amount in brackets being rounded upwards, if necessary, to the next higher 1/100 of 1%

The "CD Base Rate" applicable to any Interest Period is the rate of interest determined by the Bank to be the prevailing rate per annum bid at 10:00 A.M. (New York City time) (or as soon thereafter as practicable) on the first day of such Interest Period by two or more New York certificate of deposit dealers of recognized standing for the purchase at face value from Morgan Guaranty Trust Company of New York of its certificates of deposit in an amount comparable to the unpaid principal amount of the CD Advance of the Bank to which such Interest Period applies and having a maturity comparable to such Interest Period.

"Domestic Reserve Percentage" means for any day, that percentage (expressed as a decimal) which is in effect on such day, as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the maximum reserve requirement (including without limitation any basic, supplemental or emergency reserves) for a member bank of the Federal Reserve System in New York City with deposits exceeding five billion dollars in respect of new non-personal time deposits in dollars in New York City having a maturity comparable to the related Interest Period and in an amount of \$100,000 or more. The Fixed CD Rate

shall be adjusted automatically on and as of the effective date of any change in the Domestic Reserve Percentage.

"Assessment Rate" means for any Interest Period the net annual assessment rate (rounded, if necessary, to the nearest 1/100 of 1%) actually incurred by Morgan Guaranty Trust Company of New York to the Federal Deposit Insurance Corporation (or any successor) for such Corporation's (or such successor's) insuring time deposits at offices of Morgan Guaranty Trust Company of New York in the United States during the most recent period for which such rate has been determined prior to the commencement of such Interest Period.

(c) The Bank shall determine each interest rate applicable to the Advances hereunder. The Bank shall give prompt notice to the Board by telex or cable of each rate of interest so determined, and its determination thereof shall be conclusive in the absence of manifest error.

(d) Notwithstanding anything contained herein or in the Promissory Note to the contrary:

(i) if the rate or amount of interest applicable to an outstanding Advance evidenced by the Promissory Note, when calculated or determined under the provisions hereof, at any time would exceed the Maximum Interest Rate or would produce an amount which would be greater than the amount of interest determined at such rate, then the applicable rate and amount of interest payable in regard to such outstanding Advance shall be reduced to the Maximum Interest Rate and the amount determined at a rate per annum equal to the Maximum Interest Rate; and

(ii) (x) in the event that the amount of interest accrued in respect of any Advance as of any date, is, as a result of the limitations contained herein on the rate or amount of interest which may accrue on such Advances under the Promissory Note, less than the amount of interest which would have otherwise accrued on such Advance as of such date at the rate determined under this Section 2.04, (without regard to the provisions of this Subsection (d)) then the Promissory Note will continue to bear interest with respect to such Advance at the Maximum Interest Rate until such date (or the date such Advance is due and payable pursuant to Sections 2.01(d) and 2.06, if earlier) on which the cumulative amount of interest accrued on the Promissory Note with respect to such Advance equals the cumulative amount of interest which would have accrued thereon in accordance with this Section 2.04 (other than the provisions of this subsection (d)), at which date the rate of interest on the Promissory Note with respect to such Advance shall revert to the rates otherwise

provided for herein; and (y) to the extent and for such period (or, if earlier, the Maturity Date or the first date after the Term Loan Conversion Date shall occur on which no Advance is outstanding) as is necessary for the Bank to obtain the amount of Interest Recapture as to Advances previously made and repaid or prepaid, each subsequent Advance made prior to the full recovery of the amount of Interest Recapture shall itself bear interest at the Maximum Interest Rate until the Bank shall have recovered the full amount of Interest Recapture in respect of all prior Advances; and

(iii) in all events, all interest accruing on or becoming payable in respect of the Promissory Note or any Advance evidenced thereby, including not only amounts so denominated herein but also any other payment, consideration, value, benefit or other compensation for the use, forbearance or detention of money, shall never exceed an amount or produce a rate in excess of the maximum amount or rate that may lawfully be contracted for, charged, reserved, received or paid under applicable law in respect of the Promissory Note or any such Advance.

(e) Beginning five (5) days after the date any amount of principal or interest is due under the Promissory Note, any overdue principal of and, to the extent permitted by law, overdue interest on, (i) any Prime Advance shall bear interest, payable on demand, for each day the same is overdue until paid, at a rate per annum equal to the lesser of (x) the sum of 1% per annum plus the otherwise applicable rate for such day, or (y) the Maximum Interest Rate, or (ii) any CD Advance shall bear interest, payable on demand, for each day the same is overdue until paid at a rate per annum equal to the lesser of the (x) sum of 1% plus the higher of (a) the Fixed CD Rate for the current (or next preceding) Interest Period and (b) the rate applicable to Prime Advances for such day and (y) the Maximum Interest Rate.

(f) Computation of the commitment fee, which is provided for in Section 2.05, and, subject to the last sentence of this Section 2.04(f), of interest on Advances based on the Prime Rate shall be made on the basis of a year of 365 or 366 days, as the case may be, applied to and payable for the actual number of days elapsed (including the first day but excluding the last day). Interest on Advances based on the Adjusted CD Rate shall be computed on the basis of a year of 360 days and paid for the actual number of days elapsed, calculated as to each Interest Period from and including the first day thereof but excluding the last day thereof. Any calculation made pursuant to this Section 2.04(f) (other than with respect to the commitment fee which is provided for by Section 2.05) that would cause the interest paid, payable or accruing on the indebtedness of the Board under this Agreement

and the Promissory Note to exceed the Maximum Interest Rate shall be adjusted so as to reduce the interest paid, payable and accruing hereunder to such Maximum Interest Rate, as more fully set out in this Agreement.

(g) Notwithstanding anything contained herein to the contrary, the interest rates applicable to Advances may be changed at any time upon the mutual written agreement of the Board and the Bank. If any such change in the interest rates applicable to Advances is so agreed to, this Agreement and the Promissory Note shall remain outstanding and continue in full force and effect, without modification other than as to the change in the interest rates applicable to Advances, and all Advances will continue to be made under the Promissory Note in accordance with this Agreement, modified only to reflect the agreement of the parties with respect to the changed interest rates applicable to Advances.

Section 2.05. Commitment Fees. (a) The Board shall pay to the Bank a commitment fee on the Standby Available Bank Loan Commitment and the Immediately Available Bank Loan Commitment for each day during the Revolving Credit Period. The commitment fee (calculated in the manner set out in Section 2.04(f) above) on the Standby Available Bank Loan Commitment shall equal .08 percent per annum, and the commitment fee (calculated in the manner set out in Section 2.04(f) above) on the Immediately Available Bank Loan Commitment shall equal .125 percent (12.5 basis points) per annum. On November __, 1989, the Immediately Available Bank Loan Commitment shall be determined, as set forth in the definitions contained in this Agreement, on the basis of a principal amount of \$75,000,000 in Project Notes outstanding. On any date after which the Board has issued Project Notes in a cumulative principal amount at least equal to \$75,000,000 and has thereafter paid Project Notes in an aggregate principal amount at least equal to \$25,000,000, the Board, acting through an Authorized Representative, shall be entitled to deliver to the Bank the Reduction Notice set forth in Attachment C hereto. The reduction shall be effective on the date on which the Bank receives the Reduction Notice. Each time that the Board issues additional Project Notes, an Authorized Representative shall deliver to the Bank an Increase Notice, in the form set forth on Attachment D hereto, and, except as described above, the Standby Available Bank Loan Commitment shall decrease and the Immediately Available Bank Loan Commitment shall increase effective as of the date of issuance of such additional Project Notes.

(b) The commitment fee shall accrue from and including the Effective Date to (but excluding) the Term Loan Conversion Date and shall be payable (i) on the first day of each January, April, July, and October during the term hereof and (ii) on the Term Loan Conversion Date. No commitment fee shall be payable or accrue in

respect of Advances advanced and outstanding under the Bank Loan Commitment.

Section 2.06. Termination or Reduction of Commitment.

(a) During the Revolving Credit Period, the Board may, upon at least three Business Days' notice to the Bank and any rating agency which has issued a rating of the Project Notes, terminate entirely at any time or reduce from time to time by an aggregate amount of \$1,000,000 or any integral multiple thereof, the Bank Loan Commitment at the time; provided that the Board may not reduce the Bank Loan Commitment if such proposed reduction would cause the then Available Bank Loan Commitment to be less than the amount of Available Bank Loan Commitment required to be maintained by the Board under Section 6.04 of the Resolution.

(b) The Bank Loan Commitment shall terminate on the Maturity Date, and any Advances then outstanding (together with accrued interest thereon) shall be due and payable on such date.

(c) On any date on or after the Term Loan Conversion Date on which the Bank Loan Commitment shall be greater than the principal amount of the Advances outstanding on such date (after giving effect to any repayment, prepayment and borrowing on such date), the Bank Loan Commitment shall be automatically reduced to an amount equal to such outstanding principal amount.

(d) The Bank Loan Commitment shall be further reduced, on each Commitment Reduction Date, by an amount equal to one-twenty-eighth (1/28) of the Bank Loan Commitment in effect on the Term Loan Conversion Date (after giving effect to any reduction pursuant to subsection (c) on such date). No reduction of the Bank Loan Commitment pursuant to subsection (c) shall reduce the amount of any subsequent mandatory reduction of the Bank Loan Commitment pursuant to this subsection (d).

(e) On each Commitment Reduction Date, the Board shall repay such principal amount (together with accrued interest thereon) of outstanding Advances, if any, as may be necessary so that after such repayment, the unpaid principal amount of the Bank's Advances does not exceed the amount of the Bank Loan Commitment as then reduced.

Section 2.07. Optional Prepayments. (a) The Board may, upon at least two Business Days' notice to the Bank, prepay any Prime Advance in whole at any time, or from time to time in part in an amount equal to \$1,000,000 or any integral multiple thereof, by paying the principal amount to be prepaid together with accrued interest thereon to (but not including) the date of prepayment.

(b) The Board may not prepay all or any portion of the principal amount of any CD Advance prior to the maturity thereof.

(c) Upon receipt of a notice of prepayment by the Bank pursuant to this Section, such notice shall not be revocable by the Board.

Section 2.08. General Provisions as to Payment. The following general provisions shall apply to all payments under the Promissory Note:

(a) The Board shall make each payment of principal and interest on the Promissory Note not later than 12:00 noon (local time in New York, New York), on the day when due, in federal or other funds immediately available, at the office of the Bank referred to in Section 10.01.

(b) Whenever any payment of principal of and interest on the Promissory Note shall be due on any day which is not a Business Day, the date for payment thereof shall be extended to the next succeeding Business Day. If the date for any payment or prepayment of principal is extended by the preceding sentence, operation of law or otherwise, interest thereon shall be payable for the period of such extension at the rate applicable thereto under other provisions of this Agreement.

Section 2.09. Funding Losses. If the Board makes any payment of principal with respect to any CD Advance (pursuant to Articles VIII or IX or otherwise) on any day other than the last day of the Interest Period applicable thereto, or if the Board fails to borrow any CD Advance after notice has been given to the Bank in accordance with Section 2.02, the Board shall reimburse the Bank on demand for any resulting loss or expense incurred by it (or by any prospective participant in the related Advance), including (without limitation) any loss incurred in obtaining, liquidating or employing deposits from third parties, but excluding loss of margin for the period after any such payment, provided that the Bank shall have delivered to the Board a certificate as to the amount of such loss or expense, which certificate shall be conclusive in the absence of manifest error.

Section 2.10. Security For Promissory Note. The Promissory Note is the special obligation of the Board, payable solely from and secured by the funds pledged therefor pursuant to the Resolution, including specifically Section 2.12 thereof, and this Agreement, as authorized thereby. To provide ratable security for the payment of the principal of and interest on the Project Notes and the Promissory Note, as the same shall become due and payable, the Board has pledged, pursuant to the Resolution, and as to the

Promissory Note does hereby grant to Bank a lien on and pledge of, subject only to the provisions of the Resolution permitting the application thereof for the purposes and on the terms and conditions set forth therein and to the provisions of Section 6.03 (allowing issuance of certain debt), all of the following: (i) the proceeds from (a) the sale of Fund Priority Obligations or Short Term Obligations or other obligations of the Board under the Constitutional Amendment issued for such purpose, and (b) the sale of Project Notes issued pursuant to the Resolution for such purpose, (ii) the amounts held in the Series A Note Payment Fund and the Special System Account, provided, however, amounts in the Series A Note Payment Fund attributable to and derived from Advances under and pursuant to this Agreement are pledged to, and shall be used to pay, the principal of, premium, if any, and interest on the Project Notes, and (iii) the Interest of the University in the Available University Fund (all the items of property referred to in the immediately preceding clauses (i), (ii) and (iii), and all proceeds thereof, being hereinafter collectively referred to as the "Collateral"). Notwithstanding anything contained herein to the contrary, the security interest in and pledge of the Interest of the University in the Available University Fund is subordinate and inferior to the pledge thereof (the "Fund Priority Lien") securing the payment of the Fund Priority Obligations, and the principal of, and premium (if any) and interest on the Project Notes and the Promissory Note shall be and the same are hereby equally and ratably secured solely by and payable from a security interest in, lien on, and pledge of the sources hereinabove identified in clauses (i), (ii) and (iii), subject and subordinate only to the Fund Priority Lien. The Promissory Note shall further be entitled to the benefits of Article VI hereof.

Section 2.11. Application of Prior Covenants - Available Revenues. In accordance with the provisions of the 1985 Constitutional Amendment Bond Resolution, the Notes represent obligations which are subordinate to the Fund Priority Obligations. As described in Section 9 of the 1985 Constitutional Amendment Bond Resolution and in Section 3.02 of the 1988 Constitutional Amendment Bond Resolution. The Board hereby establishes that there heretofore has been established and covenants to maintain in the Treasury of the State of Texas a fund known as "Board of Regents of The University of Texas System Permanent University Fund Bonds Interest and Sinking Fund" (hereinafter called the "Interest and Sinking Fund"). The Fund Priority Obligations are payable from moneys required to be transferred to the Interest and Sinking Fund. After provision has been made for the payment of the principal of and interest on the Fund Priority Obligations, based upon the projection of moneys to be deposited into the Interest and Sinking Fund from the Available University Fund which demonstrates that the deposits to the Series A Note Payment Fund will not impair the

obligation of the Board to pay the principal of and interest on the Fund Priority Obligations as the same mature and come due, the balance of the Interest of the University in the Available University Fund shall be made available to the Board to deposit into the Series A Note Payment Fund such amounts as necessary to pay the interest on and/or the principal of the Promissory Note to the extent not paid from the proceeds of Project Notes, Short Term Obligations, or Fund Priority Obligations, or other obligations of the Board issued pursuant to the Constitutional Amendment. After provision has been made for the payment of the interest on and principal of the Promissory Note, the balance of the Interest of the University in the Available University Fund each year shall be made available to the Board in the manner provided by law and by regulations of the Board as it may lawfully direct.

To the end that money will be available in ample time to pay the principal of and interest on the Promissory Note as such principal and interest respectively come due, the Comptroller of The University of Texas System, or such officer as may hereafter be designated by the Board to perform the duties now vested in such officer shall perform such duties as are described in Section 2.13 of the Resolution.

Section 2.12. Extension or Modification of Agreement. This Agreement may be extended or modified in accordance with the following conditions and provisions:

(a) At any time not less than 60 days prior to the Term Loan Conversion Date, the Board may, by written notice to the Bank, request that the Term Loan Conversion Date be extended by one or more whole years after the then-existing Term Loan Conversion Date. The Bank may, in its sole and absolute discretion, decide to accept or reject any such proposed extension. The Bank will use its best efforts to notify the Board of its decision within 30 days of receipt of such request, it being understood and agreed that the failure of the Bank to notify the Board of any decision within such 30-day period shall be deemed to be a rejection and that the Bank shall incur no liability or responsibility whatsoever by reason of its failure to notify the Board of the Bank's decision within such 30-day period.

(b) The Bank shall use its best efforts to give the Board 105 days' notice of the Term Loan Conversion Date, provided, however, (i) that the Bank shall have no liability or responsibility whatsoever to the Board or any other Person (including, without limitation, the Issuing and Paying Agent, the Registrar or any Holder) by reason of its failure to give such notice or any delay in giving such notice; and (ii) that failure to give such notice shall not be construed as an

acceptance by or agreement of the Bank to extend the Term Loan Conversion Date or otherwise entitle the Board to extend the Term Loan Conversion Date in the absence of an express written agreement of the Bank to so extend the Term Loan Conversion Date.

(c) If the Board shall desire to increase the authorized aggregate principal amount of Project Notes that may be outstanding during the term of this Agreement ("Additional Notes") and to provide for such Additional Notes to have the benefit of a revolving credit agreement to which one or more national banking associations or state-chartered banks would be party ("New Credit Agreement"), then the Board shall notify the Bank, in writing, of the amount, terms and conditions of such New Credit Agreement and of the Additional Notes.

Section 2.13. Notice of Paying Agent. The Resolution appoints Morgan Guaranty Trust Company of New York as the initial Paying Agent. The Board will give notice to the Bank of the appointment of any substitute Paying Agent, which notice shall specify the name and address of the Paying Agent.

Section 2.14. Failure of the Bank to Advance. The failure of the Bank to make any requested Advance required to be made under the Promissory Note shall not release the Bank from its agreement to make such Advances, nor shall receipt and acceptance by the Board of any Advance or portion thereof from the Bank be a release, discharge or waiver of any claim, demand or cause of action of, or for the benefit of, the Board arising out of or in connection with any such failure to advance funds.

Section 2.15. Compliance With Law. Notwithstanding any other term or provision of this Agreement or of the Promissory Note, the maximum amount of interest which may be payable by, charged to, or collected from the Board, or any other person either primarily or conditionally liable for the payment of the Promissory Note, shall be limited to, and shall in no event or under any circumstances exceed, the maximum amount of interest which could be lawfully charged under applicable law (including, to the extent applicable, the provisions of Article 717k-2, Vernon's Texas Civil Statutes, as in effect at the time and the provisions of any applicable amendment thereto or other successor or superseding provision of law) so that, notwithstanding any other term or provision of this Agreement or the Promissory Note, the aggregate of the interest on any Advance, including all fees and other amounts which constitute interest under applicable state law (and any applicable federal statutes), shall never exceed the maximum amount of interest which under said laws could be lawfully charged on or in respect of such Advance. Accordingly, the Board and the Bank stipulate and agree that this Agreement and the Promissory Note shall not be construed

to create a contract to pay interest for the use, forbearance or detention of money at a rate in excess of the Maximum Interest Rate or maximum amount permitted to be charged under applicable state law (and any applicable federal statutes), and the Board shall never be liable for interest in excess of the maximum amount or Maximum Interest Rate that could be lawfully charged under such laws.

Specifically and without limiting the generality of the foregoing, it is further agreed among the Board and the Bank that the maximum amount of interest contracted for and payable on or under the Promissory Note, now or hereafter shall be calculated in order that strict compliance may be had with the applicable state laws (and any applicable federal statutes), and such parties agree that:

(a) in the event of voluntary prepayment of any Advance or payment prior to the normal maturity date of any Advance, if the aggregate amount of any interest calculated thereunder or thereon, plus any other amounts which constitute interest on such Advance would, in the aggregate, if charged or paid (if calculated in accordance with provisions other than those set forth in this Section) exceed the maximum amount of interest which, under applicable state laws (and any applicable federal statutes), may lawfully be charged or paid on or in respect of the Advance involved, then in such event the amount of such excess shall not be charged, payable or due (if not previously paid) or (if paid) shall be credited toward the payment of the principal of the Advance involved so as to reduce the amount thereof and if, and to the extent, the entire principal amount has been paid in full, refunded to the Board; and

(b) if under any circumstances the aggregate amounts paid on any Advance prior to or incident to final payment thereof include any amounts which under applicable state laws (and any applicable federal statutes) would be deemed interest and which would exceed the maximum amount of interest which, under applicable state laws (and any applicable federal statutes), could lawfully have been paid and collected on or in respect of such Advance, such payment and collection shall be deemed to have been the result of mathematical error on the part of all parties hereto, and the party receiving such excess payment shall promptly refund the amount of such excess (to the extent only of the excess of such interest payments above the maximum amount which could lawfully have been collected and retained under said state laws and any applicable federal statutes) upon discovery of such error by the party receiving such payment or notice thereof from the party making such payment.

(c) The provisions of this Section 2.15 shall control over any other provisions of this Agreement, the Promissory Note, any other instrument or writing evidencing, respecting or affecting any Advance, and the Bank further agrees that any limitations or restrictions imposed on it, or on payments which it may receive, by reason of this Section 2.15 shall apply and be recognized in all circumstances and to all payments, regardless of the source or payor thereof.

(d) All commitment fees prescribed in Section 2.05 hereof shall constitute exclusively consideration for the Bank's agreement to have available funds in the amount committed by the Bank in respect of Advances and to make such Advances in the future as provided herein and shall not constitute or be treated as compensation for the use of, forbearance, or detention of money actually loaned and advanced hereunder.

[END OF ARTICLE II]

ARTICLE III

CONDITIONS

Section 3.01. Conditions to Closing. The Revolving Credit Period shall commence on the date (the "Effective Date") on which the conditions set out in subsections 3.01(a) and (b) shall have been satisfied.

(a) The Bank shall have received all of the following:

(i) a counterpart of this Agreement duly executed by the Board and the Bank;

(ii) a duly executed Promissory Note, dated the Effective Date, complying with the provisions of Section 2.03 and substantially in the form attached hereto as Exhibit "A";

(iii) a copy of the Resolution, including amending resolutions thereto which have been adopted as of the Effective Date approving and authorizing this Agreement and the Promissory Note, all certified by the Executive Secretary or an Assistant Secretary of the Board as being in full force and effect;

(iv) a certificate of (A) the Executive Vice Chancellor for Asset Management dated the Effective Date, substantially in the form attached hereto as Exhibit "G," and (B) the Executive Secretary or an Assistant Secretary of the Board dated the Effective Date, substantially in the form attached hereto as Exhibit "H";

(v) an opinion of the Vice Chancellor and General Counsel for the Board, dated the Effective Date, substantially in the form attached hereto as Exhibit "E", with such changes, modifications, deletions or additions as may be acceptable to such counsel and counsel for the recipients thereof;

(vi) an opinion of Bond Counsel, dated the Effective Date, substantially in the form attached hereto as Exhibit "F", with such changes, modifications, deletions or additions as may be acceptable to such counsel and counsel for the recipients thereof;

(vii) a certificate of the Vice Chancellor and General Counsel for the Board dated the Effective Date,

substantially in the form attached hereto as Exhibit "I";
and

(viii) evidence satisfactory to the Bank that the Attorney General of the State of Texas shall have approved this Agreement and the Promissory Note, all as required by the Constitutional Amendment and the Acts.

(b) In addition, the Board shall have received all of the following, with a copy for Paying Agent:

(i) Counterparts of this Agreement, duly executed by the Board and the Bank;

(ii) A certificate, dated the Effective Date, of an officer of the Bank, authorized to execute and deliver such certificate, to the effect that each of the representations and warranties of the Bank contained in this Agreement are true and correct on and as of the date of such certificate as though made on and as of such date and additionally to the effect that the Bank has received the instruments set forth in Section 3.01(a), that such instruments are in satisfactory form and that the conditions set forth in Section 3.01(a) have been satisfied;

(iii) An opinion of Vinson & Elkins, special counsel to the Bank, dated the Effective Date and substantially in the form attached hereto as Exhibit "H", with such changes, modifications, deletions or additions as may be acceptable to such counsel and counsel for the recipients thereof; and

(iv) The original promissory note delivered by the Board to the Bank in connection with the execution and delivery of the 1988 Restated Credit Agreement.

Section 3.02. Conditions to Advances. The obligation of the Bank to make any Advance, when so requested hereunder upon or after the Effective Date and during the Revolving Credit Period, is subject to receipt by the Bank of a Notice of Advance as required by Section 2.02 and to the satisfaction of the following further conditions:

(a) At the time the Advance is made, the Board shall not have commenced a voluntary case or other proceeding seeking liquidation, reorganization, or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian, or

other similar official of it or any substantial part of its property, shall not have consented to any such relief or to the appointment of, or taking possession by, any such official in an involuntary case or other proceeding commenced against it, shall not have made a general assignment for the benefit of its creditors, shall not have declared a moratorium with respect to its debts, shall not have failed generally to pay its debts as they become due, and shall not have taken any action to authorize any of the foregoing;

(b) At the time the Advance is made, no involuntary case or other proceeding shall have been commenced against the Board seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian, or other similar official and no trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property shall have been appointed; and

(c) Immediately after such Advance is made the Board shall not have issued bonds and notes exceeding a total amount of twenty percent (20%) of the cost value of investments and other assets (exclusive of real estate) of the Permanent University Fund.

In addition, the Bank shall have no obligation to make an Advance to the Board to pay the principal of or any interest on (or purchase price of) any Project Notes which were issued by the Board after receipt by the Paying Agent, the Dealer, and an Authorized Representative of a Notice of Default.

[END OF ARTICLE III]

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ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF THE BOARD

Section 4.01. Organization and Powers. The Board (a) is duly established and validly existing under the laws of the State of Texas under and pursuant to the Constitution of the State of Texas and is an agency and political subdivision of the State of Texas, (b) has all corporate powers and all material governmental licenses, authorizations, consents and approvals required to carry on its business as now conducted, (c) has full power and authority to operate the System and to acquire, construct, finance and operate the Eligible Projects, and (d) has full power and authority to adopt the Resolution, to execute, deliver and perform the Resolution and this Agreement, to borrow hereunder and to execute, deliver and perform the Promissory Note.

Section 4.02. Authorization; Contravention. The execution, delivery and performance by the Board of the Resolution, this Agreement and the Promissory Note and the making of the Advances under the Promissory Note have been duly authorized by all necessary action by the Board and do not contravene, or result in the violation of or constitute a default under, any provision of applicable law or regulation, the Acts, or any order, rule or regulation of any court, governmental agency or instrumentality or any agreement, resolution or instrument to which the Board is a party or by which it or any of its property is bound.

Section 4.03. Governmental Consent or Approval. No authorization, consent, approval, permit, license, or exemption of, or filing or registration with, any court or governmental department, commission, board, bureau, agency or instrumentality that has not been obtained or issued is or will be necessary for the valid adoption, execution, delivery or performance by the Board of the Resolution, this Agreement and the Promissory Note.

Section 4.04. Binding Effect. This Agreement, the Resolution and the Promissory Note constitute valid and binding obligations of the Board.

Section 4.05. Restrictions on Use of Proceeds. The proceeds of the Advances will be applied by the Board only to the refunding of the Project Notes. None of the funds borrowed by virtue of this Agreement will be used in any manner or for any purpose except in the manner and for the purposes authorized by Texas law and the Resolution adopted by the Board.

Section 4.06. Federal Reserve Regulations. No part of the proceeds of any Advance will be used for the purpose, whether immediate, incidental or ultimate, to purchase or carry any margin

stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System, as amended from time to time) or to extend credit to others for the purpose of purchasing or carrying any margin stock or for any other purpose which would violate any of the regulations of said Board of Governors.

Section 4.07. Litigation. There is no action, suit or proceeding pending or, to the knowledge of the Board, threatened against or affecting the Board, the System or relating to the Acts, or other applicable laws or regulations, or this Agreement in any court or before or by any governmental department, agency or instrumentality which, if adversely determined, would materially affect the ability or authority of the Board to perform its obligations under this Agreement or the Promissory Note, or which in any manner questions the validity or enforceability of this Agreement, the Resolution or the Promissory Note or the granting, perfection, enforceability or priority of the lien on and pledge of the Collateral provided in Section 2.12 of the Resolution, except any action, suit or proceeding which may be brought subsequent to the date hereof as to which the Bank has received an opinion of counsel satisfactory to the Bank and its counsel, to the effect that such action, suit or proceeding is without substantial merit.

Section 4.08. No Event of Default Under the Resolution. No "Event of Default" specified in the Resolution and no event which, with the giving of notice or lapse of time or both would become such an event of default, has occurred and is continuing.

[END OF ARTICLE IV]

ARTICLE V
REPRESENTATIONS AND WARRANTIES
OF THE BANK

The Bank represents and warrants:

Section 5.01. Organization and Powers. The Bank (a) is duly established and validly existing under the laws of the State of New York; and (b) has full power and authority to execute, deliver and perform this Agreement and to make Advances in accordance with its Bank Loan Commitment and this Agreement.

Section 5.02. Authorization; Contravention. The execution, delivery and performance by the Bank of this Agreement and its Advances to be made hereunder have been duly authorized by all necessary action by the Bank and do not contravene, or result in the violation of or constitute a default under, any provision of applicable law or regulation, its charter, or any order, rule or regulation of any court, governmental agency or instrumentality or any material agreement, resolution or instrument to which the Bank is a party or by which it or any of its property is bound.

Section 5.03. Governmental Consent or Approval. No authorization, consent, approval, permit, license, or exemption of, or filing or registration with, any court or governmental department, commission, board, bureau, agency or instrumentality that has not been obtained or issued is or will be necessary for the valid execution, delivery or performance by the Bank of this Agreement.

Section 5.04. Bank Obligations Valid. The Bank represents that this Agreement is a valid and binding agreement of the Bank, assuming that this Agreement is a valid and binding agreement of the Board.

Section 5.05. Litigation. There is no action, suit or proceeding pending or, to the knowledge of the Bank, threatened against or affecting the Bank, in any court or before or by any governmental department, agency or instrumentality which, if adversely determined, would materially affect the ability or authority of the Bank to perform its obligations under this Agreement, or which in any manner questions the validity of this Agreement or the Promissory Note.

[END OF ARTICLE V]

ARTICLE VI

COVENANTS

The Board agrees that during the term of this Agreement and while any amount payable under the Promissory Note remains unpaid:

Section 6.01. Information. The Board will deliver to the Bank:

(a) within 120 days after the end of each Fiscal Year, a copy of the annual report of the Fund that includes a balance sheet of the Fund as of the end of such Fiscal Year and related statements of income and a statement of cash receipts and disbursements, prepared in accordance with Section 61.065 of the Texas Education Code accompanied by a certificate of an Authorized Representative (i) to the effect that as of the date of such certificate no Default has occurred, (ii) or if such Default has occurred, specifying the nature of such Default, the period of its existence and the action which the Board is taking or proposes to take with respect thereto;

(b) as soon as reasonably available after the end of each Fiscal Year, (i) the unaudited annual report of the System for the Fiscal Year then ended, (ii) the unaudited financial statement of System Administration for the Fiscal Year then ended that includes schedules of income and changes in fund balances for the Available University Fund, and (iii) the audited annual financial statement of the State, prepared by the Comptroller of Public Accounts of the State and audited by the State Auditor's Office;

(c) as soon as available and in any event within 60 days after the end of each fiscal quarter, a copy of the most recent quarterly summary of assets of the Fund;

(d) as soon as practicable but in any event within ten (10) Business Days after the issuance thereof, copies of any prospectus, official statement, offering circular, placement memorandum or similar or corresponding document, and any supplements thereto and updates and amendments thereof, that the Board makes available in connection with the offering for sale of any securities payable from the Available University Fund, and, on request, copies of such other financial reports as the Board shall customarily and regularly provide to the public;

(e) forthwith upon the occurrence of any Default, a certificate of an Authorized Representative setting forth the

details thereof and the action which the Board is taking or proposes to take with respect thereto;

(f) concurrently with the delivery of the reports set out in subsection (c) above, a report showing the aggregate amount of Project Notes issued at the end of the preceding quarter; and

(g) upon written request of the Bank, information relating to the Available University Fund or any other financial information reasonably requested.

Section 6.02. Access to Records. The Board will furnish to the Bank such information regarding the financial condition, results of operations or business of the Board, the Available University Fund and the Fund as the Bank may reasonably request and will permit any officers, employees or agents of the Bank to visit and inspect any of the properties of the Board and to discuss matters reasonably pertinent to an evaluation of the credit of the Available University Fund and the Fund, all at such reasonable times as the Bank may reasonably request. Further, the Bank, at its request, will be kept informed of regular and special meetings of the Board, and a representative of the Bank may attend any such meeting subject to provisions of Texas law authorizing executive sessions of the Board. All information received by or provided to the Bank pursuant to this Agreement, unless otherwise made public by the Board, will be held as confidential information by the Bank.

Section 6.03. Proceeds of Project Notes; Limitation on Certain Debt.

(a) The proceeds of the Project Notes will be used by the Board solely for the purpose of paying or prepaying, as the case may be, in whole or in part, other Project Notes, the Promissory Note or Project Costs of Eligible Projects or, to the extent not so used, for temporary investment while in the Series A Note Payment Fund or Special System Account.

(b) The Board shall, however, have the right to issue Fund Priority Obligations or Short Term Obligations pursuant to Section 6.10 of the Resolution.

Section 6.04. No Amendment of Certain Contracts or Resolutions. The Board will not consent to any amendment to or modification or waiver of any of the provisions of the Resolution which would be materially adverse to the Bank's interests. The Board will give the Bank notice as promptly as practicable (but in no event less than 10 Business Days) of any proposed amendments to or modifications or waivers of any provisions of the Resolution and

of any meeting of the Board at which any of the foregoing will be discussed or considered.

Section 6.05. Sales of Fund Priority Obligations or Short Term Obligations. The Board shall use its best efforts and reasonable diligence to offer and sell Fund Priority Obligations or Short Term Obligations or to obtain a New Credit Agreement, in an amount sufficient to pay when due any outstanding principal amount of the Promissory Note not to be paid from the proceeds of a Repayment Advance and all other amounts due to the Bank hereunder in respect thereof not to be paid from other funds available to the Board. The Board covenants that Advances maturing under the Promissory Note and not paid from the proceeds of a Repayment Advance shall be retired in full, or pro rata if not in full, with proceeds of Fund Priority Obligations or Short Term Obligations sold, issued or created by the Board prior to any other payment or use of the proceeds of such Fund Priority Obligations or Short Term Obligations.

Section 6.06. Other Covenants. The Board shall fully and faithfully perform each of the covenants required of it pursuant to the provisions of the Resolution and the resolutions of the Board authorizing the Fund Priority Obligations.

Section 6.07. Taxes and Liabilities. The Board will pay all its indebtedness and obligations promptly and in accordance with their terms and pay and discharge or cause to be paid and discharged promptly all taxes, assessments and governmental charges or levies imposed upon it or upon its income and profits, or upon any of its property, real, personal or mixed, or upon any part thereof, before the same shall become in default.

Section 6.08. Supplemental Resolutions and Further Assurances. The Board will not adopt any supplemental resolutions, pursuant to the Resolution or otherwise, which would adversely affect the ability of the Board to make payments on the Promissory Note when due; provided that nothing herein shall prevent the Board from issuing additional Short Term Obligations and Fund Priority Obligations as provided in this Agreement and Section 6.10 of the Resolution. The Board will at any and all times, insofar as it may be authorized so to do by law, pass, make, do, execute, acknowledge and deliver all and every such further resolutions, acts, deeds, conveyances, assignments, recordings, filings, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning and confirming all and singular the rights, revenues and other funds and Collateral hereby pledged or assigned to the payment of the Promissory Note, or intended so to be, of which the Board may become bound to pledge or assign.

Section 6.09. Additional Borrowings. The Board may issue Fund Priority Obligations or Short Term Obligations in such amounts and on such terms as the Board shall determine, subject only to the covenants contained herein.

Section 6.10. Efforts to Pay. In the event that the Promissory Note is not paid at maturity, the Board shall as quickly as possible take all actions reasonably necessary to allow payment from any available funds.

Section 6.11. Federal Tax Status of Interest on the Promissory Note. It is the intention of the parties that the Promissory Note not be an obligation described in section 103(a) of the Code and that the interest payable with respect thereto not be excludable from the gross income of the Bank. Accordingly, in furtherance thereof, the Board represents that it has not taken, and covenants not to take the actions, including the filing of any information returns required by the Code, which would be required to cause any interest on the Promissory Note to be excludable from gross income of the Bank.

[END OF ARTICLE VI]

ARTICLE VII

ADDITIONAL PARITY OBLIGATIONS

Section 7.01. Additional Short Term Obligations. The Board reserves the right and shall have full power at any time and from time to time, to authorize, issue, and deliver additional Short Term Obligations, (including the credit agreements relating thereto) in as many separate installments or series as deemed advisable by the Board but only for the purposes and to the extent provided in the Amendment to Section 18, Article VII, of the Texas Constitution, adopted by vote of the people of Texas on November 6, 1984, or in any Amendment hereafter made to said Section 18, Article VII, of the Texas Constitution, or for refunding purposes as provided by law. Such additional Short Term Obligations, when issued (including the credit agreements relating thereto), and the interest thereon, shall be equally and ratably secured by and payable from a lien on and pledge of the Interest of The University of Texas System in the Available University Fund, in the same manner and to the same extent as are the Notes, and the Notes and the additional Short Term Obligations (including the credit agreements relating thereto), when issued, and the interest thereon, shall be on a parity and in all respects of equal dignity. It is further covenanted that no installment or series of additional Short Term Obligations shall be issued and delivered unless the Executive Vice Chancellor for Asset Management of The University of Texas System, or some other officer of The University of Texas System designated by the Board executes:

(a) a certificate to the effect that for the Fiscal Year immediately preceding the date of said certificate the amount of the Interest of The University of Texas System in the Available University Fund was at least 1-1/2 times the average annual Principal and Interest Requirements of the installment or series of additional Short Term Obligations then proposed to be issued and all then outstanding Fund Priority Obligations, Notes, and Short Term Obligations which will be outstanding after the issuance and delivery of said proposed installment or series; and

(b) a certificate to the effect that the total principal amount of (i) Fund Priority Obligations, Notes, and Short Term Obligations, and (ii) all other obligations of the Board which are secured by and payable from a lien on and pledge of the Interest of The University of Texas System in the Available University Fund, that will be outstanding after the issuance and delivery of the installment or series of additional Short Term Obligations then proposed to be issued will not exceed 20% of the cost value of investments and other assets of the Permanent University Fund (exclusive of real estate) at the

time the proposed series or installment of additional Short
Term Obligations is issued.

[END OF ARTICLE VII]

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ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.01. Events of Default. If one or more of the following events ("Events of Default") shall have occurred and be continuing:

(a) the Board shall fail to pay any principal due under the Promissory Note;

(b) the Board shall fail to pay any interest on the Promissory Note or any commitment fee within 5 Business Days of the due date thereof;

(c) any representation, warranty, certification or statement made by the Board in this Agreement or in any certificate, financial statement or other document delivered pursuant to this Agreement shall prove to have been incorrect in any material respect when made, and the Bank shall have given the Board 5 days' written notice thereof;

(d) breach by the Board of any covenant or agreement or condition contained in Section 6.03 through 6.10, inclusive; or a breach by the Board of any other covenant or agreement or condition (other than those referred to or contained in clauses (a), (b), (c) above) contained in this Agreement or the Promissory Note and the continuation thereof for more than 60 days after written notice thereof has been given to the Board by the Bank without cure or correction to the satisfaction of the Bank;

(e) if default, other than a default described in (k) below, shall be made by the Board in the performance or observance of any covenant, agreement or condition on its part in the Resolution or in the Project Notes contained, and such default shall continue for a period of 60 days after written notice thereof to the Board by the Bank or the holders of not less than 10% in aggregate principal amount of the Project Notes then outstanding; or if the holder of any Fund Priority Obligations or, Short Term Obligations or other obligations of the Board secured by the Interest in the Available University Fund exercises its rights as a result of an event of default under the constituent instruments under which such obligations were issued or incurred to declare the principal thereof (and interest accrued thereon) to be payable prior to the maturity thereof; notwithstanding anything contained herein to the contrary, the parties hereto acknowledge that, as of the date of this Agreement, the Board has not agreed to, and there are not outstanding, any constituent instruments

under which Fund Priority Obligations or Short Term Obligations or other obligations of the Board secured by the Interest in the Available University Fund were issued which grant to any holder of any Fund Priority Obligations or Short Term Obligations or other obligations of the Board secured by the Interest in the Available University Fund any rights to declare the principal of such Fund Priority Obligations or Short Term Obligations or other obligations of the Board secured by the Interest in the Available University Fund (or interest accrued thereon) to be payable prior to the stated maturity thereof, and the Board does not presently intend to adopt any resolution granting or creating any such rights; or

(f) the Board shall commence a voluntary case or other proceeding seeking (i) liquidation, reorganization, or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect, or (ii) the appointment of a receiver, liquidator, custodian, or other similar official with respect to the Board or any substantial part of its property, or shall consent to or acquiesce in any such relief or the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it; or

(g) a receiver, liquidator, custodian or other official, appointed in an involuntary case or proceeding commenced against the Board, appointed without consent or acquiescence of the Board, takes charge of a substantial part of its property and such action as to its property is not promptly stayed, discharged or vacated; or

(h) the Board shall make a general assignment for the benefit of creditors, or declare a moratorium with respect to its debts, or shall fail generally to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing; or

(i) an involuntary case or other proceeding shall be commenced against the Board seeking (i) liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect, or (ii) the appointment of a custodian, receiver or trustee or similar official of the System, or any substantial part thereof, and such proceeding or case shall not be dismissed or stayed within 90 days after the filing thereof or an order of relief shall be entered against the Board under the Federal Bankruptcy Laws as now or hereafter in effect; or

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(j) any material provision of this Agreement shall at any time for any reason cease to be valid and binding on the Board, or shall be declared by any court having jurisdiction over the Board to be null and void or the validity or enforceability thereof shall be contested by the Board and the Bank shall have given 5 days' written notice thereof to the Board; or

(k) if the Board shall default under the Resolution or the Project Notes and such default extends beyond any period of grace provided with respect thereto and relates to the obligation to pay any principal interest or other payments due under the Resolution or the Project Notes;

then, and in any such event, the Bank by notice to the Board, may terminate the Bank Loan Commitment, if any (except as provided below), and the Bank Loan Commitment shall thereupon terminate to the extent hereinafter permitted. The occurrence of any one or more Events of Default shall not terminate the Bank Loan Commitment and shall not terminate or affect the obligations of the Bank to make Advances under this Agreement, subject to the conditions set out in Section 3.02, to the extent but only to the extent necessary for the Board to make Repayment Advances and to make required payments of principal and interest on (and the purchase price of) Project Notes that were issued and sold prior to the time a Notice of Default was received by the Paying Agent, the Dealer, and an Authorized Representative. If there is any termination or reduction of the Bank Loan Commitment, the Board will promptly notify any rating agency which has issued a rating of the Project Notes of such termination or reduction.

Failure to take action in regard to one or more Events of Default shall not constitute a waiver of the right to take action in the future in regard to such or subsequent Events of Default.

Section 8.02. Suits at Law or in Equity and Mandamus. In case one or more Events of Default shall occur, then and in every such case the Holder of the Promissory Note shall be entitled to proceed to protect and enforce such Holder's rights by such appropriate judicial proceeding as such Holder shall deem most effectual to protect and enforce any such right, either by suit in equity or by action at law, whether for the specific performance of any covenant or agreement contained in this Agreement, or in aid of the exercise of any power granted in this Agreement, or to enforce any other legal or equitable right vested in the Holders by this Agreement or the Promissory Note or by law. The provisions of this Agreement shall be a contract with each and every Holder and the duties of the Board shall be enforceable by any Holder by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction.

Section 8.03. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Holders is intended to be exclusive of any other remedy, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise, and may be exercised at any time or from time to time, and as often as may be necessary, by any Holder.

[END OF ARTICLE VIII]

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ARTICLE IX

CHANGE IN CIRCUMSTANCES

Section 9.01. Basis for Determining Interest Rate Inadequate or Unfair. If on or prior to the first day of any Interest Period:

(a) the Bank determines that deposits in dollars (in the applicable amount) are not being offered to the Bank in the relevant market for such Interest Period, or

(b) the Adjusted CD Rate will not adequately and fairly reflect the cost to the Bank of funding its CD Advances for such Interest Period,

the Bank shall forthwith give notice thereof to the Board whereupon until the Bank notifies the Board that the circumstances giving rise to such suspension no longer exist, the obligations of the Bank to make CD Advances shall be suspended. Unless the Board notifies the Bank at least two Business Days before the date of any CD Advance for which a Notice of Advance has previously been given that it elects not to borrow on such date, such Advance shall instead be made as a Prime Advance.

Section 9.02. Increased Cost and Reduced Return. (a) If after the date hereof, the adoption of any applicable law, rule or regulation, or any change therein, or any change in the interpretation or administration thereof by any governmental authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by the Bank (or its Lending Office) with any request or directive (whether or not having the force of law) of any such authority, central bank or comparable agency:

(i) shall subject the Bank (or its Lending Office) to any tax, duty or other charge with respect to its CD Advances, the Promissory Note or its obligation to make CD Advances, or shall change the basis of taxation of payments to the Bank (or its Lending Office) of the principal or interest on its CD Advances or any other amounts due under this Agreement in respect of its CD Advances or its obligation to make CD Advances (except for changes in the rate of tax on the overall net income of the Bank or its Lending Office imposed by the jurisdiction in which the Bank's principal executive office or Lending Office is located); or

(ii) shall impose, modify or deem applicable any reserve, special deposit or similar requirement (including, without limitation, any such requirement imposed by the Board of Governors of the Federal Reserve System, but excluding with

respect to any CD Advance any such requirement included in an applicable Domestic Reserve Percentage) against assets of, deposits with or for the account of, or credit extended by, the Bank (or its Lending Office) or shall impose on the Bank (or its Lending Office) or on the United States market for certificates of deposit any other condition affecting its CD Advances, the Promissory Note or its obligation to make CD Advances;

and the result of any of the foregoing is to increase the cost to the Bank (or its Lending Office) of making or maintaining any CD Advance, or to reduce the amount of any sum received or receivable by the Bank (or its Lending Office) under this Agreement or under the Promissory Note with respect thereto, by an amount deemed by the Bank to be material, then, within 15 days after demand by the Bank, the Board shall pay to the Bank such additional amount or amounts as will compensate the Bank for such increased cost or reduction.

(b) If after the date hereof, the Bank shall have determined that the adoption of any applicable law, rule or regulation regarding capital adequacy, or any change therein, or any change in the interpretation or administration thereof by any governmental authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by the Bank (or its Lending Office) with any request or directive regarding capital adequacy (whether or not having the force of law) of any such authority, central bank or comparable agency, has or would have the effect of reducing the rate of return on the Bank's capital as a consequence of its obligations hereunder to a level below that which the Bank could have achieved but for such adoption, change or compliance (taking into consideration the Bank's policies with respect to capital adequacy) by an amount deemed by the Bank to be material, then from time to time, within 15 days after demand by the Bank, the Board shall pay to the Bank such additional amount or amounts as will compensate the Bank for such reduction.

(c) The Bank will promptly notify the Board of any event of which it has knowledge, occurring after the date hereof, which will entitle the Bank to compensation pursuant to this Section and will designate a different Lending Office if such designation will avoid the need for, or reduce the amount of, such compensation and will not, in the judgment of the Bank, be otherwise disadvantageous to the Bank. A certificate of the Bank claiming compensation under this Section and setting forth the additional amount or amounts to be paid to it hereunder shall be conclusive in the absence of

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manifest error. In determining such amount, the Bank may use any reasonable averaging and attribution methods.

[END OF ARTICLE IX]

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ARTICLE X

MISCELLANEOUS

Section 10.01. Notices and Accounts. Except as otherwise provided herein, all notices, requests and other communications to any party hereunder shall be in writing (including bank wire, telex or similar writing) and shall be given to such party at its address set forth on the signature pages hereof or such other address or telex number as such party may hereafter specify for the purpose of giving notice. Each such notice, request or other communication shall be effective (i) if given by telex, when such telex is transmitted to the telex number hereafter specified by any party for the purpose of giving notice and the appropriate answerback is received, (ii) if given by mail, 72 hours after such communication is deposited in the mails with first class postage prepaid, addressed as aforesaid, or (iii) if given by any other means, when delivered at the address specified in this Section; provided that notices to the Bank under Article II hereof shall not be effective until received.

Section 10.02. No Waivers. No failure or delay by the Bank in exercising any right, power or privilege hereunder or under the Promissory Note or otherwise shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

Section 10.03. Costs, Expenses and Taxes. The Board shall pay (i) all reasonable out-of-pocket expenses of the Bank (including fees and disbursements of counsel to the Bank) in connection with the preparation of this Agreement, any waiver or consent hereunder or any amendment hereof or any Default or alleged Default by the Board hereunder, and (ii) if an Event of Default occurs, all out-of-pocket expenses incurred by the Bank, in connection with such Event of Default and collection and other enforcement proceedings resulting therefrom. In addition, the Board shall pay any and all stamp taxes and other taxes and fees payable or determined to be payable in connection with the execution and delivery of this Agreement and the Promissory Note.

Section 10.04. Amendments or Modification. Any provision of this Agreement or the Promissory Note may be amended or modified if, but only if, such amendment or modification is in writing and is signed by the Board and Bank.

Section 10.05. Severability. Any provision of this Agreement which is prohibited, unenforceable or not authorized shall be

ineffective to the extent of such prohibition, unenforceability of non-authorization without invalidating the remaining provisions hereof.

Section 10.06. Headings. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

Section 10.07. Counterparts. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. Complete sets of counterparts shall be lodged with the Board and the Bank.

Section 10.08. Texas Law; Venue. This Agreement shall be deemed to be a contract made under and shall be construed in accordance with and governed by the laws of the State of Texas. The venue for any legal action to enforce or interpret this Agreement shall be in Travis County, Texas.

Section 10.09. Successors and Assigns; Participations. This Agreement may not be assigned by the Bank, or other than by operation of law to a successor or merged institution, unless with the consent of the Board, provided that this shall not restrict the Bank in the sale of participations. The Board recognizes that the Bank contemplates entering into participation agreements with certain other participants whereby the several participants will participate with the Bank in the Promissory Note and in a portion of each Advance made by the Bank under the Promissory Note. Accordingly, the Board confirms that all of its representations, warranties, covenants, certifications and obligations under this Agreement and the Promissory Note, as well as all rights under the lien and pledge securing the payment of the Promissory Note and granted to the Bank pursuant to the Resolution and Section 2.10 of this Agreement, are for the benefit of the participants as well as for the benefit of the Bank. No assignee, participant or other transferee of the Bank's rights shall be entitled to receive any greater payment under Section 9.02 than the Bank would have been entitled to receive with respect to the rights transferred, unless such transfer is made with the Board's prior written consent or by reason of the provisions of Section 9.02, requiring the Bank to designate a different Lending Office under certain circumstances or at a time when the circumstances giving rise to such greater payment did not exist.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

Address: BOARD OF REGENTS OF THE UNIVERSITY
OF TEXAS SYSTEM
210 West Sixth Street
Austin, Texas 78701
Attention: Thomas G. Ricks

By: _____
Its: _____

Address/Lending Office: MORGAN GUARANTY TRUST COMPANY OF
NEW YORK
23 Wall Street
New York, NY 10015
Telex No. 420230

By: _____
Its: _____

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EXHIBIT A

BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM
CREDIT AGREEMENT PROMISSORY NOTE

Austin, Texas
December ____, 1989

For value received, THE BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM, an agency and political subdivision of the State of Texas organized and existing under and by virtue of the laws of the State of Texas (the "Borrower"), promises to pay, solely from the special funds hereafter referred to, to the order of MORGAN GUARANTY TRUST COMPANY OF NEW YORK (the "Bank"), for the account of its Lending Office, the aggregate unpaid principal amount of each Advance made by the Bank to the Borrower pursuant to the Amended and Restated Credit Agreement referred to below on the last day of the Interest Period relating to such Advance. The Borrower promises to pay interest on the unpaid principal amount of each such Advance on the dates and at the rate or rates provided for in the Amended and Restated Credit Agreement. All such payments of principal and interest shall be made in lawful money of the United States in Federal or other immediately available funds at the office of the bank at 23 Wall Street, New York, New York.

All Advances made by the Bank, the respective maturities thereof and all repayments of the principal thereof shall be recorded by the Bank and, prior to any transfer hereof, endorsed by the Bank on the schedule attached hereto, or on a continuation of such schedule attached to and made a part hereof; provided that the failure of the Bank to make any such recordation or endorsement shall not affect the obligations of the Borrower hereunder or under the Amended and Restated Credit Agreement.

This note is the Promissory Note referred to in the Amended and Restated Credit Agreement dated as of December 7, 1989 between the Borrower and the Bank (as the same may be amended from time to time, the "Credit Agreement"). Terms defined in the Credit Agreement are used herein with the same meanings. Reference is made to the Credit Agreement for provisions for the prepayment hereof.

If the holder enforces this Promissory Note upon default, the Borrower shall reimburse the holder for reasonable costs and expenses incurred by the holder in collection, including attorney's fees and expenses as set out in Section 10.03 of the Credit Agreement. This Promissory Note shall be construed under and

governed by the laws of the State of Texas but Chapter 15, Texas Credit Code (Art. 5069-15.01, V.A.T.C.S.) shall not apply.

This Promissory Note, including the interest herein, is payable solely from and secured by a lien upon and pledge of certain revenues and certain other valuable funds and moneys of the Borrower, all as set forth in the Credit Agreement and the Resolution; and this Promissory Note does not constitute a general obligation or indebtedness of the Borrower within the meaning of any constitutional, charter or statutory limitations or provisions (and the holder hereof shall never have the right to require or compel the levy of ad valorem taxes for the payment of the principal of and interest on this Promissory Note). Reference is made to the Credit Agreement and such Resolution for the provisions relating to the security of this Promissory Note and the duties and obligations of the Borrower.

Made and executed at Austin, Texas, on the day and year first above written.

BOARD OF REGENTS OF THE
UNIVERSITY OF TEXAS SYSTEM

By: _____
Chairman

Attest:

By: _____
Executive Secretary

(SEAL)

EXHIBIT B

NOTICE OF ADVANCE

TO: Morgan Guaranty Trust Company
of New York ("Bank")

FROM: Board of Regents of The University
of Texas System ("Board")

The Board, acting herein by the undersigned Authorized Representative, pursuant to Section 2.02 and related provisions of the Amended and Restated Credit Agreement dated as of December 7, 1989 between the Board and the Bank (the "Agreement"), issues this notice for an Advance to be made under the Agreement as follows:

1. Date Advance is to be made (which shall be a Business Day):

_____;

2. Amount of Advance:

_____;

3. If the Advance is a Repayment Advance, (the type of Advance, Prime or CD):

_____;

4. If the Advance is a CD Advance, duration of the Interest Period for the Advance:

_____;

5. If the Advance is not a Repayment Advance, the Maturity Date (which shall be the date referred to in item 1 above) and Face Amounts of Project Notes to be refunded:

_____;

6. If the Advance is not a Repayment Advance, the amount of interest on Project Notes to be refunded:

_____.

The Advance, to the extent provided in Section 2.02 of the Agreement, shall be available for the account of holders of the Project Notes at Morgan Guaranty Trust Company of New York, the Paying Agent.

In connection with this Notice of Advance, the Board certifies to the Bank that at the date of this Notice of Advance and on the date of the Advance, the conditions specified in Section 3.02 of the Agreement have been satisfied. Capitalized terms herein are used with the meaning given in the Agreement.

Date of this Notice
of Advance: _____

BOARD OF REGENTS OF THE
UNIVERSITY OF TEXAS SYSTEM

BY: _____
Authorized Representative

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EXHIBIT C

REDUCTION NOTICE

TO: Morgan Guaranty Trust Company of New York (the "Bank")
FROM: Board of Regents of The University of Texas
System (the "Board")

The Board, acting herein by the undersigned Authorized Representative, pursuant to Section 2.05(a) of the Amended and Restated Credit Agreement dated as of December 7, 1989 between the Board and the Bank (the "Agreement"), issues this Reduction Notice to elect a reduction in the commitment fees pursuant to Section 2.05(a) of the Agreement. Capitalized terms herein are used with the meaning given in the Agreement.

The Board hereby certifies that on or before the date hereof:

1. the Board has paid Project Notes in an aggregate principal amount at least equal to \$25,000,000; and
2. the aggregate principal amount of Project Notes outstanding is \$_____.

BOARD OF REGENTS OF THE
UNIVERSITY OF TEXAS SYSTEM

By: _____
Authorized Representative

Date:

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EXHIBIT D

INCREASE NOTICE

TO: Morgan Guaranty Trust Company of New York (the "Bank")
FROM: Board of Regents of The University of Texas
System (the "Board")

The Board, acting herein by the undersigned Authorized Representative, pursuant to Section 2.05(a) of the Amended and Restated Credit Agreement dated as of December 7, 1989 between the Board and the Bank (the "Agreement"), issues this Increase Notice to enable the Bank to calculate the commitment fees pursuant to Section 2.05 of the Agreement. Capitalized terms herein are used with the meaning given in the Agreement.

1. On the date hereof, the Board has issued and delivered \$_____ in principal amount of Project Notes.

2. The principal amount of Project Notes issued and delivered under the Resolution from the date of the most recently delivered Reduction Notice through and including the date of this Increase Notice is \$_____.

In connection with this Increase Notice, the Board certifies to the Bank that at the date hereof, the conditions specified in Section 3.02 of this Agreement have been satisfied.

BOARD OF REGENTS OF THE
UNIVERSITY OF TEXAS SYSTEM

By: _____
Authorized Representative

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EXHIBIT E

[Letterhead of General Counsel]

_____, 1989

Morgan Guaranty Trust Company
of New York
New York, New York
(the "Bank")

Gentlemen:

I am Vice Chancellor and General Counsel to the Board of Regents of The University of Texas System (the "Board") and I have acted in such capacity in connection with the Amended and Restated Credit Agreement (the "Agreement") between the Bank and the Board dated December 7, 1989, the issuance of a promissory note of the Board ("Promissory Note") under the Agreement in an aggregate principal amount of up to \$269,000,000 and the amended and restated resolution adopted December 7, 1989 (the "Resolution") relating to the issuance of Notes (as defined in the Resolution) and providing for the execution and delivery of the Agreement and issuance of the Promissory Note. This opinion is provided to the Bank pursuant to Section 3.01(a)(v) of the Agreement. Terms defined herein shall have the meanings ascribed to them in the Agreement.

In connection with my opinion, I have examined the following:

1. A certified copy of the Resolution, which Resolution authorizes, among other things, the following:
 - a. execution and delivery of the Agreement, and the Promissory Note;
 - b. execution and delivery of the Project Notes;
2. An executed counterpart of the Agreement;
3. An executed counterpart of the Remarketing Agreement;
4. An executed counterpart of the Paying Agent/Registrar Agreement;
5. The executed Promissory Note;

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6. Article 717q, Vernon's Annotated Texas Civil Statutes, as amended, and Section 65.46, Texas Education Code (collectively, the "Acts"), the Constitutional Amendment and such other provisions of the Constitution and laws of the State of Texas and the United States of America as I believe necessary to enable me to render the opinions herein contained; and

7. Such other agreements, documents, certificates, opinions, letters, and other papers, including all documents delivered or distributed on the Effective Date (as defined in the Agreement) pursuant to Section 3.01 of the Agreement, as I have deemed necessary or appropriate in rendering the opinions set forth below.

In my examination, I have assumed the authenticity of all documents and agreements submitted to me as originals, conformity to the originals of all documents and agreements submitted to me as certified or photostatic copies and the authenticity of the originals of such latter documents and agreements. I have also assumed that the Agreement constitutes the valid and binding agreement of the Bank, enforceable in accordance with its terms against the Bank.

Based upon the foregoing, and subject to the qualifications described below, I am of the opinion, under applicable laws of the United States of America and the State of Texas in force and effect on the date hereof, that:

1. The Board is the governing body of the System, a duly organized and validly existing agency of the State of Texas and has full power and authority to operate the System as currently operated and to issue the Project Notes, to pay the costs in connection with the System, and to enter into and perform under the Agreement and to issue the Project Notes and the Promissory Note in connection therewith. The Board has full legal right, power and authority (a) to enter into the Agreement, the Remarketing Agreement and the Paying Agent/Registrar Agreement; (b) to adopt the Resolution; (c) to sell, issue and deliver the Project Notes; (d) to execute and deliver the Promissory Note and to borrow, repay and reborrow under the Promissory Note, and (e) to carry out and consummate the transactions contemplated by the Resolution, the Agreement, the Promissory Note, the Remarketing Agreement and the Paying Agent/Registrar Agreement; and the Board has complied, at the Effective Date with applicable law, including the terms of the Acts and the Constitutional Amendment, and with the obligations on its part contained in the Resolution, the Project Notes, the Agreement, the Promissory Note, the

Remarketing Agreement and the Paying Agent/Registrar Agreement.

2. By official action of the Board, the Board has duly adopted the Resolution, has duly authorized and approved the execution and delivery of, and the performance by the Board of the obligations on its part contained in, the Project Notes, the Resolution, the Agreement, the Promissory Note and the consummation by it of all other transactions contemplated by such instruments and has all necessary power and authority to conduct its business as presently conducted and to perform its obligations under the Agreement, the Promissory Note and the Project Notes.

3. Each of the Resolution, the Agreement, the Promissory Note and the Project Notes has been executed and delivered by duly authorized officers of the Board. The Resolution, the Agreement, the Project Notes and (to the extent of the amounts advanced or paid to the Board thereunder) the Promissory Note each constitute valid and binding obligations of the Board enforceable against the Board in accordance with their respective terms (limited in the case of the Promissory Note to the amounts advanced thereunder or otherwise payable in accordance with the terms thereof), except as such enforcement is limited by bankruptcy, insolvency, reorganization, moratorium, liquidation and other similar laws now or hereafter in effect relating to or affecting generally the enforcement of creditors' rights and remedies.

4. No authorization, consent or approval of any governmental authority, agency or bureau not already obtained is required in connection with (i) the valid execution and delivery of the Resolution, the Project Notes, the Agreement, the Promissory Note, the Remarketing Agreement, or the Paying Agent/Registrar Agreement by the Board; (ii) the performance by the Board of its obligations under such documents or (iii) the borrowing, repayment, and reborrowing under the Promissory Note by the Board in accordance with the terms of the Agreement and the Promissory Note.

5. The Board is not in breach of or in default under any applicable constitutional provision, law or administrative regulation, or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Board is a party or to which the Board, or any of its property or assets is otherwise subject, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute a default by the Board under any such instrument;

the execution and delivery by the Board of the Project Notes, the Agreement, the Promissory Note, the Remarketing Agreement and the Paying Agent/Registrar Agreement, the adoption of the Resolution and compliance by the Board with the provisions of the Resolution, the Project Notes, the Agreement, the Promissory Note, the Remarketing Agreement and the Paying Agent/ Registrar Agreement, and the borrowing of Advances pursuant to the terms of the Promissory Note and the Agreement do not and will not conflict with or constitute a breach of or default under any constitutional provision, law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Board is a party or to which the Board or any of its properties or assets is otherwise subject.

6. There is no action, suit, investigation, inquiry or proceeding (whether or not purportedly on behalf of the Board) pending, or to the best of my knowledge, threatened or could be reasonably asserted against the Board or any of its assets in any court, governmental agency, public board or body or before any arbitrator or before or by any governmental body, (i) affecting the corporate existence of the Board or the titles of the officers of the Board to their respective offices, or (ii) affecting or seeking to prohibit, restrain, or enjoin the sale, issuance or delivery of the Project Notes or the Promissory Note, or (iii) in any way contesting or affecting the validity or enforceability of the Project Notes, the Resolution, the Agreement, the Promissory Note, the Remarketing Agreement or the Paying Agent/Registrar Agreement, or (iv) contesting the tax-exempt status of the interest on the Project Notes or (v) contesting any authority or proceedings for the issuance, sale or delivery of the Project Notes or Promissory Note, the adoption of the Resolution, or the execution and delivery of the Agreement, the Project Notes, the Promissory Note, the Remarketing Agreement, or the Paying Agent/Registrar Agreement, or the performance of the Board's obligations thereunder, or (vi) contesting the powers of the Board or questioning or affecting the ability of the Board to operate and maintain the Fund, or (vii) which involves the possibility of any ruling, order, judgment or uninsured liability which may result in any material adverse change in the business, properties or assets or the condition, financial or otherwise, of the Fund, wherein an unfavorable decision, ruling or finding would materially adversely affect the validity or enforceability of the Project Notes, the Resolution, the Agreement, the Promissory Note, the Remarketing Agreement, or the Paying Agent/Registrar Agreement; the current routine litigation of the Board relating to the Fund does not entail any potential recovery

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or liability for material amount which is not otherwise covered by the Board's insurance policies.

7. The Resolution and the Agreement duly and effectively grant a lien on and pledge of, as security for the Promissory Note, ratably with the Project Notes issued for such purpose, (i) the proceeds from (a) the sale of Fund Priority Obligations and Short Term Obligations and other obligations of the Board under the Constitutional Amendment issued for such purpose, and (b) the sale of Project Notes issued pursuant to the Resolution of such purposes, and (ii) the amounts from time to time on deposit in the Series A Note Payment Fund (as defined in the Resolution) and the Special System Account, provided that amounts on deposit in the Series A Note Payment Fund derived from and attributable to Advances under the Agreement are pledged to, and shall be used to pay, amounts payable in respect of the Project Notes, and (iii) the Interest of the University in the Available University Fund, said pledge of the Interest of the University in the Available University Fund being subordinate only to the pledge thereof for payment of Fund Priority Obligations, and except as so provided the lien of such security interest and pledge is valid and binding in accordance with its terms without further action on the part of the Board and without any filing or recording with regard therein except in the records of the Board.

Yours very truly,

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EXHIBIT F

[Letterhead of McCall, Parkhurst & Horton]

_____, 1989

Morgan Guaranty Trust Company
of New York
New York, New York
(the "Bank")

Gentlemen:

We have acted as bond counsel to the Board of Regents of The University of Texas System (the "Board") in connection with the issuance of a promissory note of the Board (the "Promissory Note") in an aggregate principal amount of up to \$269,000,000 under the Amended and Restated Credit Agreement dated December 7, 1989 (the "Agreement") between the Bank and the Board and in connection with the amended and restated resolution adopted December 7, 1989 (the "Resolution") relating to the issuance of Notes (as defined in the Resolution) and providing for the execution and delivery of the Agreement and issuance of the Promissory Note. This opinion is provided to the Bank pursuant to Section 3.01(a)(vi) of the Agreement. Terms defined in the Agreement and not otherwise defined herein shall have the meaning ascribed to them in the Agreement.

In connection with our opinion, we have examined the following:

- (1) Certified copies of the Resolution;
- (2) an executed counterpart of the Agreement;
- (3) the executed Promissory Note;
- (4) Article 717q, Vernon's Annotated Texas Civil Statutes, as amended, and Section 65.46, Texas Education Code) (collectively, the "Acts"), the Constitutional Amendment and such other provisions of the Constitution and laws of the State of Texas and the United States of America as we believe necessary to enable us to render the opinions herein contained;
- (5) an opinion of Ray Farabee, Esq., Vice Chancellor and General Counsel to the Board, of even date herewith provided to you under Section 3.01(a)(v) of the Agreement; and

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(6) such other agreements, documents, certificates, opinions, letters, and other papers, including all documents delivered or distributed on the Effective Date (as defined in the Agreement) pursuant to Section 3.01 of the Agreement, as we have deemed necessary or appropriate in rendering the opinion set forth below.

In our examination, we have assumed the authenticity of all documents, agreements and certificates submitted to us as originals, conformity to the originals of all documents, agreements and certificates submitted to us as certified or photostatic copies and the authenticity of the originals of such latter documents, agreements and certificates. We have also assumed, as to the Agreement, that such constitutes the valid and binding agreement of the Bank, enforceable in accordance with its terms as to the Bank.

Based upon the foregoing, and subject to the qualifications set out below, we are of the opinion, under applicable laws of the United States of America and the State of Texas in force and effect on the date hereof, that:

1. The Board is the governing body of the System, a governmental agency of the State of Texas and has the requisite power and authority under Texas law to issue the Promissory Note and to enter into and perform under the Agreement, and to borrow, repay and reborrow under the Promissory Note in accordance therewith and in accordance with the Agreement.

2. The Board has duly adopted the Resolution and has duly authorized and approved the execution and delivery of, and the performance by the Board of the obligations on its part contained in, the Promissory Note, the Resolution, the Project Notes, the Agreement, and the consummation by it of all other transactions contemplated by such instruments.

3. The Agreement and the Promissory Note have been executed and delivered by duly authorized officers of the Board. The Agreement and the Promissory Note each constitute a valid and binding obligation of the Board, enforceable against the Board in accordance with its respective terms (such obligations being limited in the case of the Promissory Note to the amounts advanced and outstanding thereunder or otherwise payable in accordance with the terms thereof).

4. No authorization, consent, approval, permit, license or exemption of, or filing or registration with, any governmental department, commission, board, instrumentality,

authority, agency or bureau not already obtained is required for the valid execution and delivery of the Resolution, the Agreement or the Promissory Note by the Board or in connection with the performance by the Board of its payment obligations under such documents.

5. The execution and delivery by the Board of the Project Notes, the Agreement, the Promissory Note and the adoption of the Resolution and compliance by the Board with the provisions of the Resolution, the Project Notes, the Agreement and the Promissory Note do not and will not conflict with or constitute a breach of or default under any constitutional provision, law, or administrative regulation.

6. The Promissory Note, ratably with the Project Notes, is solely payable from and, pursuant to the Resolution and the Agreement, is duly and effectively secured by the grant of a first lien on and pledge of (except to the extent provided in (iii) below) (i) the proceeds from (a) the sale of Fund Priority Obligations and Short Term Obligations and other obligations of the Board under the Constitutional Amendment issued for such purpose, and (b) the sale of Project Notes issued for such purpose, (ii) the amounts from time to time on deposit in the Series A Note Payment Fund (as defined in the Resolution) and Special System Account, provided that amounts on deposit in the Series A Note Payment Fund derived from and attributable to Advances under the Agreement are pledged to, and shall be used to pay, amounts payable in respect of Project Notes, and (iii) the Interest of the University in the Available University Fund, said pledge of the Interest of the University in the Available University Fund being subordinate only to the pledge thereof for payment of Fund Priority Obligations, and except as so provided the lien of such security interest and pledge is valid and binding in accordance with its terms without further action on the part of the Board and without any filing or recording with regard thereto except in the records of the Board. In accordance with Section 6.10 of the Resolution, as limited by Sections 6.03 and 6.05 of the Agreement, the Resolution reserves the right and permits the issuance of (a) Fund Priority Obligations and additional Short Term Obligations and (b) obligations which are junior and subordinate to the lien and pledge securing the Project Notes and the Promissory Note while the Project Notes and the Promissory Note are outstanding, without any limitations as to principal amount but subject to any terms, conditions and limitations as may be applicable thereto.

7. The Promissory Note constitutes a "refunding bond" within the meaning of Sections 18 (b) and (g) of Article 7 of the Constitution of the State of Texas.

Our opinions in paragraphs 3 and 6 above as to enforcement are qualified and limited by bankruptcy, insolvency, reorganization, moratorium, liquidation and other similar laws now or hereafter in effect relating to or affecting generally the enforcement of creditors' rights and remedies and by the limitations on creditors' remedies contained in the Acts, and such opinions as to enforcement are subject to general principles of equity which may permit the exercise of judicial discretion, to the reasonable exercise in the future by the State of Texas and its governmental bodies of the police power inherent in the sovereignty of the State, and to the exercise by the United States of America of the powers delegated to it by the Constitution of the United States of America. Our opinions in paragraph 6 do not extend to the status of title of the Board or the Fund to properties pledged and encumbered.

Very truly yours,

MCCALL, PARKHURST & HORTON

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6. That the following tables show the total dividends, interest, and other income from the Permanent University Fund (less administrative expenses) for the years 1983 through 1988 and the Interest in such income for each year actually distributed to the System which were deposited to the credit of The University of Texas System in the Available University Fund in the State Treasury and were available for and pledged, to the extent required, to pay the annual debt service requirements on the Permanent University Fund Obligations of the Board:

PERMANENT UNIVERSITY FUND
HISTORICAL ANNUAL INCOME

(000 Omitted)

Fiscal Year Ending <u>August 31</u>	Total Available University Fund (after Administration <u>Expenses)</u>	Two-Thirds Interest of the System in Available <u>University Fund</u>	Other <u>Income</u>	Total Income Available to Pay Debt <u>Service</u>
1983	\$156,486	\$104,324	\$6,323	\$110,647
1984	171,437	114,291	7,632	121,923
1985	187,927	125,285	6,635	131,920
1986	209,700	139,800	5,111	144,911
1987	209,182	139,455	4,152	143,607
1988	231,416	148,278	4,411	152,689

7. That (i) each of the representations and warranties of the Board contained in Article IV of the Agreement is true and correct on and as of the date hereof as though made on and as of this date (ii) on such date no "Event of Default" (within the meaning of the Agreement) and no event or condition which with the giving of notice or the lapse of time, or both would constitute an Event of Default has occurred and is continuing and (iii) on the date hereof the Agreement satisfies the provisions contained in paragraph (a) of Section 6.04 of the Resolution.

WITNESS MY HAND this ___ day of _____, 19__.

Executive Vice Chancellor for
Asset Management

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WITNESS MY HAND AND THE SEAL OF THE SYSTEM this ___ day of
_____, 19__.

Executive Secretary, Board of
Regents

(SEAL OF THE UNIVERSITY
OF TEXAS SYSTEM)

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H-3

EXHIBIT I

CERTIFICATE OF VICE CHANCELLOR
AND GENERAL COUNSEL

THE STATE OF TEXAS §
THE UNIVERSITY OF TEXAS SYSTEM §

I, the undersigned, Vice Chancellor and General Counsel to the Board of Regents (the "Board") of The University of Texas System (the "System"), hereby certify as follows:

1. That capitalized terms used in this Certificate have the same meanings given to such terms in the Amended and Restated Credit Agreement dated as of December 7, 1989 (the "Agreement") between the Board and Morgan Guaranty Trust Company of New York (the "Bank").

2. That to the best of my knowledge, no litigation, administrative action or proceeding of any nature is pending or threatened:

- (i) contesting the corporate existence of the Board, or the authority of the officers of the Board to adopt, issue, execute, sign and deliver the Project Notes, the Agreement, the Resolution, the Promissory Note, the Paying Agent/Registrar Agreement, the Remarketing Agreement or the Trust Agreement, or to perform any actions required to be performed under any of such instruments; or
- (ii) to restrain or enjoin the issuance or delivery of any of the Project Notes or the Promissory Note or the execution, delivery, or performance of the Resolution or the Note Agreements or the collection of revenues and amounts pledged under the Resolution and the Agreement with respect to the Project Notes and the Promissory Note; or
- (iii) in any way contesting the validity of the Resolution, or the validity or enforceability or the execution and delivery of the Project Notes, the Agreement, the Promissory Note, the Paying Agent/Registrar Agreement, the Remarketing Agreement or the Trust Agreement, or the authority of the Board to issue the Project Notes or the Promissory Note or to enter into the Agreement, the Paying

Agent/Registrar Agreement, the Remarketing Agreement or the Trust Agreement; or

- (iv) in any way contesting the powers of the Board in connection with any action contemplated in the Resolution, the Agreement, the Paying Agent/Registrar Agreement, the Remarketing Agreement or the Trust Agreement, nor the titles of the current officers to their respective offices.

3. That this certificate is made for the benefit of the Bank, the Attorney General of the State of Texas and all other persons interested in the Project Notes authorized to be issued pursuant to the Resolution.

WITNESS MY HAND this ___ day of _____, 19__.

Vice Chancellor and
General Counsel

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EXHIBIT J

_____, 19__

Board of Regents of The
University of Texas System
Attorney General of the State of Texas
Standard & Poor's Corporation
Moody's Investors Service Inc.

Ladies and Gentlemen:

We have acted as special counsel to Morgan Guaranty Trust Company of New York, a New York trust company (the "Bank"), in connection with the Amended and Restated Credit Agreement dated as of December 7, 1989 (the "Agreement") between the Board of Regents of The University of Texas System (the "Board") and the Bank. Terms used herein and not otherwise defined herein shall have the meanings ascribed thereto in the Agreement.

We have examined originals or copies, certified or otherwise identified to our satisfaction, of such documents, records, certificates of public officials and other instruments and have conducted such other investigations of fact and law as we have deemed necessary or advisable for purposes of this opinion and have, with your approval and without limiting the generality of the foregoing, assumed the correctness in all material respects of the representations and warranties made in the Agreement by the Board.

Upon the basis of the foregoing, we are of the opinion that:

1. The Bank has the power and authority to execute, deliver and perform its obligations under the Agreement.
2. The Agreement has been duly executed and delivered by the Bank pursuant to due authorization.
3. Assuming the due authorization, execution and delivery of the Agreement by the Board, the Agreement constitutes a valid and binding agreement of the Bank

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Board of Regents of The
University of Texas System
Page 2

enforceable against the Bank in accordance with its terms, except as (x) the enforceability thereof against the Bank may be limited by insolvency, reorganization, liquidation, moratorium or other similar laws affecting the enforcement of creditors' rights generally as such laws would apply in the event of the insolvency, reorganization or liquidation of, or other similar occurrence with respect to, the Bank or in the event of any moratorium or similar occurrence affecting the Bank and (y) the availability of equitable remedies (including without limitation the remedy of specific performance) may be limited by equitable principles of general applicability.

We are members of the Bar of the State of Texas and, with your approval, the opinion contained herein is limited to the law of the State of Texas and the federal law of the United States of America.

The foregoing opinion is for your benefit only and no other party may rely on such opinion.

Very truly yours,

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

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

Executive Committee: Chairman Beecherl
Vice-Chairman Barshop, Vice-Chairman Roden
MSA Page Ex.C - 1

Personnel and Audit Committee: Chairman Roden
Regent Barshop, Regent Cruikshank
MSA Page P&A - 1

Academic Affairs Committee: Chairman Barshop
Regent Loeffler, Regent Ramirez, Regent Ratliff
MSA Page AAC - 1

Health Affairs Committee: Chairman Blanton
Regent Moncrief, Regent Ramirez
MSA Page HAC - 1

Finance and Facilities Committee: Chairman Moncrief
Regent Beecherl, Regent Blanton, Regent Loeffler
MSA Page F&F - 1

Land and Investment Committee: Chairman Ratliff
Regent Cruikshank, Regent Roden
MSA Page L&I - 1

H. RECONVENE AS COMMITTEE OF THE WHOLE

I. ITEMS FOR THE RECORD

1. U. T. Arlington: Acceptance of Membership to the School of Nursing Advisory Council.--

At the October 1989 U. T. Board of Regents' meeting, Mr. Thomas Dwyer, Dallas, Texas, was approved for membership to the U. T. Arlington School of Nursing Advisory Council for a one-year term to expire August 31, 1990. Mr. Dwyer's acceptance of membership is herewith reported for the record.

2. U. T. Austin: Montopolis Research Center - Electric Easements with City of Austin, Texas.--

REPORT

Agreements to provide required electric service to The University of Texas at Austin Montopolis Research Center and the SEMATECH facility were made between the City of Austin and U. T. Austin in June 1988. These agreements set aside an electrical service site of approximately 3.5 acres on the southeast corner of the Montopolis Research Center. As part of the agreement, the City of Austin agreed to waive applicable fees to construct the Grove Electric Substation which was to be built on the site. U. T. Austin agreed to maintain the distribution system on the load side of the U. T. Austin owned switchgear while the City of Austin agreed to own, operate and maintain the Grove Substation with U. T. Austin providing the City access at all times for this purpose.

Temporary electric easements were executed October 26, 1988, and filed in Travis County Deed Records in Volume 10831, Pages 0202-0211. These temporary easements extended for a primary term to August 31, 1989, subject to automatic renewal in yearly increments if construction activity continued on the premises.

Permanent easements for the Grove Electric Substation and the transmission corridor servicing the Montopolis Research Center and SEMATECH were executed August 10, 1989, and are filed in Travis County Deed Records in Volume 11013, Pages 0760-0766. All responsibilities for funding and construction management were fulfilled in October 1989, when the electric distribution system was completed at a net cost of approximately \$274,609 to U. T. Austin.

- J. CONSIDERATION OF ACTION OF ANY ITEMS DISCUSSED IN THE EXECUTIVE SESSION OF THE BOARD OF REGENTS PURSUANT TO V.T.C.S., ARTICLE 6252-17, SECTIONS 2(e), (f) AND (g)
 1. Pending and/or Contemplated Litigation - Section 2(e)
 - U. T. Health Science Center - San Antonio:
Proposed Settlement of Medical Liability
Litigation
 2. Land Acquisition, Purchase, Exchange, Lease or Value of Real Property and Negotiated Contracts for Prospective Gifts or Donations - Section 2(f)
 - a. U. T. Austin - Archer M. Huntington Museum Fund: Authorization to Negotiate Oil and Gas Lease or Leases for All or Part of Approximately 3,000 Mineral Acres in Galveston County, Texas

- b. U. T. M.D. Anderson Cancer Center: Request for Authorization to Negotiate for the Purchase of Several Parcels Totalling Approximately 10.6 Acres of Land in Houston, Harris County, Texas
- 3. Personnel Matters [Section 2(g)] Relating to Appointment, Employment, Evaluation, Assignment, Duties, Discipline, or Dismissal of Officers or Employees
- K. REPORT OF BOARD FOR LEASE OF UNIVERSITY LANDS
- L. REPORT OF SPECIAL COMMITTEES
- M. FOUNDATION MATTER

The Robertson-Poth Foundation: Request for Approval to Grant Oil and Gas Lease on Five Acres, Being Lot 23, Block 225, Burton and Danforth Subdivision, Aransas County, Texas, to Charlie Hudson and Associates, Inc., Houston, Texas.--

RECOMMENDATION

It is recommended that the Chairman of the Board, the Chairman of the Health Affairs Committee, and the Chairman of the Land and Investment Committee, as Trustees of The Robertson-Poth Foundation, meet at the meeting of the U. T. Board of Regents on December 7, 1989, for action on the following agenda:

Acceptance of a proposal from Charlie Hudson and Associates, Inc., Houston, Texas, for an oil and gas lease on five acres, being Lot 23, Block 225, Burton and Danforth Subdivision, Aransas County, Texas. The proposed lease provides for a 1/4th royalty and a \$65 per acre bonus for a paid-up term of three years.

BACKGROUND INFORMATION

This tract was previously leased by the Trustees to Cities Service Oil and Gas Corporation, Houston, Texas. The lease expired in October 1987.

N. OTHER MATTERS

O. SCHEDULED MEETINGS AND EVENTS

1. Board of Regents' Meetings

<u>Dates</u>	<u>Locations/Hosts</u>
February 8, 1990	U. T. Pan American
April 12, 1990	U. T. Health Center - Tyler
June 14, 1990	Austin
August 9, 1990	U. T. Permian Basin
October 12, 1990 (Friday)	U. T. Southwestern Medical Center - Dallas
December 6, 1990	U. T. M.D. Anderson Cancer Center

2. Other Events

December 10, 1989	U. T. Austin: Fall Commencement Ceremony
December 17, 1989	U. T. Pan American: Fall Commencement Ceremony
January 24, 1990	U. T. Health Science Center - San Antonio: Dedication of Hayden Head Building (Insti- tute of Biotechnology)

P. OTHER BUSINESS

Q. ADJOURNMENT

1990

January 1990						
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October 1990						
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November 1990						
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December 1990						
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30	31					

Executive Committee

EXECUTIVE COMMITTEE
Committee Chairman Beecherl

Date: December 7, 1989

Time: Following the reconvening of the Board of Regents
at 1:30 p.m. or upon recess of Executive Session

Place: Room 1.208, Nursing School Building
U. T. Health Science Center - San Antonio

	<u>Page</u> <u>Ex.C</u>
1. U. T. Dallas: Recommendation to Name Garden Area in Front of the Multipurpose and Engineering Start-Up Facility (Regents' <u>Rules and Regulations</u> , Part One, Chapter VIII, Section 1, Subsection 1.2, Naming of Facilities Other Than Buildings) (Exec. Com. Letter 90-3)	2
2. U. T. Health Center - Tyler: Request for Transfer of Funds Requiring Advance Regental Approval Under Budget Rules and Procedures No. 2 (Exec. Com. Letter 90-3)	2

1. U. T. Dallas: Recommendation to Name Garden Area in Front of the Multipurpose and Engineering Start-Up Facility (Regents' Rules and Regulations, Part One, Chapter VIII, Section 1, Subsection 1.2, Naming of Facilities Other Than Buildings) (Exec. Com. Letter 90-3).--

RECOMMENDATION

The Executive Committee concurs in the recommendation of the Chancellor, the Executive Vice Chancellor for Academic Affairs and President Rutford that the new garden area in front of the Multipurpose and Engineering Start-Up Facility at U. T. Dallas be named the Charlotte Bowling Garden. This recommendation is in accordance with the Regents' Rules and Regulations, Part One, Chapter VIII, Section 1, Subsection 1.2, relating to the naming of facilities other than buildings.

BACKGROUND INFORMATION

The proposed garden name is in memory of Mrs. Charlotte Bowling who began working as a secretary at U. T. Dallas in 1964 when the institution was known as the Southwest Center for Advanced Studies. Over the years, she took on positions of increasing responsibility until in 1974 she was appointed Assistant to the Vice President for Academic Affairs, the position she held at the time of her death in January 1989. Gifts from Mrs. Bowling's many friends and colleagues have been received to landscape and maintain the garden area.

Approval via Executive Committee Letter was sought to accommodate a ceremony scheduled to commemorate this garden naming.

2. U. T. Health Center - Tyler: Request for Transfer of Funds Requiring Advance Regental Approval Under Budget Rules and Procedures No. 2 (Exec. Com. Letter 90-3).--

RECOMMENDATION

The Executive Committee concurs in the recommendation of the Chancellor, the Executive Vice Chancellor for Health Affairs and Director Hurst that the U. T. Board of Regents approve the transfer of funds at the U. T. Health Center - Tyler as set out on Page Ex.C - 3.

Educational and General Funds

Amount of Transfer - \$550,000

From: Unappropriated Balance via Estimated Income	<u>\$550,000</u>
To: Institutional Programs:	
1. Medicare Refund Reserve	\$250,000
2. Income Enhancement Project	200,000
3. Clinic Repair, Refurbishing and Renovation	<u>100,000</u>
Total	<u>\$550,000</u>

(RBC #120)

BACKGROUND INFORMATION

The funds made available through excess earnings in fiscal year 1989 will be utilized in fiscal year 1990 for the following projects:

1. Medicare Refund Reserve - \$250,000

There exists a potential refund to Medicare for a settlement based on the fiscal year 1988 cost report. This item is currently under appeal.

2. Income Enhancement Project - \$200,000

These funds are to be used for the completion of the new order entry system. This system transmits electronically laboratory test results to the nursing stations for use by the doctor, entry into the patient's records and production of the billing charges. This current handling of the laboratory charges directly into the billing process increases revenue realization particularly in the departments of Radiology and Pathology.

3. Outpatient Clinic - \$100,000

Continued improvements and upgrading of the outpatient clinic areas involve repairs, refurbishing and renovations of these facilities.

Personnel and Audit Committee

PERSONNEL AND AUDIT COMMITTEE
Committee Chairman Roden

Date: December 7, 1989

Time: Following the meeting of the Executive Committee

Place: Room 1.208, Nursing School Building
U. T. Health Science Center - San Antonio

Committee Chairman Roden reports that there are no agenda items to be considered by the Personnel and Audit Committee at this meeting.

Academic Affairs Committee

ACADEMIC AFFAIRS COMMITTEE
Committee Chairman Barshop

Date: December 7, 1989
Time: Following the meeting of the Personnel and Audit
Committee
Place: Room 1.208, Nursing School Building
U. T. Health Science Center - San Antonio

	<u>Page</u> <u>AAC</u>
1. U. T. Austin: Proposed Appointment to The Chancellor's Council Visiting Professorship for the Spring Semester 1990 Only, Effective January 16, 1990	2
2. U. T. Austin: Recommendation to Name Room in Townes Hall in the School of Law (Regents' <u>Rules and Regulations</u> , Part One, Chapter VIII, Section 1, Subsection 1.2, Naming of Facilities Other Than Buildings)	2
3. U. T. Austin: Recommendation to Amend the Resolutions for the Longhorn Foundation and the Longhorn Associates for Excellence in Women's Athletics Foundation	3
4. U. T. Pan American and U. T. Pan American (Brownsville): Recommendation to Establish Student Property Deposit Endowment Funds	4
5. U. T. Pan American (Brownsville): Recommendation to Adopt Role and Scope Table of Programs	5
6. U. T. San Antonio: Request for Concurrence in the Establishment of the U. T. San Antonio/ San Antonio Alliance for Education and Recommendation to Accept Related Gift from Target '90/Goals for San Antonio, San Antonio, Texas	8

1. U. T. Austin: Proposed Appointment to The Chancellor's Council Visiting Professorship for the Spring Semester 1990 Only, Effective January 16, 1990.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Cunningham that Mr. Martin Blumenson, distinguished military historian, be appointed as the initial holder of The Chancellor's Council Visiting Professorship at U. T. Austin for the Spring Semester 1990 only, effective January 16, 1990.

BACKGROUND INFORMATION

Mr. Blumenson's appointment as Visiting Professor in the Department of History at U. T. Austin has been approved effective January 16, 1990. Mr. Blumenson has authored over a dozen books on various aspects of the history of the Second World War including a definitive biography of General George Patton. He served in Europe during World War II and later in Korea as a military historian with the U. S. Army. As a civilian, he has served as a consultant to the White House and as senior historian with the Office of the Chief of Military History, Department of the Army. Mr. Blumenson has been a visiting professor at the Naval War College, Newport, Rhode Island, the Army War College, Carlisle Barracks, Pennsylvania, and the National War College, Washington, D. C.

The Chancellor's Council Visiting Professorship was established by the U. T. Board of Regents at the December 1983 meeting.

2. U. T. Austin: Recommendation to Name Room in Townes Hall in the School of Law (Regents' Rules and Regulations, Part One, Chapter VIII, Section 1, Subsection 1.2, Naming of Facilities Other Than Buildings).--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Cunningham that Room 3.140 in Townes Hall in the School of Law at U. T. Austin be named the John Jeffers Courtroom. This recommendation is in accordance with the Regents' Rules and Regulations, Part One, Chapter VIII, Section 1, Subsection 1.2, relating to the naming of facilities other than buildings.

BACKGROUND INFORMATION

The School of Law at U. T. Austin has received gifts and pledges from various law firms in Houston to establish an endowed academic chair to honor the late Mr. John L. Jeffers, Jr. Mr. Jeffers received his J.D. degree from the U. T. Austin School of Law in 1967 and was a partner in the law firm of Baker & Botts, Houston, Texas. The proposed room naming is in recognition of the gifts and pledges. Income earned from the endowment will be used to supplement faculty salaries and to support research. Establishment of a permanent endowment is provided for in Item 13 on Page L&I - 15.

At its December 1980 meeting, the U. T. Board of Regents approved the naming of facilities other than buildings as part of a special private fund development campaign for the School of Law in accordance with Part One, Chapter VII, Section 2, Subsection 2.44 of the Regents' Rules and Regulations.

3. U. T. Austin: Recommendation to Amend the Resolutions for the Longhorn Foundation and the Longhorn Associates for Excellence in Women's Athletics Foundation.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Cunningham that the resolutions for the Longhorn Foundation and the Longhorn Associates for Excellence in Women's Athletics Foundation at U. T. Austin adopted by the U. T. Board of Regents in December 1987, be amended as presented in congressional style below:

- a. Amend Paragraph 1 of the Resolution for the Longhorn Foundation of the Department of Intercollegiate Athletics for Men as follows:
 1. The funds of the Foundation shall be devoted solely to the enrichment of [~~the-scholarship-programs-for-student athletes-in~~] all men's varsity sports of the Department of Intercollegiate Athletics of The University of Texas at Austin consistent with approved business procedures and National Collegiate Athletic Association requirements [~~and-shall-not-be-used for-the-ordinary-operating-expenses of-the-Department-of-Intercollegiate Athletics~~].
- b. Amend Paragraph 1 of the Resolution for the Longhorn Associates for Excellence in Women's Athletics Foundation of the Department of Intercollegiate Athletics for Women as follows:
 1. The funds of the Foundation shall be devoted solely to the enrichment of [~~the-scholarship-programs-for-student athletes-in~~] all women's varsity

sports of the Department of Intercollegiate Athletics for Women of The University of Texas at Austin consistent with approved business procedures and National Collegiate Athletic Association requirements [~~and shall not be used for the ordinary operating expenses of the Department of Intercollegiate Athletics for Women~~].

BACKGROUND INFORMATION

Resolutions establishing the Longhorn Foundation and the Longhorn Associates for Excellence in Women's Athletics Foundation as formal operating internal foundations of U. T. Austin were approved by the U. T. Board of Regents at the December 1987 meeting. The Longhorn Associates for Excellence in Women's Athletics has been operating as an organization since September 1983 and the Longhorn Foundation has been operating since June 1986. The Foundations were formally designated as internal foundations pursuant to Part One, Chapter VII, Section 4, Subsection 4.3 of the Regents' Rules and Regulations to enhance the visibility and fund raising capabilities of each organization.

The proposed changes to the permissible use of funds for each internal foundation are recommended to allow greater flexibility of foundation support.

4. U. T. Pan American and U. T. Pan American (Brownsville): Recommendation to Establish Student Property Deposit Endowment Funds.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and Presidents Nevarez and Pena that proceeds from any student's general property deposit unclaimed for four years is to be used to establish endowments titled the U. T. Pan American Student Property Deposit Endowment Fund and the U. T. Pan American (Brownsville) Student Property Deposit Endowment Fund.

It is further recommended that each Fund be administered in accordance with the "Policy for Student Deposit Endowment Fund" adopted by the U. T. Board of Regents at the February 1989 meeting and that U. T. Pan American and U. T. Pan American (Brownsville) be directed to develop an institutional policy related to the administration of these endowment funds, consistent with U. T. Board of Regents' general policy guidelines, for prior administrative approval and inclusion in the institutional Handbook of Operating Procedures.

BACKGROUND INFORMATION

The U. T. Board of Regents established a Student Deposit Endowment Fund for each U. T. System component institution at the February 1989 meeting and adopted a "Policy for Student Deposit Endowment Fund" at the same meeting. The Policy provides that each institutional Student Deposit Endowment Fund is to be funded with forfeited deposits and is to be managed in a manner consistent with U. T. System endowment policies. The income earned is to be used to award scholarships to needy and deserving students, to establish an institutional loan program for students, or to support a general student union or activity program in accordance with and to the extent authorized by Subsection (b) of Section 54.5021, Texas Education Code. This recommendation provides for establishment of the same endowment fund for U. T. Pan American and U. T. Pan American (Brownsville) now that they are part of the U. T. System.

5. U. T. Pan American (Brownsville): Recommendation to Adopt Role and Scope Table of Programs.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Pena that the Role and Scope Table of Programs for U. T. Pan American (Brownsville) presented on Pages AAC 6 - 7 be adopted and forwarded to the Texas Higher Education Coordinating Board for approval.

The proposed Table of Programs describes the broad discipline categories (level and range) in which U. T. Pan American (Brownsville) may consider offering degree programs. Approval of specific degree programs must still meet all the appropriate tests of need/demand, cost, and quality and are subject to prior approval by the U. T. Board of Regents and the Texas Higher Education Coordinating Board.

BACKGROUND INFORMATION

The proposed Role and Scope Table of Programs for U. T. Pan American (Brownsville) was adopted by the former Pan American University Board of Regents and was submitted to the Texas Higher Education Coordinating Board. The staff of the Coordinating Board has asked that the U. T. Board of Regents reaffirm its support of this Table before it recommends adoption by the Coordinating Board.

Similar tables were adopted by the U. T. Board of Regents in June 1984 for all institutions then in the U. T. System. Since that time, no new programs have been developed by U. T. System institutions which were outside the role and scope defined by those tables.

The proposed Table of Programs for U. T. Pan American (Brownsville) defines a realistic role and scope for the institution for the foreseeable future. It will permit the

institution to develop several new masters-level programs in the liberal arts to complement its existing masters-level programs in teacher education and business. It will also permit the institution to comply with Section 13.036 of the Texas Education Code which requires students who seek public school teaching certificates to obtain bachelor's degrees with academic majors other than education.

Other new bachelor's degree programs which are included in the table and which U. T. Pan American (Brownsville) expects to recommend for approval are bachelor of science degrees in Nursing, Public Administration, and Corrections.

The proposed range of programs is appropriate for a community the size of Brownsville. In addition to the complete programs contained in the table for U. T. Pan American (Brownsville), individual courses from programs offered at U. T. Pan American in Edinburg can be taught on the Brownsville campus. As the Brownsville community grows, the need for additional educational services will be met initially by teaching courses from the Edinburg course inventory in Brownsville. Consequently, only a few new complete degree programs other than those in the liberal arts and sciences, business, and education are anticipated in the next several years.

INSTITUTION: U. T. Pan American (Brownsville)

DATE: December 1989

PUBLIC SENIOR COLLEGES AND UNIVERSITIES
TABLE OF PROGRAMS

	Bacc.	Mast.	Doct.	Special Prof.
Agriculture (01, 02, & 03)				
Arch & Environ Design (04)				
Area & Ethnic Studies (05)				
Business (06, 07, & 08)	1	1		
Communications (09 & 10)				
Computer and Information Scis (11)	2			
Education (13)	1	1		
Engineering (14)				
Engineering Related Techs (15)				
Foreign Languages (16)	3 _A	2 _A		
Allied Health (17)				
Health Sciences (18)	2 _B			
Home Economics (19 & 20)				
Law (22)				
Letters (23)	1	2		
Liberal/General Studies (24)	2 _C			
Library & Archival Sciences (25)				
Life Sciences (26)	2 _D			
Mathematics (27)	2 _E			

		Bacc.	Mast.	Doct.	Special Prof.
Multi/Interdisc Studies	(30)	3 _F	3 _G		
Health Activities	(34)	2 _H	2 _H		
Philosophy	(38)				
Physical Sciences	(40 & 41)	2 _I			
Psychology	(42)	2 _J			
Protective Services	(43)	3 _K			
Public Affairs	(44)	2 _L			
Social Sciences	(45)	1	2		
Trade & Indust	(46, 47, 48 & 49)				
Visual Performing Arts	(50)	2 _M			

Explanation of Codes

- 1 Entire category in role and scope; some programs currently exist.
- 2 Entire category in role and scope, unless limited by footnote; no programs currently exist.
- 3 Only part of the category in role and scope, as defined by footnote; some programs currently exist.

Table of Programs: Footnotes

- A Spanish
- B Nursing
- C Liberal Arts
- D Biology
- E Mathematics
- F Interdisciplinary Studies and combinations of approved programs only
- G Interdisciplinary Studies and combinations of previously approved programs plus MSIS with Mathematics as an area of concentration
- H Kinesiology
- I Chemistry and Physics
- J Psychology
- K Corrections & Police Administration
- L Public Administration
- M Art

6. U. T. San Antonio: Request for Concurrence in the Establishment of the U. T. San Antonio/San Antonio Alliance for Education and Recommendation to Accept Related Gift from Target '90/Goals for San Antonio, San Antonio, Texas.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs, the Executive Vice Chancellor for Asset Management and Acting President Williams that the U. T. Board of Regents concur in the establishment of the U. T. San Antonio/San Antonio Alliance for Education and the acceptance of a related gift of the assets of Target '90/Goals for San Antonio, a Texas not-for-profit corporation, consisting of office furnishings, equipment and cash assets, with a total value of approximately \$165,000.

The U. T. San Antonio/San Antonio Alliance for Education is to be an outreach partnership with local public schools to expand and further educational programs and initiatives begun under the Target '90 program in which U. T. San Antonio has been an active participant. The Alliance is consistent with U. T. San Antonio's commitment in the area of teacher preparation. Specific program initiatives of Target '90 have included the following:

- School/Business Partnerships
- Dropout Prevention Collaborative
- Science and Mathematics Collaborative
- Project 2061 - Science and Math Education Programs
- Teacher Mini Grants - Classroom Innovation Projects

BACKGROUND INFORMATION

Target '90/Goals for San Antonio of San Antonio, Texas (Target '90) is a Texas not-for-profit corporation established in 1983 to set goals and advance educational programs in the San Antonio area. With support from The Carnegie Corporation of New York, The American Association for the Advancement of Science, Southwestern Bell Company, The Ford Foundation, and local business and individuals, Target '90 conducted educational programs and made grants to public school teachers for classroom innovation projects.

In line with a desire to move Target '90 to a goal-setting rather than a programmatic organization, the Board of Trustees of Target '90 approved a Resolution dated October 31, 1989, transferring all educational fund activities and assets to U. T. San Antonio effective January 1, 1990.

U. T. San Antonio proposes to use the assets to establish the U. T. San Antonio/San Antonio Alliance for Education. The Alliance will use the long-standing relationship between U. T. San Antonio and the local public schools for the preparation of public school teachers as a basis for furthering and extending the educational programs and initiatives started by Target '90. Faculty and staff of the College of Sciences and Engineering and the College of Social and Behavioral Sciences will support the programs of the Alliance. External funding to U. T. San Antonio from governmental agencies, private foundations and businesses will continue to be available through grant proposals from the institution.

Health Affairs Committee

HEALTH AFFAIRS COMMITTEE
Committee Chairman Blanton

Date: December 7, 1989
Time: Following the meeting of the Academic Affairs Committee
Place: Room 1.208, Nursing School Building
U. T. Health Science Center - San Antonio

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6. U. T. M.D. Anderson Cancer Center: Recommendation to Approve Proposed Agreement of Affiliation with the Ministry of Health of the Republic of Chile, Santiago, Chile, and Request Authorization to Execute Agreement	6

1. U. T. System: Proposed Change in Limits of Liability of The University of Texas System Plan for Professional Medical Liability Self-Insurance to be Effective Immediately.--

RECOMMENDATION

The Chancellor and the Office of General Counsel recommend that Article VI of The University of Texas System Plan for Professional Medical Liability Self-Insurance be amended by increasing the Annual Aggregate for claims to be paid in any annual period from its current limitation of \$10,000,000 to \$15,000,000. With this amendment, the Limits of Liability Schedule to be effective immediately will read as follows:

Limits of Liability Schedule:

Staff Physician	\$ 400,000 per claim
	\$1,200,000 aggregate per participant
Resident,	\$ 100,000 per claim
Intern, Fellow	\$ 300,000 aggregate per participant
Student	\$ 25,000 per claim
	\$ 75,000 aggregate per participant
Annual Aggregate	[\$10,000,000] <u>\$15,000,000</u>

BACKGROUND INFORMATION

Pursuant to the authority of Chapter 59 of the Texas Education Code, the U. T. Board of Regents adopted the Professional Medical Liability Self-Insurance Plan to provide coverage for certain medical staff and medical students of the U. T. System. The Plan went into effect on April 1, 1977. The Plan is funded by the payment of premiums from the Medical Service, Research and Development Plans (MSRDP) of the health institutions of the U. T. System. In order to protect the cash reserve of the Plan from depletion through payment of judgments or settlements in a single annual period, initially an Annual Aggregate was established in the amount of \$2,000,000. The Annual Aggregate was increased by the U. T. Board of Regents to \$4,000,000 in March 1979, when the Limits of Liability were increased for the Staff Physician category. At that time, the cash reserve of the Plan had reached \$5,797,775. As of March 31, 1981, the cash reserve of the Plan was \$11,992,779, and the Annual Aggregate was increased to \$10,000,000, effective April 1, 1981. The recommended increase to \$15,000,000 will not jeopardize the cash reserve of the Self-Insurance Plan, which exceeds \$67,000,000, and it will allay the anxiety of the medical faculty with regard to the adequacy of the Annual Aggregate limits.

2. U. T. Southwestern Medical Center - Dallas: Proposed Appointment to the Distinguished Chair in Biomolecular Science Effective Immediately.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Wildenthal that Johann Deisenhofer, Ph.D., be appointed as initial holder of the Distinguished Chair in Biomolecular Science at the U. T. Southwestern Medical Center - Dallas effective immediately.

This appointment is contingent upon the establishment of the Chair as proposed in Item 22 on Page L&I - 20.

BACKGROUND INFORMATION

Dr. Deisenhofer, Investigator at the Howard Hughes Medical Institute and Professor, Department of Biochemistry at the U. T. Southwestern Medical Center - Dallas, is one of the world's leading x-ray crystallographers. He joined the staff at U. T. Southwestern Medical Center - Dallas and the Howard Hughes Medical Institute in 1988 having received his Ph.D. at Max-Planck-Institut fuer Biochemie, Martinsried in Frankfurt, Federal Republic of Germany. Dr. Deisenhofer shares the Nobel Prize in Chemistry with two West German researchers, Drs. Robert Huber and Hartmut Michel. They were honored for the determination of the three-dimensional structure of a photosynthetic reaction center.

Dr. Deisenhofer will continue to hold his present appointment as Regental Professor.

3. U. T. Southwestern Medical Center - Dallas: Request for Approval to Change the Division of Orthopedic Surgery within the Department of Surgery to the Department of Orthopedic Surgery and to Submit the Proposal to the Coordinating Board for Approval (Catalog Change).--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Wildenthal that approval be granted to change the Division of Orthopedic Surgery within the Department of Surgery to the Department of Orthopedic Surgery in the U. T. Southwestern Medical School - Dallas at the U. T. Southwestern Medical Center - Dallas. Upon Regental approval, the proposal will be submitted to the Texas Higher Education Coordinating Board for approval. If approved by the Coordinating Board, implementation will occur immediately.

BACKGROUND INFORMATION

Since its inception more than thirty years ago, the Division of Orthopedic Surgery at U. T. Southwestern Medical Center - Dallas has functioned as a component of the Department of Surgery. Over the past decade, the division has undergone significant developmental change with marked growth in faculty size, clinical activity and scientific investigation, all of which have resulted in a national identity and reputation independent of the Surgery Department in general. Accordingly, the division would be better served by its own administration as an autonomous surgical specialty.

The proposed administrative change will require no new or additional resources beyond those already available to the Division of Orthopedic Surgery at U. T. Southwestern Medical Center - Dallas.

The Coordinating Board considers this administrative change a substantive one. Therefore, prior approval of the proposal by the U. T. Board of Regents is necessary.

Upon Regental and Coordinating Board approval, the next appropriate catalog published at the U. T. Southwestern Medical Center - Dallas will be amended to reflect this action.

4. U. T. Medical Branch - Galveston: Proposed Appointment to the Robert N. Cooley Distinguished Professorship in Radiology Effective Immediately.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President James that Melvyn H. Schreiber, M.D., be appointed as initial holder of the Robert N. Cooley Distinguished Professorship in Radiology at the U. T. Medical Branch - Galveston effective immediately.

BACKGROUND INFORMATION

Dr. Schreiber, Professor and Chairman, Department of Radiology at the U. T. Medical Branch - Galveston, was a student of Dr. Robert N. Cooley and subsequently became his successor as Chairman of the Department of Radiology. A superb, sought-after clinician, he is recognized for his clinical excellence, a highly-acclaimed teacher, and a well-published scholar. Dr. Schreiber has served the interests of the U. T. Medical Branch - Galveston through his membership on local, state and national boards, societies and committees. Medical students, residents, alumni, colleagues and the public have been the beneficiaries of his formal educational programs, and they have recognized him through such honors as the Golden Apple Award, the Ashbel Smith Distinguished Alumnus Award and the James W. Powers Memorial Faculty Award.

The Robert N. Cooley Distinguished Professorship in Radiology was established by the U. T. Board of Regents at the June 1989 meeting.

5. U. T. Health Science Center - Houston (U. T. G.S.B.S. - Houston): Request for Authorization to Establish a Specialized M.S. Degree Program in Genetic Counseling within the Framework of the Present Program in Genetics and to Submit the Proposal to the Coordinating Board for Approval (Catalog Change).--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Low that approval be granted to provide a specialized M.S. degree program in Genetic Counseling within the framework of the present program in Genetics at the U. T. G.S.B.S. - Houston of the U. T. Health Science Center - Houston. Upon Regental approval, the proposal will be submitted to the Texas Higher Education Coordinating Board. If approved by the Coordinating Board, implementation will be Spring or Fall 1990.

BACKGROUND INFORMATION

Currently, the State of Texas has no formal training programs in genetic counseling; yet, each of the State's major medical centers and private health care facilities attempt to fill positions for qualified genetic counselors. Because of the difficulties in identifying qualified individuals, many of these positions are filled with lay individuals who have little or no formal genetics training and must be trained on the job. Thus, the implementation of such a program would not only fulfill the needs of the State's medical centers and health care facilities, but also would be of major benefit to the people of the State of Texas.

The objectives of this program are to train genetic counselors in (1) classical principles and practice of human genetics, (2) molecular genetic methods and interpretation of results and (3) human genetic research. The program has been certified by the American Board of Medical Genetics and M.S. candidates will be board-eligible upon graduation. The same requirements that apply for admission to the U. T. G.S.B.S. - Houston individualized M.S. degree programs will apply to applicants for this specialized program.

Support for the development of this program will utilize existing funds and resources that are available for the support of activities that complement this program. Additional funds will be sought from external funding sources that are available to support professional training in genetics.

Following Coordinating Board approval, the next appropriate catalog published at the U. T. Health Science Center - Houston will be amended to reflect this action.

6. U. T. M.D. Anderson Cancer Center: Recommendation to Approve Proposed Agreement of Affiliation with the Ministry of Health of the Republic of Chile, Santiago, Chile, and Request Authorization to Execute Agreement.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President LeMaistre that the U. T. Board of Regents approve the proposed Agreement of Affiliation set out on Pages HAC 7 - 10 by and between the U. T. M.D. Anderson Cancer Center and the Ministry of Health of the Republic of Chile, Santiago, Chile.

It is further requested that President LeMaistre be authorized to execute this agreement on behalf of the U. T. Board of Regents.

BACKGROUND INFORMATION

The purpose of the proposed agreement is to establish an international program of mutual collaboration and information exchange in the area of oncology for physicians, nurses, allied health professionals, and other members of the health care team in the areas of prevention, diagnosis, treatment, and rehabilitation of cancer. No funding from the State of Texas or from the U. T. System will be required to support this program.

Under this program, the Chilean Ministry of Health will recommend trainees who shall be placed at the U. T. M.D. Anderson Cancer Center to receive instruction in reducing the morbidity and mortality by cancer in Chile and related matters. The parties will approve written guidelines, which may be attached to the proposed agreement as Exhibit "A." The proposed agreement has been reviewed and approved by the Office of General Counsel.

AGREEMENT OF AFFILIATION

THIS AGREEMENT of AFFILIATION made the _____ day of _____, 1988, by and between THE UNIVERSITY OF TEXAS M. D. ANDERSON CANCER CENTER of Houston, Texas, United States of America (hereinafter "CANCER CENTER"), a component institution of THE UNIVERSITY OF TEXAS SYSTEM of Austin, Texas, (hereinafter "SYSTEM"), and the MINISTRY OF HEALTH of The Republic of Chile (hereinafter "MINISTRY OF HEALTH") having its principal place of business at the International Affairs Office, Ministry of Health, Santiago, Chile.

RECITALS

WHEREAS, CANCER CENTER now operates patient care, teaching and research facilities located at 1515 Holcombe Boulevard in the City of Houston, State of Texas, U.S.A., and therein provides health care services for patients with cancer and other neoplastic diseases; and

WHEREAS, MINISTRY OF HEALTH provides several graduate level academic programs with respect to health services education and research in the area of oncology at various regional institutions located in the Republic of Chile; and

WHEREAS, it is agreed by the parties that the purpose of this Agreement is to establish an international program of mutual collaboration and information exchange in the area of oncology for the physicians, nurses, allied health professionals and other members of the health care team in the areas of prevention, diagnosis, treatment and rehabilitation of cancer;

AGREEMENT

NOW, THEREFORE, it is mutually agreed by the CANCER CENTER and the Chilean MINISTRY OF HEALTH as follows:

Section 1. Objectives and Activities

The Parties agree that it is to their mutual interest and advantage that the trainees of MINISTRY OF HEALTH be given the opportunity to utilize the facilities of CANCER CENTER to learn ways to achieve the following objectives and activities:

- (1) to reduce the morbidity and mortality by cancer in Chile, attempting to provide complete care to the affected patient where possible;
- (2) to contribute to the decrease of the incidence of those types of cancer with identifiable and preventable risk factors;
- (3) to contribute to the decrease of mortality from those types of cancer with possibilities of early screening and opportune treatment;
- (4) to amplify and intensify the means of prevention;

- (5) to promote activities oriented towards basic prevention through health education tending to modify unhealthy lifestyles and to encourage the adoption of habits beneficial to health, especially stressing self-care;
- (6) to encourage the screening of those types of cancer whose development permits one to study the beginning of precancerous stages;
- (7) to encourage the development of an early detection consult;
- (8) to identify those diagnostic procedures which are most appropriate and have a high margin of specificity;
- (9) to select therapeutic methods known to be effective in trial investigations on the use of new drugs;
- (10) to rehabilitate the patient in the early phase of treatment and according to the treatment utilized; and
- (11) to employ simple, adequate palliative treatments to mitigate pain in the care of the terminal patient in collaboration with the family and community.

Section 2. Responsibilities of MINISTRY OF HEALTH

The MINISTRY OF HEALTH agrees to:

- (1) designate a representative, to serve as the Coordinator responsible for the program's progress who will maintain appropriate communication with the CANCER CENTER during the training period;
- (2) recommend trainees who shall be placed at the CANCER CENTER, subject to the approval of the CANCER CENTER;
- (3) designate a subcommittee within the Chilean National Cancer Commission which will evaluate the Coordinator's progress in developing the program;
- (4) provide information, upon request, regarding the background, experience and educational needs of each trainee to the CANCER CENTER prior to the trainee's placement;
- (5) prohibit the Coordinator from performing any service of the CANCER CENTER except in the course of performance of the field instruction, unless otherwise contracted for in writing;
- (6) respect the mission of the CANCER CENTER and both expect and require trainees to accept patients, staff, and administrators, regardless of race, ethnic origin, sex, age, religion or political belief; and
- (7) withdraw, upon written request to the Internship Supervisor, any trainee whose performance is unsatisfactory or whose conduct is unacceptable to the CANCER CENTER.

Section 3. Responsibilities of the CANCER CENTER

The CANCER CENTER agrees to:

- (1) accept trainees nominated by the MINISTRY OF HEALTH to participate in overall CANCER CENTER programs and activities as appropriate;
- (2) accept trainees without regard to race, ethnic origin, sex, age, religion, or political belief;
- (3) provide appropriate instruction by a qualified CANCER CENTER representative, hereinafter know as the Trainee Preceptor;
- (4) inform the MINISTRY OF HEALTH of changes in CANCER CENTER policy, procedures, and staffing that affect the trainee program; and
- (5) accept the withdrawal of any trainee by the MINISTRY OF HEALTH when the placement is found not to be in the best interest of the trainee, CANCER CENTER or MINISTRY OF HEALTH.

Section 4. Guidelines

It is agreed and understood by the MINISTRY OF HEALTH and the CANCER CENTER that, prior to the exchange of trainees, written guidelines will be set up with the approval of both Parties. These guidelines may be attached as to this Agreement as Exhibit A.

Section 5. No Employment

It is understood and agreed that, by the terms of this Agreement, no agent or employee of MINISTRY OF HEALTH shall, for any purpose, be deemed an agent or employee of CANCER CENTER.

Section 6. Financial Matters of Trainees

It is understood and agreed that MINISTRY OF HEALTH shall be responsible for insurance (including medical, dental and professional responsibility insurance), salary and fringe benefits of the trainees while at CANCER CENTER.

Section 7. Separate Jurisdictions

It is understood that the autonomy of each Party to this Agreement remains intact. Neither Party shall assume any liabilities of the other. Nothing contained herein shall be construed as establishing or constituting a partnership or joint venture between the parties.

Section 8. Amendments

It is understood and agreed that the Parties to this Agreement may revise or modify this Agreement by written amendment hereto, provided such revision or modification is mutually agreed upon and signed by the authorized representatives of MINISTRY OF HEALTH and CANCER CENTER and approved by the Office of the Chancellor of The University of Texas System.

Finance and Facilities Committee

FINANCE AND FACILITIES COMMITTEE
Committee Chairman Moncrief

Date: December 7, 1989
Time: Following the meeting of the Health Affairs Committee
Place: Room 1.208, Nursing School Building
U. T. Health Science Center - San Antonio

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F&F

I. FINANCE MATTER

U. T. System: Recommendation to Approve
Chancellor's Docket No. 49 2

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2. U. T. San Antonio - Small Animal Building Expansion (Project No. 401-728): Request for Authorization of Project; Submission to Coordinating Board; and Completion of Final Plans by U. T. San Antonio Administration in Consultation with the Office of Facilities Planning and Construction 4
3. U. T. San Antonio - Campus Infrastructure Expansion, Phase I (Project No. 401-715): Request for Authorization of Project; Appointment of Project Engineer to Prepare Final Plans; and Submission to Coordinating Board 5
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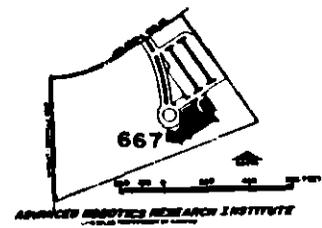
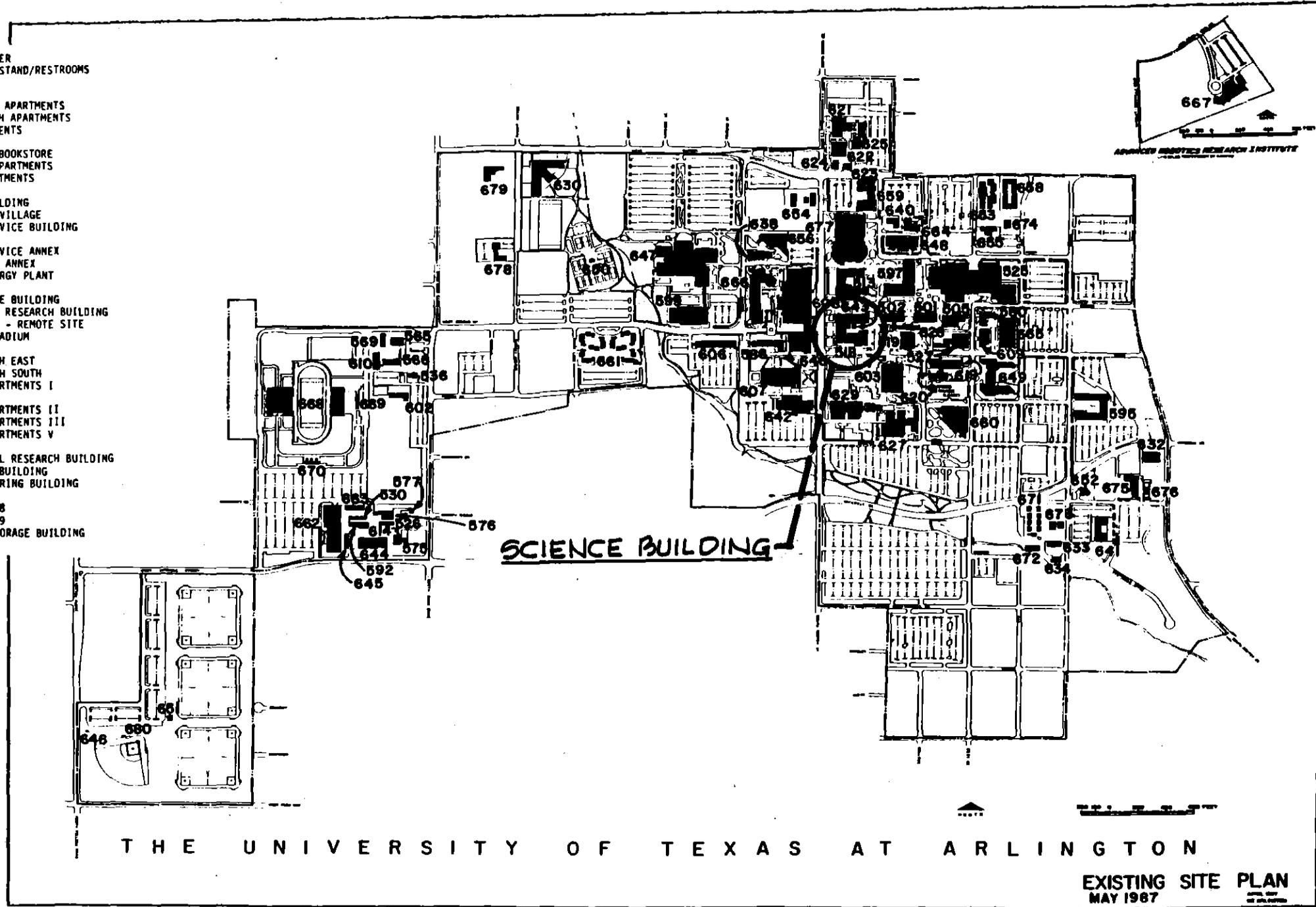
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I. FINANCE MATTER

U. T. System: Recommendation to Approve Chancellor's Docket No. 49.--

RECOMMENDATION

It is recommended that Chancellor's Docket No. 49 be approved.

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

II. FACILITIES MATTERS

1. U. T. Arlington - Science Building Phase I Expansion (Project No. 301-706): Request for Authorization of Project and Appointment of Project Architect to Prepare Preliminary Plans.--

RECOMMENDATION

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

- a. Authorize a project for expansion of the Science Building at U. T. Arlington with an estimated total project cost of \$12,500,000 for Phase I
- b. Appoint a Project Architect from the list set forth on Page F&F - 3 to prepare preliminary plans and a detailed cost estimate and phasing plan to be presented to the U. T. Board of Regents for consideration at a future meeting.

BACKGROUND INFORMATION

This proposed project is a program of modernization and expansion of the science facilities at U. T. Arlington. The Phase I project will be a new facility of approximately 50,000 gross square feet containing teaching and research laboratories to replace outdated laboratories in the existing Science Building that cannot be economically remodeled. The new facility will be designed within a master plan that allows for expansion in future phases to a facility of approximately 150,000 gross square feet.

The existing Science Building, originally constructed in 1949, has been remodeled in recent years to accommodate additional wet labs with fume hoods in support of teaching and research. The air conditioning system has not provided adequate amounts of conditioned makeup air and the resulting humidity is damaging the equipment and the building. Air intakes are too near the fume hood exhausts, with the potential for air quality problems.

A recently completed analysis of the existing conditions determined that the cost of modifications to the existing facilities to solve the problems would be of such magnitude as to make them economically impractical. A properly designed and adequately equipped new facility will alleviate these problems and support the institution's expanding research program.

The Phase I project is included in the U. T. System Capital Improvement Program approved in June 1989 and the FY 1990 Capital Budget approved in August 1989 by the U. T. Board of Regents.

List of Firms for Consideration

Project Architect

Vestal, Loftis, Kalista
Architects, Inc.
Arlington, TX

Harper, Kemp, Clutts, and
Parker, Inc., Dallas, TX

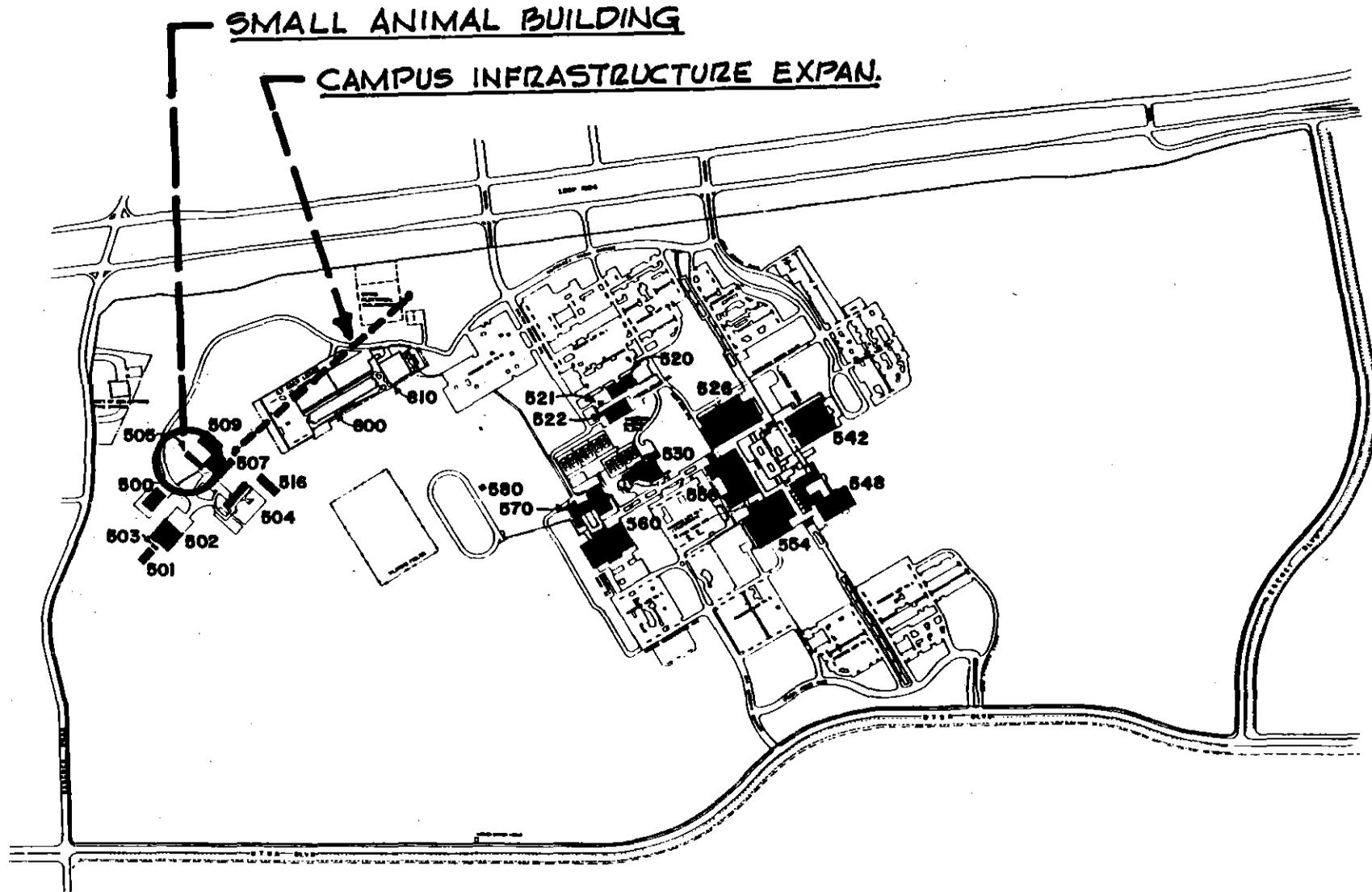
Albert S. Komatsu & Associates
Fort Worth, TX

Representative Projects

Alcon Labs, Fort Worth:
Level II Lab Expansion
Ocular Lens R&D Facility
Biological Sciences
Building Addition
Texas A&M University:
Plant Science Lab Bldg.

U. T. Austin:
Molecular Biology Bldg.
U.T.S.M.C. - Dallas:
Green Biomedical
Research Building
Sprague Clinical Science
Building
Texas A&M University:
Biochemistry Building

U. T. Arlington:
School of Engineering
Life Science Building
Renovation
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Electric Generating Plant
Bell Helicopter:
Engineering and Research
Facility



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- 526 HUMANITIES/BUSINESS BUILDING
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- 570 GYMNASIUM
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- 556 MULTIDISCIPLINARY STUDIES BUILDING

- 501 GREENHOUSE
- 580 GROUNDS BUILDING

THE UNIVERSITY OF TEXAS AT SAN ANTONIO

EXISTING SITE PLAN
MAY 1987

2. U. T. San Antonio - Small Animal Building Expansion (Project No. 401-728): Request for Authorization of Project; Submission to Coordinating Board; and Completion of Final Plans by U. T. San Antonio Administration in Consultation with the Office of Facilities Planning and Construction.--

RECOMMENDATION

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

- a. Authorize a project for the expansion of the Small Animal Building at U. T. San Antonio at an estimated total project cost of \$400,000
- b. Authorize submission of the project to the Texas Higher Education Coordinating Board
- c. Authorize completion of final plans and specifications by the U. T. San Antonio Administration with its own forces or through contract services, as required, in consultation with the Office of Facilities Planning and Construction, to be presented to the U. T. Board of Regents for consideration at a future meeting.

BACKGROUND INFORMATION

The existing Small Animal Building, located on the West Campus at U. T. San Antonio, contains deficiencies including the lack of adequate cage washing capability, the absence of a quarantine area, and the absence of a segregated area for food storage. This proposed project will provide additional building area of approximately 4,600 gross square feet for the above required features as well as for safe and sanitary circulation.

Funding for this project will be \$300,000 from Permanent University Fund Bond Proceeds, included in the Capital Improvement Program approved by the U. T. Board of Regents in June 1989, and the FY 1990 Capital Budget approved in August 1989. Grant funds in the amount of \$75,000 and U. T. San Antonio Unexpended Plant Funds in the amount of \$25,000 will provide \$400,000 for total project funding.

3. U. T. San Antonio - Campus Infrastructure Expansion, Phase I (Project No. 401-715): Request for Authorization of Project; Appointment of Project Engineer to Prepare Final Plans; and Submission to Coordinating Board.--

RECOMMENDATION

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

- a. Authorize a project for the first phase of expansion of the Campus Infrastructure at U. T. San Antonio at an estimated total project cost of \$1,200,000
- b. Appoint the firm of Silber & Associates Consulting Engineers, Inc., San Antonio, Texas, as Project Engineer to prepare final plans and specifications to be submitted to the U. T. Board of Regents for consideration at a future meeting
- c. Authorize submission of the project to the Texas Higher Education Coordinating Board.

BACKGROUND INFORMATION

The existing utility infrastructure on the U. T. San Antonio campus was designed and constructed almost 20 years ago. Approximately 455,000 square feet of buildings have been added to that original infrastructure with only limited improvements. It is predicted that a 40% expansion in education and general use space will be needed over the next twelve years which will require further phases of infrastructure expansion.

Phase I of the Campus Infrastructure Expansion will provide for the campus primary electrical distribution system to the west campus buildings. During the original construction of these west campus buildings in 1974-75, a temporary overhead electrical distribution system was installed to a substation sized for the electrical needs known at that time. West campus electrical power requirements now exceed that electrical service capacity, and a new expanded underground primary electrical service is required. Engineering design work will be required for expanding the main campus substation, underground electrical cable, and for construction of a new west campus substation.

U. T. San Antonio Administration requests that the firm of Silber & Associates Consulting Engineers, Inc., San Antonio, Texas, be appointed as Project Engineer. This firm has been a consulting engineer on projects at U. T. San Antonio and their familiarity with the campus electrical distribution system will expedite the schedule.

This project is included in both the six year Capital Improvement Program and the FY 1990 Capital Budget.

4. U. T. Tyler - Liberal Arts Complex (Project No. 802-719):
Request for Appointment of Project Architect to Prepare
a Project Analysis and Conceptual Design.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Hamm that the U. T. Board of Regents appoint the firm of C/A Architects, Inc., Longview and Houston, Texas, as Project Architect to prepare a detailed project analysis and conceptual design for a Liberal Arts Complex at U. T. Tyler to be submitted to the U. T. Board of Regents for consideration at a future meeting.

BACKGROUND INFORMATION

In October 1985, the U. T. Board of Regents adopted a Capital Improvement Program which included \$12,000,000 from Permanent University Fund Bond Proceeds and \$5,000,000 from gifts and locally generated funds for a Liberal Arts Complex at U. T. Tyler. Upon request from U. T. Tyler students, the 71st Legislature authorized a student fee increase which will generate between \$1,000,000 and \$1,200,000 for the project. Thus, the total project, initially conceived as a \$17,000,000 project, could be enlarged to as much as an \$18,200,000 project depending on need and upon the University's ability to raise the full \$5,000,000 in gifts. The FY 1990 Capital Budget includes \$200,000 from the \$12,000,000 Permanent University Fund Bond Proceeds for a project analysis and conceptual design of these facilities. The project analysis and conceptual design is needed to firmly establish the scope of the project and undergird the fund-raising campaign.

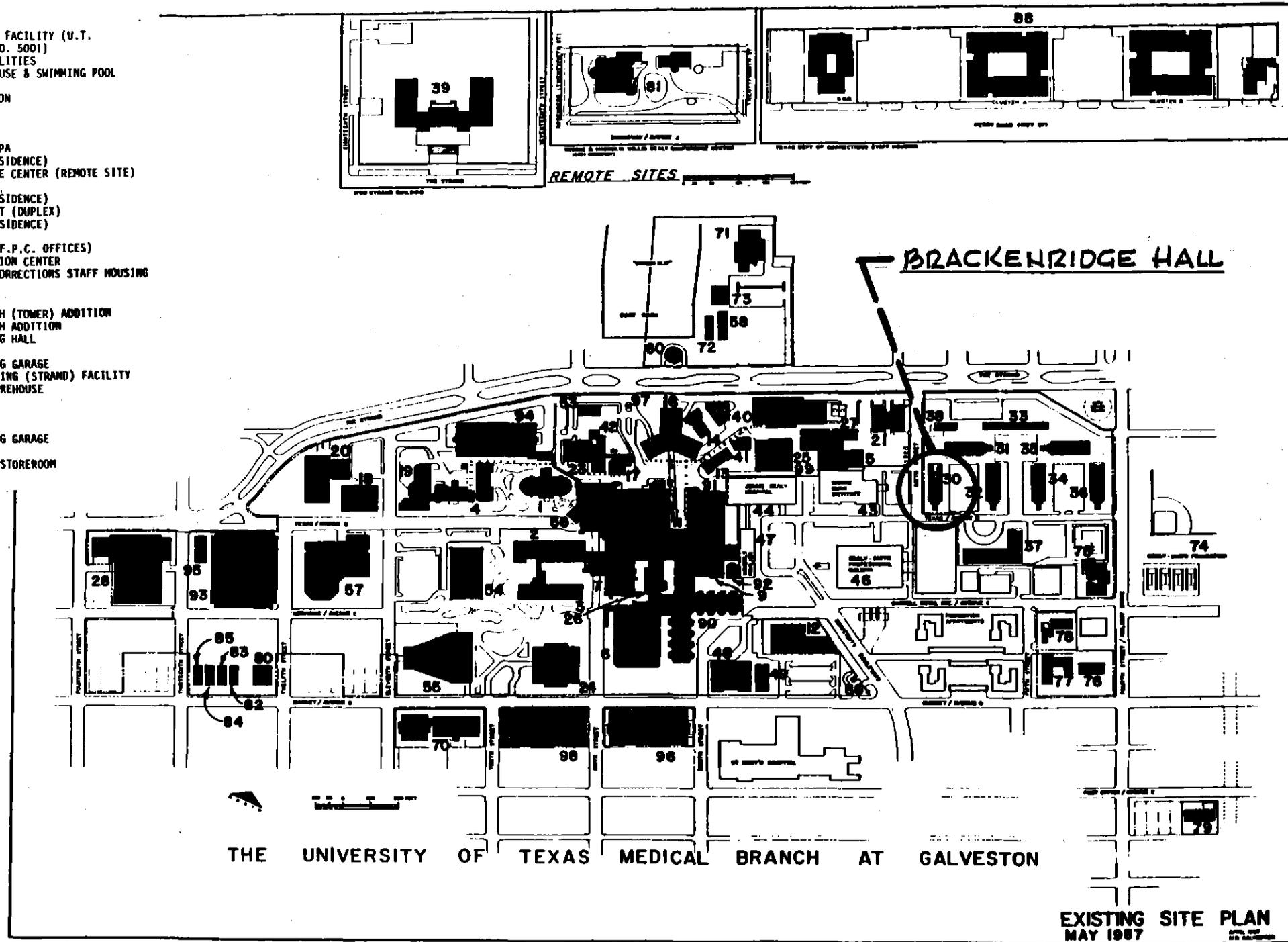
This analysis should refine the project concept, propose a budget, estimate operating costs, and identify appropriate construction phases consistent with availability of private gift monies. While the needs of the University include a multiple purpose institutional facility, priority has been established for specialized academic facilities for art, theatre, and music, including practice rooms, an art gallery, and a recital hall/theatre.

Included in this project is proposed space capable of seating large groups for lectures, musical performances, theatrical productions, student activities, and official university events, including commencements and faculty convocations. Presently, the largest room on campus is a physical education teaching facility which is smaller than a regulation basketball court and has no permanent seating. Maximum fixed seating on campus accommodates fewer than 150 people. To facilitate the University's fund-raising efforts, it may be necessary for individual elements of the facility to be constructed separately as funds become available.

After a detailed evaluation of qualifications, the appointment of C/A Architects, Inc. (formerly Crain/Anderson, Inc.), Longview and Houston, Texas, as Project Architect is recommended because of their expertise and extensive national

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| 60 | HELIPORT | | |
| 70 | PHARMACOLOGY BUILDING | | |
| 71 | MAURICE EWING HALL (U.T. AUSTIN BLDG. NO. 9010) | | |
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THE UNIVERSITY OF TEXAS MEDICAL BRANCH AT GALVESTON

EXISTING SITE PLAN
MAY 1987

experience in the design of multiple use and multi-functional facilities. This firm is the architect of record for the Special Events Centers at U. T. Austin, U. T. El Paso, Western Carolina University, the University of Nevada-Reno, Kansas State University, and the Orlando Arena.

5. U. T. Medical Branch - Galveston - Renovation of Brackenridge Hall (Project No. 601-687): Request for Approval of Final Plans and Authorization to Advertise for Bids and for Executive Committee to Award Contracts.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President James that the U. T. Board of Regents:

- a. Approve final plans and specifications for the renovation of Brackenridge Hall at the U. T. Medical Branch - Galveston at an estimated total project cost of \$2,500,000
- b. Authorize the Office of Facilities Planning and Construction to advertise for bids upon completion of final review
- c. Authorize the Executive Committee to award all contracts associated with this project within the authorized total project cost.

BACKGROUND INFORMATION

In accordance with authorization of the U. T. Board of Regents in October 1988, final plans and specifications for the renovation of Brackenridge Hall at the U. T. Medical Branch - Galveston have been prepared by the Project Architect, The White Budd VanNess Partnership, Houston, Texas.

This project consists of remodeling 14,497 gross square feet of space on the first and second floors of Brackenridge Hall. The estimated construction cost is \$1,526,500 resulting in a unit cost of \$116.22 per gross square foot. The estimated total project cost is \$2,500,000.

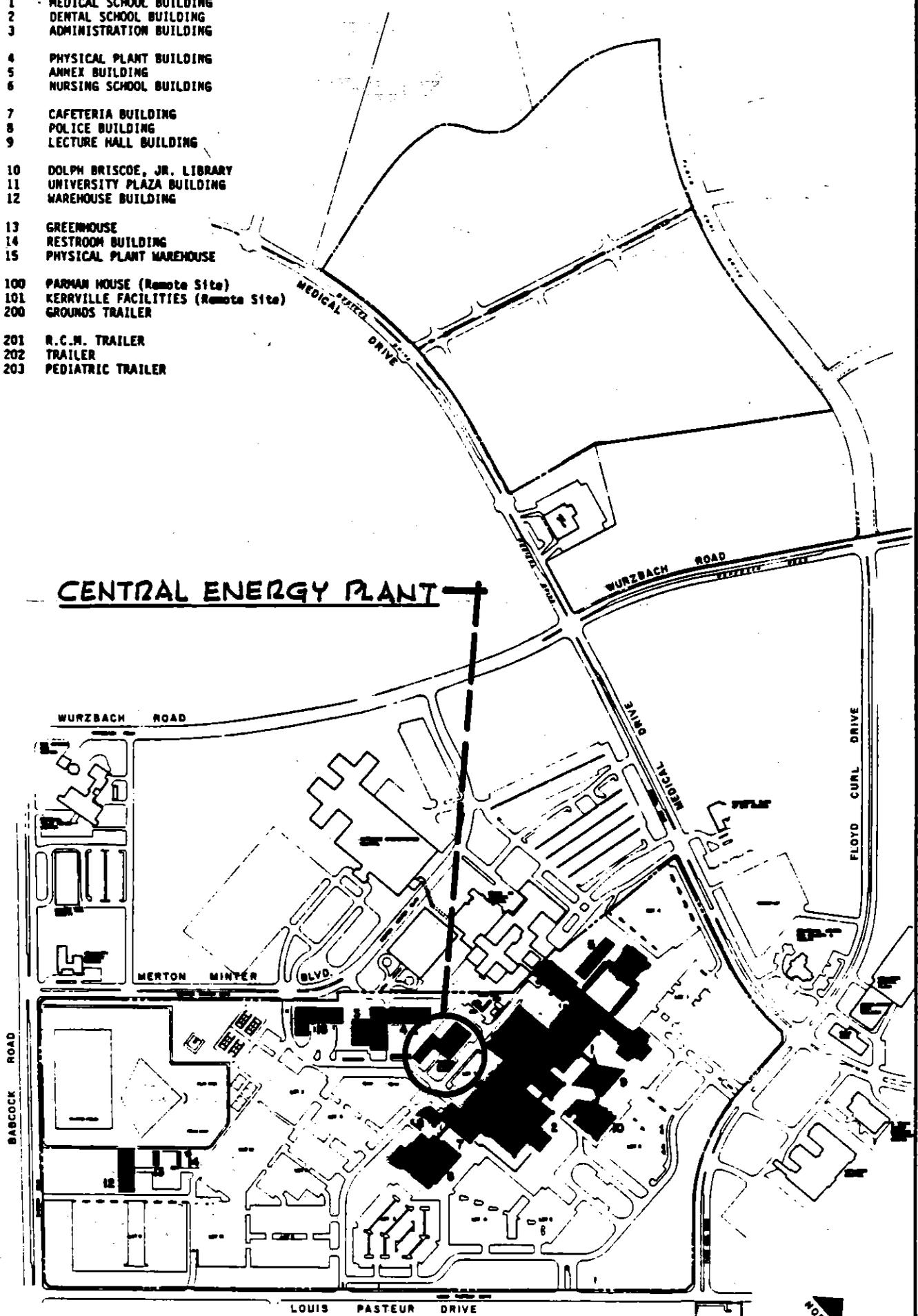
Funds for this project have been previously appropriated from Unappropriated Educational and General Funds Balance.

This project was approved by the Texas Higher Education Coordinating Board in January 1989, and is included in the FY 1990 Capital Budget.

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THE UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER
AT SAN ANTONIO

EXISTING SITE PLAN
MARCH 1988

6. U. T. Health Science Center - San Antonio - Central Energy Plant Modification/Expansion - Phase II: Request for Authorization of Project; Appointment of Project Engineer to Prepare Final Plans; Submission to Coordinating Board; and Appropriation Therefor.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Howe that the U. T. Board of Regents:

- a. Authorize a project for the second phase of modification and expansion of the Central Energy Plant at the U. T. Health Science Center - San Antonio at an estimated total project cost of \$6,100,000
- b. Appoint the firm of Wm. E. Wallis & Associates, San Antonio, Texas, as Project Engineer to prepare final plans and specifications to be presented to the U. T. Board of Regents for consideration at a future meeting
- c. Authorize submission of the project to the Texas Higher Education Coordinating Board
- d. Appropriate \$350,000 from U. T. Health Science Center - San Antonio Unexpended Plant Funds for fees and administrative expenses through completion of final plans.

BACKGROUND INFORMATION

In February 1988, the U. T. Board of Regents authorized preparation of a project analysis to study the heating and cooling capacity of the Central Energy Plant at the U. T. Health Science Center - San Antonio. The completed study recommended the plant be modified and expanded to meet current and future needs and that the work be accomplished in two phases. In June 1989, the U. T. Board of Regents included this project with the Capital Improvement Program and authorized the preparation of plans and the awarding of contracts for Phase I which modifies existing equipment to increase capacity to provide the cooling requirements of the U. T. Health Science Center - San Antonio through 1991. The Phase I modifications are included in the FY 1990 Capital Budget and are presently in progress. The \$350,000 appropriation is in addition to the \$2.6 million already included in the Capital Budget for Phase I.

The firm of Wm. E. Wallis & Associates, San Antonio, Texas, was appointed to prepare the project analysis and the plans and specifications for Phase I. It is recommended that this same firm be appointed to prepare the plans and specifications for Phase II.

Phase II will provide for expansion of the Central Energy Plant to accommodate load increases past 1991 and provide the equipment redundancy to meet the plant service reliability required. This work will include a three-bay addition to the plant building, the provision of new water

chillers, a new cooling tower, new chilled water and condenser water pumps, expansion of existing electrical systems, modification of emergency electrical power, and the expansion of plant auxiliary systems and support functions to accommodate the increased plant capabilities.

Total funding for this project will be from U. T. Health Science Center - San Antonio local funds, and these expenditures will be reflected in the FY 1991 Capital Budget. Completion of the plans and specifications at this time will allow construction to begin early in the 1991 Fiscal Year.

Land and Investment Committee

LAND AND INVESTMENT COMMITTEE
Committee Chairman Ratliff

Date: December 7, 1989
Time: Following the meeting of the Finance and
Facilities Committee
Place: Room 1.208, Nursing School Building
U. T. Health Science Center - San Antonio

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I. PERMANENT UNIVERSITY FUND

INVESTMENT MATTERS

1. Report on Clearance of Monies to the Permanent University Fund for September and October 1989 and Report on Oil and Gas Development as of October 31, 1989.--The following reports with respect to (a) certain monies cleared to the Permanent University Fund for September and October 1989 and (b) Oil and Gas Development as of October 31, 1989, are submitted by the Executive Vice Chancellor for Asset Management:

	<u>September 1989</u>	<u>October 1989</u>	<u>Cumulative Through October of this Fiscal Year (1989-1990)</u>	<u>Cumulative Through October of Preceding Fiscal Year (1988-1989)</u>	<u>Per Cent Change</u>
Permanent University Fund					
Royalty					
Oil	\$ 4,177,585.99	\$ 4,158,111.32	\$ 8,335,697.31	\$ 7,035,389.65	18.48%
Gas	1,426,013.63	1,761,720.65	3,187,734.28	2,884,241.18	10.52%
Sulphur	21,637.75	16,179.00	37,816.75	0.00	--
Water	124,299.59	68,531.54	192,831.13	161,400.47	19.47%
Brine	5,096.28	6,279.62	11,375.90	6,949.25	63.70%
Trace Minerals	0.00	0.00	0.00	0.00	--
Rental					
Oil and Gas Leases	366,503.56	93,893.20	460,396.76	514,223.11	-10.47%
Other	1,550.00	240.70	1,790.70	1,420.00	--
Sale of Sand, Gravel, Etc.	0.00	0.00	0.00	34,887.45	--
Total University Lands Receipts Before Bonuses	<u>6,122,686.80</u>	<u>6,104,956.03</u>	<u>12,227,642.83</u>	<u>10,638,511.11</u>	<u>14.94%</u>
Bonuses					
Oil and Gas Lease Sales	0.00	0.00	0.00	0.00	--
Amendments and Extensions to Mineral Leases	0.00	0.00	0.00	0.00	--
Total University Lands Receipts	<u>6,122,686.80</u>	<u>6,104,956.03</u>	<u>12,227,642.83</u>	<u>10,638,511.11</u>	<u>14.94%</u>
Gain or (Loss) on Sale of Securities	<u>5,307,676.38</u>	<u>7,272,853.18</u>	<u>12,580,529.56</u>	<u>20,703,756.11</u>	<u>-39.24%</u>
TOTAL CLEARANCES	<u>\$11,430,363.18</u>	<u>\$13,377,809.21</u>	<u>\$24,808,172.39</u>	<u>\$31,342,267.22</u>	<u>-20.85%</u>

Oil and Gas Development - October 31, 1989

Acreage Under Lease - 679,003

Number of Producing Acres - 541,369

Number of Producing Leases - 2,164

2. Permanent University Fund: Report on Investments for the Fiscal Year Ended August 31, 1989.--

RECOMMENDATION

Under separate bound cover, the Executive Vice Chancellor for Asset Management presents a report on Permanent University Fund investments for the fiscal year ended August 31, 1989. During the fiscal year, periodic reports of investment transactions made for the Fund were submitted to the U. T. Board of Regents for approval. The present report summarizes the investment transactions for the fiscal year and indicates the status of the Fund's portfolio as of August 31, 1989.

The Permanent University Fund book value of assets and earnings during the year is shown below:

	<u>Fiscal Year Ended 8/31</u>		<u>Increase</u>	
	<u>1988</u>	<u>1989</u>	<u>Amount</u>	<u>%</u>
Book Value	\$3,082,118,711	\$3,294,392,324	\$212,273,613	6.88%
Investment Income	236,873,982	254,333,926	17,459,944	7.37%

The Chancellor recommends that the formal report be approved in order that copies may be distributed to the Governor, members of the Legislature and other State Officials, as required by Section 66.05 of the Texas Education Code.

3. Permanent University Fund: Recommendation to Reappoint Two Members to the Investment Advisory Committee.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Asset Management that the U. T. Board of Regents approve the reappointments of Mr. Edward Randall III, Houston, Texas, and Mr. John T. Stuart III, Dallas, Texas, to the Investment Advisory Committee for the Permanent University Fund for a second term. The appointments are for three-year periods each to expire August 31, 1992.

BACKGROUND INFORMATION

Mr. Edward Randall III currently is a partner in Duncan, Cook & Co. in Houston which is a private investment banking company. He holds directorships in American Oil and Gas Corporation, Houston, Texas; Kilroy Company of Texas, Inc., Houston, Texas; Paine Webber Group Inc., New York, New York; and Starcraft, Inc., Goshen, Indiana.

Mr. John T. Stuart III is currently President of Alpert Corporation and Lakeway Company. He holds directorships in Great American Reserve Company, Dallas, Texas; L & N Housing Corporation, Dallas, Texas; Lakeway Company, Austin, Texas; SavingsBanc, Arlington, Texas; and Metro Center Properties, Inc., Nashville, Tennessee.

With approval of these recommended appointments, the Investment Advisory Committee members and terms will be as follows:

	<u>Term Expires</u>
Michael J. C. Roth	8/31/90
E. L. Wehner	8/31/90
Jack T. Trotter	8/31/91
Edward Randall III	8/31/92
John T. Stuart III	8/31/92
Unfilled	8/31/91

II. TRUST AND SPECIAL FUNDS

Gifts, Bequests and Estates

1. U. T. Austin: Recommendation to Accept Gifts and Corporate Matching Funds to Establish the Laura Thomson Barrow Graduate Fellowship in the College of Natural Sciences.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Cunningham that a \$25,000 gift from Mrs. L. T. Barrow, Houston, Texas, a \$5,000 gift from Mr. Thomas D. Barrow, Houston, Texas, \$15,000 in requested corporate matching funds from Exxon Education Foundation, Florham Park, New Jersey, and \$5,000 in requested corporate matching funds from BP America, Inc., Cleveland, Ohio, for a total of \$50,000 be accepted to establish the Laura Thomson Barrow Graduate Fellowship in the Department of Geological Sciences, College of Natural Sciences, at U. T. Austin.

Income earned from the endowment will be used to support graduate students specializing in the area of natural resources, with preference given to female students and to students concentrating in field oriented studies.

BACKGROUND INFORMATION

Mrs. L. T. (Laura Thomson) Barrow received her B.A. in Geological Sciences from U. T. Austin in 1923. She is a Life Member of both The President's Associates and The Ex-Students' Association. Her son, Mr. Thomas D. Barrow, received his B.S.P.E. in 1945 and his M.A. in

Geological Sciences in 1948 from U. T. Austin. He is a Life Member of The President's Associates and a member of The Chancellor's Council. Mr. Barrow is also an Honorary Life Member of the Geology Foundation Advisory Council.

2. U. T. Austin: Jack S. Blanton, Sr. Chair in Australian Studies in the College of Liberal Arts - Recommendation to Accept Additional Gifts and Eligibility for Matching Funds Under The Regents' Endowed Teachers and Scholars Program.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Cunningham that a \$39,075 gift from the Australian Bicentennial Authority, Sydney, Australia, and a gift of Sage Software, Inc. common stock valued at \$9,843.75 from Mr. Benno C. Schmidt, New York, New York, for a total of \$48,918.75 be accepted for addition to the Jack S. Blanton, Sr. Chair in Australian Studies in the College of Liberal Arts at U. T. Austin.

It is further recommended that \$24,459.38 in matching funds be allocated under The Regents' Endowed Teachers and Scholars Program and used to increase the endowment to a total of \$573,378.13.

BACKGROUND INFORMATION

The Jack S. Blanton, Sr. Chair in Australian Studies was established at the October 1988 meeting of the U. T. Board of Regents with \$500,000 in matching funds from The Regents' Endowed Teachers and Scholars Program. Mr. Jack S. Blanton, Sr. received his B.A. in History in 1947 and his LL.B. in 1950 from U. T. Austin. He received the Distinguished Alumnus Award in 1978, and is a member and former Chairman of the U. T. Board of Regents.

The Australian Bicentennial Authority was established by Australia's government to supervise activities regarding the celebration of Australia's 200th birthday. It completed its activities at the end of 1988. The current gift to U. T. Austin is being given at the direction of Prime Minister Bob Hawke in order to utilize remaining funds with which to celebrate that anniversary, the Edward A. Clark Center for Australian Studies having been established during Australia's bicentennial year.

Mr. Benno C. Schmidt received his B.A. and his LL.B. in 1936 from U. T. Austin.

3. U. T. Austin: Recommendation to Accept Gifts and Transfer of Funds to Establish the Ira Butler Endowed Presidential Scholarship in Law in the School of Law.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Cunningham that a \$15,000 gift from the C. J. Wrightsman Educational Fund, Inc., Fort Worth, Texas, a \$10,000 gift from the law firm of Cantey & Hanger, Fort Worth, Texas, and a \$12,500 transfer of previously reported gifts from current restricted funds for a total of \$37,500 be accepted to establish the Ira Butler Endowed Presidential Scholarship in Law in the School of Law at U. T. Austin. Funds in the amount of \$25,000 will be held and administered by The University of Texas Law School Foundation (an external foundation) in accordance with the Regents' Rules and Regulations, and \$12,500 will be held and administered by the U. T. Board of Regents. When matching funds become available under The Regents' Endowed Student Fellowship and Scholarship Program, the U. T. Law School Foundation will transfer funds held for the endowment to the U. T. Board of Regents.

Income earned from the endowment will be used to award scholarships to students based on need or merit at the discretion of the Dean of the Law School.

BACKGROUND INFORMATION

Mr. Ira Butler, deceased, had a distinguished career in anti-trust and labor litigation and oil and gas law. He was the first president of the C. J. Wrightsman Educational Fund, Inc., which, for many years, has granted individual scholarships. A member of the Texas Board of Law Examiners for 35 years, he served as Chairman from 1956 to 1975. Mr. Butler was "Of Counsel" with the law firm of Cantey & Hanger at the time of his death.

4. U. T. Austin: Recommendation to Accept Gift and Transfer of Funds to Establish the Whitfield J. Collins Endowed Presidential Scholarship in Law in the School of Law.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Cunningham that a \$25,000 gift from Mr. Whitfield J. Collins, Fort Worth, Texas, and a \$12,500 transfer of previously reported gifts from current restricted funds for a total of \$37,500 be accepted to establish the Whitfield J. Collins Endowed Presidential Scholarship in Law in the School of Law at U. T. Austin. Funds in the amount of \$25,000 will be held and

administered by The University of Texas Law School Foundation (an external foundation) in accordance with the Regents' Rules and Regulations, and \$12,500 will be held and administered by the U. T. Board of Regents. When matching funds become available under The Regents' Endowed Student Fellowship and Scholarship Program, the U. T. Law School Foundation will transfer funds held for the endowment to the U. T. Board of Regents.

Income earned from the endowment will be used to award scholarships to students based on need or merit at the discretion of the Dean of the Law School.

BACKGROUND INFORMATION

Mr. Whitfield J. Collins received his B.A. in Government in 1938 and his LL.B. in 1940 from U. T. Austin. He is a partner in the law firm of Cantey & Hanger in Fort Worth, Texas.

5. U. T. Austin: Recommendation to Accept Pledge and Transfer of Funds to Establish the Cecil N. Cook-William C. Perry Endowed Presidential Scholarship in Law in the School of Law.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Cunningham that a \$12,500 pledge, payable by August 31, 1991, from the law firm of Butler & Binion, Houston, Texas, and a \$12,500 transfer of previously reported gifts from current restricted funds for a total of \$25,000 be accepted to establish the Cecil N. Cook-William C. Perry Endowed Presidential Scholarship in Law in the School of Law at U. T. Austin. Funds in the amount of \$12,500 will be held and administered by The University of Texas Law School Foundation (an external foundation) in accordance with the Regents' Rules and Regulations, and \$12,500 will be held and administered by the U. T. Board of Regents.

Income earned from the endowment will be used to award scholarships to first-year law students based on need or merit at the discretion of the Dean of the Law School or his designated representative.

BACKGROUND INFORMATION

Mr. Cecil N. Cook, deceased, received his LL.B. from U. T. Austin in 1926. He was an attorney with Butler & Binion and a former member of The President's Associates. Mr. William C. Perry received his LL.B. from U. T. Austin in 1941. He was "Of Counsel" with the law firm of Butler & Binion.

6. U. T. Austin: Recommendation to Accept Gift and Pledge to Establish the Dads' Association's Patron Endowed Presidential Scholarship.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Cunningham that a \$13,000 gift and a \$12,000 pledge, payable by August 31, 1993, from the U. T. Austin Dads' Association for a total of \$25,000 be accepted to establish the Dads' Association's Patron Endowed Presidential Scholarship at U. T. Austin.

Income earned from the endowment will be used to award scholarships to students of any academic major in accordance with the guidelines for the Endowed Presidential Scholarship program.

BACKGROUND INFORMATION

Since its founding in 1948, the U. T. Austin Dads' Association has been an important part of the life and culture of U. T. Austin. The Association recognizes students who achieve distinction through superior scholarship, character, and service; provides special support for outstanding faculty members through the endowment of faculty positions; and contributes to a wide variety of efforts which enhance the academic enterprise.

7. U. T. Austin: Recommendation to Establish the Jaime Davila Endowed Scholarship in Law in the School of Law.--

RECOMMENDATION

The University of Texas Law School Foundation (an external foundation) has expressed the desire that the Jaime Davila Endowed Scholarship in Law be established in the School of Law at U. T. Austin. The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Cunningham that the endowment be established in accordance with the Regents' Rules and Regulations. Funds for the endowment will be held and administered by The University of Texas Law School Foundation.

Income earned from the endowment will be used to award scholarships to students based on need or merit at the discretion of the Dean of the Law School, with preference given to students of Hispanic descent.

BACKGROUND INFORMATION

The University of Texas Law School Foundation has received \$6,985 from various donors and internally matched the gift with \$3,570 for a total of \$10,555 to fund a scholarship endowment in memory of Mr. Jaime Davila who received his J.D. from U. T. Austin in 1986.

8. U. T. Austin: Recommendation to Accept Gifts and Transfer of Funds to Establish the Lois Donaldson Endowed Presidential Scholarship in Law in the School of Law.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Cunningham that \$10,954 in gifts from various donors, a \$2,705 gift from The University of Texas Law School Foundation, and a \$12,500 transfer of previously reported gifts from current restricted funds for a total of \$26,159 be accepted to establish the Lois Donaldson Endowed Presidential Scholarship in Law in the School of Law at U. T. Austin. Funds in the amount of \$13,659 will be held and administered by The University of Texas Law School Foundation (an external foundation) in accordance with the Regents' Rules and Regulations, and \$12,500 will be held and administered by the U. T. Board of Regents. When matching funds become available under The Regents' Endowed Student Fellowship and Scholarship Program, the U. T. Law School Foundation will transfer funds held for the endowment to the U. T. Board of Regents.

Income earned from the endowment will be used to award scholarships to students based on need or merit at the discretion of the Dean of the Law School.

BACKGROUND INFORMATION

Ms. Lois Donaldson retired January 31, 1989, after nineteen years of service as Manager and house mother at Keeton's Casino in the School of Law at U. T. Austin. This endowment is being established to honor her many years of nurturing, care and concern to law students and faculty.

9. U. T. Austin: Recommendation to Accept Bequests to Establish the Mary Ellen Durrett Scholarship in Child Development and for Restricted Use in the College of Natural Sciences.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Cunningham that a \$50,000 specific bequest from the Estate of Mary Ellen Durrett, Austin, Texas, be accepted to establish the Mary Ellen Durrett Scholarship in Child Development in the Department of Home Economics, College of Natural Sciences, at U. T. Austin.

Income earned from the endowment will be used to support graduate students who have a bachelor's degree in Home Economics and are admitted in good standing to the graduate program in the Department of Home Economics. Preference shall be given to students from Texas or Louisiana.

It is further recommended that a \$2,000 specific bequest be accepted for addition to the Phyllis Richards Professional Development Fund restricted account at U. T. Austin, as specified by Dr. Durrett in her Last Will and Testament.

BACKGROUND INFORMATION

Dr. Mary Ellen Durrett joined the faculty at U. T. Austin in 1970 as Professor and Head of the Division of Child Development. She was named Chairman of the Department of Home Economics on September 1, 1972, and held that position until her death on July 3, 1988. Dr. Durrett's research concerned the family and the cultural context of infant and child development.

10. U. T. Austin: Recommendation to Accept Gift to Establish the Engineering Foundation Endowed Undergraduate Scholarship Fund in the College of Engineering and Eligibility for Matching Funds Under The Regents' Endowed Student Fellowship and Scholarship Program.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Cunningham that a \$100,000 gift from an anonymous donor be accepted to establish the Engineering Foundation Endowed Undergraduate Scholarship Fund in the College of Engineering at U. T. Austin.

It is further recommended that \$50,000 in matching funds be allocated under The Regents' Endowed Student Fellowship and Scholarship Program and used to increase the endowment to a total of \$150,000.

Income earned from the endowment will be used to award 15 or more annual scholarships based on academic merit to undergraduate engineering students who are U. S. citizens.

11. U. T. Austin: Recommendation to Accept Gifts, Pledges and Transfer of Funds to Establish the Judge Joe J. Fisher Chief Judge Emeritus Endowed Presidential Scholarship in Law in the School of Law.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Cunningham that \$40,925.67 in gifts, \$332.33 in pledges, payable by August 31, 1993, from various donors and a \$27,213 transfer of previously reported gifts from current restricted funds for a total of \$68,471 be accepted to establish the Judge Joe J. Fisher Chief Judge Emeritus Endowed Presidential Scholarship in Law in the School of Law at U. T. Austin. Funds in the amount of \$41,258 will be held and administered by The University of Texas Law School Foundation (an external foundation) in accordance with the Regents' Rules and Regulations, and \$27,213 will be held and administered by the U. T. Board of Regents. When matching funds become available under The Regents' Endowed Student Fellowship and Scholarship Program, the U. T. Law School Foundation will transfer funds held for the endowment to the U. T. Board of Regents.

Income earned from the endowment will be used to award scholarships at the discretion of the Dean of the Law School. Preference shall be given to law students with financial need who are from East Texas.

BACKGROUND INFORMATION

Judge Fisher received his LL.B. from U. T. Austin in 1936. He currently serves as the Chief Judge Emeritus for the United States District Court in Beaumont, Texas, and is a member of The Chancellor's Council and The Ex-Students' Association.

12. U. T. Austin: Bettie Johnson Halsell Endowed Scholarship in Liberal Arts in the College of Liberal Arts - Recommendation to Accept Additional Gift and Pledge and Redesignate as the Bettie Johnson Halsell Endowed Presidential Scholarship in Liberal Arts.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Cunningham that a \$5,000 gift and a \$10,000 pledge, payable by August 31, 1991, from Ms. Harriet Halsell, Dallas, Texas, for a total of \$15,000 be accepted for addition to the Bettie Johnson Halsell Endowed Scholarship in Liberal Arts in the College of Liberal Arts at U. T. Austin and that the scholarship be redesignated as the Bettie Johnson Halsell Endowed Presidential Scholarship in Liberal Arts.

BACKGROUND INFORMATION

The Bettie Johnson Halsell Endowed Scholarship in Liberal Arts was established at the February 1987 meeting of the U. T. Board of Regents with a \$10,000 gift from Ms. Harriet Halsell. Ms. Halsell received her B.A. in Sociology from U. T. Austin in 1960. She funded this endowment in memory of her mother, Mrs. Bettie Johnson Halsell, who attended U. T. Austin from 1922 to 1929 and was a Life Member of The Ex-Students' Association.

13. U. T. Austin: Recommendation to Accept Gifts and Pledges to Establish the John Jeffers Research Chair in Law in the School of Law and Eligibility for Matching Funds Under The Regents' Endowed Teachers and Scholars Program.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Cunningham that \$478,928.33 in gifts and \$188,026.67 in pledges, payable by August 31, 1993, from various donors for a total of \$666,955 be accepted to establish the John Jeffers Research Chair in Law in the School of Law at U. T. Austin.

It is further recommended that \$333,477.50 in matching funds be allocated under The Regents' Endowed Teachers and Scholars Program and used to increase the endowment to a total of \$1,000,432.50.

Income earned from the endowment will be used to fund faculty salary supplementation and research support upon recommendation of the Dean of the Law School and approval by the President of U. T. Austin.

BACKGROUND INFORMATION

Mr. John Jeffers, Jr., deceased, received his J.D. from U. T. Austin in 1967. He was a partner in the law firm of Baker & Botts in Houston, Texas.

Primary donors to this Chair are the law firms of Baker & Botts and Vinson & Elkins, the Pennzoil Company, Mr. G. Irvin Terrell, Mr. Joseph D. Jamail, Mr. and Mrs. Baine P. Kerr, Mr. and Mrs. J. Hugh Liedtke, and Tenneco Inc., all of Houston, Texas, and the Lende Foundation, San Antonio, Texas.

See Item 2 on Page AAC - 2 related to naming a room in Townes Hall at U. T. Austin.

14. U. T. Austin: Kozmetsky Family Endowed Research Fellowships in the IC² Institute - Recommendation to Redesignate the Six Fellowships.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Cunningham that the six endowments titled Kozmetsky Family Endowed Research Fellowships in the IC² Institute at U. T. Austin be redesignated as follows:

<u>From</u>	<u>To</u>
Kozmetsky Family Endowed Research Fellowship No. 1	Henry E. Singleton Endowed Research Fellowship
Kozmetsky Family Endowed Research Fellowship No. 2	George A. Roberts Endowed Research Fellowship
Kozmetsky Family Endowed Research Fellowship No. 3	Gerhard J. Fonken Endowed Research Fellowship
Kozmetsky Family Endowed Research Fellowship No. 4	Jack S. Blanton Endowed Research Fellowship
Kozmetsky Family Endowed Research Fellowship No. 5	Cynthia Hendrick Kozmetsky Endowed Research Fellowship
Kozmetsky Family Endowed Research Fellowship No. 6	Michael Scott Endowed Research Fellowship

This recommendation is being made in accordance with the donors' request.

BACKGROUND INFORMATION

Four Kozmetsky Family Endowed Research Fellowships were established at the April 1989 meeting of the U. T. Board of Regents with a gift of Argonaut Group, Inc. common stock valued at \$226,250 from the Dr. George Kozmetsky family, Austin, Texas. Matching funds of \$113,125 from The Regents' Endowed Teachers and Scholars Program were approved and used to establish two additional Kozmetsky Family Endowed Research Fellowships. The donors requested the right to submit alternate titles for each Fellowship at a later date.

Each of the individuals honored by the renaming of the Fellowships has extended and enhanced the Kozmetsky family's interest in society's well-being and the development of higher education.

15. U. T. Austin: Recommendation to Accept Gift to Establish the Regents Endowed Graduate Fellowships in Mathematics in the College of Natural Sciences and Eligibility for Matching Funds Under The Regents' Endowed Student Fellowship and Scholarship Program.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Cunningham that a \$400,000 gift from an anonymous donor be accepted to establish an endowment in the Department of Mathematics, College of Natural Sciences, at U. T. Austin to be named the Regents Endowed Graduate Fellowships in Mathematics.

It is further recommended that \$200,000 in matching funds be allocated under The Regents' Endowed Student Fellowship and Scholarship Program and used to increase the endowment to a total of \$600,000.

Income earned from the endowment will be used to award Fellowships based on academic merit to graduate students in the Department of Mathematics who are U. S. citizens. No more than ten Fellowships will be awarded in any year in order to ensure sufficient award amounts to attract the best students.

16. U. T. Austin: Texas Centennial Lectureship in Astronomy and Astrophysics in the College of Natural Sciences - Recommendation to Accept Additional Gifts; Redesignate as the Antoinette de Vaucouleurs Centennial Lectureship in Astronomy; and Eligibility for Matching Funds Under The Regents' Endowed Teachers and Scholars Program.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Cunningham that gifts totalling \$29,400 from Dr. Gerard de Vaucouleurs, Austin, Texas, and various donors be accepted for addition to the Texas Centennial Lectureship in Astronomy and Astrophysics in the College of Natural Sciences at U. T. Austin for a total of \$35,002.33 and that the Lectureship be redesignated as the Antoinette de Vaucouleurs Centennial Lectureship in Astronomy.

It is further recommended that \$35,000 in matching funds be allocated under The Regents' Endowed Teachers and Scholars Program and used to increase the endowment to a total of \$70,002.33.

BACKGROUND INFORMATION

The Texas Centennial Lectureship in Astronomy and Astrophysics was established at the June 1983 meeting of the U. T. Board of Regents with a gift of real property valued at \$35,000 from Dr. and Mrs. Gerard de Vaucouleurs. Matching funds of \$35,000 from The Centennial Teachers and Scholars Program were reserved to increase the endowment. At its

August 1985 meeting, the U. T. Board of Regents extended the sale date for the property from August 31, 1985 to August 31, 1987. The previously reserved Centennial Teachers and Scholars Program matching funds were carried forward under The Regents' Endowed Teachers and Scholars Program. At the August 1987 meeting of the U. T. Board of Regents, the property sale date was extended from August 31, 1987 to August 31, 1989. Recently, the property was sold for \$6,000, the current market valuation, with net cash proceeds received of \$5,602.33. Dr. de Vaucouleurs and the other donors have requested this endowment be redesignated in memory of his wife, Antoinette, in recognition of her work in astronomy. Dr. de Vaucouleurs is the Jane and Roland Blumberg Centennial Professor Emeritus in Astronomy at U. T. Austin and a member of The Chancellor's Council.

17. U. T. Austin: Recommendation to Accept Gifts to Establish the James W. Vick Endowed Presidential Scholarship in Natural Sciences in the College of Natural Sciences.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Cunningham that a \$25,000 gift from members of the College of Natural Sciences Foundation Advisory Council be accepted to establish the James W. Vick Endowed Presidential Scholarship in Natural Sciences in the College of Natural Sciences at U. T. Austin.

Income earned from this endowment will be used to award scholarships to junior and senior level students based upon scholastic accomplishment.

BACKGROUND INFORMATION

This endowment is being established to honor Dr. James W. Vick for twenty years of service at U. T. Austin, first as a professor in the Department of Mathematics and the College of Natural Sciences and later as the Associate Dean for Academic and Student Affairs and his recent appointment as Vice President for Student Affairs at U. T. Austin.

18. U. T. Austin: Recommendation to Accept Gift to Establish the W. Gordon Whaley Graduate Fellowship.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Cunningham that a \$50,000 gift from Mrs. Clare "Pat" Y. Whaley, Austin, Texas, be accepted to establish the W. Gordon Whaley Graduate Fellowship at U. T. Austin.

Income earned from the endowment will be used for support of outstanding advanced graduate students who are doctoral candidates.

BACKGROUND INFORMATION

This endowment is being established in memory of Dr. W. Gordon Whaley who began his professional career in the Department of Biology at U. T. Austin in 1946 and was later named Ashbel Smith Professor in cellular biology in 1972. Dr. Whaley was Dean of the Graduate School from 1957 to 1972 and Director of the Cell Research Institute from 1964 to 1979.

19. U. T. Austin: Recommendation to Establish the Carl W. Wilson Endowed Mock Trial Competition in the School of Law.--

RECOMMENDATION

The University of Texas Law School Foundation (an external foundation) has expressed the desire that the Carl W. Wilson Endowed Mock Trial Competition be established in the School of Law at U. T. Austin. The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Cunningham that this endowment be established in accordance with the Regents' Rules and Regulations. Funds for the endowment will be held and administered by The University of Texas Law School Foundation.

Income earned from the endowment will be used for general support of advocacy programs in the School of Law.

BACKGROUND INFORMATION

The University of Texas Law School Foundation has received an \$80,000 gift and \$20,000 pledge for a total of \$100,000 from the law firm of Gardere & Wynne, Dallas, Texas, to fund an endowment in honor of Mr. Carl W. Wilson who received his B.B.A. in 1952 and his LL.B. in 1957 from U. T. Austin. Mr. Wilson was a former member of The President's Associates and an attorney with Gardere & Wynne.

20. U. T. San Antonio - U. T. Institute of Texan Cultures - San Antonio: Recommendation to Accept Grant to Establish The Cultural Heritage Endowment.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and Acting President Williams that a \$177,953.25 grant from the Edwina and O. Scott Petty Charitable Trust of the San Antonio Area Foundation, San Antonio, Texas, be accepted to establish The Cultural Heritage Endowment at the U. T. Institute of Texan Cultures - San Antonio of U. T. San Antonio.

Ninety percent of the income earned from the endowment will be used to underwrite research, educational programming, publishing of books, constructing exhibits, and for other programs, projects, and services of the Institute. The remaining ten percent of the income is to be reinvested in the endowment corpus.

BACKGROUND INFORMATION

Mr. O. Scott Petty received his B.S. in 1917 and his M.S. in Civil Engineering in 1920 from U. T. Austin. He received a distinguished Engineering Graduate Award from U. T. Austin in 1972, is a founding member of The Chancellor's Council, and is a member of the Development Board of the U. T. Institute of Texan Cultures - San Antonio. Mrs. Petty received her B.A. in 1921 from U. T. Austin. She is active in numerous charitable groups and organizations.

21. U. T. Tyler: Recommendation to Accept Gift to Establish the Harry Loyd and Jean Wilkinson Academic Endowed Scholarship in Fine Arts.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Hamm that a \$12,640.50 gift from Mrs. Jean Wilkinson, Bullard, Texas, be accepted to establish the Harry Loyd and Jean Wilkinson Academic Endowed Scholarship in Fine Arts at U. T. Tyler.

Income earned from the endowment will be used to award scholarships to meritorious students in the Department of Fine Arts.

BACKGROUND INFORMATION

Mr. Harry Loyd Wilkinson was active in the Tyler community until his death in 1984. His wife, Jean, and their daughter, Lee, are funding this endowment as a family community project. Lee received her B.A.A.S. from U. T. Tyler in 1983.

22. U. T. Southwestern Medical Center - Dallas: Recommendation to Accept Gift to Establish the Distinguished Chair in Biomolecular Science and Eligibility for Matching Funds Under the Texas Eminent Scholars Program.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Wildenthal that a \$1,000,000 gift from an anonymous donor be accepted to establish the Distinguished Chair in Biomolecular Science at the U. T. Southwestern Medical Center - Dallas.

It is further recommended that the actual income which will be earned on the \$1,000,000 gift be certified to the appropriate state authorities for matching under the Texas Eminent Scholars Program as set out in Chapter 51, Subchapter I of the Texas Education Code, when matching funds are made available under the act.

BACKGROUND INFORMATION

The U. T. Southwestern Medical Center - Dallas wishes to reserve the opportunity to rename this Chair to honor special friends at such time as that may be appropriate. Additional funds may be added to this Chair at a later date.

See Item 2 on Page HAC - 3 related to a proposed appointment to this Chair.

23. U. T. Southwestern Medical Center - Dallas: Recommendation to Accept Transfer of Funds to Establish The Guy-Evans Scholarship Fund for Medical Laboratory Sciences.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Wildenthal that a \$10,017 transfer of previously reported gifts from the Medical Technology Emergency Loan Fund be accepted to establish The Guy-Evans Scholarship Fund for Medical Laboratory Sciences at the U. T. Southwestern Medical Center - Dallas.

Income earned from the endowment will be used to award two scholarships each year to medical technology students. One award is to be named the L. Ruth Guy Professional Development Award and is to be presented to the best all-around departmental student who is in their senior year. The second award is to be presented to a medical technology student based on need and scholastic ability.

BACKGROUND INFORMATION

The Medical Technology Emergency Loan Fund was established in 1978 by Dr. L. Ruth Guy, who is currently serving as Professor Emeritus at the U. T. Southwestern Medical Center - Dallas. Dr. Zoe Evans is the former Chairman of Medical Laboratory Sciences.

24. U. T. Medical Branch - Galveston: Recommendation to Accept Land and Improvements from The Sealy & Smith Foundation, Galveston, Texas, and a Pledge from Dr. Harry K. Davis, Houston, Texas, to Establish the Dr. Harry K. Davis Endowed Professorship in Psychiatry and Behavioral Sciences.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President James that the U. T. Board of Regents:

- a. Accept from The Sealy & Smith Foundation, Galveston, Texas, land and improvements which consist of nine condominiums located at 1118 Market Street, Galveston, Texas, for the benefit of the U. T. Medical Branch - Galveston
- b. Accept from The Sealy & Smith Foundation land and improvements which consist of three condominiums located at 1118 Market Street, Galveston, Texas, and valued at \$100,000. These condominiums were donated by Dr. Harry K. Davis, Houston, Texas, to fund an endowed professorship.
- c. Authorize the U. T. Medical Branch - Galveston to use \$46,000 of auxiliary funds to reimburse The Sealy & Smith Foundation for the payments advanced in retiring the note on the Davis' condominiums
- d. Accept a pledge from Dr. Davis of \$46,000 secured by a lien on real estate located in Friendswood, Harris County, Texas
- e. Establish the Dr. Harry K. Davis Endowed Professorship in Psychiatry and Behavioral Sciences by transferring \$100,000 from the auxiliary funds upon the fulfillment of Dr. Davis' pledge.

BACKGROUND INFORMATION

The Sealy & Smith Foundation is donating this income-producing property as a part of its land acquisition program for the benefit of the John Sealy Hospital. With this acquisition, the U. T. Medical Branch - Galveston campus will include all but two parcels of property on the north side of Market Street between Sixth and Fourteenth Streets.

This gift by The Sealy & Smith Foundation and Dr. Davis will be used by the U. T. Medical Branch - Galveston as part of its auxiliary enterprise operation and the property will continue to be occupied and well maintained until such time as the land is needed for campus expansion. The twelve-unit condominium is valued at \$435,400.

Dr. Davis was a 1949 graduate of the U. T. Medical Branch - Galveston and served on its faculty from 1963 through 1971.

25. U. T. M.D. Anderson Cancer Center: Recommendation to Accept Gift and Allocate Funds from the Physicians Referral Service to Establish the John S. Dunn, Sr. Fellowship in Neuro-Oncology.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President LeMaistre that a \$250,000 gift from the John S. Dunn Research Foundation, Houston, Texas, and a \$250,000 allocation of funds from the Physicians Referral Service for a total of \$500,000 be accepted to establish the John S. Dunn, Sr. Fellowship in Neuro-Oncology at the U. T. M.D. Anderson Cancer Center.

Income earned from the endowment will be used to support the Fellowship.

BACKGROUND INFORMATION

Mr. and Mrs. John S. Dunn were former patients of the U. T. M.D. Anderson Cancer Center. Mr. Dunn, deceased, served as Chairman of the U. T. M.D. Anderson Cancer Center's University Cancer Foundation Board of Visitors. The Chapel at the U. T. M.D. Anderson Cancer Center is named in memory of Mrs. Dunn.

26. U. T. M.D. Anderson Cancer Center: Recommendation to Accept Remainder Interest from the C. P. Simpson Testamentary Trust and the Estate of Anna Crouchet Simpson, Houston, Texas; Accept Specific Bequest from the Estate of Anna Crouchet Simpson; and Establish a Quasi-Endowment.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President LeMaistre that the proceeds from the termination of the C. P. Simpson Testamentary Trust, Houston, Texas, as established under the Last Will and Testament of Cecil P. Simpson, valued at approximately \$18,000,000, and the residual Estate of Anna Crouchet Simpson, Houston, Texas, valued at approximately \$6,000,000 be accepted for the benefit of the U. T. M.D. Anderson Cancer Center.

It is further recommended that all of the proceeds from the C. P. Simpson Testamentary Trust be used to establish a quasi-endowment entitled the Anna Crouchet and C. P. Simpson Quasi-Endowment Fund to be held at the U. T. System for

investment purposes until needed for expenditures for acquiring real estate, funding capital improvements, and other discretionary purposes as they are approved. Additionally, it is recommended that the U. T. M.D. Anderson Cancer Center be authorized to withdraw any part or all of these funds as needed for the approved purposes.

All of the funds received from the residual Estate of Anna Crouchet Simpson will be held at the U. T. M.D. Anderson Cancer Center as the Anna Crouchet and C. P. Simpson Fund to be used for discretionary purposes.

Additionally, it is recommended that the specific bequest of proceeds from the sale of jewelry from the Estate of Anna Crouchet Simpson be accepted and the proceeds used for care and treatment of children at the U. T. M.D. Anderson Cancer Center. A final report will be made at a later date.

BACKGROUND INFORMATION

Mr. Cecil P. Simpson, deceased, was a successful businessman, former vice president of General Motors and owner of an automobile dealership in Houston, Texas. Mr. Simpson was an active member of the American Cancer Society.

27. U. T. M.D. Anderson Cancer Center: Recommendation to Accept Remainder Interest from the Estate of Joseph E. Wells, Eureka Springs, Arkansas.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President LeMaistre that a remainder interest in the Estate of Joseph E. Wells, Eureka Springs, Arkansas, comprised of \$27,809 in cash and 73 shares of stock in the Frank L. Wells Company, Kenosha, Wisconsin, valued at approximately \$45,771 for a total of \$73,580 be accepted and used for general institutional purposes at the U. T. M.D. Anderson Cancer Center.

BACKGROUND INFORMATION

Mr. Joseph E. Wells, deceased, had no known affiliation with the U. T. M.D. Anderson Cancer Center. With this gift, Mr. Wells expressed his appreciation of the services being provided by the U. T. M.D. Anderson Cancer Center.

LAND AND INVESTMENT COMMITTEE

ADDITIONAL ITEM

(Page L&I - 24a, Item 28)

December 7, 1989

II. TRUST AND SPECIAL FUNDS

28. U. T. Southwestern Medical Center - Dallas: Recommendation to Accept Gift to Establish the Carl J. and Hortense M. Thomsen Seven Percent Trust and the Carl J. and Hortense M. Thomsen Eight Percent Trust and to Accept Pledge for Unrestricted Use.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Wildenthal that a \$900,000 gift comprised of cash and securities and a \$100,000 pledge, payable by January 31, 1990, for a total of \$1,000,000; from Mr. and Mrs. Carl J. Thomsen, Dallas, Texas, be accepted to establish the Carl J. and Hortense M. Thomsen Seven Percent Trust and the Carl J. and Hortense M. Thomsen Eight Percent Trust and for unrestricted purposes at the U. T. Southwestern Medical Center - Dallas.

The Carl J. and Hortense M. Thomsen Seven Percent Trust is to be funded with \$400,000 of Mr. and Mrs. Thomsen's gift. The trust agreement provides for the payment of seven percent of the annual net fair market value of the trust assets to be paid annually to Mr. and Mrs. Carl J. Thomsen for a term of ten years or until their deaths. In any year when the income is more than seven percent of the market value, excess income will be added to the corpus of the trust.

The Carl J. and Hortense M. Thomsen Eight Percent Trust is to be funded with \$500,000 of Mr. and Mrs. Thomsen's gift. The trust agreement provides for the payment of eight percent of the annual net fair market value of the trust assets or the actual income, whichever is less, to be paid quarterly to Mr. and Mrs. Thomsen for a term of ten years or until their deaths. If the trust income for any year exceeds eight percent, the payment to the donors shall include such excess income to the extent that the total amounts paid to the donors in prior years is less than eight percent. In any year when income is more than eight percent of the market value, excess income will be added to the corpus of the trust.

Upon the termination of the trusts, the corpus and any accumulated or undistributed income of the trusts shall be distributed to the U. T. Southwestern Medical Center - Dallas. The President of the U. T. Southwestern Medical Center - Dallas shall designate the disposition of the gift and may direct that the funds be placed in a permanent endowment, temporary endowment fund, or be expended for the benefit of the U. T. Southwestern Medical Center - Dallas. The funds may not be used for the construction of any facilities.

The \$100,000 pledge as received will be used for unrestricted purposes designated by the President of the U. T. Southwestern Medical Center - Dallas.

BACKGROUND INFORMATION

Mr. and Mrs. Carl J. Thomsen are longtime civic leaders in the Dallas community, as well as generous supporters of the U. T. Southwestern Medical Center - Dallas. Mr. Thomsen is a retired director of Texas Instruments.

III. INTELLECTUAL PROPERTY MATTERS

1. U. T. Board of Regents: Proposed Amendments to the Regents' Rules and Regulations, Part Two, Chapter V, Section 2, Subsection 2.4, Subdivision 2.49 (Approval of Agreements Relating to Rights in Intellectual Property).--

RECOMMENDATION

The Chancellor with the concurrence of the Executive Vice Chancellor for Academic Affairs, the Executive Vice Chancellor for Health Affairs and the Executive Vice Chancellor for Asset Management recommends that the Regents' Rules and Regulations, Part Two, Chapter V, Section 2, Subsection 2.4, Subdivision 2.49 (Approval of Agreements Relating to Rights in Intellectual Property) be amended as set forth below in congressional style:

Sec. 2. General Personnel.

2.49 Approval of Agreements Relating to Rights in Intellectual Property.

- 2.491 Agreements relating to rights in intellectual property shall ordinarily be approved by the Board on the institutional docket following review by the Office of General Counsel and approval by the chief administrative officer of the component institution, the appropriate Executive Vice Chancellor and the Chancellor.
- 2.492 Any agreement altering substantially the basic intellectual property policy of the System as set out in the preceding sections and other policies and guidelines that may be adopted by the Board shall have the advance approval of the chief administrative officer, the appropriate Executive Vice Chancellor, the Chancellor, and the Board as an agenda item. Such an alteration in a sponsored research agreement shall not be considered substantial and may be approved by the Board on the institutional docket if, in the judgment of the chief administrative officer and with the concurrence of the appropriate Executive Vice Chancellor, the benefits from the level of funding for the proposed research and/or other consideration from the sponsor outweigh any potential disadvantage that may result from the policy deviation.

BACKGROUND INFORMATION

The Intellectual Property Policy enacted by the U. T. Board of Regents at the December 1985 meeting is contained in the Regents' Rules and Regulations, Part Two, Chapter V, Section 2. Subdivision 2.49 of the Policy specifically details the route for Board approval of agreements related to rights in intellectual property. The current regulations require that agreements "altering substantially" the Intellectual Property Policy and other policies and guidelines adopted by the U. T. Board of Regents must be approved as an agenda item. In addition to the Intellectual Property Policy, the "Policy and Guidelines for the Negotiation, Review and Approval of Sponsored Research Projects with Nonprofit and For Profit Nongovernmental Entities" (Guidelines) were also approved by the U. T. Board of Regents at the December 1985 meeting. The Guidelines concern ownership of intellectual property, licensing to the sponsoring entity, reimbursement for expenses related to securing a patent, and required indemnification.

The proposed amendments will allow sponsored research agreements (including research participation agreements, conditional gifts, extensions of or modifications to previously approved agreements, and consulting agreements) containing language in technical nonconformance with the Intellectual Property Policy or the Guidelines to be processed more expeditiously upon a finding that the potential benefits from the level of funding for the proposed research and/or other consideration from the sponsor outweigh potential disadvantages related to the policy deviation.

2. U. T. Dallas: Recommendation for Approval of Patent and Technology License Agreement with Research Applications, Inc. (RAI), Austin, Texas.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Rutford that the U. T. Board of Regents approve the Patent and Technology License Agreement by and between the U. T. Board of Regents, for and on behalf of U. T. Dallas, and Research Applications, Inc. (RAI), Austin, Texas, for the development and licensing of a method and apparatus for producing a layer of material with laser ablation. This agreement is still being negotiated and will be available at the meeting.

BACKGROUND INFORMATION

Research Applications, Inc. (RAI) is an Austin, Texas, corporation established to assist universities in the commercialization of technologies. Under the proposed agreement, RAI will receive a royalty-bearing, exclusive, worldwide license under U. T. Dallas' currently existing patent and technology rights in inventions by Dr. Carl B. Collins, Professor,

LAND AND INVESTMENT COMMITTEE

SUPPLEMENTAL MATERIAL

(Page L&I - 26, Item 2)

December 7, 1989

2. U. T. Dallas: Recommendation for Approval of Patent and Technology License Agreement with Research Applications, Inc. (RAI), Austin, Texas.--

Attached is the Patent and Technology License and Development Agreement that is recommended for approval. It has been approved as to form and content by appropriate component and System Administration officials.

This agreement is within the parameters established for approval via the Docket but is presented here to expedite the effective date of the agreement.

PATENT AND TECHNOLOGY LICENSE
AND DEVELOPMENT AGREEMENT

THIS AGREEMENT is made by and between the BOARD OF REGENTS (BOARD) OF THE UNIVERSITY OF TEXAS SYSTEM (SYSTEM), an agency of the State of Texas, whose address is 201 West 7th Street, Austin, Texas 78701, on behalf of THE UNIVERSITY OF TEXAS AT DALLAS (UNIVERSITY) and RESEARCH APPLICATIONS, INC. (LICENSEE), a Texas corporation having its principal place of business at 400 West 15th Street, Suite 1003, Austin, Texas 78701.

W I T N E S S E T H:

Whereas BOARD owns certain PATENT RIGHTS and TECHNOLOGY RIGHTS related to LICENSED SUBJECT MATTER, which were developed at UNIVERSITY, a component institution of SYSTEM;

Whereas BOARD desires to have the LICENSED SUBJECT MATTER developed and used for the benefit of LICENSEE, the inventor(s), BOARD, UNIVERSITY and the public as outlined in the Intellectual Property Policy promulgated by the BOARD; and

Whereas LICENSEE wishes to obtain a license from BOARD to practice LICENSED SUBJECT MATTER;

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

I. EFFECTIVE DATE

This Agreement shall be effective as of December 7, 1989.

II. DEFINITIONS

As used in this Agreement, the following terms shall have the meanings indicated:

2.1 LICENSED SUBJECT MATTER shall mean inventions and discoveries covered by PATENT RIGHTS or TECHNOLOGY RIGHTS.

2.2 PATENT RIGHTS shall mean BOARD'S rights in presently existing information or discoveries and all future improvements and discoveries covered by patents and/or patent applications whether domestic or foreign, docketed in BOARD's files (UT System Office of General Counsel) as UTSB: _____, and all divisions,

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continuations, continuations-in-part, reissues, reexaminations or extensions thereof, and any letters patent that issue thereon, which name Professor Carl Collins, Jr. or Dr. Farzin Davanloo as either sole or joint inventors and which relate to the hybrid ion beam apparatus and related diamond-like structures developed by the Center for Quantum Electronics at UNIVERSITY and partially identified in the patent applications entitled "Method and Apparatus for Producing a Layer of Material from a Laser Ion Source" and "Method and Apparatus for Producing a Layer of Material with Laser Ablation," pending in the United States Patent and Trademark Office.

2.3 TECHNOLOGY RIGHTS shall mean BOARD'S rights in any technical information, know-how, process, procedure, composition, device, method, formula, protocol, technique, software, design, drawing or data relating to hybrid ion beam apparatus and related diamond-like structures which is not covered by PATENT RIGHTS but which is necessary for practicing the invention at any time covered by PATENT RIGHTS.

2.4 LICENSED FIELD shall mean all uses and applications of the PATENT RIGHTS and the TECHNOLOGY RIGHTS within a field of use designated as a LICENSED FIELD by the ADVISORY BOARD after the use and application of the PATENT RIGHTS and the TECHNOLOGY RIGHTS in such field of use shall have been clearly demonstrated.

2.5 LICENSED TERRITORY shall mean the entire world.

2.6 LICENSED PRODUCT OR PROCESS shall mean any product or process comprising LICENSED SUBJECT MATTER.

2.7 ADVISORY BOARD shall mean a board established by UNIVERSITY and LICENSEE to advise LICENSEE pursuant to this Agreement. The ADVISORY BOARD shall have five members: three members shall be appointed by UNIVERSITY and two members shall be appointed by LICENSEE. Each member of the ADVISORY BOARD will serve at the pleasure of the party who appointed such member. UNIVERSITY and LICENSEE may at any time by written notice to the other, remove any member and fill any vacancy caused by the removal, resignation or death of any member, appointed by LICENSEE or UNIVERSITY respectively.

III. WARRANTY; SUPERIOR-RIGHTS

BOARD represents and warrants its belief that it is the owner of the entire right, title and interest in and to LICENSED SUBJECT MATTER, and that it has the sole right to grant licenses thereunder, and that it has not knowingly granted licenses thereunder to any other entity that would restrict rights granted hereunder except as stated herein.

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IV. LICENSE

4.1 BOARD hereby grants to LICENSEE an exclusive license under LICENSED SUBJECT MATTER to manufacture, have manufactured, and/or sell LICENSED PRODUCTS OR PROCESSES within LICENSED TERRITORY. This grant shall be subject to rights retained by BOARD to:

(a) Publish the general scientific findings from research related to LICENSED SUBJECT MATTER; and

(b) Use any information contained in LICENSED SUBJECT MATTER for research, teaching and other educationally-related purposes.

4.2 LICENSEE shall have the right to grant sublicenses within LICENSED FIELDS consistent with this Agreement provided that each sublicensee has been approved by the ADVISORY BOARD. LICENSEE further agrees to deliver to BOARD a true and correct copy of each sublicense granted by LICENSEE, and any modification or termination thereof, within 30 days after execution, modification, or termination.

4.3 (a) BOARD shall have the right after 12 months from the date a LICENSED FIELD shall have been designated in the manner provided herein, to terminate the exclusivity of the license granted herein with respect (and only with respect) to such LICENSED FIELD if LICENSEE, within 90 days after written notice from BOARD as to such intended termination, fails to demonstrate significant progress toward sublicensing LICENSED SUBJECT MATTER in such LICENSED FIELD.

(b) BOARD shall have the right after 18 months from the date a LICENSED FIELD shall have been designated in the manner provided herein, to terminate the exclusivity of the license granted herein with respect (and only with respect) to such LICENSED FIELD if LICENSEE, within 90 days after written notice from BOARD as to such intended termination, fails to grant a sublicense within such LICENSED FIELD.

(c) Upon written notice from BOARD to LICENSEE given within 45 days after June 30, 1992, BOARD may terminate the license granted herein with respect (and only with respect) to any of the fields of use of infrared windows, lenses and optical coatings or tribological applications if (i) BOARD reasonably determines that LICENSEE is unable to demonstrate reasonable prospects for licensing the LICENSED SUBJECT MATTER in such field of use and (ii) prior to that date, LICENSEE has failed to obtain research grants or other funding in an aggregate amount of at least \$150,000 for UNIVERSITY for the development of LICENSED SUBJECT MATTER.

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(d) At least two of the members of the ADVISORY BOARD appointed by UNIVERSITY shall concur in the decision of the BOARD to terminate the exclusivity of the license with respect to a LICENSED FIELD pursuant to subparagraphs (a) or (b) above or to terminate the license granted hereunder with respect to a field of use pursuant to subparagraph (c) above, and in order to be effective, the notice of termination given by the BOARD shall identify the members who have concurred in such decision.

V. PAYMENTS AND REPORTS

5.1 It is not contemplated that LICENSEE will manufacture or sell LICENSED PRODUCTS OR PROCESSES; instead it is contemplated that LICENSEE will sublicense one or more sublicensees to manufacture and sell LICENSED PRODUCTS OR PROCESSES within each LICENSED FIELD and will receive royalties from such sublicensees based on their sales or net sales. In consideration of rights granted by BOARD to LICENSEE under this Agreement, LICENSEE agrees to pay BOARD a percentage of royalties received pursuant to sublicenses granted hereunder, determined as follows:

(a) With respect to each sublicense granted hereunder, 60 percent of NET ROYALTIES shall be payable to BOARD until the aggregate amount of NET ROYALTIES pursuant to such sublicense equals \$500,000; and

(b) With respect to NET ROYALTIES pursuant to a sublicense in excess of \$500,000:

(i) 60 percent of such NET ROYALTIES shall be payable to BOARD until the aggregate amount of NET ROYALTIES pursuant to all sublicenses granted hereunder, including the first \$500,000 in NET ROYALTIES referred to in (a) above, (such aggregate amount being referred to herein as the "AGGREGATE NET ROYALTIES") equal \$1,000,000;

(ii) then, 70 percent of NET ROYALTIES shall be payable to BOARD until AGGREGATE NET ROYALTIES equal \$2,000,000;

(iii) then, 80 percent of NET ROYALTIES shall be payable to BOARD until AGGREGATE NET ROYALTIES equal \$5,000,000;

(iv) then, 90 percent of NET ROYALTIES shall be payable to BOARD until AGGREGATE NET ROYALTIES equal \$10,000,000; and

(v) thereafter, all NET ROYALTIES shall be payable to BOARD.

As used herein, "NET ROYALTIES" mean royalty payments or other valuable consideration actually received pursuant to a sublicense, less amounts applied to reimburse expenses, pay fees or establish reserves for the payment or reimbursement of fees or expenses as provided in paragraph 5.2 below.

5.2 Expenses incurred by LICENSEE that are reasonably and directly related to the commercialization or licensing of LICENSED SUBJECT MATTER, expenses incurred by BOARD in searching, preparing, filing, prosecuting and maintaining patent applications and patents pursuant to part XV hereof, and consulting fees payable to Professor Collins and Dr. Davanloo as contemplated in part VI hereof shall be reimbursed or paid out of royalty payments received from sublicenses and from research grants and payments under sponsored research agreements obtained by LICENSEE for UNIVERSITY. Until all such expenses and fees have been reimbursed or paid, (a) one-third of all royalty payments received shall be applied to reimburse LICENSEE, one-third shall be applied to reimburse BOARD and one-third shall be applied to pay consulting fees earned by Professor Collins and Dr. Davanloo, and (b) if allowed by the grantor or sponsor, a fee equal to 20% of all payments received by UNIVERSITY pursuant to research grants and sponsored research agreements obtained by LICENSEE for UNIVERSITY shall be paid to LICENSEE to be applied to reimburse or pay such expenses and fees of LICENSEE, BOARD, Professor Collins and Dr. Davanloo. With the approval of the ADVISORY BOARD, LICENSEE may from time to time establish and fund out of such royalty payments and fees reserves for the payment or reimbursement of reasonably anticipated fees and expenses consistent with this paragraph 5.2 and may pay or reimburse such expenses and fees as they are incurred or paid. All amounts paid or reimbursed or reserved for payment or reimbursement out of royalty payments pursuant to this paragraph shall be deducted from royalty payments in determining NET ROYALTIES pursuant to paragraph 5.1 above at the time of such payment or reimbursement or the establishment of such reserves, and royalty payments in excess of the amounts applied to pay or reimburse such expenses and fees shall be distributed in accordance with paragraph 5.1 above.

5.3 During the term of this Agreement and for one year thereafter, LICENSEE shall require each sublicensee to keep complete and accurate records of such sublicensee's sales and net sales of LICENSED PRODUCTS OR PROCESSES under the sublicense granted in sufficient detail to enable the royalties payable to LICENSEE pursuant to such sublicense or to BOARD hereunder to be determined. LICENSEE shall permit BOARD, at BOARD'S expense, to periodically examine its books, ledgers, and records during regular business hours for the purpose of and to the extent necessary to verify any report required hereunder. In the event any amounts due to BOARD are determined to have been underpaid, LICENSEE shall pay or cause its sublicensee(s) to pay the cost of such examination, and interest at the highest rate allowable by law on such underpayment. LICENSEE will contractually obligate each sublicensee to permit BOARD the right of examination specified herein.

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5.4 Within 30 days after each March 31, June 30, September 30 and December 31 during the term of any sublicense granted herein and commencing when LICENSEE first receives royalties from such sublicensee and thereafter, LICENSEE shall deliver to BOARD a true and accurate report of the royalties received pursuant to such sublicense during the three-month period then ended, the fees and expenses paid or reimbursed or reserved for payment or reimbursement, a computation of NET ROYALTIES and AGGREGATE NET ROYALTIES and the amount, if any, payable to the BOARD. Simultaneously with the delivery of each such report, LICENSEE shall pay to BOARD the amount, if any, due for the period covered by such report. Upon the request of BOARD but not more often than once per calendar year, LICENSEE shall deliver to BOARD a written report as to LICENSEE'S efforts and accomplishments during the preceding year in commercializing LICENSED SUBJECT MATTER in various LICENSED FIELDS and its commercialization plans for the upcoming year.

VI. CONSULTING SERVICES

LICENSEE intends to engage Professor Collins and Dr. Davanloo to consult with LICENSEE and sublicensees in commercializing and licensing the LICENSED SUBJECT MATTER. It is currently anticipated that each of them will be available at LICENSEE'S request to provide such consulting services for up to four days each calendar month as requested by LICENSEE and that the consulting fees initially payable will be \$1,000 per day to Professor Collins and \$750 per day to Dr. Davanloo, all as set forth in consulting agreements between LICENSEE and each of Professor Collins and Dr. Davanloo. BOARD and UNIVERSITY consent to such consulting arrangements, as set forth in the form of Attachment A hereto, and agree with LICENSEE that such arrangements do not violate any rules, policies or procedures of BOARD or UNIVERSITY.

VII. TERM AND TERMINATION

7.1 The term of this Agreement shall extend from the Effective Date set forth above to the full end of the term or terms for which PATENT RIGHTS have not expired, and if only TECHNOLOGY RIGHTS are licensed and no PATENT RIGHTS are applicable, for a term of ten years from the Effective Date.

7.2 This Agreement will earlier terminate:

(a) automatically if LICENSEE shall become bankrupt or insolvent and/or if the business of LICENSEE shall be placed in the hands of a receiver, assignee, or trustee, whether by voluntary act of LICENSEE or otherwise;

(b) upon written notice from BOARD to LICENSEE within 45 days after December 31, 1992 if prior to that date, LICENSEE

shall not have granted at least one sublicense hereunder pursuant to which there are reasonable prospects of receiving royalty payments on or before December 31, 1993;

(c) upon written notice from BOARD to LICENSEE within 45 days after December 31, 1994 if prior to that date, the aggregate of all royalty payments received pursuant to sublicenses granted hereunder do not at least equal \$350,000; and

(d) upon 90 days written notice from BOARD TO LICENSEE if LICENSEE shall breach or default on any obligation under this License Agreement; provided, however, that LICENSEE may avoid such termination if before the end of such period LICENSEE notifies BOARD that such breach has been cured and states the manner of such cure.

At least two of the members appointed to the ADVISORY BOARD by UNIVERSITY shall concur in the decision of UNIVERSITY to terminate this Agreement pursuant to subparagraph (b), (c) or (d) above and, in order to be effective, the notice of termination given by BOARD shall identify the members who have concurred in such decision.

7.3 Upon termination of this Agreement for any cause, nothing herein shall be construed to release either party of any obligation matured prior to the effective date of such termination. Without limiting the foregoing, the termination of this Agreement shall not terminate or affect the rights or obligations of LICENSEE in respect of any sublicense entered into prior to the effective date of termination, including the right of LICENSEE to receive royalty payments under each such sublicense.

VIII. INFRINGEMENT BY THIRD PARTIES

8.1 LICENSEE shall have the right, but not the obligation, of enforcing at its expense any patent exclusively licensed hereunder against infringement by third parties and shall be entitled to retain recovery from such enforcement. LICENSEE shall be required to pay BOARD royalty on any monetary recovery actually received by LICENSEE (after deducting from such recovery all costs and expenses, including attorneys' fees) to the extent that such monetary recovery by LICENSEE is held to be a reasonable royalty or damages in lieu thereof. In the event that LICENSEE does not file suit against a substantial infringer of such patents within six months of knowledge thereof, then BOARD shall have the right to enforce any patent licensed herein on behalf of itself and LICENSEE (BOARD retaining all recoveries from such enforcement), and/or to reduce the license granted hereunder to nonexclusive. BOARD shall notify LICENSEE and LICENSEE shall notify BOARD of any infringement of

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PATENT RIGHTS which may come to the attention of BOARD or LICENSEE.

8.2 In any suit or dispute involving an infringer, the parties shall cooperate fully, and upon the request and at the expense of the party bringing suit, the other party shall make available to the party bringing suit at reasonable times and under appropriate conditions all relevant personnel, records, papers, information, samples, specimens, and the like which are in its possession.

IX. ASSIGNMENT

This Agreement may not be assigned by LICENSEE without the prior written consent of BOARD. This paragraph shall not be construed to require the consent of BOARD in order for LICENSEE to grant sublicenses consistent with this Agreement.

X. PATENT MARKING

All sublicenses granted hereunder will provide that the sublicensee will mark permanently and legibly all products and documentation manufactured or sold by it under the sublicense with such patent notice as may be permitted or required under Title 35, United States Code.

XI. SAMPLES

If LICENSEE and UNIVERSITY are not able to obtain from third parties research grants or other funding of at least \$20,000 per calendar quarter, LICENSEE shall pay the UNIVERSITY's Center for Quantum Electronics \$300 for each sample (provided the sample is small enough to allow simultaneous coating of four samples) as reimbursement for costs incurred to produce the samples. Any sample coating over 1.0 micron in thickness will require the approval for cost and delivery by the Director of the Center for Quantum Electronics at UNIVERSITY.

XII. INDEMNIFICATION

LICENSEE shall hold harmless and indemnify BOARD, SYSTEM, UNIVERSITY, its Regents, officers, employees and agents from and against any claims, demands, or causes of action whatsoever, including without limitation those arising on account of any injury or death of persons or damage to property caused by, or arising out of, or resulting from, the exercise or practice of the license granted hereunder by LICENSEE or its officers, employees, agents or representatives.

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XIII. PUBLICITY; USE OF NAMES

No party to this Agreement shall use the name of any other party without the express written consent of such other party.

XIV. CONFIDENTIAL INFORMATION

14.1 BOARD and LICENSEE each agree that all information contained in documents marked "confidential" which are forwarded to one by the other shall be received in strict confidence, used only for the purposes of this Agreement, and not disclosed by the recipient party (except as required by law or court order), its agents or employees without the prior written consent of the other party, unless such information (a) was in the public domain at the time of disclosure, (b) later became part of the public domain through no act or omission of the recipient party, its employees, agents, successors or assigns, (c) was lawfully disclosed to the recipient party by a third party having the right to disclose it, (d) was already known by the recipient party at the time of disclosure, (e) was independently developed or (f) is required to be submitted to a government agency pursuant to any preexisting obligation.

14.2 Each party's obligation of confidence hereunder shall be fulfilled, by using at least the same degree of care with the other party's confidential information as it uses to protect its own confidential information. This obligation shall exist while this Agreement is in force and for a period of two (2) years thereafter.

XV. PATENTS AND INVENTIONS

BOARD shall pay all expenses in searching, preparing, filing, prosecuting and maintaining patent applications and patents relating to PATENT RIGHTS and shall be entitled to reimbursement of such expenses reasonably and actually incurred as and to the extent provided in paragraph 5.2 hereof. As of the date of this Agreement, BOARD has incurred \$_____ in patent-related expenses, and LICENSEE agrees that all such expenses are eligible for reimbursement pursuant to paragraph 5.2. BOARD will furnish LICENSEE with a copy of any such applications, as well as copies of any documents received or filed during prosecution thereof.

XVI. GENERAL

16.1 This Agreement constitutes the entire and only agreement among the parties for LICENSED SUBJECT MATTER and all other prior negotiations, representations, agreements, and understandings are superseded hereby. No agreements altering or supplementing the

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terms hereof may be made except by means of a written document signed by the duly authorized representatives of the parties.

16.2 Any notice required by this License Agreement shall be given by prepaid, first class, certified mail, return receipt requested, addressed in the case of BOARD to:

BOARD OF REGENTS
The University of Texas System
201 West 7th Street
Austin, Texas 78701
ATTENTION: System Intellectual
Property Office

with a copy to:

THE UNIVERSITY OF TEXAS AT DALLAS
Box 830688
Richardson, Texas 75083-0688
ATTENTION: Vice President for Business
Affairs

or in the case of LICENSEE to:

Research Applications, Inc.
400 West 15th Street, Suite 1003
Austin, Texas 78701
ATTENTION: Dale M. Mosier, President

with a copy to:

Shapiro, Edens & Cook
2200 One American Center
600 Congress Avenue
Austin, Texas 78701
ATTENTION: William R. Volk

or such other address as may be given from time to time under the terms of this notice provision.

16.3 LICENSEE shall comply with all applicable federal, state and local laws and regulations in connection with its activities pursuant to this Agreement.

16.4 This License Agreement shall be construed and enforced in accordance with the laws of the United States of America and of the State of Texas.

16.5 Failure of either party to enforce a right under this Agreement shall not act as a waiver of that right or the ability to later assert that right relative to the particular situation involved.

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16.6 Headings included herein are for convenience only and shall not be used to construe this Agreement.

16.7 If any provision of this Agreement shall be found by a court to be void, invalid or unenforceable, the same shall be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity or enforceability of the remainder of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement.

RESEARCH APPLICATIONS, INC.

BOARD OF REGENTS OF THE
UNIVERSITY OF TEXAS SYSTEM

By: _____
Dale M. Mosier
President

By: _____
Michael E. Patrick
Executive Vice Chancellor
for Asset Management

BOARD OF REGENTS OF THE
UNIVERSITY OF TEXAS SYSTEMS

APPROVED AS TO CONTENT:

ATTEST:

By: _____
Arthur H. Dilly
Executive Secretary

By: _____
Robert L. Lovitt
Vice President for Business
Affairs
The University of Texas at
Dallas

APPROVED AS TO FORM:

By: _____
Dudley R. Dobie, Jr.
Office of General Counsel

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CONSULTING AGREEMENT

This AGREEMENT is made as of December 7, 1989, by and between RESEARCH APPLICATIONS, INC., a Texas corporation ("Company"), and Professor Carl Collins, Jr. ("Consultant"), whose address is: _____

WITNESSETH:

WHEREAS, the Company has entered into a Patent and Technology License and Development Agreement (the "License Agreement") with the Board of Regents of The University of Texas System (the "Board") concerning the hybrid ion beam apparatus and related diamond-like structures developed by the Center for Quantum Electronics at the University of Texas at Dallas (the "Technology"); and

WHEREAS, Consultant is a creator of the Technology and Company desires to obtain the services of Consultant in commercializing and licensing the Technology;

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements hereinafter set forth, Company and Consultant agree as follows:

1. Services. Consultant agrees to consult with the Company and sublicensees under the License Agreement as may be requested by the Company from time to time, provided that Consultant shall not be required to provide such services for more than four full working days during any calendar month. Consultant's services as principal investigator under any grant or research agreement relating to the Technology shall not be considered to be services performed under this Agreement.

2. Compensation. Company agrees to pay Consultant a fee for services performed at Company's request pursuant hereto at the rate of \$1,000 for the first year. Rates after the first year are subject to negotiation and to the approval of the Advisory Board established under the License Agreement. Consultant shall be entitled to receive minimum fees in each calendar quarter during the term of this Agreement in an amount equal to four and one-half days at the rates determined as set forth above. Notwithstanding any provision of this Agreement to the contrary, the Company shall be obligated to pay fees to Consultant only out of royalty payments and fees received by the Company pursuant to the License Agreement and only as and to the extent expressly provided in paragraph 5.2 of the License Agreement. Fees payable hereunder during any period (including the difference, if any, between the

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minimum fee and fees earned) in excess of such royalty payments and fees received by the Company shall accrue and be payable out of subsequent royalty payments and fees in the manner provided in paragraph 5.2 of the License Agreement. All reasonable expenses of Consultant incurred in rendering consulting services pursuant to this Agreement shall be reimbursed by Company within a reasonable time after receipt of a request for reimbursement accompanied by appropriate evidence of such expenses.

3. Term. This Agreement is effective on the date hereof and until the [fifth] anniversary of the date hereof (the "Initial Term"), unless terminated in accordance herewith, provided that this Agreement may be extended beyond the Initial Term for so long as Company requests services from Consultant pursuant to Paragraph 1. This Agreement may be terminated by either party, if at least 15 days prior written notice is given to the other party, provided, however, that the provisions of Paragraphs 4 and 6 shall survive such termination. In the event notice of termination is sent by mail, it shall be deemed to have been given three days after the date it is deposited, postage prepaid, in the U.S. mail. Upon termination, Consultant shall return to Company all drawings, prints, manuals, letters, reports, memoranda, and all other material of a restricted or confidential nature relating to or constituting Confidential Information (as defined below). This includes material generated as a result of Consultant's efforts on behalf of Company.

4. Licensed Technology. To the extent that the License Agreement does not convey all of the Technology created or developed by Consultant (whether before or after execution of this Agreement) and not owned by the Board of Regents of The University of Texas System pursuant to their Rules and Regulations, this Agreement shall constitute a fully paid up, exclusive license of the Technology by Consultant to Company on the same terms and conditions as the License Agreement. Any and all inventions not otherwise owned by the Board of Regents of The University of Texas System, whether or not deemed by the Consultant to be patentable, conceived, developed, or reduced to practice, whether solely by Consultant or jointly with others, while in the direct performance of his duties hereunder will constitute works made for hire. Consultant shall execute, without further consideration, such patent and copyright applications, registrations, and/or assignments, licenses and similar papers pertaining to any Technology that Company may perfect or transfer Company's rights therein. Consultant shall, at the expense of Company and at Company's request, give his applications based upon or arising out of the Technology, including work done by Consultant solely or jointly with others hereunder, it being understood and agreed that (1) as a part of such assistance, Consultant will maintain and make available, upon request, records of his activities in connection with conceptions, developments and/or reductions to practice, will execute such affidavits as are in accordance with

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facts that Company may prepare and request, and will fully cooperate in connection with any cause of action and the discovery process associated therewith including, but not limited to, serving as a witness, and (ii) Consultant shall be entitled to compensation in accordance with Paragraph 2 hereof only if such assistance relates to inventions or works made for hire owned by Company.

5. Independent Contractor. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties hereto. consultant shall be deemed at all times to be an independent contractor and shall have no authority to act on behalf of or bind Company.

6. Non-Competition/Confidentiality.

A. Except as otherwise provided herein, Consultant agrees that during the term hereof, he will not directly or indirectly engage, whether as a stockholder, director, officer, employee, owner, partner, or otherwise, in any business or venture which is engaged in using, developing, or otherwise exploiting the Technology in any manner in the [continental United States of America and Canada] except at the direction, or with the approval, of the Company. Nothing contained herein shall prevent Consultant from engaging in research regarding the Technology as an employee of the University of Texas at Dallas or any other nonprofit educational entity or owning any securities of any corporation actively traded on any recognized stock exchange or in the over-the-counter market so long as Consultant's holdings in such securities do not exceed five percent of the outstanding equity securities of any class in such corporation. Company and Consultant agree that these limitations are reasonably necessary to protect the business interests of Company and are reasonable in their scope. During the term hereof, Consultant (i) will not take any action inconsistent with his obligations hereunder or the rights and interests of Company under this Agreement or the License Agreement, (ii) shall not perform any work or services for any person or concern, supplying or competing with Company, without Company's written permission, and (iii) shall comply with the Board's policy on outside activities by faculty.

B. Consultant promises to keep confidential during and subsequent to the term hereof, except for disclosure to persons to whom Consultant's duties under this Agreement require such disclosure, all confidential information, including information relating to Company's business, its research or engineering activities, manufacturing processes, trade secrets, sources of supply, lists of customers, other information pertaining to customers and plans or contemplated actions ("Confidential Information"). Nothing in this Agreement shall be interpreted as placing any obligation of confidentiality on or restrictions on

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use by Consultant with respect to any Confidential Information that:

(i) can be demonstrated to have been in the public domain as of the date of this Agreement or which comes into the public domain during the term of this Agreement through no fault of the Consultant; or

(ii) was not transferred to Company under this Agreement, the License Agreement or the Research Agreement, and which can be demonstrated to have been known to Consultant prior to execution of this Agreement and which was not acquired, directly or indirectly, under a continuing obligation of confidentiality.

7. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Texas.

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

CONSULTANT:

Carl Collins, Jr.

COMPANY:

RESEARCH APPLICATIONS, INC.

By: _____
Dale Mosier, President

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CONSULTING AGREEMENT

This AGREEMENT is made as of December 7, 1989, by and between RESEARCH APPLICATIONS, INC., a Texas corporation ("Company"), and Dr. Farzin Davanloo ("Consultant"), whose address is: _____

WITNESSETH:

WHEREAS, the Company has entered into a Patent and Technology License and Development Agreement (the "License Agreement") with the Board of Regents of The University of Texas System (the "Board") concerning the hybrid ion beam apparatus and related diamond-like structures developed by the Center for Quantum Electronics at the University of Texas at Dallas (the "Technology"); and

WHEREAS, Consultant is a creator of the Technology and Company desires to obtain the services of Consultant in commercializing and licensing the Technology;

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements hereinafter set forth, Company and Consultant agree as follows:

1. Services. Consultant agrees to consult with the Company and sublicensees under the License Agreement as may be requested by the Company from time to time, provided that Consultant shall not be required to provide such services for more than four full working days during any calendar month. Consultant's services as principal investigator under any grant or research agreement relating to the Technology shall not be considered to be services performed under this Agreement.

2. Compensation. Company agrees to pay Consultant a fee for services performed at Company's request pursuant hereto at the rate of \$750 for the first year. Rates after the first year are subject to negotiation and to the approval of the Advisory Board established under the License Agreement. Consultant shall be entitled to receive minimum fees in each calendar quarter during the term of this Agreement in an amount equal to four and one-half days at the rates determined as set forth above. Notwithstanding any provision of this Agreement to the contrary, the Company shall be obligated to pay fees to Consultant only out of royalty payments and fees received by the Company pursuant to the License Agreement and only as and to the extent expressly provided in paragraph 5.2 of the License Agreement. Fees payable hereunder during any period (including the difference, if any, between the

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minimum fee and fees earned) in excess of such royalty payments and fees received by the Company shall accrue and be payable out of subsequent royalty payments and fees in the manner provided in paragraph 5.2 of the License Agreement. All reasonable expenses of Consultant incurred in rendering consulting services pursuant to this Agreement shall be reimbursed by Company within a reasonable time after receipt of a request for reimbursement accompanied by appropriate evidence of such expenses.

3. Term. This Agreement is effective on the date hereof and until the [fifth] anniversary of the date hereof (the "Initial Term"), unless terminated in accordance herewith, provided that this Agreement may be extended beyond the Initial Term for so long as Company requests services from Consultant pursuant to Paragraph 1. This Agreement may be terminated by either party, if at least 15 days prior written notice is given to the other party, provided, however, that the provisions of Paragraphs 4 and 6 shall survive such termination. In the event notice of termination is sent by mail, it shall be deemed to have been given three days after the date it is deposited, postage prepaid, in the U.S. mail. Upon termination, Consultant shall return to Company all drawings, prints, manuals, letters, reports, memoranda, and all other material of a restricted or confidential nature relating to or constituting Confidential Information (as defined below). This includes material generated as a result of Consultant's efforts on behalf of Company.

4. Licensed Technology. To the extent that the License Agreement does not convey all of the Technology created or developed by Consultant (whether before or after execution of this Agreement) and not owned by the Board of Regents of The University of Texas System pursuant to their Rules and Regulations, this Agreement shall constitute a fully paid up, exclusive license of the Technology by Consultant to Company on the same terms and conditions as the License Agreement. Any and all inventions not otherwise owned by the Board of Regents of The University of Texas System, whether or not deemed by the Consultant to be patentable, conceived, developed, or reduced to practice, whether solely by Consultant or jointly with others, while in the direct performance of his duties hereunder will constitute works made for hire. Consultant shall execute, without further consideration, such patent and copyright applications, registrations, and/or assignments, licenses and similar papers pertaining to any Technology that Company may perfect or transfer Company's rights therein. Consultant shall, at the expense of Company and at Company's request, give his applications based upon or arising out of the Technology, including work done by Consultant solely or jointly with others hereunder, it being understood and agreed that (1) as a part of such assistance, Consultant will maintain and make available, upon request, records of his activities in connection with conceptions, developments and/or reductions to practice, will execute such affidavits as are in accordance with

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facts that Company may prepare and request, and will fully cooperate in connection with any cause of action and the discovery process associated therewith including, but not limited to, serving as a witness, and (ii) Consultant shall be entitled to compensation in accordance with Paragraph 2 hereof only if such assistance relates to inventions or works made for hire owned by Company.

5. Independent Contractor. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties hereto. consultant shall be deemed at all times to be an independent contractor and shall have no authority to act on behalf of or bind Company.

6. Non-Competition/Confidentiality.

A. Except as otherwise provided herein, Consultant agrees that during the term hereof, he will not directly or indirectly engage, whether as a stockholder, director, officer, employee, owner, partner, or otherwise, in any business or venture which is engaged in using, developing, or otherwise exploiting the Technology in any manner in the [continental United States of America and Canada] except at the direction, or with the approval, of the Company. Nothing contained herein shall prevent Consultant from engaging in research regarding the Technology as an employee of the University of Texas at Dallas or any other nonprofit educational entity or owning any securities of any corporation actively traded on any recognized stock exchange or in the over-the-counter market so long as Consultant's holdings in such securities do not exceed five percent of the outstanding equity securities of any class in such corporation. Company and Consultant agree that these limitations are reasonably necessary to protect the business interests of Company and are reasonable in their scope. During the term hereof, Consultant (i) will not take any action inconsistent with his obligations hereunder or the rights and interests of Company under this Agreement or the License Agreement, (ii) shall not perform any work or services for any person or concern, supplying or competing with Company, without Company's written permission, and (iii) shall comply with the Board's policy on outside activities by faculty.

B. Consultant promises to keep confidential during and subsequent to the term hereof, except for disclosure to persons to whom Consultant's duties under this Agreement require such disclosure, all confidential information, including information relating to Company's business, its research or engineering activities, manufacturing processes, trade secrets, sources of supply, lists of customers, other information pertaining to customers and plans or contemplated actions ("Confidential Information"). Nothing in this Agreement shall be interpreted as placing any obligation of confidentiality on or restrictions on

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use by Consultant with respect to any Confidential Information that:

(i) can be demonstrated to have been in the public domain as of the date of this Agreement or which comes into the public domain during the term of this Agreement through no fault of the Consultant; or

(ii) was not transferred to Company under this Agreement, the License Agreement or the Research Agreement, and which can be demonstrated to have been known to Consultant prior to execution of this Agreement and which was not acquired, directly or indirectly, under a continuing obligation of confidentiality.

7. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Texas.

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

CONSULTANT:

Farzin Davanloo

COMPANY:

RESEARCH APPLICATIONS, INC.

By: _____
Dale Mosier, President

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Department of Physics; Dr. Farzin Davanloo, Research Associate, Department of Mathematics and Natural Sciences; and Dr. Suhas S. Wagal, former Research Associate, Department of Physics, which relate to methods and apparatus for producing a layer of material from a laser ion source and with laser ablation. Under the proposed license, RAI is granted the right to manufacture, use and sell the technology and to grant sublicenses to others in specific fields of use.

The proposed arrangement is the type contemplated by Section 51.912, Texas Education Code, and related provisions of the U. T. System Intellectual Property Policy.

3. U. T. San Antonio: Recommendation for Approval of Assignment Agreement with Photo-Protective Technologies, Inc. (PPT), San Antonio, Texas.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and Acting President Williams that the U. T. Board of Regents approve an Assignment Agreement between the U. T. Board of Regents, for and on behalf of U. T. San Antonio, and Photo-Protective Technologies, Inc. (PPT), San Antonio, Texas, for the assignment of patent rights. This agreement is still being negotiated and will be available at the meeting.

BACKGROUND INFORMATION

Photo-Protective Technologies, Inc. (PPT) is a Texas corporation with principal offices in San Antonio, Texas. PPT manufactures, distributes, and licenses melanin or products incorporating melanin, a pigment that occurs naturally in the human body. One of the cofounders and a current officer, shareholder, and director of PPT is Dr. James M. Gallas, Associate Professor of Chemistry at U. T. San Antonio. Prior to joining U. T. San Antonio, Dr. Gallas conceived and then patented (U. S. Patent No. 4,698,374) an optical lens system incorporating melanin as an absorbing pigment for protection against electromagnetic radiation. Dr. Gallas assigned all rights therein to PPT.

After joining U. T. San Antonio, Dr. Gallas conceived and developed the concept of melanin hydrophilic contact lenses. A Patent Application for the contact lenses (Serial No. 105,631) was filed in the United States Patent and Trademark Office on October 4, 1987, and counterpart applications have been filed in foreign countries (collectively, the "patent applications"). The patent applications are owned by the U. T. Board of Regents.

Under the proposed Assignment Agreement, the U. T. Board of Regents will assign all right, title and interest in the patent applications to PPT. As consideration for the assignment, PPT will prosecute the patent applications and commercialize the technology at its expense and pay royalties to the U. T. Board of Regents.

LAND AND INVESTMENT COMMITTEE

SUPPLEMENTAL MATERIAL

(Page L&I - 27, Item 3)

December 7, 1989

3. U. T. San Antonio: Recommendation for Approval of Assignment Agreement with Photoprotective Technologies, Inc. (PPT), San Antonio, Texas.--

Attached is the Assignment of Patent and Know-How Rights that is recommended for approval. It has been approved as to form and content by appropriate component and System Administration officials.

This agreement is within the parameters established for approval via the Docket but is presented here to expedite the effective date of the agreement.

ASSIGNMENT OF PATENT AND KNOW-HOW RIGHTS

This Assignment is entered into this 7TH day of December, 1989, by and between the Board of Regents of The University of Texas System, an agency of the State of Texas (hereinafter "Assignor" which term includes successors and assigns), James M. Gallas, an individual residing at 4934 Timberwind, San Antonio, Texas (hereinafter "Gallas") and Photoprotective Technologies Incorporated, a Texas corporation, having its principal place of business at 4934 Timberwind, San Antonio, Texas (hereinafter "Assignee", which term includes successors and assigns).

W I T N E S S E T H:

WHEREAS, by virtue of an assignment executed by Gallas on January 11, 1988 and which is attached hereto as Exhibit "A", Assignor is the owner of all right, title and interest in and to certain Patents (as hereinafter defined) in new and useful improvements relating to the preparation or use of a melanin or a hydrogen superoxide scavenging agent in hydrophilic contact lenses; and

WHEREAS, Assignor is the owner of all right, title and interest in and to certain Technology (as hereinafter defined) and Know-How (as hereinafter defined) relating to the preparation or use of a melanin or a hydrogen superoxide scavenging agent in hydrophilic contact lenses; and

WHEREAS, under the Rules and Regulations promulgated by the Assignor, Gallas has an interest in fifty percent (50%) of the royalties or other income received by Assignor from licensing or other transferring of the Patents, the Technology and the Know-How, after cost of licensing and obtaining a patent or other protection have first been recaptured by Assignor (hereinafter the "Gallas Interest") and Gallas has assigned such interest to Assignee; and

WHEREAS, Gallas desires to confirm the assignment of the Gallas Interest to Assignee; and

WHEREAS, Assignee desires to acquire all of Assignor's right, title and interest in, to and under the Patents, the Technology and the Know-How, and desires to confirm the assignment of the Gallas Interest to Assignee; and

WHEREAS, Assignor desires to assign, sell and convey the entire right, title and interest of Assignor in the Patents, the Technology and the Know-How to Assignee, its successors and assigns, in exchange for consideration hereinafter set forth;

NOW, THEREFORE, in consideration of the covenants and agreements herein contained and other good and valuable consideration, the sufficiency of which is hereby acknowledged,

the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

1.1. Technology. The term "Technology" as used herein shall mean all inventions, patents, patent applications and rights listed on Exhibit "B".

1.2. Patents. The term "Patents" as used herein shall mean all patents and patent applications listed on Exhibit "B".

1.3. Know-How. The term "Know-How" as used herein shall mean technology not claimed in patents, but nevertheless proprietary, valuable trade secrets, inventions, processes, procedures, methods, product codes, formulas, techniques, designs, drawings, technical and clinical data and other valuable and technical information relating to the incorporation of a melanin or a hydrogen superoxide scavenging agent into or onto a hydrophilic contact lens and any improvements relating to the incorporation of a melanin or a hydrogen superoxide scavenging agent into or onto a hydrophilic contact lens.

1.4. Licensed Products. The term "Licensed Products" as used herein shall mean hydrophilic contact lenses covered by one or more claims of the Patents or produced by methods covered by one or more claims of such Patents or utilizing or incorporating Technology or Know-How.

1.5. Licensed Processes. The term "Licensed Processes" as used herein shall mean all methods and procedures covered by one or more claims of the Patents or utilizing or incorporating Technology or Know-How for the manufacture or use of Licensed Products.

1.6. Income. The term "Income" as used herein shall mean all income received by Assignee from the sale or licensing of the Patents, the Technology or the Know-How to third parties.

1.7. Accumulated Expenses. The term "Accumulated Expenses" as used herein shall mean all expenses incurred by Assignee after November 1, 1989, in connection with the Patents, the Technology, the Know-How, the Licensed Products, and the Licensed Processes, including, but not limited to, the following:

(a) all reasonable legal or other costs and expenses relating to the prosecution or maintenance of the Patents;

(b) all reasonable research and development costs and expenses relating to the Licensed Products and the Licensed Processes including costs and expenses incurred after the

Patents, the Technology or the Know-How are sold or licensed to a third party or parties by Assignee:

(c) all reasonable overhead and administrative costs and expenses relating to the research and development, or licensing of the Licensed Products and the Licensed Processes including costs and expenses incurred after the Patents, the Technology or the Know-How are licensed to a third party or parties by Assignee; and

(d) all reasonable overhead and administrative costs and expenses relating to the collection of Income including costs and expenses incurred after the Patents, the Technology or the Know-How are licensed to a third party or parties by Assignee.

ARTICLE II ASSIGNMENT

2.1. Assignment by Assignor. Assignor hereby assigns, sells and conveys to Assignee, its successors and assigns, the entire right, title and interest throughout the world in and to the Patents, the Technology and the Know-How.

2.2 Assignment by Gallas. Gallas hereby confirms the assignment, sale and conveyance to Assignee, its successors and assigns, of the entire right, title and interest throughout the world in and to the Gallas Interest.

ARTICLE III CONSIDERATION

3.1. License to Third Party. Assignor, Gallas, and Assignee agree that, in the event the Patents, the Technology and/or the Know-How are sold or licensed to a third party or parties, Assignor and Assignee shall share equally in the Income derived from such sale or license after Accumulated Expenses incurred by Assignee are recaptured by Assignee. Accordingly, Assignee agrees to pay to Assignor one-half (1/2) of all Income received by Assignee from a third party or third parties which is in excess of the Accumulated Expenses. Such payment shall be made within thirty (30) days following the expiration of a calendar quarter.

3.2. Manufacture and Sale of Licensed Products by Assignee. In the event Assignee elects to manufacture or sell Licensed Products, Assignor and Assignee agree to negotiate the amount of royalties to be paid by Assignee.

ARTICLE IV
BOOKS AND RECORDS

4.1. **Books.** Assignee shall maintain true and complete books of account containing an accurate record of all data necessary for the proper computation of the Income, royalty payments, and Accumulated Expenses required hereunder. Assignor shall have the right, by an independent certified public accountant appointed by it and acceptable to Assignee (such acceptance shall not be unreasonably withheld), to examine such books, under terms of confidentiality with Assignee, at all reasonable times, upon ten (10) days prior written notice (but not more than once in each calendar year), for the sole purpose of verifying the accuracy of reports rendered by Assignee. Such examination shall be made during normal business hours at Assignee's principal place of business. The fees and expenses of the representatives performing such examination shall be borne by Assignor, except that, if the examination reveals an error to the Assignor's detriment greater than 5% of the actual amount due, Assignee shall pay the costs of the examination.

4.2. **Payment and Report.** Assignee shall submit to Assignor written reports for each fiscal quarter of Assignee accurately identifying Income and Accumulated Expenses in sufficient form and detail as to enable Assignor to determine the Income and royalties due. Such reports shall be due forty-five (45) days following each fiscal quarter. A report shall be submitted, even if no Income has been received, Accumulated Expenses have been incurred or Net Sales have been made during any reporting period.

ARTICLE V
CONSIDERATION RECEIVED BY GALLAS

5.1. **Sufficiency of Consideration.** Gallas acknowledges that he has received sufficient consideration for assigning his rights in the Patents, the Technology and the Know-How hereunder in the form of shares of common stock in Assignee and no further consideration shall be received by Gallas from either Assignor or Assignee in connection with this Assignment.

ARTICLE VI
REPRESENTATIONS

6.1. **Representation.** The parties hereto represent and warrant that they have the right and authority to enter into this Assignment and that they have not executed or entered into any other agreements inconsistent with the terms and provisions hereof.

6.2. Documents. Gallas and Assignor covenant that Gallas, Assignor, and their heirs, legal representatives, assigns, administrators, and executors, will, at the expense of Assignee, its successors and assigns, execute all papers and perform such other acts as may be reasonably necessary to give Assignee, its successors and assigns, the full benefit of this Assignment.

ARTICLE VII
USE OF NAME

7.1. Name. Assignee agrees to seek permission from The University of Texas before using the name of The University of Texas in any promotional material.

EXECUTED AT _____, Texas on the date indicated below opposite the signatures of the parties hereto.

ATTEST:

By _____
Executive Secretary
Arthur H. Dilly

ASSIGNOR:
BOARD OF REGENTS OF THE
UNIVERSITY OF TEXAS SYSTEM

By _____
Michael E. Patrick
Executive Vice Chancellor
for Asset Management

APPROVED AS TO FORM:

By _____
Dudley E. Doble, Jr.
Office of General Counsel

APPROVED AS TO CONTENT:

By _____
M. Dan Williams
Vice President for Business
Affairs and Acting President
The University of Texas at
San Antonio

GALLAS

JAMES M. GALLAS

ASSIGNEE

PHOTOPROTECTIVE TECHNOLOGIES
INCORPORATED

By: _____

THE STATE OF TEXAS

COUNTY OF TRAVIS

BEFORE ME, the undersigned Notary Public, on this day personally appeared Michael E. Patrick, Executive Vice Chancellor of Asset Management for the Board of Regents of The University of Texas System, an agency of the State of Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 1 day of December, 1989.

(SEAL)



Engle M. Biber
Notary Public, State of Texas

My Commission Expires: 12/21/93

ENGLE M BIBER
Typed or Printed Name of Notary

THE STATE OF TEXAS

COUNTY OF BEXAR

BEFORE ME, the undersigned Notary Public, on this day personally appeared JAMES M. GALLAS, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of December, 1989.

Notary Public, State of Texas

(SEAL)

My Commission Expires: _____

Typed or Printed Name of Notary

THE STATE OF TEXAS

COUNTY OF HARRIS

BEFORE ME, the undersigned Notary Public, on this day personally appeared _____

_____ of Photoprotective Technologies

Incorporated, a Texas corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of December, 1989.

Notary Public, State of Texas

(SEAL)

My Commission Expires: _____

Typed or Printed Name of Notary

The proposed arrangement is the type contemplated by Section 51.912, Texas Education Code, and corresponding provisions of the U. T. System Intellectual Property Policy. Pursuant to Sections 2.471 and 2.462, Chapter V, Part Two of the Regents' Rules and Regulations, approval by the U. T. Board of Regents is necessary for purposes of assigning the patent applications to PPT and in view of Dr. Gallas' affiliation with PPT.

IV. OTHER MATTER

U. T. System: Recommendation to (a) Adopt the Planned Giving Policy Guidelines and (b) Amend the Endowment Policy Guidelines.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Asset Management, the Executive Vice Chancellor for Academic Affairs and the Executive Vice Chancellor for Health Affairs that the proposed U. T. System Planned Giving Policy Guidelines as presented on Pages L&I 29 - 39 and the amendments to the U. T. System Endowment Policy Guidelines as presented in congressional style on Pages L&I 40 - 43 be adopted.

BACKGROUND INFORMATION

In recognition of the increasing importance of planned giving development activities, U. T. System and institutional representatives have reviewed significant development, legal and financial aspects of planned giving. This policy is a result of that review.

The proposed U. T. System Planned Giving Policy Guidelines address ethical, legal and economic issues related to the component's activity in this area and establish an administrative review process for proposed planned gifts.

The proposed amendments to the U. T. System Endowment Policy Guidelines adopted by the U. T. Board of Regents at the April 14, 1988 meeting incorporate the proposed U. T. System Planned Giving Policy Guidelines where applicable.

U. T. SYSTEM PLANNED GIVING POLICY GUIDELINES

Planned giving provides a meaningful opportunity to expand donor support of The University of Texas System's drive to develop and maintain quality in faculty, students and facilities. A planned gift is a transfer of assets to charity, given outright or deferred, in forms such as charitable remainder trusts, charitable lead trusts, pooled income funds, bargain sales, gift annuities, gifts with retained life estates and bequests. The U. T. Board of Regents recognizes the importance of establishing policies and procedures to meet the planned giving development needs of the U. T. System and component institutions and of directing vigorous efforts to attract private fund support. This document, including the attached definitions, is designed to communicate the responsibility of the U. T. Board of Regents to donors and the goals for and the limitations upon planned giving activities. These guidelines state the preferences of the U. T. Board of Regents for the structure and management of planned gifts. Staff members are encouraged to work with potential donors to design planned gifts which are beneficial to donors and comply with these guidelines. When these guidelines do not indicate the appropriate course of action, or are inappropriate in light of all aspects of a specific situation, staff members are to work with the relevant offices or the Planned Giving Committee, as outlined in these guidelines, to establish the course of action to be recommended to the U. T. Board of Regents. These guidelines are intended to supplement, not replace, the U. T. System Endowment Policy Guidelines, the U. T. System Trust Fund Real Estate Policy Statement and the Regents' Rules and Regulations. These guidelines are further intended to provide direction solely to U. T. System employees working with planned gifts and should not be used or distributed as a planned giving brochure.

A. Responsibility to Donors

1. In all matters related to planned giving, the U. T. System, the component institutions and staff and representatives must be aware of and sensitive to the potential donor's financial needs and concerns.
2. All representatives of the U. T. System and the component institutions shall use their best judgment to help donors make appropriate gifts. Each representative should be knowledgeable about planned gifts and should disclose to the donor advantages and disadvantages that could reasonably be expected to influence the decision of the donor to make an agreement with the U. T. Board of Regents. In particular, items subject to variability (such as market value and income payments) should be discussed fully. Donors shall be advised in writing to seek legal and/or tax advice from their own counsel.
3. The U. T. Board of Regents will not knowingly accept a gift that is contrary to the donor's best interests.

B. Acceptance of Gifts

1. All planned gifts meeting the standards established in these guidelines may be submitted as a proposed agenda item directly to the appropriate Executive Vice Chancellor following routine procedures.
2. In order to create a consensus on the appropriate terms and conditions of planned gifts which do not conform to the standards established in these guidelines and related schedules of approved payout rates, a Planned Giving Committee ("PGC") is to be created. The PGC shall consist of designees of the Office of Asset Management ("OAM"), the Office of General Counsel ("OGC"), the Office of Health Affairs ("OHA"), the Office of Academic Affairs ("OAA"), the Office of Business Affairs ("OBA"), the U. T. System Development Office ("SDO") and a representative of the component institution proposing terms for the planned gift. In the event that a designee is unable to attend a meeting of the PGC, an alternate may be appointed.
3. All planned gifts with terms and conditions which vary in any substantial respect from the format of the sample agreements discussed below, or otherwise vary from the requirements of these guidelines, must be reviewed in advance by the PGC.
4. The PGC should make every effort to reach a decision concerning a component's proposal within one week after the component's proposal is received or within the time period requested. The PGC should either make a recommendation or request additional information within one week after the component requests a review.
5. Upon review of the terms and conditions of a proposed agreement, the PGC shall make a recommendation for acceptance or amendment of the agreement to the appropriate members of the Executive Staff for final recommendation to the U. T. Board of Regents.

C. Restrictions on Acceptance of Gifts and Donated Assets

1. State law prohibits the U. T. Board of Regents from accepting gift annuities and deferred gift annuities. Inquiries concerning gift annuities and deferred gift annuities will be referred to appropriate external foundations established to benefit the U. T. System and/or its component institutions.
2. The U. T. Board of Regents is willing to serve as trustee of trusts that are revocable by the donor, or where the donor retains the right to change the charitable beneficiary only if: (1) the U. T. System component institution will receive irrevocably at least 51% of the total funding of the trust; and (2) the value of the U. T. System component institution's irrevocable interest equals the minimum requirements established below in H.2. for accounts that cannot be pooled for investment purposes. These restrictions have been established

to insure that Article III, Section 51 of the Texas Constitution is not violated. (Section 51 has been interpreted to prohibit the U. T. Board of Regents from providing trustee services to an individual without receiving a benefit in return.)

3. The U. T. Board of Regents is willing to serve as trustee of trusts which allow for invasions of principal based upon objective, non-discretionary standards only if: (1) the U. T. System component institution will receive irrevocably at least 51% of the total funding of the trust; and (2) the value of the U. T. System component institution's irrevocable interest equals the minimum requirements established below in H.2. for accounts that cannot be pooled for investment purposes. The U. T. Board of Regents should not be asked to serve as trustee of trusts which allow income beneficiaries to invade the principal of the trust at the discretion of the trustee because of the potential for conflicts of interest and the constitutional provision referred to in C.2. above.
4. The U. T. Board of Regents is willing to serve as trustee of a charitable remainder trust with multiple charitable remainder beneficiaries only if: (1) the U. T. System component institution will receive at least 51% percent of the remainder; (2) the value of the U. T. System component institution's interest will be at least the minimum trust gift levels established below in H.2.; and (3) the other charities agree to provisions deemed appropriate by OGC.
5. Because of the current tax laws and the potential for conflicts of interest, the U. T. Board of Regents will accept charitable lead trusts as a beneficiary, but should not be asked to serve as trustee of charitable lead trusts. Upon request, information may be provided the donor on institutions in his/her locale having the legal authority to act as a trustee.
6. Section 116 of the Texas Probate Code prohibits the U. T. Board of Regents from accepting a gift which would require the U. T. Board of Regents to serve as a guardian of the person or estate.
7. A planned gift that creates unrelated business income tax problems for a charitable remainder trust should not be proposed for acceptance because of potential adverse tax consequences that result to the trust and the income beneficiary. (In any year in which a charitable remainder trust has any unrelated business income, the trust loses its tax exempt status for the entire year.)
8. Stock in a Subchapter-S corporation is not to be proposed for acceptance without the written consent of all other shareholders to forfeit the corporation's Subchapter-S status.

D. Donated Assets Requiring Review

1. Planned gift assets other than cash or marketable securities must be reviewed by the OAM. Reviews to determine whether a planned gift asset should be recommended for acceptance shall include consideration of any required cash expenses, liabilities, contingent liabilities, unrelated business income taxes, donor requirements which may result in risk of loss, as well as any other source of funds available to cover such expenses and liabilities. The OAM shall determine whether the economic risks are appropriate prior to recommending acceptance of the gift to the Chancellor and appropriate Executive Vice Chancellor. The PGC may offer advisory opinions to the OAM concerning this decision. A decision or a request for additional information should be made within one week after the component requests a review.
2. All planned gifts of real estate must be reviewed by the OAM and are subject to the provisions of the U. T. System Trust Fund Real Estate Policy Statement.
3. Bequests and/or bargain sales involving assets creating unrelated business income tax should be reviewed by the OAM and the OBA for economic implications and by the OGC for legal implications.
4. Bequests of general partnerships, limited partnerships and working interests may be accepted, subject to a thorough legal and financial analysis by the OGC, the OAM and the OBA. Interests in general partnerships, limited partnerships and working interests will not be accepted as assets in a charitable remainder trust. Ownership of these assets could create unrelated business income tax problems and liability for the trust. (See C.7.)

E. Gifts of Real Property with Retained Life Estates

1. Gifts of real estate with retained life estates shall be reviewed and approved by the OAM, in consultation with the OGC, prior to recommendation for acceptance of the gift to the Chancellor and appropriate Executive Vice Chancellor. Acceptance of such gifts must also be in accordance with the guidelines for acceptance of outright gifts of real property as set forth in the U. T. System Trust Fund Real Estate Policy Statement.
2. Such gifts shall be proposed to the U. T. Board of Regents for acceptance only if adequate provision is made by the donor for any expense in connection with ownership, including payment of mortgages, taxes, insurance and utilities, unless a source of funds to cover such expenses has been identified by the component institution for whose benefit the gift is being made.

F. Wills and Bequests

1. Sample language approved by the OGC may be provided to an individual inquiring about naming the U. T. System or a component institution as a beneficiary.

2. If an individual provides a copy of his or her will naming the U. T. System or a component institution as a beneficiary, a copy of the will shall be sent to the Office of Endowments and Trusts ("OET") for review. The OET shall furnish copies to the OGC, the SDO and the component institution development office for further review. Any person to whom an individual's will is furnished must protect the confidentiality of its contents taking all possible precautions to protect the donor's right to privacy.
3. The U. T. Board of Regents should not be requested to serve as executor or administrator of an estate because of the potential for conflicts of interest and the scope of the required duties.
4. U. T. System and component institution employees who agree to serve as executor or administrator of a donor's estate which benefits a U. T. System component institution are immediately to notify the OET of their appointment. Upon notification, the employee will be furnished a statement advising of the potential for conflicts of interest and directing that all communications pertaining to the estate between the employee and any office of the U. T. System or the component institutions shall be in writing.
5. U. T. System and component institution employees will not knowingly act as witnesses to wills in which the U. T. System or a component institution is named as a beneficiary because their doing so may jeopardize the receipt of the bequest.

G. Life Insurance

1. Gifts of life insurance policies naming the U. T. Board of Regents as owner and/or beneficiary may be accepted in accordance with the Regents' Rules and Regulations for acceptance of gifts.
2. A component institution is responsible for preserving the value to the U. T. System component institution of a life insurance policy owned by the U. T. Board of Regents pursuant to institutional guidelines. The guidelines should cover situations in which the insurance policy is not paid-up and does not have any source of funds for payment of the premiums identified at the time of the gift or thereafter.

H. Charitable Trusts

1. Because of the potential for conflicts of interest, U. T. System and component institution employees who agree to serve as trustee of a trust benefiting a U. T. System component institution are immediately to notify the OET of their appointment. Upon notification, the employee will be furnished with a statement advising of the potential for conflicts of interest and directing that all communications pertaining to the trust between the employee and any office of the U. T. System or the component institutions shall be in writing.

2. Recommendations for acceptance of charitable remainder trusts of which the U. T. Board of Regents is proposed to be the trustee may be made to the U. T. Board of Regents only if the trust: (1) meets all of the criteria outlined in these guidelines and related schedules of payout rates or (2) has been reviewed and recommended by the PGC and the Executive Staff.

A life charitable remainder trust of which the U. T. Board of Regents is proposed to be trustee should have no more than two income beneficiaries, the youngest of which is at least 55 years of age. A term charitable remainder trust may have income beneficiaries of any age.

If the trust: (1) has acceptable terms, (2) is funded with cash or marketable securities, and (3) may be pooled for investment purposes, the trust should be initially funded at a minimum gift level of \$50,000.

If the trust: (1) has acceptable terms, (2) is funded with cash or marketable securities, and (3) may not be pooled for investment purposes, the trust should be initially funded at a minimum gift level of \$100,000.

If the trust is funded with assets other than cash or marketable securities, the terms of the agreement must be reviewed and approved by the OAM and, when necessary, the PGC. A unitrust with a net income payout or net income with make-up provision payout should be established for trusts funded with assets other than cash or marketable securities. Other acceptable terms depend upon the standard criteria plus the ability and length of time required to liquidate or manage the asset used to fund the trust. Such trusts shall be reviewed by the OAM and, when necessary, the PGC and approved by the Executive Staff prior to being recommended to the U. T. Board of Regents for acceptance.

I. Pooled Income Fund

1. Gifts to a Pooled Income Fund may be proposed for acceptance only for beneficiaries over the age of 55 if there are no more than two income beneficiaries for each account established in a Pooled Income Fund by a donor. The minimum gift needed to enter a Pooled Income Fund is \$10,000, or a contribution of \$5,000 with a pledge that additional contributions will be made to bring the total dollar share in the Fund to \$10,000 within five years.
2. The Pooled Income Fund charter requires that all gifts must be made in cash or readily marketable securities.

J. Management and Investments

1. Multiple pooled funds for unitrusts and annuity trusts, allowing the generation of diverse yields through the selection of a growth or yield investment emphasis, are essential.

2. The OAM shall have primary responsibility for policies on the deposit, investment, custody and reporting of charitable trust funds and pooled income funds and for the negotiation and approval of agreements governing the provision of such services by outside parties.
3. The U. T. Board of Regents will not authorize the OAM to administer and manage life income charitable trusts of which the U. T. Board of Regents is not trustee.
4. Costs associated with the U. T. System staff's management of planned gifts will be borne by the U. T. System. However, the U. T. System may request reimbursement from the trust for any third party charges incurred by the trust. Such charges may include, but are not limited to, bank custodial fees, real estate expenses such as appraisals, surveys, environmental assessments, maintenance and repairs and extraordinary legal fees. In circumstances where it is deemed inappropriate for the affected trusts to bear such expenses, reimbursements may be requested from the component institution for whose benefit the trust is administered.

K. Use of Legal Counsel

1. A representative of the U. T. System or a component institution shall seek the advice of designated attorneys in the OGC or outside counsel, upon specific referral by the OGC, in all matters pertaining to the U. T. System planned giving program which may have adverse legal consequences to the U. T. System.
2. Negotiation, execution and acceptance of any planned gift shall follow procedures outlined in Section L. of this policy including review of any planned gift agreement by the OGC as to legal consequences. All agreements shall conform to the sample agreements approved by the OGC unless otherwise approved in accordance with the procedures set forth in these guidelines.
3. Each potential donor shall be advised to seek counsel from his/her own lawyer or accountant where applicable in matters relating to planned gifts, tax and estate planning.

L. Negotiation and Execution of Documents

1. The chief administrative officer of each U. T. System component institution shall designate in writing the staff members who are authorized to enter into negotiations concerning planned gift agreements with potential donors. All negotiations shall be conducted in accordance with these guidelines and the format of the sample agreements approved by the OGC.
2. It is the responsibility of each U. T. System or component institution representative to keep detailed written notes to supplement written correspondence as evidence of ethical practices in negotiations with each donor.

3. The representative working with a donor who desires to make a planned gift which deviates from these guidelines, the sample agreements or the schedule of approved payout rates, shall contact the OAM as soon as possible which will contact the OGC and/or the PGC as appropriate. A current list of the names of designated representatives of these offices shall be furnished to the component institution and U. T. System development offices.
4. The OAM shall furnish a regular schedule of approved payout rates to all U. T. System staff members authorized to enter into negotiations concerning planned gift agreements to assist them during discussions with donors.
5. Donors should be informed that approved payout rates may be adjusted if market conditions change significantly before an agreement is finalized. Requested payout rates for charitable trusts are to be approved immediately prior to finalization of the trust by the Executive Vice Chancellor for Asset Management or his/her designee(s). Any request to deviate from the schedule of approved payout rates established by the OAM shall be considered in the same manner as outlined above in Section B. for gifts that deviate from the standard criteria.
6. If the donor requests or requires that the donative instrument be signed by a representative of the U. T. Board of Regents, the document may be signed only after acceptance of the gift by the U. T. Board of Regents.
7. The Chancellor and the Executive Vice Chancellor for Asset Management or his/her designee(s) are each authorized to execute a donative instrument for a planned gift that has been accepted by the U. T. Board of Regents.

M. Administrative Policy

1. Component institution business offices and development offices, the OAM and the OGC should operate in a cooperative manner to insure prompt transmission of information on proposed planned gifts. Prompt internal notification of potential bequests and life insurance claims must occur to allow the U. T. System offices to monitor these situations.
2. All planned giving agreements will be deemed confidential to the extent permitted by law. However, a donor may authorize public announcement of any feature of an agreement. All files will be made available to agents of the Internal Revenue Service (IRS). All other requests for information will be honored only if the donor approves the release of information or if current law requires release of the information.

3. Any advertisement or planned giving brochure to be mailed or otherwise furnished to potential donors shall be sent to the OAA or the OHA, as appropriate, for administrative approval and coordinated review for compliance with policy statements by that office and the SDO, the OAM and the OGC, before distribution to donors. Every attempt should be made to complete the reviews and provide a definitive response within two weeks of receipt of the materials.

Appendix

Glossary of Terms

1. **Planned Giving:** A planned gift is a transfer of assets to charity, given outright or deferred, in forms such as charitable remainder trusts, charitable lead trusts, pooled income funds, bargain sales, gift annuities, gifts with retained life estates and bequests.
2. **Charitable Remainder Trust:** A charitable remainder trust is a type of trust arrangement whereby non-charitable entities or individuals are usually the income beneficiaries for a specified term of years ("term charitable remainder trust") or for a person's or persons' lifetime(s) ("life charitable remainder trust"). At the end of the applicable time period, the trust assets remaining (the "remainder") are transferred to a qualified charity. Two types of charitable remainder trusts allowed by the IRS are the charitable remainder unitrust and the charitable remainder annuity trust.
 - a. **Charitable remainder unitrust:** A charitable remainder unitrust is a charitable remainder trust from which the trustee is required to pay to the income beneficiaries a fixed percentage of the trust's fair market value each year. The amount paid to the income beneficiary may, or may not, be limited by the income earned by the trust.
 - b. **Charitable remainder annuity trust:** A charitable remainder annuity trust is a charitable remainder trust from which the trustee is required to pay to the income beneficiaries a fixed dollar amount each year.
3. **Charitable Lead Trust:** A charitable lead trust is a trust whereby a charity is the income beneficiary for a specified term or for a person's lifetime. At the end of the applicable time period, the remaining trust assets are transferred to non-charitable entities or individuals.
4. **Pooled Income Fund:** A pooled income fund is a trust:
 - a. To which each donor transfers property, contributing an irrevocable remainder in the property to the charity that manages the fund;
 - b. In which the property transferred by each donor is commingled with property contributed by other donors; and
 - c. From which each beneficiary of an income percentage receives a pro rata share of the income each year.
5. **Gift Annuity:** A gift annuity is an agreement whereby a donor gives property to a charity in exchange for the charity's promise to pay a guaranteed annual income for a person's lifetime. The promise to make the payments is usually considered to be a general obligation of the charity and is backed by all the assets of the organization.

6. Deferred Gift Annuity: A deferred gift annuity is essentially the same as a gift annuity with the exception that the donor picks a date in the future for payments to begin.
7. Bargain Sale: A bargain sale is a sale of an asset to a charity for less than its fair market value. The difference between the fair market value and the purchase price is treated as an outright gift for income tax purposes.
8. Gift of Real Property with Retained Life Estate: A gift of real property with a retained life estate is a gift of real property in which the donor reserves the right to use the property for a person's lifetime.

U. T. SYSTEM ENDOWMENT POLICY GUIDELINES

Endowments are a critical element in The University of Texas System's drive to develop and maintain quality in faculty, students and facilities. The U. T. Board of Regents is committed to insuring that these endowments provide, on a permanent basis, stable or growing purchasing power to support their dedicated activities. This goal may be achieved through judicious investment, payout, reinvestment and administrative policies which combine to promote the maintenance of the principal value of each gift in inflation-adjusted terms.

While these Endowment Policy Guidelines contain certain requirements, which are written in this statement using verbs such as "must" and "shall," other statements indicate the preference of the Board and generally are written using conditional verbs such as "should." The Board recognizes that each endowment is unique and that exceptions may, from time to time, be appropriate.

Administrative Policy

- (1) A written donative instrument should be obtained for each new endowment fund established. This instrument would preferably include language encouraged in the Investment Policy and Payout and Reinvestment Policy sections of these Guidelines as well as the following:
 - (a) a statement that these funds shall never become a part of the Permanent University Fund or the general funds
 - (b) a statement allowing any person or entity to make additions to the endowment provided that the additions are made subject to the provisions of the donative instrument, and
 - (c) a statement that if, in the opinion of the Board, future circumstances change so that the purposes for which the endowment is established become illegal, impractical or no longer able to be carried out to meet the needs of the component institution, the Board may designate an alternative use for the endowment payout to further the objectives and purposes of the component institution, giving consideration to the donor's special interest as evidenced by the original purpose of the endowment.

In cases where no donative instrument is obtained, the solicitation letter or document sent to the donor or donor(s) may be used as evidence of donative intent and purposes. Should the donor request or require that the donative instrument be signed by a representative of the Board (or anyone connected with the component or the System), the document may be signed only after acceptance of the endowment by the U. T. Board of Regents. As a practical matter, the ~~[donated]~~ assets donated to fund an endowment may be obtained and managed by the Office of Asset Management pending ~~[prior-to]~~ acceptance by the Board.

- (2) The U. T. System will not under any circumstances (a) furnish property appraisals or valuations to donors for tax purposes or (b) knowingly participate in a transaction in which the value of a gift is inflated above its true fair market value to obtain a tax advantage for a donor. It is the responsibility of the component business office to follow the appraisal and reporting requirements as detailed in the Internal Revenue Code. Proper records will be kept and information returns made on all property held for less than two years.
- (3) Component business offices and development offices, the Office of Asset Management, and the Office of General Counsel should operate in a cooperative manner to insure prompt transmission of information on endowments and of donations to fund endowments. Gifts of cash and marketable securities should be transmitted, in the prescribed manner, to the Office of Asset Management as soon as practicable. A cooperative effort should be made to obtain repurchase provisions in the donative instrument when securities are donated for which the donor or related parties are the primary market. [~~Prompt internal notification of potential bequests and insurance claims should occur to allow U. T. System offices to monitor and pursue prompt collection.~~] Gifts of real estate are to be administered according to the U. T. System Trust Fund Real Estate Policy Statement. Planned gifts to fund an endowment should be established and administered following the procedures outlined in the U. T. System Planned Giving Policy Guidelines [~~Documents establishing a charitable remainder trust or life income fund must be approved by the Office of Asset Management and the Office of General Counsel prior to the execution of the contract and the submission of the endowment to the Board for acceptance~~].
- (4) Reviews to determine whether an asset to fund an endowment should be recommended for acceptance shall include consideration of any required cash expenses, liabilities, contingent liabilities, and unrelated business income taxes as well as any donor requirements which may result in risk of loss such as use of a donor-selected custodian. The Office of Asset Management must concur that the economic risks are appropriate prior to recommendation to the Board for acceptance of the gift.

Investment Policy

- (1) The Office of Asset Management shall invest all endowment funds donated to U. T. System or its component institutions which are under the sole control of the Board of Regents of the U. T. System. The U. T. Board of Regents will not authorize the Office of Asset Management to administer and manage endowments of which the U. T. Board of Regents or another non-profit organization is not trustee. No matching funds or other funds of the U. T. System may be held or managed by a party selected by the donor unless specifically approved by the Board. No endowment shall be accepted in which the donor directs the investment transactions or holdings or may approve (other than by specific investment restrictions in the donative instrument) investment policy or strategy.
- (2) The primary and constant standard for making investment decisions for endowments is the "Prudent Person Rule" which states that the investment manager may trade and retain investments... "that persons of ordinary prudence, discretion, and intelligence, exercising the judgment and care under the circumstances then prevailing, acquire or retain for their own account in the

management of their affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital." Any investment restrictions established by the donor in the donative instrument shall be reviewed to determine if the authorized investments satisfy the prudent person standard. The Office of Asset Management shall have primary responsibility for policies on the deposit, investment, custody, and reporting of endowment funds and for the negotiation and approval of agreements governing the provision of such services by outside parties. Specific written investment policy statements shall be approved by the U. T. Board of Regents for all commingled investment funds of which the U. T. Board of Regents is trustee and which are managed by the Office of Asset Management.

- (3) It is the specific and strong preference of the Board that all endowment gifts be eligible for commingling for investment purposes with other endowment funds. The Board has established the U. T. System Common Trust Fund, governed by its charter and invested according to the U. T. System Common Trust Fund Investment Policy Statement, to provide for the collective investment of endowment and trust funds. This commingling permits enhancement of long-term investment programs, affords appropriate risk control through diversification, and provides for optimization of asset mix through time. It follows that specific language in the donative instrument which allows merging or commingling, for investment purposes, should be actively encouraged by all staff members. Any restrictive language precluding such commingling limits the diversification of investments and exposes an endowment to greater risk of loss or relatively poor investment performance. Furthermore, investment restrictions are not necessary in order for the donor to receive accounting and investment performance reports on the endowment fund. The Office of Asset Management shall review and make recommendations on the acceptance of any investment restriction.
- (4) Restrictions by the donor on the sale or timing of the sale of donated property should be viewed as an investment restriction (since they will affect investment performance) and should be actively discouraged. However, any such restrictions which are approved should be included specifically in the donative instrument in order to insure that the agreement is understood by all parties.

Payout and Reinvestment Policy

- (1) The payout from an endowment shall not exceed received cash income unless otherwise specified by the donative instrument. Income shall be defined as dividend, interest, and other income but shall exclude net appreciation, both realized and unrealized. Certain charitable remainder trusts and life income funds may be accepted, according to procedures outlined in the U. T. System Planned Giving Policy Guidelines, which do not comply with this policy during the period in which the payout recipient is not the U. T. System or its institutions.

- (2) In order to insure that the Board has the ability to manage payout and reinvestment policies, wording in the donative instrument should be encouraged which specifically allows the following:
- (a) income earned and received during a year to be retained in the endowment and expended for the purposes of the endowment in subsequent years, and
 - (b) the designation of some portion of income from the endowment as a permanent addition to the principal of the endowment at the discretion of the Board or component institution staff.
- (3) The payout and reinvestment amounts, within any limitations imposed by the donative instrument, should be established at levels which attempt to produce expendable funds which are reasonably stable over time, address the needs of the established purpose, and permit the principal of the endowment to maintain or increase its value in inflation-adjusted terms over time. The Board annually establishes a payout level for endowments invested in the U. T. System Common Trust Fund. Most separately invested endowments have specified payout formulas established in the donative instrument. The diversity of payout levels on endowment funds result in the need for specific case-by-case establishment of appropriate reinvestment levels.

In keeping with the Board's commitment to protect and enhance the purchasing power derived from endowment funds, the Board directs U. T. System component institutions to adopt, for incorporation in each institution's Handbook of Operating Procedures, policies and programs to ensure the partial reinvestment of earned income into the corpus of endowment accounts to serve as an ongoing deterrent against erosion of the purchasing power of endowment funds due to inflation.

Specifically, it is the intent of the Board, subject to limits or restrictions set by donors and to the extent consistent with the purpose(s) and current income requirements of individual endowments, that these institutional reinvestment policies set as a goal reinvestment of at least ten percent of the earnings on all institutional endowment accounts collectively, with an expectation that reinvested earnings on individual endowments will range considerably in a particular year due to varying expenditure requirements for each endowment.

Additionally, the Executive Vice Chancellor for Asset Management is instructed to provide to the Board annually a report of the actual performance of institutional endowments, individually and collectively, to provide a measure of the success of this reinvestment requirement and institutionally adopted policies.

- (4) All payout from endowments supporting unfilled academic positions should be reinvested except for amounts necessary to fund costs relating to recruitment activities.

Executive Session of the Board

BOARD OF REGENTS
EXECUTIVE SESSION
Pursuant to Vernon's Texas Civil Statutes
Article 6252-17, Sections 2(e), (f) and (g)

Date: December 7, 1989

Time: 12:00 p.m. The Board will convene in Open Session and immediately recess to Executive Session. The Open Session will reconvene about 1:30 p.m. or upon recess of Executive Session and continue through adjournment.

Place: Rooms 1.208 and 1.228 of the Nursing School Building
U. T. Health Science Center - San Antonio

1. Pending and/or Contemplated Litigation - Section 2(e)

U. T. Health Science Center - San Antonio:
Proposed Settlement of Medical Liability
Litigation

2. Land Acquisition, Purchase, Exchange, Lease or Value of Real Property and Negotiated Contracts for Prospective Gifts or Donations - Section 2(f)

a. U. T. Austin - Archer M. Huntington Museum Fund: Authorization to Negotiate Oil and Gas Lease or Leases for All or Part of Approximately 3,000 Mineral Acres in Galveston County, Texas

b. U. T. M.D. Anderson Cancer Center: Request for Authorization to Negotiate for the Purchase of Several Parcels Totalling Approximately 10.6 Acres of Land in Houston, Harris County, Texas

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