

MATERIAL SUPPORTING THE AGENDA

VOLUME XLVIb

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

March 18, 1999

May 13, 1999

May 26, 1999

August 12, 1999

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. 923

August 12, 1999

Galveston, Texas

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BOARD OF REGENTS  
OF  
THE UNIVERSITY OF TEXAS SYSTEM

CALENDAR

Thursday, August 12, 1999

Sixth Floor, Administration Building  
The University of Texas Medical Branch at Galveston  
301 University Boulevard  
Galveston, Texas

Time: 8:30 a.m.  
Place: Executive Vice President's Conference Room (No. 624)  
Purpose: Convene in Open Session to Immediately Recess to  
Executive/Briefing Session Per the Agenda on  
Page Ex.S - 1

See Pages B of R 1 - 2, Items A - B

Time: 10:00 a.m.  
Place: Caduceus Room  
Purpose: Reconvene in Open Session

See Pages B of R 2 - 95, Items C - L

Time: 12:00 p.m.  
Place: Caduceus Room  
Purpose: Lunch Meeting with Representatives of the  
U. T. System Faculty Advisory Council

See Page B of R - 96, Item M

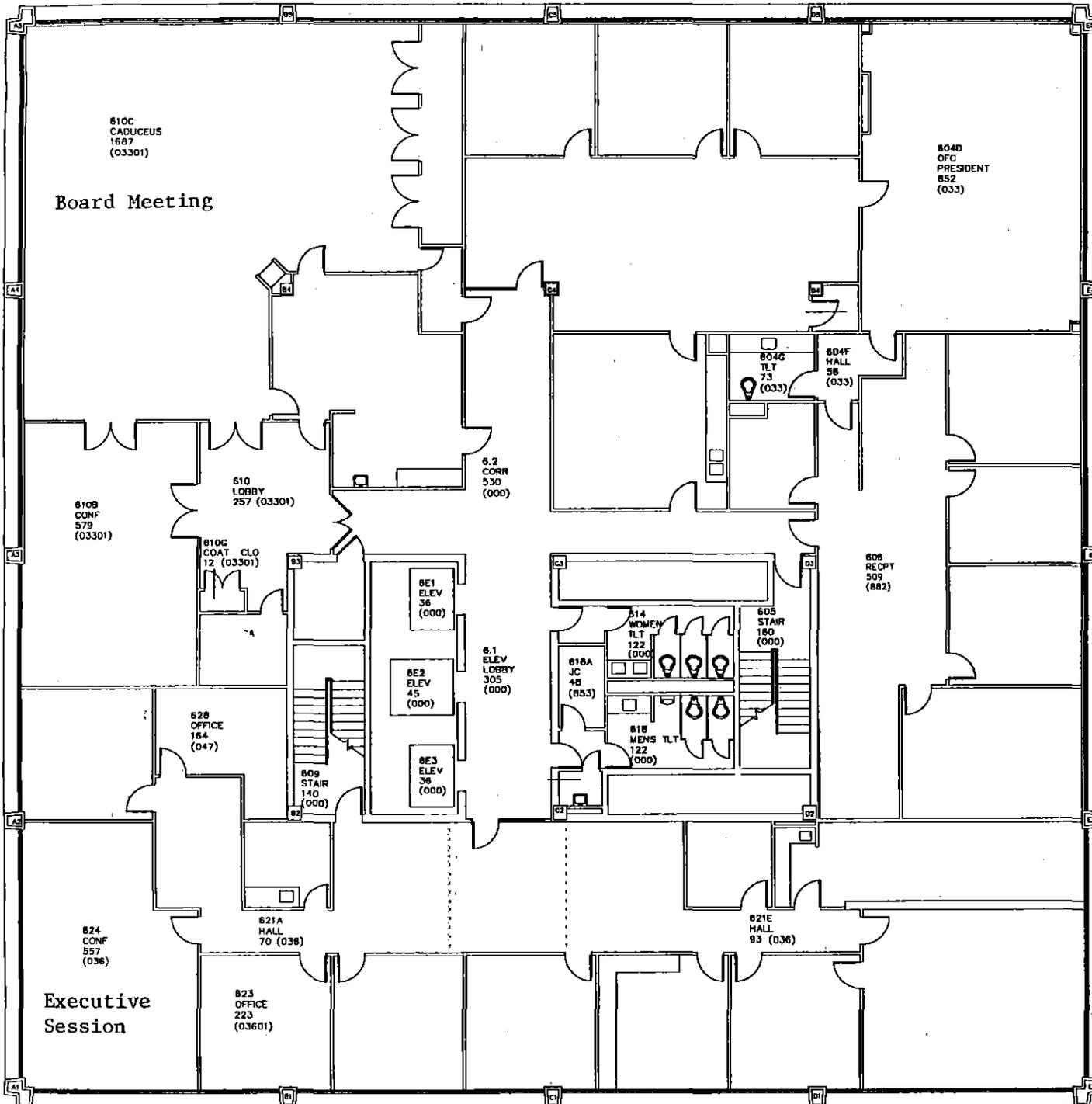
Time: 1:30 p.m.  
Place: Caduceus Room  
Purpose: Recess to Executive/Briefing Session, if Necessary,  
to Continue Until Completion of Business

See Pages B of R 1 - 2, Item B

Telephone Numbers

Office of President Stobo  
Hotel Galvez, 2024 Seawall Boulevard

(409) 772-1902  
(409) 765-7721



U. T. MEDICAL BRANCH - GALVESTON

SIXTH FLOOR

ADMINISTRATION BUILDING



07/21/99

HARBORSIDE DR.

- Traveling east on Broadway or Seawall Boulevard, turn left at University Boulevard (6th Street).
- Drive north to the first light, which is Market Street.
- Turn left on Market.
- The entrance to the Administration parking garage is located just past the corner, on the right.
- For your convenience, continuous shuttle service will be available from the Hotel Galvez to UTMB facilities.
- For more information, call the UTMB, Public Affairs Office at (409) 772-2618 or page Jill Termini at (409) 645-5303.

TEXAS AVE.

DARRELL ROYAL BLVD.

ADMINISTRATION BUILDING

PARKING

MARKET ST.

HOLIDAY DRIVE

11TH ST.

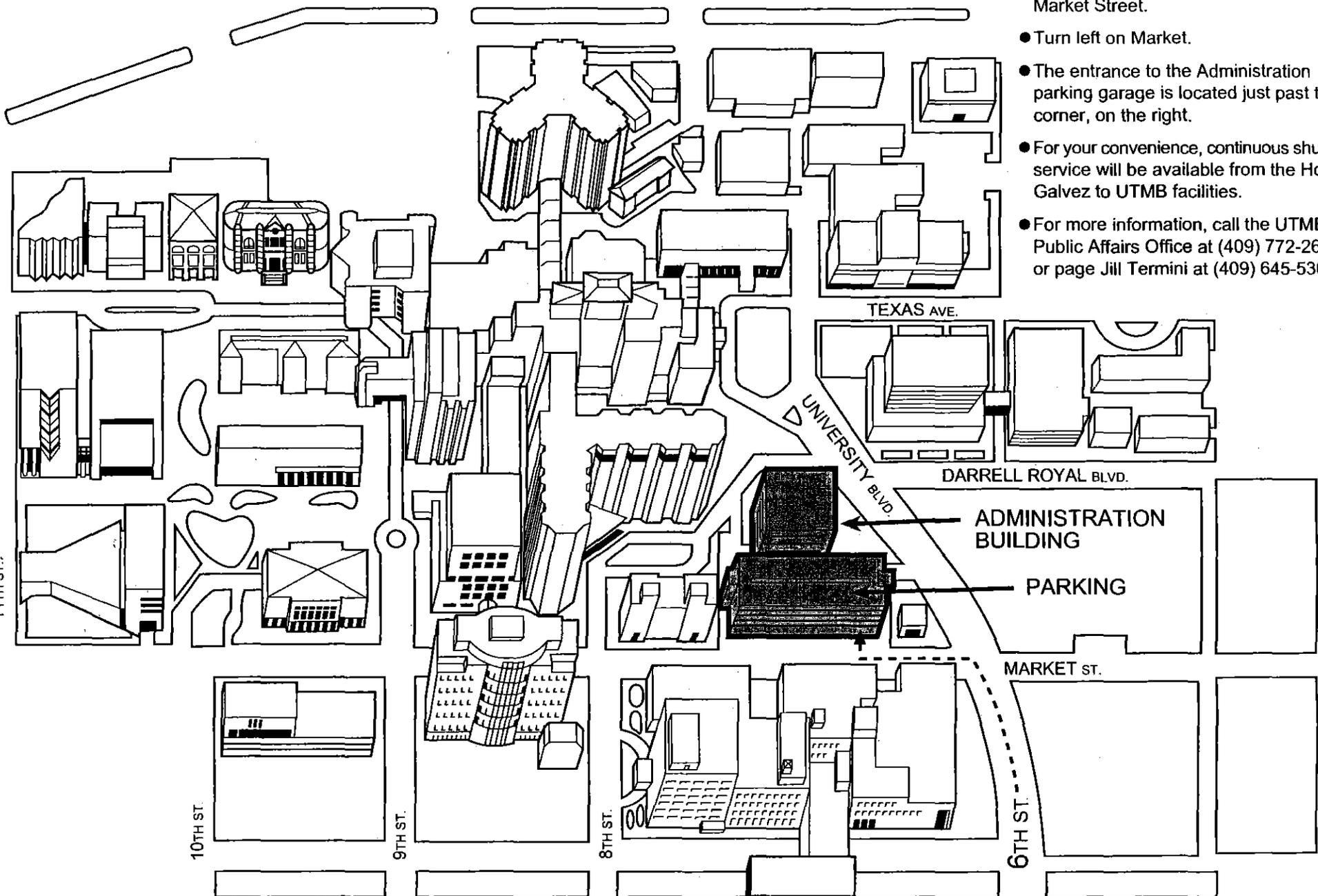
10TH ST.

9TH ST.

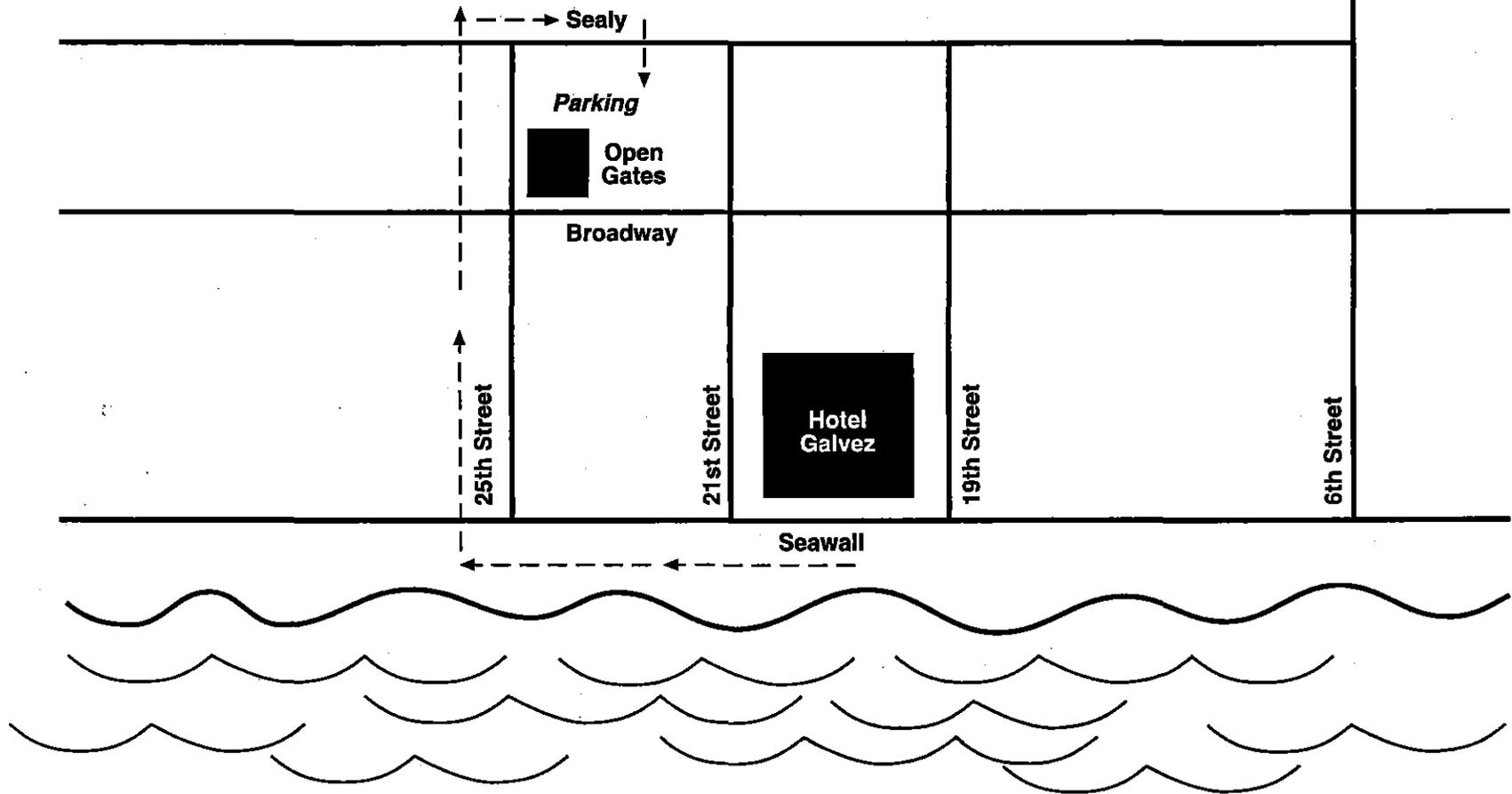
8TH ST.

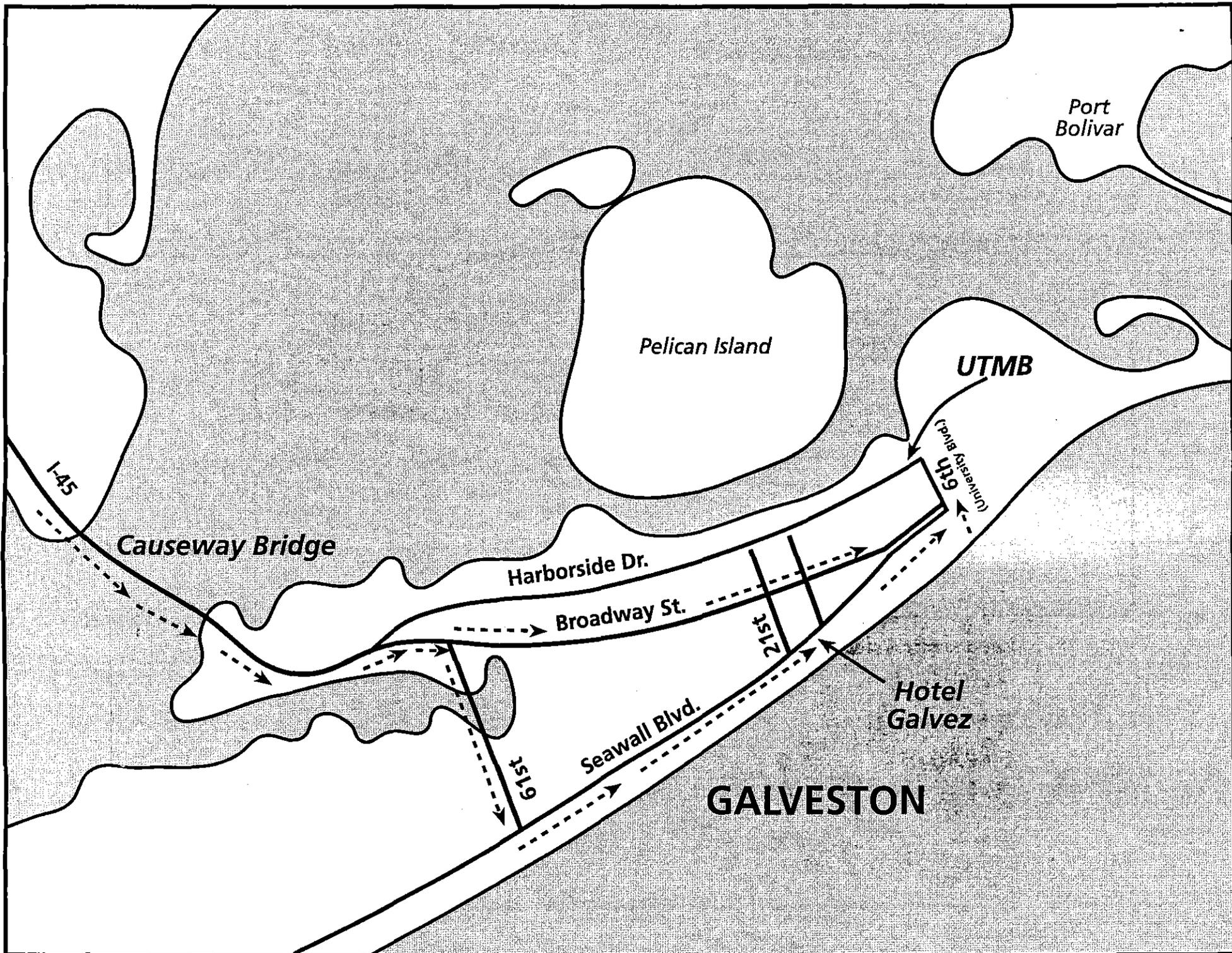
6TH ST.

UNIVERSITY BLVD.



- From Hotel Galvez, take a right on Seawall to 25th Street.
- Turn right on 25th Street and travel north to Broadway.
- Cross Broadway and take a right on Sealy Avenue.
- Parking is located behind Open Gates on Sealy Avenue.
- For your convenience, continuous shuttle service will be available from the Hotel Galvez to Open Gates.
- For more information, call the UTMB Public Affairs Office at (409) 772-2618 or page Jill Termini at (409) 645-5303.





Port Bolivar

Pelican Island

UTMB

I-45

Causeway Bridge

Harborside Dr.

Broadway St.

21st

Seawall Blvd.

Hotel Galvez

GALVESTON

6th (University Blvd.)

61st

## Meeting of the Board

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

**Thursday, August 12, 1999**

**Sixth Floor, Administration Building  
The University of Texas Medical Branch at Galveston  
301 University Boulevard, Galveston, Texas**

<u>Time:</u>	8:30 a.m.	Convene in Open Session to Immediately
<u>Place:</u>	Conference Room 624	Recess to Executive/Briefing Session
<u>Time:</u>	10:00 a.m.	Reconvene in Open Session
<u>Place:</u>	Caduceus Room	
<u>Time:</u>	12:00 p.m.	Lunch Meeting with U. T. System
<u>Place:</u>	Caduceus Room	Faculty Advisory Council
<u>Time:</u>	1:30 p.m.	Recess to Executive/Briefing Session, if
<u>Place:</u>	Caduceus Room	Necessary, to Continue Until Completion of Business

- A. CALL TO ORDER
- B. RECESS TO EXECUTIVE SESSION (TEXAS GOVERNMENT CODE, CHAPTER 551)
  - 1. Deliberations Regarding the Purchase, Exchange, Lease or Value of Real Property - Section 551.072

U. T. Pan American: Request for Approval to Lease  
the Baseball Stadium to the City of Edinburg,  
Texas, and Authorization to Execute All Documents  
Related Thereto

2. Personnel Matters Relating to Appointment, Employment, Evaluation, Assignment, Duties, Discipline, or Dismissal of Officers or Employees - Section 551.074

U. T. System: Consideration of Personnel Aspects of the Operating Budgets for the Fiscal Year Ending August 31, 2000, Including Auxiliary Enterprises, Grants and Contracts, Designated Funds, Restricted Current Funds, and Medical and Dental Services, Research and Development Plans and Authorization for the Chancellor to Make Editorial Corrections Therein

- C. RECONVENE IN OPEN SESSION
- D. WELCOME BY PRESIDENT STOBO
- E. APPROVAL OF MINUTES OF REGULAR MEETING HELD MAY 13, 1999, AND SPECIAL MEETING HELD MAY 26, 1999
- F. CONSIDERATION OF ACTION ON EXECUTIVE SESSION MATTERS (ITEM B)

G. SPECIAL ITEMS

1. U. T. Board of Regents: Proposed Amendments to the Regents' Rules and Regulations, Part One, Chapter I, Section 5, Subsection 5.3, Subdivision 5.38 (Rules and Regulations) and Subsection 5.4 (Assistant Secretary to the Board); Section 7, Subsection 7.2 (Board for Lease of University Lands); and Section 8, Subsection 8.2 (Order of Business) and Subsection 8.6 (Report to Press on Actions of Board).--

RECOMMENDATION

It is recommended that the Regents' Rules and Regulations, Part One, Chapter I, Section 5, Subsection 5.3, Subdivision 5.38 (Rules and Regulations) and Subsection 5.4 (Assistant Secretary to the Board); Section 7, Subsection 7.2 (Board for Lease of University Lands); and Section 8, Subsection 8.2 (Order of Business) and Subsection 8.6 (Report to Press on Actions of Board) be amended as set forth below in congressional style:

- a. Amend Section 5, Subsection 5.3, Subdivision 5.38 to authorize the Executive Secretary to make editorial changes to the Regents' Rules and Regulations and Regental Policies as follows:

5.38 Rules and Regulations and Regental Policies.--The Executive Secretary shall be charged with the responsibility of keeping current the Official Copies of the Regents' Rules and Regulations[;] and furnishing to members of the Board and the administrative officers on the approved list any changes or additions as soon as possible after the meeting at which they are finally adopted.

The Executive Secretary is authorized to make minor and nonsubstantive editorial changes to the Regents' Rules and Regulations and to Regental Policies enacted by the Board as necessary to keep the Rules and policies current and correct. In the event such editorial changes are necessary, the Executive Secretary will assure that members of the Board, administrative officers and members of the public have ready access to the current version of the Regents' Rules and Regulations and each Regental Policy.

- b. Delete Section 5, Subsection 5.4 to remove the position of Assistant Secretary to the Board in the Office of the Board of Regents.
- c. Amend Section 7, Subsection 7.2 related to the Board for Lease of University Lands as follows:

7.2 Board for Lease of University Lands.--At the first available opportunity following February 1 of each odd-numbered year, [Pursuant to Section 66.62, Texas Education Code] two qualified members of the Board, as specified in Section 66.62, Texas Education Code, shall be selected [appointed] by the [Chairman of the] Board, upon recommendation [by and with the consent] of the Chairman of the Board, to serve on the Board for Lease of University Lands. The Office of Business Affairs, on behalf of the Board of Regents, will assign employees of The University of Texas System to assist the Board for Lease of University Lands in the performance of its duties and responsibilities and will consult with the Chancellor and the Office of General Counsel as necessary and appropriate. The Secretary of the Board for Lease of University Lands shall report the activities of the Board for Lease of University Lands to the Board at each of the Board's regularly scheduled meetings [with one member of the Board of Regents of The Texas A&M University System selected by the Board of Regents of that System and the Commissioner of the General Land Office on the Board for Lease of University Lands, an agency of the State of Texas. A regent member may not be directly or indirectly employed by, or be an officer of or an attorney for, an oil or gas company. An officer, employee, or paid consultant of a trade association in the oil and gas industry may not be a member of the Board, nor may a person who cohabits with or is the spouse of an officer, managerial employee, or paid consultant of a trade association in the oil and gas industry be a member of the Board. A person who is required to register as a lobbyist under Chapter 305, Government Code, by virtue of his or her activities for compensation in or on behalf of a profession related to the operation of the Board, may not serve as a member of the Board or act as the general counsel to the Board. With the knowledge and direction of the Chancellor, the Board for Lease shall receive the assistance and cooperation of the Offices of Business Affairs and General Counsel].

d. Amend Section 8, Subsection 8.2, relating to the order of business at meetings of the Board of Regents, as follows:

- 8.2 Order of Business.--Customarily, the order of business at a regular meeting of the Board shall be as follows:
- 8.21 Executive Session of the Board.
  - 8.22 Correction and approval of Minutes of preceding meeting(s).
  - 8.23 Consideration of Special Items referred directly to the Board.
  - 8.24 Consideration of items relating to The University of Texas Investment Management Company (UTIMCO).
  - 8.25 Consideration of approval of items contained in reports of standing committees:
    - (a) Executive Committee
    - (b) Business Affairs and Audit Committee
    - (c) Academic Affairs Committee
    - (d) Health Affairs Committee
    - (e) Facilities Planning and Construction Committee
  - 8.26 Reports of special committees.
  - ~~8.21 Correction and approval of Minutes of preceding meeting.~~
  - ~~8.22 Consideration of items referred directly to the Board.~~
  - ~~8.23 Consideration of approval of items contained in reports of standing committees:~~
    - ~~(a) Executive Committee~~
    - ~~(b) Business Affairs and Audit Committee~~
    - ~~(c) Academic Affairs Committee~~
    - ~~(d) Health Affairs Committee~~
    - ~~(e) Facilities Planning and Construction Committee~~
  - 8.24 Special Items:
    - (a) System Administration officials
    - (b) Chief administrative officers of the component institutions
    - (c) Members of the Board
  - 8.25 Reports of special committees.
  - 8.26 Executive Session of the Board.]

- e. Amend Section 8, Subsection 8.6, relating to reports to the press, as follows:

8.6 Report to Press on Actions of Board.--Reports on matters [Matters] of public interest will be given to the press as promptly as possible after each meeting [~~to the press~~]. These press reports shall be under the direction of the Chairman of the Board, the Chancellor or their designated representatives.

### BACKGROUND INFORMATION

The proposed amendments to Section 5, Subsection 5.3, Subdivision 5.38 authorize the Executive Secretary to make minor and nonsubstantive editorial changes to the Regents' Rules and Regulations and to Regental Policies to keep the Rules and Regental Policies current and correct.

The proposed amendment to the Regents' Rules and Regulations, Part One, Chapter I, Section 5, Subsection 5.4 removes the position of Assistant Secretary to the Board in the Office of the Board of Regents, as the Office has been reorganized.

The proposed amendments to Section 7, Subsection 7.2 relating to the Board for Lease of University Lands delete language repeating the statutory qualifications for Board for Lease service set forth in the Texas Education Code Section 66.62, and harmonize the language related to selection of members of the Board for Lease with actual practice.

The amendments to Section 8 are primarily editorial and are recommended to conform the usual order of business at a regularly scheduled meeting of the Board of Regents with current practice and to clarify the procedure for issuing press reports.

2. U. T. Board of Regents: Proposed Amendments to the Regents' Rules and Regulations, Part One, Chapter II, Section 9, Subsection 9.2, Subdivision 9.24 (Vice Chancellor for Development and External Relations, Duties and Responsibilities) and Part Two, Chapter I, Section 1, Subsection 1.1 (Gifts to The University of Texas System).--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs, the Executive Vice Chancellor for Business Affairs, the Vice Chancellor for Academic Affairs, and the Vice Chancellor for Development and External Relations that the Regents' Rules and Regulations be amended as set forth below in congressional style:

- a. Amend Part One, Chapter II, Section 9, Subsection 9.2, Subdivision 9.24, relating to the duties and responsibilities of the Vice Chancellor for Development and External Relations, as follows:

9.24 Promulgating the "U. T. System Gift Acceptance Procedures" and preparing other guidance documents [Recommending policies] relating to acceptance, processing, and administration (excluding investment management) of gifts for [all of] the U. T. System[s] and the component institutions.

- b. Amend Part Two, Chapter I, Section 1, Subsection 1.1, regarding gifts to The University of Texas System, as follows:

Sec. 1. Gifts to The University of Texas System.

- 1.1 The authority to accept gifts to the U. T. System or to any of the component[s] institutions is vested in the Board and delegated by the Board as specifically set out in this Section. The Board delegates to the Vice Chancellor for Development and External Relations the authority and responsibility to promulgate a set of guidelines regarding the acceptance, processing, investment, and administration of gifts. These guidelines will be known as the "U. T. System Gift Acceptance Procedures" and shall be

adhered to by the component institutions and U. T. System. In promulgating the "U. T. System Gift Acceptance Procedures", the delegate shall also consider provisions to:

- 1.11 Accomplish the goal of increasing financial support for the U. T. System through the appropriate assistance of donors.
- 1.12 Allow staff members to respond to donor initiatives quickly and with certainty.
- 1.13 Establish administrative processes to accept and administer gifts in a prudent and efficient manner, with fiduciary responsibilities of fundamental importance.
- 1.14 Comply with the Texas Constitution and applicable federal and state law.
- 1.15 Comply with the provisions of the Internal Revenue Code and related regulations.
- 1.16 Specifically incorporate provisions related to the acceptance of pledges to fund endowments as follows:
  - 1.161 At least 20% of the donors' total proposed funding must be received prior to the acceptance of an endowment, and
  - 1.162 The pledge for payment of the remaining funds shall not extend beyond five years from the date of execution of the gift agreement.
- 1.17 Specify that requests to establish quasi-endowments are to be submitted only when it is expected that the endowment will be maintained permanently, and
- 1.18 Provide that, in the interest of financial responsibility and efficiency, it is the specific preference of the Board that all endowment gifts be eligible for commingling for investment purposes with other endowment funds.

## BACKGROUND INFORMATION

In August 1995, the U. T. Board of Regents adopted the current "U. T. System Gifts Policy Guidelines", as amended in November 1995, as a part of the recommendations of the U. T. System Process Review Committee. These guidelines have greatly increased efficiency in accepting and processing private gifts to the U. T. System Administration and component institutions. Because of the periodic need to update these procedural guidelines and prepare other guidance documents relating to gifts, these proposed amendments to Parts One and Two of the Regents' Rules and Regulations delegate to the Vice Chancellor for Development and External Relations the authority to promulgate "U. T. System Gift Acceptance Procedures" which are consistent with the Regents' Rules and Regulations without formal action by the U. T. Board of Regents. Proposed gifts that constitute exceptions to the Gift Acceptance Procedures will continue to be considered by the U. T. Board of Regents via the agenda process.

The current version of the "U. T. System Gifts Policy Guidelines" contains a section of special provisions applicable to gifts of real estate. Upon approval of the recommended delegation, the sections related to real estate will be formatted as a separate guidance policy. The reformatted "U. T. System Real Estate Gift Acceptance Procedures" and the current "Environmental Review Policy for Acquisitions of Real Property Assets" will govern gifts of real property and will remain in effect until policy revisions are presented to the U. T. Board of Regents for approval.

3. U. T. Board of Regents: Proposed Amendments to the Regents' Rules and Regulations, Part One, Chapter III, Section 13 (Outside Employment).--

## RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs, the Executive Vice Chancellor for Business Affairs, and the Vice Chancellor for Academic Affairs that the Regents' Rules and Regulations, Part One, Chapter III, Section 13, relating to outside employment, be amended as set forth on Pages B of R 10 - 12 in congressional style.

Sec. 13. Outside Employment and Nonelective Positions of Honor, Profit, or Trust.

- 13.1 Members of the faculty or staff of the System and the component institutions should not be discouraged from accepting appointments of a consultative or advisory capacity with governmental agencies, industry, or other educational institutions. The consideration to the System and the component institutions of such activity is the improvement of the individual by virtue of his or her continuing contact with nonacademic problems in the nonacademic world.
- 13.2 The primary responsibility of members of the faculty and staff of the System and the component institutions is the accomplishment of the duties and responsibilities assigned to one's position of appointment; external consulting or other outside employment that interferes with those duties and responsibilities should not be accepted. In connection with any outside employment, faculty and staff must comply with state laws governing the conduct of state employees, including ethics standards and provisions prohibiting conflict of interest and use of state resources. For special provisions relating to standards of conduct for employees, see Section 4 of this Chapter. ~~[Members of the faculty or staff should be discouraged from accepting regular employment with units outside the System because this action would be divisive of loyalties and does not provide the return to the institutions indicated in 13.1.~~
- ~~13.3 Conflict of interest should be avoided in all instances of outside employment, but conflict of interest in an academic institution means outside activity which intrudes upon the academic functions of teaching, scholarly activities, and service to the institution.]~~
- 13.3 [13.4] Even in the case of members of the faculty or staff specifically engaged only in residence work, there exists an obligation, usually intermittent, to furnish expert knowledge and counsel for public benefit free of charge, provided that the meeting of this obligation by a faculty or staff member does not interfere with his or her regular duties, and provided further that in meeting this obligation a full-time faculty or staff member [on full-time duty] shall avoid undue competition with legitimate private agencies.

13.4 ~~[13.5]~~ No member of the faculty or staff engaged in outside remunerative activities shall use in connection therewith the official stationery of the System or any of the ~~[its]~~ component institutions, or give as a business address any building or department of the System or the component institution.

13.5 ~~[13.6]~~ ~~No member of the faculty or staff shall accept employment or any position of responsibility if the discharge of such employment or responsibility will be antagonistic to the interests of the State of Texas or the System or any of its component institutions.~~

~~13.7]~~ Every member of the faculty or staff who gives professional opinions must protect the System and the ~~[its]~~ component institutions against the use of such opinions for advertising purposes. If the faculty or staff member ~~[employee]~~ does work in a private capacity, the faculty or staff member ~~[employee]~~ must make it clear to those who employ him or her that the work is unofficial and that the name of the System and the ~~[its]~~ component institutions is not in any way to be connected with the faculty or staff member's ~~[employee's]~~ name, except when used to identify the faculty or staff member ~~[employee]~~ as the author of work related to the faculty or staff member's ~~[employee's]~~ academic or research area as more fully described in Part Two, Chapter XII, Section 2~~[, Subsection 2.3]~~.

13.6 ~~[13.8]~~ No member of the faculty or staff shall accept pay from private persons or corporations for tests, assays, chemical analyses, bacteriological examinations, or other such work that ~~[of a routine character, which]~~ involves the use of property owned by the System or the ~~[its]~~ component institutions, unless advance permission has been obtained from the chief administrative officer and provision has been made for compensation to the System or the ~~[its]~~ component institutions.

13.7 ~~[13.9]~~ No full-time member of the faculty or ~~[full-time]~~ staff employed by ~~[of]~~ the System or the component institutions on a twelve-month or nine-month basis shall be employed in any

outside work or activity or receive from an outside source a regular retainer fee or salary until a description of the nature and extent of the employment has been filed with and approved by appropriate administrative officials as set forth in the policies of the System or the [institutional] Handbook of Operating Procedures of each component institution. For special provisions relating to other state or federal employment, see Subsections 13.9 and 13.(10)~~[, 13.(11), and 13.(12)]~~ of this Section.

13.8 ~~[13.(10)]~~ Subject to the other provisions of this Section, a member of the faculty or staff of the System or the component institutions may hold other nonelective offices or positions of honor, trust, or profit with the State of Texas or the United States if holding the other offices or positions is of benefit to the State of Texas or is required by state or federal law~~[,]~~ and if there is no conflict between holding the office or position and holding the ~~[original]~~ office or position with the System or the component institutions for which the member of the faculty or staff receives salary or compensation.

13.9 ~~[13.(11)]~~ Before a member of the faculty or staff of the System or the component institutions may accept an offer to serve in other nonelective offices or positions of honor, trust, or profit with the State of Texas or the United States, the member of the faculty or staff must obtain from the appropriate administrative officials and the Board a finding via the docket that the requirements of Subsection 13.9 [this Section] have been fulfilled~~[, including the expected additional compensation to be received from such service]~~. The docket entry shall also record any compensation the employee is to receive from the nonelective office or position, including salary, bonus, or per diem payment.

~~[13.(12) The chief administrative officer must keep a record of compensation received from additional state or federal employment, or both, including specifically: salary, bonuses, and per diem or other type of compensation.]~~

## BACKGROUND INFORMATION

A recent court challenge to the constitutionality of legislative and institutional limitations on faculty and staff outside employment, including employment as an expert witness, has prompted modification of Section 13 of Chapter III, Part One of the Regents' Rules and Regulations. Although Subsection 13.6 has been omitted, Subsection 13.2 has been modified to clarify that external consulting and outside employment are considered secondary activities to be engaged in only after one's duties and responsibilities to the employing U. T. institution are fulfilled. The proposed change in Subsection 13.2 also provides that faculty and staff members who maintain outside employment must comply with state laws governing the conduct of state employees, including provisions concerning conflict of interest, ethics standards, and use of state resources. The proposed change to Subsection 13.(10) makes the language consistent with the requirements of Texas Government Code Section 574.002. The remaining modifications to Section 13 are editorial in nature.

4. U. T. Board of Regents: Proposed Amendments to the Regents' Rules and Regulations, Part One, Chapter III, Section 6, Subsection 6.3 (Tenure, Promotion, and Termination of Employment).--

## RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs, the Executive Vice Chancellor for Business Affairs, the Vice Chancellor for Academic Affairs, and the Vice Chancellor and General Counsel that, to comply with Section 51.960, Texas Education Code, enacted by the 76th Texas Legislature, the Regents' Rules and Regulations, Part One, Chapter III, Section 6, Subsection 6.3, relating to tenure, promotion, and termination of employment, be amended as set forth below in congressional style:

- 6.3 Termination by an institution of the employment of a faculty member who has been granted tenure and of all other faculty members before the expiration of the stated period of appointment, except as is otherwise provided in Subdivision 6.26 and Subsections 6.(11) and 6.(12) or by resignation or retirement, will be only for good cause shown. Faculty member, as used in this Subsection, includes a

professional librarian with an academic title. In each case the issue of good cause will be determined according to the equitable procedures provided in this Subsection.

6.31 The chief administrative officer shall assure that all allegations against a faculty member that involve the potential for termination are reviewed under the direction of the chief academic officer unless another officer is designated by the chief administrative officer. The faculty member who is the subject of the allegations shall be given an opportunity to be interviewed and shall have the right to present a grievance, in person, to the chief academic officer on an issue or subject related to the allegations under review. The chief academic officer shall take the grievance, if any, into consideration prior to making a determination [by the chief academic officer] whether the allegations are supported by evidence that constitutes good cause for termination. Upon making that determination, the [The] chief academic officer will recommend to the chief administrative officer whether to proceed with charges for termination. Failure to present a grievance to the chief academic officer prior to his or her recommendation shall not preclude a faculty member from presenting an issue or subject to the special hearing tribunal in defense of charges for termination that may result from the review. A tenured faculty member who is recommended for termination on the basis of periodic evaluation must be given the opportunity for referral of the matter to nonbinding alternative dispute resolution, as required by Texas Education Code Section 51.942 and in compliance with applicable U. T. System and institutional policies and procedures for alternative dispute resolution, prior to referral of the charges to a hearing tribunal under [Subsection] Subdivision 6.33. A faculty member under review for matters that may result in charges for termination may file a grievance pursuant to a faculty grievance procedure only if the subject of the grievance is not involved in the review. A pending grievance may proceed only if it does not involve a subject under review.

6.35 Full-time [Tenure-track] faculty members, including professional librarians with academic titles, who are notified in accordance with Subsection 6.7 that they will not be reappointed or who are notified in accordance with Subdivision 6.23 or Subsections 6.7 or 6.8 that the subsequent academic year will be the terminal year of appointment shall not be entitled to a statement of the reasons upon which the decision for such action is based. Such a decision shall only be subject to review pursuant to the following procedures: [~~under this Subdivision only to determine whether the decision was made for reasons that are unlawful under the laws or Constitution of this state or the United States.~~]

6.351 The affected faculty member may present a grievance, in person, to the chief academic officer on an issue or subject related to the nonrenewal decision. The chief academic officer shall meet with the faculty member. Unless a review by a hearing tribunal is requested and granted pursuant to Subparagraph 6.352 below, the nonrenewal decision shall not be subject to further review.

6.352 A review by a hearing tribunal shall [~~under this Subdivision may~~] be granted only in those cases where the affected faculty member submits a written request for [a] review by a hearing tribunal to the chief administrative officer and [~~that~~] describes in detail the facts relied upon to prove that the decision was made for [~~unlawful~~] reasons that are unlawful under the Constitution or laws of Texas or the United States. If the chief administrative officer determines that the alleged facts, if proven by credible evidence, support a conclusion that the decision was made for unlawful reasons, such allegations shall be heard by a hearing tribunal under the procedures in Subsection 6.3 as in the case of dismissal for cause, with the following exceptions:

- (1) the burden of proof is upon the affected faculty member to establish by the greater weight of the credible evidence that the decision in question was made for reasons that are unlawful under the laws or Constitution of Texas [~~this state~~] or the United States;
- (2) the administration of the institution need not state the reasons for the questioned decision or offer evidence in support thereof unless the affected

- faculty member presents credible evidence that, if unchallenged, proves the decision was made for unlawful reasons;
- (3) the hearing tribunal shall make written findings and recommendations based on the evidence presented at the hearing and shall forward such findings and recommendations with the transcript and exhibits from the hearing to the chief administrative officer;
  - (4) the chief administrative officer may approve, reject, or amend the recommendations of the hearing tribunal or may reach different conclusions based upon the record of the hearing. The decision of the chief administrative officer shall be final.

### BACKGROUND INFORMATION

A new Section 51.960 was added to the Texas Education Code by the 76th Texas Legislature. Section 51.960 requires that a person employed by an institution of higher education as a full-time faculty member, including a person employed as a professional librarian, who is notified that he or she will not be reappointed or who is under review for termination for good cause be provided the right "to present a grievance, in person, to a member of the institution's administration designated by the governing board of the institution on an issue related to the nonrenewal or termination". The proposed amendments to the Regents' Rules and Regulations, Part One, Chapter III, Section 6, Subsection 6.3 are necessary to meet the requirements of Section 51.960 of the Texas Education Code.

5. U. T. Board of Regents: Proposed Amendments to the Regents' Rules and Regulations, Part Two, Chapter XII (Intellectual Property), Section 5 (Property Rights and Obligations), Subsection 5.2, Subdivision 5.22, and Section 8, Subsection 8.1 (Reporting).--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs, the Vice Chancellor for Academic Affairs, and the Vice Chancellor and General Counsel that the Regents' Rules and Regulations, Part Two, Chapter XII, regarding intellectual property, be amended as set forth below in congressional style:

- a. Amend Section 5, Subsection 5.2, Subdivision 5.22, regarding approval of release of intellectual property rights, as follows:

5.22 If the chief administrative officer recommends that the System not assert and exploit its interest[;] and that recommendation is approved by the Office of General Counsel [~~and the appropriate Executive Vice Chancellor or Vice Chancellor~~], the creator shall be notified within one hundred eighty (180) days of the date of submission that he or she is free to obtain and exploit a patent or other intellectual property protection in his or her own right and the System shall not have any further rights, obligations or duties with respect thereto except that, in some instances the System may elect to impose certain limitations or obligations or retain income rights, dependent upon the degree of System support involved in the creation of such property.

- b. Amend Section 8, Subsection 8.1, regarding reporting, as follows:

8.1 Any employee covered by Subsections 6.2, 7.1, or 7.2 shall report in writing to the chief administrative officer of the component institution, or to such other person as may be designated by the chief administrative officer, the name of any business entity [~~as referred to therein~~] in which the person has an interest or for which the person

serves as a director, officer or employee and shall be responsible for submitting a revised written report upon any change in the interest or position held by such person in such business entity. These reports shall be ~~[accumulated in the office of the chief administrative officer or designee and then]~~ forwarded to the ~~[appropriate Executive Vice Chancellor or]~~ Vice Chancellor and General Counsel by October ~~[September]~~ 1 of each year for filing ~~[so that the Chancellor may file a report]~~ with the Board as required by Section 51.912, Texas Education Code and inclusion in the annual financial report sent to the State officials listed in ~~[Information in the report shall be included in the annual report required by]~~ Section 51.005 ~~[51.912(e)],~~ Texas Education Code.

### BACKGROUND INFORMATION

Currently, the Regents' Rules and Regulations, Part Two, Chapter XII, Section 5, Subsection 5.2, Subdivision 5.22 specify that release of property rights to inventors must be approved by the appropriate Executive Vice Chancellor or Vice Chancellor in addition to the component chief administrative officer and the Office of General Counsel. This recommended change will simplify the processing of such intellectual property actions at the U. T. System level, allowing release approval and notification to inventors to be handled in the Office of General Counsel without routing to the Office of Health Affairs or the Office of Academic Affairs.

Texas Education Code Section 51.912 requires inclusion of information concerning all U. T. System employees who hold equity interests or certain offices in business entities that have agreements with the U. T. System relating to intellectual property owned by the U. T. Board of Regents in the annual financial report to named State officials as required by Texas Education Code Section 51.005. This recommended change to Section 8, Subsection 8.1 of Chapter XII, Part Two of the Regents' Rules and Regulations will simplify the routing of information for that report which is currently completed by the Office of General Counsel and filed with the Board pursuant to Section 51.912 and make the Rules and Regulations consistent with current law.

6. U. T. System: Report of Summary of Gift Acceptance and Related Administrative Actions Conforming to Board Policy for March 1, 1999 Through May 31, 1999.--

(See Pages B of R 20 - 24.)

**ACCEPTANCE OF GIFTS HELD BY BOARD**

**March 1, 1999 Through May 31, 1999**

# ALL ITEMS	COMPONENT INSTITUTION	ASSET TYPES							MATCHING FUNDS	TOTAL VALUE
		CASH	SECURITIES	REAL ESTATE	PLEDGES	OTHER	TRANSFERS			
7	U. T. Arlington	\$ 25,000	\$ -	\$ -	\$ -	\$ 40,000	\$ -	\$ -	\$ 65,000	
33	U. T. Austin	\$ 3,424,053	\$ 367,424	\$ -	\$ 484,208	\$ 1,845	\$ 122,400	\$ -	\$ 4,399,929	
41	U. T. El Paso	\$ 201,183	\$ -	\$ -	\$ 19,500	\$ -	\$ 45,136	\$ -	\$ 220,683 *	
2	U. T. Permian Basin	\$ 6,861	\$ 48,479	\$ -	\$ 4,660	\$ -	\$ -	\$ -	\$ 60,000	
1	U. T. San Antonio	\$ 25,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 25,000	
2	U. T. Tyler	\$ 27,500	\$ -	\$ -	\$ 12,500	\$ -	\$ -	\$ -	\$ 40,000	
7	U. T. SWMC-Dallas	\$ 666,600	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 100,000	\$ 666,600 *	
34	U. T. M.B.-Galveston	\$ 862,025	\$ 453,986	\$ -	\$ 130,000	\$ -	\$ 2,371,244	\$ -	\$ 3,767,256 *	
4	UTHSC-Houston	\$ 107,467	\$ 1,950	\$ -	\$ 177,500	\$ -	\$ -	\$ -	\$ 286,917	
4	UTHSC-San Antonio	\$ 128,396	\$ -	\$ -	\$ -	\$ -	\$ 50,000	\$ -	\$ 178,396	
29	UTMDACC	\$ 2,222,596	\$ 25,114	\$ -	\$ 25,000	\$ -	\$ 1,408,465	\$ -	\$ 2,272,709 *	
1	UTHC-Tyler	\$ 41,445	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 41,445	
165	TOTAL	\$ 7,738,126	\$ 896,953	\$ -	\$ 853,368	\$ 41,845	\$ 3,997,245	\$ 100,000	\$ 12,023,935	

\* Not included in total: U. T. El Paso - \$45,136 of previously accepted gifts;  
 U. T. M.B.-Galveston - \$50,000 transfer of endowment funds;  
 U. T. SWMC-Dallas - \$100,000 of Board-held matching funds;  
 UTMDACC - \$186,786 of previously accepted gifts and \$1,221,679 of transfers of endowment funds.

NOTE: Compiled by Office of Development and External Relations

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**CLASSIFICATION OF GIFTS AND OTHER ACTIONS**

**March 1, 1999 Through May 31, 1999**

<u>COMPONENT INSTITUTION</u>	<u>ENDOWMENTS</u>	<u>CHARITABLE REMAINDER TRUSTS</u>	<u>POOLED INCOME FUND</u>	<u>REMAINDER INTERESTS</u>	<u>HELD IN TRUST BY OTHERS</u>	<u>CURRENT PURPOSE</u>	<u>OTHER</u>
U. T. Arlington	6	---	---	---	---	1	---
U. T. Austin	32	---	---	---	---	1	---
U. T. El Paso	40	1	---	---	---	---	---
U. T. Permian Basin	2	---	---	---	---	---	---
U. T. San Antonio	1	---	---	---	---	---	---
U. T. Tyler	2	---	---	---	---	---	---
U. T. SWMC-Dallas	4	---	---	---	2	1	---
U. T. M.B.-Galveston	32	---	---	---	---	2	---
UTHSC-Houston	3	---	---	---	---	1	---
UTHSC-San Antonio	4	---	---	---	---	---	---
UTMDACC	20	---	---	---	---	9	---
UTHC-Tyler	1	---	---	---	---	---	---
<b>TOTAL</b>	<b>147</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>15</b>	<b>0</b>

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**PURPOSES OF GIFTS HELD BY BOARD AND OTHERS**  
**March 1, 1999 Through May 31, 1999**

COMPONENT INSTITUTION	ENDOWMENT								CURRENT PURPOSE	OTHER PURPOSE
	DIST. CHAIR	CHAIR	DIST. PROF'SHIP	PROF'SHIP	FACULTY FELLOWSHIP	GRADUATE FELLOWSHIP	SCHOLARSHIP	OTHER		
U. T. Arlington	--	--	--	--	--	--	2	--	1	--
U. T. Austin	--	1	--	2	--	5	13	8	1	--
U. T. El Paso	--	--	--	1	--	--	2	4	--	1
U. T. Permian Basin	--	--	--	--	--	--	2	--	--	--
U. T. San Antonio	--	--	--	--	--	--	1	--	--	--
U. T. Tyler	--	--	--	--	--	--	2	--	--	--
U. T. SWMC-Dallas	--	1	--	1	--	--	1	1	1	--
U. T. M.B.-Galveston	--	--	1	3	--	--	8	12	2	--
UTHSC-Houston	--	--	--	2	--	--	--	1	1	--
UTHSC-San Antonio	--	--	--	1	--	--	2	1	--	--
UTMDACC	--	2	--	--	--	--	1	3	9	--
UTHC-Tyler	--	--	--	--	--	--	--	1	--	--
<b>TOTAL</b>	<b>0</b>	<b>4</b>	<b>1</b>	<b>10</b>	<b>0</b>	<b>5</b>	<b>34</b>	<b>31</b>	<b>15</b>	<b>1</b>

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*Total purposes may not equal the total number of items because some items pertain to multiple purposes.*

**OTHER ADMINISTRATIVE ACTIONS**

**March 1, 1999 Through May 31, 1999**

<b>COMPONENT INSTITUTION</b>	<b>ESTABLISH ENDOWMENT</b>	<b>REDESIGNATE ENDOWMENT LEVEL</b>	<b>OTHER REDESIGNATION</b>	<b>DISSOLVE ENDOWMENT</b>	<b>APPROVE/ALLOCATE MATCHING</b>	<b>ACCEPT TRUSTEESHIP</b>	<b>OTHER</b>
U. T. Arlington	1	---	4	---	---	---	---
U. T. Austin	29	---	3	---	---	---	---
U. T. El Paso	6	1	34	---	---	1	---
U. T. Permian Basin	2	---	---	---	---	---	---
U. T. San Antonio	1	---	---	---	---	---	---
U. T. Tyler	2	---	---	---	---	---	---
U. T. SWMC-Dallas	4	---	2	---	1	---	---
U. T. M.B.-Galveston	23	---	4	1	4	---	---
UTHSC-Houston	3	---	---	---	2	---	---
UTHSC-San Antonio	3	1	1	---	1	---	---
UTMDACC	6	14	2	---	---	---	---
UTHC-Tyler	1	---	---	---	---	---	---
<b>TOTAL</b>	<b>81</b>	<b>16</b>	<b>50</b>	<b>1</b>	<b>8</b>	<b>1</b>	<b>0</b>

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**COMPARATIVE SUMMARY OF GIFTS ACCEPTED VIA THE OFFICIAL ADMINISTRATIVE PROCESS**

**March 1, 1999 Through May 31, 1999**

COMPONENT INSTITUTION	FY 1998 FULL YEAR	FISCAL YEAR 1999			FULL YEAR
		9/1/98 - 11/30/98	12/1/98 - 2/28/99	3/1/99 - 5/31/99	
U. T. System	\$ --	\$ 60,000	\$ 25,000	\$ -	
U. T. Arlington	\$ 1,633,567	\$ 31,386	\$ 187,148	\$ 65,000	
U. T. Austin	\$ 16,888,581	\$ 1,166,167	\$ 3,098,064	\$ 4,399,929	
U. T. Dallas	\$ 411,126	\$ 1,000,000	\$ 60,674	\$ -	
U. T. El Paso	\$ 4,064,288	\$ 1,597,047	\$ 291,094	\$ 220,683	
U. T. Pan American	\$ 1,142,022	\$ --	\$ 60,674	\$ -	
U. T. Brownsville	\$ 10,000	\$ --	\$ 60,674	\$ -	
U. T. Permian Basin	\$ 272,770	\$ 10,000	\$ 120,674	\$ 60,000	
U. T. San Antonio	\$ 236,907	\$ 53,600	\$ 326,674	\$ 25,000	
U. T. Tyler	\$ 554,169	\$ --	\$ 220,749	\$ 40,000	
U. T. SWMC-Dallas	\$ 35,511,381	\$ 2,342,000	\$ 4,559,867	\$ 666,600	
U. T. M.B.-Galveston	\$ 4,135,559	\$ 164,293	\$ 2,573,483	\$ 3,767,256	
UTHSC-Houston	\$ 5,595,404	\$ 2,259,623	\$ 160,674	\$ 286,917	
UTHSC-San Antonio	\$ 2,330,175	\$ 1,000,000	\$ 76,846	\$ 178,396	
UTMDACC	\$ 13,780,273	\$ 162,831	\$ 4,358,790	\$ 2,272,709	
UTHC-Tyler	\$ 476,000	\$ 602,933	\$ 650,000	\$ 41,445	
Multi-Component	\$ --	\$ --	\$ 170,000	\$ -	
				\$ -	
<b>TOTAL</b>	\$ 87,042,222	\$ 10,449,881	\$ 17,001,083	\$ 12,023,935	

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H. MATTERS RELATED TO THE UNIVERSITY OF TEXAS INVESTMENT MANAGEMENT COMPANY (UTIMCO)

1. U. T. System: Report on Investments for the Fiscal Quarter Ended May 31, 1999.--

RECOMMENDATION

Pages B of R 27 - 30 contain the Summary Reports on Investments for the fiscal quarter ended May 31, 1999.

Item a on Page B of R - 27 presents the summary report for Permanent University Fund (PUF) Investments. PUF Investments began the quarter with a market value of \$7.2 billion. During the quarter, contributions of mineral income from PUF Lands equaled \$11.3 million, down 36.5% versus receipts for the third quarter of the prior fiscal year. In addition, total investment return was \$292.1 million of which \$68.5 million was income return distributed to the Available University Fund (AUF) and \$223.6 million was price return. PUF market value ended the quarter at \$7.4 billion.

Quarter-end asset allocation was 67% broadly defined equities and 33% fixed income versus an unconstrained neutral allocation of 80% equities and 20% fixed income. Within equities, quarter-end allocation was 47% U. S. large and mid cap stocks, 4% U. S. small cap stocks, 7% non-U. S. equities and 9% alternative equities.

The PUF's accrued investment income of \$68.5 million increased by a nominal rate of 5.1% versus \$65.2 million for the third quarter of the prior fiscal year and by 2.9% on an inflation adjusted basis. Distributed investment income for the quarter of \$68.5 million was \$5.7 million over budget and \$3.3 million over investment income earned during the third quarter of 1998.

PUF investment income continued to suffer from declining interest rates and the resulting negative reinvestment spreads. The reinvestment spread on maturing and redeemed bonds was a negative 2.5% as bonds ran off at an average yield of 8.5% and were replaced by bonds yielding 6.0%. As of quarter-end, the distributable book yield on the \$2.4 billion fixed income portfolio declined to 7.65% versus 7.67% at the beginning of the quarter.

Total investment return for the quarter was 4.06%. The fixed income portfolio posted a total return of (.35%) for the quarter versus (.02%) for the Lehman Aggregate Bond Index. Equities, as an asset class, posted higher relative returns with the S&P 500 Index and Russell 3000 Index posting returns of 5.48% and 6.29%, respectively. The PUF's equity portfolios (including non-U. S. portfolios) produced a higher return of 6.42% (largely due to exposure to high yielding REIT, and small/mid cap equities). Finally, alternative equities produced a 5.03% return for the quarter.

Item b on Page B of R - 28 reports summary activity for the Long Term Fund (LTF). During the quarter, net contributions totaled \$26.1 million representing a 2.4% increase over the third quarter of the prior fiscal year. Investment return was \$114.0 million. Distributions to the 5,003 endowment and other accounts underlying the LTF totaled \$25.5 million; an increase of 3.2% versus the third quarter of the prior year. The Fund's market value closed the quarter at \$2.5 billion.

Asset allocation at quarter-end was 22% fixed income and 78% broadly defined equities. Within equities, non-U. S. equities were slightly overweighted at 16% of total assets. U. S. large and mid cap equities were also overweighted at 33% while alternative equities were underweighted at 19% versus a neutral weighting of 25%. Total investment return for the quarter was 4.63% versus the neutral policy portfolio return of 4.99%.

Item c on Page B of R - 29 presents quarterly activity for the Short/Intermediate Term Fund. During the quarter, the Fund received net contributions of \$9.5 million. It earned \$10.8 million in total return and incurred expenses of \$100 thousand. Distributions to the U. T. System component institutions equaled \$27.2 million, resulting in a quarter-end Fund value of \$1.831 billion versus \$1.838 billion at the beginning of the quarter. Total return on the Fund was .57% for the quarter versus the Fund's performance benchmark of .93%.

Item d on Page B of R - 30 presents book and market value of cash, fixed income, equity and other securities held in funds outside of internal investment pools. Total cash and equivalents, consisting primarily of component operating funds held in the Dreyfus money market fund, increased by \$114 million to \$842 million during the third quarter. Asset values for the remaining asset classes were fixed income securities: \$65.7 million versus \$67.2 million at previous quarter-end; equities: \$51.2 million versus \$46.8 million at previous quarter-end; and other investments of \$6.9 million versus \$6.9 million at previous quarter-end.

a. PERMANENT UNIVERSITY FUND

Summary Investment Report at May 31, 1999.--

PERMANENT UNIVERSITY FUND (1)  
INVESTMENT SUMMARY REPORT  
(\$ millions)

	FY97-98	FY98-99			
	Full Year	1st Qtr	2nd Qtr	3rd Qtr	Year-to-date
Beginning Market Value	6,368.3	6,517.1	7,188.9	7,202.1	6,517.1
PUF Lands Receipts (2)	79.5	15.1	11.2	11.3	37.6
Investment Income (3)	260.0	65.5	63.7	68.5	197.7
Investment Income Distributed	(260.0)	(65.5)	(63.7)	(68.5)	(197.7)
Realized Gains	467.6	113.4	117.0	110.9	341.3
Change in Unrealized Gains	(398.3)	543.3	(115.0)	112.7	541.0
Ending Market Value	6,517.1	7,188.9	7,202.1	7,437.0	7,437.0
AUF income:					
Investment Income	260.0	65.5	63.7	68.5	197.7
Surface Income	6.6	2.3	2.2	0.8	5.3
Total	266.6	67.8	65.9	69.3	203.0

Report prepared in accordance with Sec. 51.0032 of the Texas Education Code.

- (1) Excludes PUF Lands mineral and surface interests with estimated August 31, 1998 values of \$385.6 million and \$154.9 million, respectively.
- (2) As of May 31, 1999: 1,284,195 acres under lease; 523,163 producing acres; 3,395 active leases; and 2,052 producing leases.
- (3) Investment income includes amortization of discount and premium bonds in accordance with statutory requirements.

b. LONG TERM FUND

Summary Investment Report at May 31, 1999.--

LONG TERM FUND  
SUMMARY REPORT  
(\$ millions)

	FY97-98	FY98-99			
	Full Year	1st Qtr	2nd Qtr	3rd Qtr	Year-To-Date
Beginning Net Assets	2,125.0	2,147.7	2,390.2	2,425.4	2,147.7
Net Contributions	80.5	31.6	17.1	26.1	74.8
Investment Return (1)	42.6	237.2	44.9	114.0	396.1
Receipt of Funds from System for UTIMCO Fee	2.0	0.6	0.5	0.5	1.6
Expenses	(7.2)	(1.6)	(1.9)	(2.2)	(5.7)
Distributions (Payout)	(90.9)	(25.1)	(25.2)	(25.5)	(75.8)
Distribution of Gain on Participant Withdrawals	(4.3)	(0.2)	(0.2)	(0.1)	(0.5)
Ending Net Assets	2,147.7	2,390.2	2,425.4	2,538.2	2,538.2
Net Asset Value per Unit	4.568	5.010	5.048	5.227	
No. of Units (End of Period)	470,190,284	477,070,872	480,447,414	485,586,789	
Distribution Rate per Unit	0.195	0.0525	0.0525	0.0525	

Report prepared in accordance with Sec. 51.0032 of the Texas Education Code.

- (1) Investment return for FY 97-98 was adjusted downward \$.1 million from previous report to correct rounding difference between other annual reports.

c. SHORT/INTERMEDIATE TERM FUND

Summary Investment Report at May 31, 1999.--

**SHORT/INTERMEDIATE TERM FUND  
SUMMARY REPORT  
(\$ millions)**

	<u>FY97-98</u>	<u>FY98-99</u>			
	<u>Full Year</u>	<u>1st Qtr</u>	<u>2nd Qtr</u>	<u>3rd Qtr</u>	<u>Year-to-Date</u>
Beginning Net Assets	1,631.4	1,809.6	1,845.9	1,838.3	1,809.6
Contributions (Net of Withdrawals)	126.9	29.8	18.7	9.5	58.0
Investment Return	152.8	32.5	-	10.8	43.3
Expenses	(0.5)	(0.1)	(0.1)	(0.1)	(0.3)
Distributions of Income	<u>(101.0)</u>	<u>(25.9)</u>	<u>(26.2)</u>	<u>(27.2)</u>	<u>(79.3)</u>
Ending Net Assets	1,809.6	1,845.9	1,838.3	1,831.3	1,831.3

Report prepared in accordance with Sec. 51.0032 of the Texas Education Code.

d. SEPARATELY INVESTED ASSETS

Summary Investment Report at May 31, 1999.--

**SEPARATELY INVESTED ASSETS  
SUMMARY REPORT  
(\$ thousands)**

ASSET TYPES	FUND TYPE													
	CURRENT PURPOSE				ENDOWMENT &		ANNUITY & LIFE		AGENCY FUNDS		OPERATING FUNDS		TOTAL	
	DESIGNATED		RESTRICTED		SIMILAR FUNDS		INCOME FUNDS							
	BOOK	MARKET	BOOK	MARKET	BOOK	MARKET	BOOK	MARKET	BOOK	MARKET	BOOK	MARKET	BOOK	MARKET
<b>Cash &amp; Equivalents:</b>														
Beginning value 3/1/99	3,674	3,674	2,906	2,906	27,846	27,846	245	245	34	34	693,402	693,402	728,107	728,107
Increase/(Decrease)	49	49	(1,340)	(1,340)	(8,996)	(8,996)	155	155	3	3	123,967	123,967	113,838	113,838
Ending value 5/31/99	3,723	3,723	1,566	1,566	18,850	18,850	400	400	37	37	817,369	817,369	841,945	841,945
<b>Debt Securities:</b>														
Beginning value 3/1/99	-	-	7	5	57,063	58,510	8,176	8,689	-	-	-	-	65,246	67,204
Increase/(Decrease)	-	-	-	-	(55)	(1,387)	1	(158)	-	-	-	-	(54)	(1,545)
Ending value 5/31/99	-	-	7	5	57,008	57,123	8,177	8,531	-	-	-	-	65,192	65,659
<b>Equity Securities:</b>														
Beginning value 3/1/99	42	3,648	3,100	3,253	20,741	33,033	6,513	6,847	-	-	-	-	30,396	46,781
Increase/(Decrease)	-	(312)	(1,202)	(1,228)	3,359	5,137	342	551	-	-	250	246	2,749	4,394
Ending value 5/31/99	42	3,336	1,898	2,025	24,100	38,170	6,855	7,398	-	-	250	246	33,145	51,175
<b>Other:</b>														
Beginning value 3/1/99	-	-	2	2	537	537	6,353	6,378	-	-	-	-	6,892	6,917
Increase/(Decrease)	-	-	20	20	121	121	(459)	(123)	-	-	-	-	(318)	18
Ending value 5/31/99	-	-	22	22	658	658	5,894	6,255	-	-	-	-	6,574	6,935

Report prepared in accordance with Sec. 51.0032 of the Texas Education Code.  
Details of individual assets by account furnished upon request.

2. U. T. Board of Regents: Proposed Amendments to the Investment Policy Statements for the Permanent University Fund, Long Term Fund, and Separately Invested Endowment, Trust, and Other Accounts.--

### RECOMMENDATION

The Board of Directors of The University of Texas Investment Management Company recommends that the U. T. Board of Regents approve amendments as shown in congressional style to the following Investment Policy Statements:

- a. Permanent University Fund Investment Policy Statement as set out on Pages B of R 32 - 46
- b. Long Term Fund Investment Policy Statement as set out on Pages B of R 47 - 62
- c. Separately Invested Endowment, Trust, and Other Accounts Investment Policy Statement as set out on Pages B of R 63 - 72.

### BACKGROUND INFORMATION

Section 3 (a) of the Investment Management Services Agreement dated March 1, 1996, between the Board of Regents of The University of Texas System and The University of Texas Investment Management Company ("UTIMCO") provides that UTIMCO shall review the investment policies of the assets under its management and recommend any changes to such policies for approval by the U. T. Board of Regents. The proposed amendments are recommended to address derivative language and other nonsubstantive editorial changes. The technical language regarding the use of derivatives is more appropriately addressed in portfolio manager contracts. Changes to the Separately Invested Endowment, Trust, and Other Accounts eliminate the percentage in which a fixed income security may be placed with any one issuer. This restriction was too narrow in scope for very small accounts under management.

**THE UNIVERSITY OF TEXAS SYSTEM  
PERMANENT UNIVERSITY FUND  
INVESTMENT POLICY STATEMENT**

**Purpose**

The Permanent University Fund (the "Fund") is a public endowment contributing to the support of institutions of The University of Texas System (other than The University of Texas-Pan American and The University of Texas at Brownsville) and institutions of The Texas A&M University System (other than Texas A&M University-Corpus Christi, Texas A&M International University, Texas A&M University-Kingsville, West Texas A&M University, Texas A&M University-Commerce, Texas A&M University-Texarkana, and Baylor College of Dentistry).

**Fund Organization**

The Permanent University Fund was established in the Texas Constitution of 1876 through the appropriation of land grants previously given to The University of Texas at Austin plus one million acres. The land grants to the Permanent University Fund were completed in 1883 with the contribution of an additional one million acres of land. Today, the Permanent University Fund contains 2,109,190 acres of land (the "PUF Lands") located in 24 counties primarily in West Texas.

The 2.1 million acres comprising the PUF Lands produce two streams of income: a) mineral income, primarily in the form of oil and gas royalties and b) surface income, in the form of surface leases and easements. Under the Texas Constitution, mineral income, as a non-renewable source of income, remains a non-distributable part of PUF corpus, and is invested in securities. Surface income, as a renewable source of income, is distributed to the Available University Fund (the "AUF"), as received.

The Constitution prohibits the distribution and expenditure of mineral income contributed to the Fund and the realized and unrealized gains earned from Fund investments. The Constitution also requires the distribution of all PUF investment income to the AUF to be expended for certain authorized purposes.

The expenditure of PUF income distributed to the AUF is subject to a prescribed order of priority:

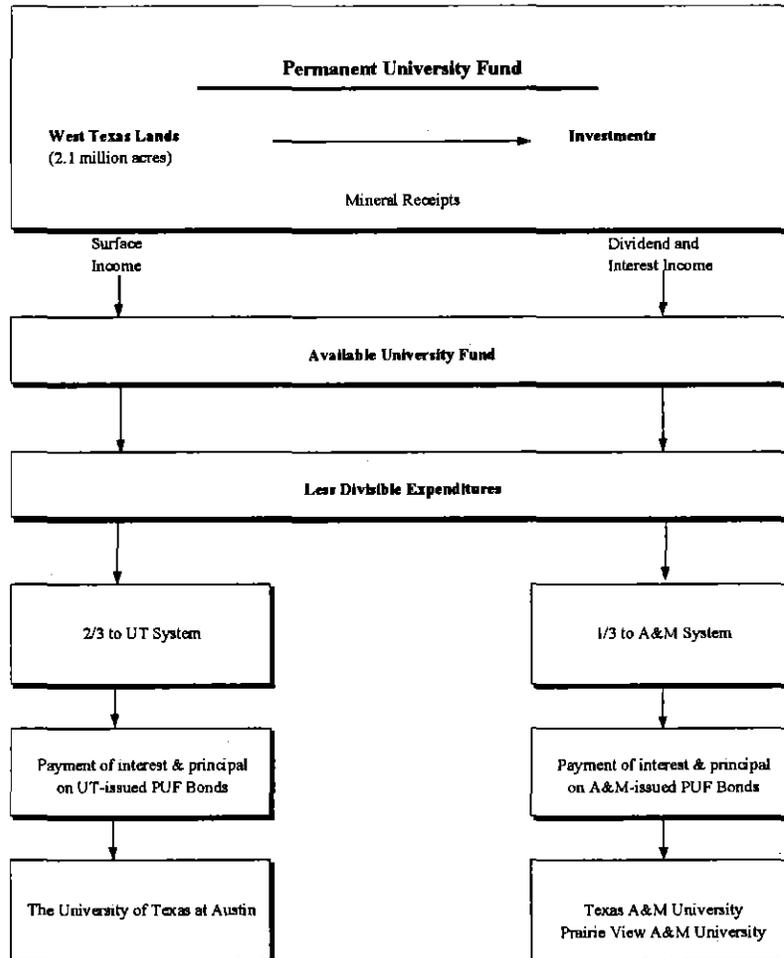
First, expenses incurred in the administration of PUF Lands and Investments. Resolutions adopted by the U. T. Board of Regents (the "U. T. Board") require that administrative expenses of the PUF be restricted to a minimum consistent with prudent business judgment.

Second, following a 2/3rds and 1/3rd allocation of distributed PUF income (net of administrative expenses) to the U. T. System and Texas A&M University System, respectively, expenditures for debt service on PUF bonds. Article VII of the Texas Constitution authorizes the U. T. Board and the Texas A&M University System (the "TAMUS Board") to issue bonds payable from their respective interests in distributed PUF income to finance permanent improvements and to refinance outstanding PUF obligations. The Constitution limits the amount of bonds and notes secured by each System's interest in divisible PUF income to 20% and 10% of the book value of PUF investment securities, respectively. Bond resolutions adopted by both Boards also prohibit the issuance of additional PUF parity obligations unless the projected interest in PUF net income for each System covers projected debt service at least 1.5 times.

Third, expenditures to fund a) excellence programs specifically at U. T. Austin, Texas A&M University and Prairie View A&M University and b) the administration of the university systems.

The distribution of income and expenditures from the PUF to the AUF is depicted below in Exhibit 1:

**Exhibit 1**



## **Fund Management**

Article VII of the Texas Constitution assigns fiduciary responsibility for managing and investing the Fund to the U. T. Board. Article VII authorizes the U. T. Board, subject to procedures and restrictions it establishes, to invest the Fund in any kind of investments and in amounts it considers appropriate, provided that it adheres to the prudent person investment standard. This standard requires that the U. T. Board, in making investments, shall exercise the judgment and care under the circumstances then prevailing which persons of ordinary prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital.

Ultimate fiduciary responsibility for the Fund rests with the Board. Section 66.08 of the Texas Education Code authorizes the U. T. Board to delegate to its committees, officers or employees of the U. T. System and other agents the authority to act for the U. T. Board in investment of the PUF. The Fund shall be managed through The University of Texas Investment Management Company ("UTIMCO") which shall a) recommend investment policy for the Fund, b) determine specific asset allocation targets, ranges and performance benchmarks consistent with Fund objectives, and c) monitor Fund performance against Fund objectives. UTIMCO shall invest the Fund's assets in conformity with investment policy.

Unaffiliated investment managers may be hired by UTIMCO to improve the Fund's return and risk characteristics. Such managers shall have complete investment discretion unless restricted by the terms of their management contracts. Managers shall be monitored for performance and adherence to investment disciplines.

## **Fund Administration**

UTIMCO shall employ an administrative staff to ensure that all transaction and accounting records are complete and prepared on a timely basis. Internal controls shall be emphasized so as to provide for responsible separation of duties and adequacy of an audit trail. Custody of Fund assets shall comply with applicable law and be structured so as to provide essential safekeeping and trading efficiency.

## **Fund Investment Objectives**

The primary investment objective shall be to preserve the purchasing power of Fund assets and annual distributions by earning an average annual total return after inflation of 5.5% over rolling ten-year periods or longer. The Fund's success in meeting its objectives depends upon its ability to generate high returns in periods of low inflation that will offset lower returns generated in years when the capital markets underperform the rate of inflation.

The secondary fund objective is to generate a fund return in excess of the Policy Portfolio benchmark over rolling five-year periods or longer. The Policy Portfolio benchmark will be established by UTIMCO and will be comprised of a blend of asset class indices weighted to reflect Fund asset allocation policy targets.

The U. T. Board recognizes that achievement of Fund investment objectives is substantially hindered by the inability to make distributions on a total return basis and current distribution rates in excess of long-term equilibrium levels.

### **Asset Allocation**

Asset allocation is the primary determinant of the volatility of investment return~~[investment performance]~~ and, subject to the asset allocation ranges specified herein is the responsibility of UTIMCO. Specific asset allocation targets may be changed from time to time based on the economic and investment outlook.

Fund assets shall be allocated among the following broad asset classes based upon their individual return/risk characteristics and relationships to other asset classes:

A.[1.]Cash Equivalents - are highly reliable in protecting the purchasing power of current income streams but historically have not provided a reliable return in excess of inflation. Cash equivalents provide good liquidity under both deflation and inflation conditions.

B.[2.]Fixed Income Investments - offer the best protection for hedging against the threat of deflation by providing a dependable and predictable source of Fund income. Such bonds should be high quality, and intermediate to long-term maturity with reasonable call protection in order to ensure the generation of current income and preservation of nominal capital even during periods of severe economic contraction.

C.[3.]Equities - provide both current income and growth of income, but their principal purpose is to provide appreciation of the Fund. Historically, returns for equities have been higher than for bonds over all extended periods. As such, equities represent the best chance of preserving the purchasing power of the Fund.

D.[4.]Alternative Investments~~[Equities]~~ - generally consist of alternative marketable investments and alternative nonmarketable investments.~~[Alternative equity investments shall be expected to earn superior equity type returns over extended periods. The advantages of alternative equity investments are that they enhance long term returns through investment in inefficient, complex markets. They offer reduced volatility of Fund asset values through their characteristics of low correlation with listed equities and fixed income instruments. The disadvantages~~

of this asset class are that they may be illiquid, require higher and more complex fees, and are frequently dependent on the quality of external managers. In addition, they possess a limited return history versus traditional stocks and bonds. The risk of alternative equity investments shall be controlled with extensive due diligence and diversification.]

- Alternative Marketable Investments[Equities] -

These investments are broadly defined to include hedge funds, arbitrage and special situation funds, high yield bonds, distressed debt, market neutral, commodities and other non-traditional investment strategies whose underlying securities are traded on public exchanges or are otherwise readily marketable. Alternative marketable investments may be made directly by UTIMCO or through partnerships. If these investments are made through partnerships[As such,] they offer faster drawdown of committed capital and earlier realization potential than alternative nonmarketable investments. Alternative marketable investments [~~may be~~] made through partnerships[~~,but they~~] will generally provide investors with liquidity at least annually.

- Alternative Nonm[~~M~~]arketable Investments -

Alternative Nonmarketable investments shall be expected to earn superior equity type returns over extended periods. The advantages of alternative nonmarketable investments are that they enhance long-term returns through investment in inefficient, complex markets. They offer reduced volatility of Fund asset values through their characteristics of low correlation with listed equities and fixed income instruments. The disadvantages of this asset class are that they may be illiquid, require higher and more complex fees, and are frequently dependent on the quality of external managers. In addition, they possess a limited return history versus traditional stocks and bonds. The risk of alternative nonmarketable investments shall be controlled with extensive due diligence and diversification. These investments are held either through limited partnership or as direct ownership interests. They include special equity, mezzanine venture capital, oil and gas, real estate and other investments that are privately held and which are not registered for sale on public exchanges. In partnership form, these investments require a commitment of capital for extended periods of time with no liquidity.

## **Asset Allocation Policy**

The asset allocation policy and ranges herein recognize that the Fund's return/risk profile can be enhanced by diversifying the Fund's investments across different types of assets whose returns are not closely correlated. The targets and ranges seek to protect the Fund against both routine illiquidity in normal markets and extraordinary illiquidity during a period of extended deflation.

The long-term asset allocation policy for the Fund must recognize that the 5.5% real return objective requires a high allocation to broadly defined equities, including domestic, international stocks, and alternative equity investments of 50% to 90%. The allocation to Fixed Income should therefore not exceed 50% of the Fund.

The Board delegates authority to UTIMCO to establish specific neutral asset allocations and ranges within the broad policy guidelines described above. UTIMCO may establish specific asset allocation targets and ranges for large and small capitalization U. S. stocks, established and emerging market international stocks, marketable and non-marketable alternative equity investments, and other asset classes as well as the specific performance objectives for each asset class. Specific asset allocation policies shall be decided by UTIMCO and reported to the U. T. Board.

## **Performance Measurement**

The investment performance of the Fund will be measured by an unaffiliated organization, with recognized expertise in this field and reporting responsibility to the UTIMCO Board, and compared against the stated investment benchmarks of the Fund. Such measurement will occur at least annually, and evaluate the results of the total Fund, major classes of investment assets, and individual portfolios.

## **Investment Guidelines**

The Fund must be invested at all times in strict compliance with applicable law. The primary and constant standard for making investment decisions is the "Prudent Person Rule."

Investment guidelines include the following:

### General

- Investment guidelines for index and other commingled funds managed externally shall be governed by the terms and conditions of the Investment Management Contract.
- All investments will be U. S. dollar denominated assets unless held by an internal or external portfolio manager with discretion to invest in foreign currency denominated securities.

- Investment policies of any unaffiliated liquid investment fund must be reviewed and approved by the chief investment officer prior to investment of Fund assets in such liquid investment fund.
- No securities may be purchased or held which would jeopardize the Fund's tax-exempt status.
- No investment strategy or program may purchase securities on margin or use leverage unless specifically authorized by the UTIMCO Board.
- No investment strategy or program employing short sales may be made unless specifically authorized by the UTIMCO Board.
- The Fund may utilize Derivative Securities with the approval of the UTIMCO Board to[;] a) simulate the purchase or sale of an underlying market index while retaining a cash balance for fund management purposes; b) [~~to~~]facilitate trading; c) [~~to~~]reduce transaction costs; d) [~~to~~]seek higher investment returns when a Derivative Security is priced more attractively than the underlying security; e) [~~to~~]index or to hedge risks associated with Fund investments; or f) [~~to~~]adjust the market exposure of the asset allocation, including long and short strategies; provided that: i) no leverage is employed in the implementation of such Derivative purchases or sales; ii) no more than 5% of Fund assets are required as an initial margin deposit for such contracts; iii) the Fund's investments in warrants shall not exceed more than 5% of the Fund's net assets or 2% with respect to warrants not listed on the New York or American Stock Exchanges. Notwithstanding the above, leverage strategies are permissible within the alternative equities investment class with the approval of the UTIMCO Board, if the investment strategy is uncorrelated to the Fund as a whole, the manager has demonstrated skill in the strategy, and the strategy implements systematic risk control techniques, value at risk measures, and pre-defined risk parameters.
- Such Derivative Securities shall be defined to be those instruments whose value is derived, in whole or part, from the value of any one or more underlying assets, or index of assets (such as stocks, bonds, commodities, interest rates, and currencies) and evidenced by forward, futures, swap, cap, floor, option, and other applicable contracts.

UTIMCO shall attempt to minimize the risk of an imperfect correlation between the change in market value of the securities held by the Fund and the prices of Derivative Security investments by investing in only those contracts whose behavior is expected to resemble that of the Fund's underlying securities. UTIMCO also shall attempt to minimize the risk of an illiquid secondary market for a Derivative Security contract and the resulting inability to close a position prior to its maturity date by entering into such

transactions on an exchange with an active and liquid secondary market. The net market value of exposure of Derivative Securities purchased or sold over the counter may not represent more than 15% of the net assets of the Fund.

In the event that there are no Derivative Securities traded on a particular market index such as MSCI EAFE, the Fund may utilize a composite of other Derivative Security contracts to simulate the performance of such index. UTIMCO shall attempt to reduce any tracking error from the low correlation of the selected Derivative Securities with its index by investing in contracts whose behavior is expected to resemble that of the underlying securities.

UTIMCO shall minimize the risk that a party will default on its payment obligation under a Derivative Security agreement by entering into agreements that mark to market no less frequently than monthly and where the counterparty is an investment grade credit. UTIMCO also shall attempt to mitigate the risk that the Fund will not be able to meet its obligation to the counterparty by investing the Fund in the specific asset for which it is obligated to pay a return or by holding adequate short-term investments.

The Fund may be invested in foreign currency forward and foreign currency futures contracts in order to maintain the same currency exposure as its respective index or to protect against anticipated adverse changes in exchange rates among foreign currencies and between foreign currencies and the U. S. dollar.

#### Cash and Cash Equivalents

Holdings of cash and cash equivalents may include internal short term pooled investment funds managed by UTIMCO.

- Unaffiliated liquid investment funds ~~as~~<sup>as</sup> approved by the chief investment officer.
- Deposits of the Texas State Treasury.
- Commercial paper must be rated in the two highest quality classes by Moody's Investors Service, Inc. (P1 or P2) or Standard & Poor's Corporation (A1 or A2).
- Negotiable certificates of deposit must be with a bank that is associated with a holding company meeting the commercial paper rating criteria specified above or that has a certificate of deposit rating of 1 or better by Duff & Phelps.
- Bankers' Acceptances must be guaranteed by an accepting bank with a minimum certificate of deposit rating of 1 by Duff & Phelps.

~~[ Repurchase Agreements and Reverse Repurchase Agreements must be with a domestic dealer selected by the Federal Reserve as a primary dealer in U. S. Treasury securities, or a bank that is associated with a holding company meeting the commercial paper rating criteria specified above or that has a certificate of deposit rating of 1 or better by Duff & Phelps.]~~

- Repurchase Agreements and Reverse Repurchase Agreements must be transacted with a dealer that is approved by UTIMCO and selected by the Federal Reserve Bank as a Primary Dealer in U. S. Treasury securities and rated A-1 or P-1 or the equivalent.
- Each approved counterparty shall execute the Standard Public Securities Association (PSA) Master Repurchase Agreement with UTIMCO.
- Eligible Collateral Securities for Repurchase Agreements are limited to U. S. Treasury securities and U. S. Government Agency securities with a maturity of not more than 10 years.
- The maturity for a Repurchase Agreement may be from one day to two weeks.
- The value of all collateral shall be maintained at 102% of the notional value of the Repurchase Agreement, valued daily.
- All collateral shall be delivered to the PUF custodian bank. Tri-party collateral arrangements are not permitted.
- The aggregate amount of Repurchase Agreements with maturities greater than seven calendar days may not exceed 10% of the Fund's fixed income assets.
- Overnight Repurchase Agreements may not exceed 25% of the Fund's fixed income assets.
- Mortgage Backed Securities (MBS) Dollar Rolls shall be executed as matched book transactions in the same manner as Reverse Repurchase Agreements above. As above, the rules for trading MBS Dollar Rolls shall follow the Public Securities Association standard industry terms.

## Fixed Income

Holdings of domestic fixed income securities shall be limited to those securities a) issued by or fully guaranteed by the U. S. Treasury, U. S. Government-Sponsored Enterprises, or U. S. Government Agencies and b) issued by corporations and municipalities. Within this overall limitation:

- Not less than 50% of the market value of domestic fixed income securities shall be invested in direct obligations of the U. S. Treasury, U. S. government agencies, and U. S. government sponsored entities.
- Not more than 5% of the market value of domestic fixed income securities may be invested in corporate and municipal bonds of a single issuer provided that such bonds, at the time of purchase are rated, not less than Baa3 or BBB-, or the equivalent, by any two nationally-recognized rating services, such as Moody's Investors Service, Standard & Poor's Corporation, or Fitch Investors Service.
- The weighted average maturity of the domestic fixed income portfolio shall be not less than ten years unless approved in advance by the UTIMCO Board.

These guidelines shall not require the sale of any fixed income investments prior to their scheduled maturities unless the credit quality of the fixed income portfolio shall decline below Aa2.

~~[Holdings of eligible fixed income derivative securities shall be limited by the following guidelines:~~

~~With prior written approval of the UTIMCO Board, the Portfolio Manager may enter into derivatives transactions utilizing exchange traded fixed income futures contracts or options on fixed income futures contracts, provided that such derivatives transactions are designed to control duration or manage risk.~~

~~Such derivatives transactions shall be established on a case by case basis. These contracts shall include, but not be limited to, Ten Year Treasury Futures, Eurodollar Futures, provided that the futures exchanges are rated AAA or the equivalent as determined by UTIMCO.~~

~~Such derivatives shall be priced daily.~~

~~Market risk shall be measured in dollar duration equivalent values or in the case of options in delta or percentage of equivalent futures contracts. For the purpose of this policy, Collateralized Mortgage Obligations ("CMOs") are considered to be MBS, not derivatives.]~~

## Equities

The Fund shall:

- A. hold no more than 25% of its equity securities in any one industry or industries (as defined by the standard industry classification code and supplemented by other reliable data sources) at market
- B. hold no more than 5% of its equity securities in the securities of one corporation at cost unless authorized by the chief investment officer.

## Alternative Investments~~[Equities]~~

Investments in alternative assets~~[equities]~~ may be made through management contracts with unaffiliated organizations (including but not limited to limited partnerships, trusts, and joint ventures) so long as such organizations:

- A. possess specialized investment skills
- B. possess full investment discretion subject to the management agreement
- C. are managed by principals with a demonstrated record of accomplishment and performance in the investment strategy being undertaken
- D. align the interests of the investor group with the management as closely as possible
- E. charge fees and performance compensation which do not exceed prevailing industry norms at the time the terms are negotiated.

Investments in alternative nonmarketable assets~~[equities]~~ also may be made directly by UTIMCO in co-investment transactions sponsored by and invested in by a management firm or partnership in which the Fund has invested prior to the co-investment or in transactions sponsored by investment firms well-known to UTIMCO management, provided that such direct investments shall not exceed 25% of the market value of the alternative nonmarketable assets portfolio at the time of the direct investment.

Members of UTIMCO management, with the approval of the UTIMCO Board, may serve as directors of companies in which UTIMCO has directly invested Fund assets. In such event,

any and all compensation paid to UTIMCO management for their services as directors shall be endorsed over to UTIMCO and applied against UTIMCO management fees. Furthermore, UTIMCO Board approval of UTIMCO management's service as a director of an investee company shall be conditioned upon the extension of UTIMCO's Directors and Officers Insurance Policy coverage to UTIMCO management's service as a director of an investee company.

### **Fund Distributions**

The Fund shall balance the needs and interests of present beneficiaries with those of the future. Fund spending policy objectives shall be to:

A.[a)] provide a predictable, stable stream of distributions over time

B.[b)] ensure that the inflation adjusted value of distributions is maintained over the long-term

C.[c)] ensure that the inflation adjusted value of Fund assets after distributions is maintained over the long-term.

The goal is for the Fund's average spending rate over time not to exceed the Fund's average annual investment return after inflation in order to preserve the purchasing power of Fund distributions and underlying assets.

The Texas Constitution requires that all dividends, interest and other income earned from Fund investments be distributed to the AUF. At the same time, the Constitution prohibits the distribution of mineral income contributed to the Fund and any realized and unrealized gains earned on such contributions.

UTIMCO shall be responsible for the establishment of the Fund's asset allocation so as to produce an annual income distribution that balances the needs of current beneficiaries with those of future beneficiaries. The Board explicitly recognizes that the generation of income under the Constitutional provisions governing the Fund is highly dependent upon the level of interest rates over which the UTIMCO Board has no control. It also recognizes that the distribution rate as a percentage of the Fund's assets is above average and that the maintenance of current levels of distributed income reduces the UTIMCO Board's ability to grow income over time.

### **Fund Accounting**

The fiscal year of the Fund shall begin on September 1st and end on August 31st. Market value of the Fund shall be maintained on an accrual basis in compliance with Financial Accounting Standards Board Statements, Government Accounting Standards Board

Statements, industry guidelines, and state statutes, whichever is applicable. Significant asset write-offs or write-downs shall be approved by the chief investment officer and reported to the UTIMCO Board.

### **Valuation of Assets**

As of the close of business on the last business day of each month, UTIMCO shall determine the fair market value of all Fund net assets. Such valuation of Fund assets shall be based on the bank trust custody agreement in effect at the date of valuation. Valuation of alternative assets shall be determined in accordance with the UTIMCO Valuation Criteria for Alternative Assets.

The fair market value of the Fund's net assets shall include all related receivables and payables of the Fund on the valuation. Such valuation shall be final and conclusive.

### **Securities Lending**

The Fund may participate in a securities lending contract with a bank or nonbank security lending agent for either short-term or long-term purposes of realizing additional income. Loans of securities by the Fund shall be collateralized by cash, letters of credit or securities issued or guaranteed by the U. S. Government or its agencies. The collateral will equal at least 100% of the current market value of the loaned securities. The contract shall state acceptable collateral for securities loaned, duties of the borrower, delivery of loaned securities and collateral, acceptable investment of collateral and indemnification provisions. The contract may include other provisions as appropriate. The securities lending program will be evaluated from time to time as deemed necessary by the UTIMCO Board. Monthly reports issued by the agent shall be reviewed by UTIMCO to insure compliance with contract provisions.

### **Investor Responsibility**

As a shareholder, the Fund has the right to a voice in corporate affairs consistent with those of any shareholder. These include the right and obligation to vote proxies in a manner consistent with the unique role and mission of higher education as well as for the economic benefit of the Fund. Notwithstanding the above, the UTIMCO Board shall discharge its fiduciary duties with respect to the Fund solely in the interest of Fund unitholders and shall not invest the Fund so as to achieve temporal benefits for any purpose including use of its economic power to advance social or political purposes.

**Amendment of Policy Statement**

The Board of Regents reserves the right to amend the Investment Policy Statement as it deems necessary or advisable.

**Effective Date**

The effective date of this policy shall be August 12~~[February 11]~~, 1999.

**PERMANENT UNIVERSITY FUND**

**SPECIFIC ASSET ALLOCATION, EXPECTED RETURN AND RISK, NEUTRAL POSITION,  
RANGES, AND PERFORMANCE OBJECTIVES**

	<u>Expected Nominal Return</u>	<u>Expected Risk</u>	<u>Neutral</u>	<u>Range</u>	<u>Performance Objective</u>
Cash and Equivalents	3.75%	3.75%	0%	0.0%-5.0%	91 day T-Bill Ave. Yield
<b>Equities</b>					
U. S. Common Stocks:					
Med/Large Capitalization Stocks	9.25%	18.50%	30%	25%-35%	S&P 500 Index
Small Capitalization Stocks	10.25%	21.25%	<u>10%</u>	<u>5%-15%</u>	Russell 2000 Index
sub-total			40%	30%-50%	
International Common Stocks:					
Established Markets	9.75%	20.75%	12%	5%-20%	FT Actuaries World (ex-U.S.)
Emerging Markets	13.00%	30.00%	<u>3%</u>	<u>0%-10%</u>	MSCI-Emerging Mkts. Free
sub-total			<u>15%</u>	<u>5%-30%</u>	
<b>Total Common Stocks</b>			<b>55%</b>	<b>35%-80%</b>	
<b>Alternative Investments:</b>					
Marketable	7.75%	9.25%	7%	0%-10%	91 - Day T-Bills + 7%
Non-Marketable	12.25%	9.50%	<u>18%</u>	<u>5%-25%</u>	17%
<b>Total Alternative Assets</b>			<b>25%</b>	<b>5%-35%</b>	
<b>TOTAL EQUITIES</b>			<b>80%</b>	<b>50%-85%</b>	
<b>Fixed Income</b>					
U. S. (Domestic)	6.25%	9.25%	15%	15%-50%	Lehman Brothers Aggregate
International	6.50%	13.00%	5%	0%-5%	Salomon Non-U.S. WGBI Unhedged
<b>TOTAL FIXED INCOME</b>			<b>20%</b>	<b>15%-50%</b>	
<b>TOTAL ASSETS</b>	<b>9.37%</b>	<b>11.24%</b>	<b>100%</b>		

Achievement of these performance objectives is most appropriately evaluated over a full market cycle of roughly five years. The rebalancing of Fund assets to achieve the neutral allocations is subject to the objective of replicating prior year's income. Risk is defined as the standard deviation of the expected return.

**THE UNIVERSITY OF TEXAS SYSTEM  
LONG TERM FUND  
INVESTMENT POLICY STATEMENT**

**Purpose**

The Long Term Fund (the "Fund"), succeeded the Common Trust Fund in February, 1995, and was established by the Board of Regents of The University of Texas System (the "Board") as a pooled fund for the collective investment of private endowments and other long-term funds supporting various programs of The University of Texas System. The Fund provides for greater diversification of investments than would be possible if each account were managed separately.

**Fund Organization**

The Fund is organized as a mutual fund in which each eligible account purchases and redeems Fund units as provided herein. The ownership of Fund assets shall at all times be vested in the Board. Such assets shall be deemed to be held by the Board, as a fiduciary, regardless of the name in which the assets may be registered.

**Fund Management**

Ultimate fiduciary responsibility for the Fund rests with the Board. Section 163 of the Property Code authorizes the U. T. Board to delegate to its committees, officers or employees of the U. T. System and other agents the authority to act for the U. T. Board in the investment of the Fund. The Fund shall be governed through The University of Texas Investment Management Company ("UTIMCO") which shall a) recommend investment policy for the Fund, b) determine specific asset allocation targets, ranges, and performance benchmarks consistent with Fund objectives, and c) monitor Fund performance against Fund objectives. UTIMCO shall invest the Fund assets in conformity with investment policy.

Unaffiliated investment managers may be hired by UTIMCO to improve the Fund's return and risk characteristics. Such managers shall have complete investment discretion unless restricted by the terms of their management contracts. Managers shall be monitored for performance and adherence to investment disciplines.

**Fund Administration**

UTIMCO shall employ an administrative staff to ensure that all transaction and accounting records are complete and prepared on a timely basis. Internal controls shall be emphasized so as to provide for responsible separation of duties and adequacy of an audit trail. Custody of Fund assets shall comply with applicable law and be structured so as to provide essential safekeeping and trading efficiency.

### **Funds Eligible to Purchase Fund Units**

No fund shall be eligible to purchase units of the Fund unless it is under the sole control, with full discretion as to investments, by the Board and/or UTIMCO.

Any fund whose governing instrument contains provisions which conflict with this Policy Statement, whether initially or as a result of amendments to either document, shall not be eligible to purchase or hold units of the Fund.

The funds of a foundation which is structured as a supporting organization described in Section 509(a) of the Internal Revenue Code of 1986, which supports the activities of the U. T. System and its component institutions, may purchase units in the Fund provided that:

- A. the purchase of Fund units by foundation funds is approved by the chief investment officer
- B. all members of the foundation's governing board are also members of the Board
- C. the foundation has the same fiscal year as the Fund
- D. a contract between the Board and the foundation has been executed authorizing investment of foundation funds in the Fund
- E. no officer of such foundation, other than members of the Board, the Chancellor, the chief investment officer or his or her delegate shall have any control over the management of the Fund other than to request purchase and redemption of Fund units.

### **Fund Investment Objectives**

The primary investment objective shall be to preserve the purchasing power of Fund assets and annual distributions by earning an average annual total return after inflation of 5.5% over rolling ten year periods or longer. The Fund's success in meeting its objectives depends upon its ability to generate high returns in periods of low inflation that will offset lower returns generated in years when the capital markets underperform the rate of inflation.

The secondary fund objectives are to generate a fund return in excess of the Policy Portfolio benchmark and the average median return of the universe of the college and university endowments as reported annually by Cambridge Associates and NACUBO over rolling five-year periods or longer. The Policy Portfolio benchmark will be established by UTIMCO and will be comprised of a blend of asset class indices weighted to reflect Fund's asset allocation policy targets.

### **Asset Allocation**

Asset allocation is the primary determinant of the volatility of investment return [investment performance] and, subject to the asset allocation ranges specified herein, is the responsibility of UTIMCO. Specific asset allocation targets may be changed from time to time based on the economic and investment outlook. Fund assets shall be allocated among the following broad asset classes based upon their individual return/risk characteristics and relationships to other asset classes:

- A. ~~[1.]~~ Cash Equivalents - are highly reliable in protecting the purchasing power of current income streams but historically have not provided a reliable return in excess of inflation. Cash equivalents provide good liquidity under both deflation and inflation conditions.
- B. ~~[2.]~~ Fixed Income Investments - offer the best protection for hedging against the threat of deflation by providing a dependable and predictable source of Fund income. Such bonds should be high quality, and intermediate to long-term duration with reasonable call protection in order to ensure the generation of current income and preservation of nominal capital even during periods of severe economic contraction.
- C. ~~[3.]~~ Equities - provide both current income and growth of income, but their principal purpose is to provide appreciation of the Fund. Historically, returns for equities have been higher than for bonds over all extended periods. Therefore, equities represent the best chance of preserving the purchasing power of the Fund.
- D. ~~[4.]~~ Alternative Investments ~~[Equities]~~ - generally consist of alternative marketable investments and alternative nonmarketable investments. ~~[Alternative equity investments shall be expected to earn superior equity type returns over extended periods. The advantages of alternative equity investments are that they enhance long term returns through investment in inefficient, complex markets. They offer reduced volatility of Fund asset values through their characteristics of low correlation with listed equities and fixed income instruments. The disadvantages of this asset class are that they may be illiquid, require higher and more complex fees, and are frequently dependent on the quality of external managers. In~~

~~addition, they possess a limited return history versus traditional stocks and bonds. The risk of alternative equity investments shall be controlled with extensive due diligence and diversification.]~~

- Alternative Marketable Investments[Equities] -  
These investments are broadly defined to include hedge funds, arbitrage and special situation funds, high yield bonds, distressed debt, market neutral, commodities and other non-traditional investment strategies whose underlying securities are traded on public exchanges or are otherwise readily marketable. Alternative marketable investments may be made directly by UTIMCO or through partnerships. If these investments are made through partnerships[As such,] they offer faster drawdown of committed capital and earlier realization potential than alternative nonmarketable investments. Alternative marketable investments [may be ]made through partnerships[,but they] will generally provide investors with liquidity at least annually.
- Alternative Nonm[-M]arketable Investments -  
Alternative Nonmarketable investments shall be expected to earn superior equity type returns over extended periods. The advantages of alternative nonmarketable investments are that they enhance long-term returns through investment in inefficient, complex markets. They offer reduced volatility of Fund asset values through their characteristics of low correlation with listed equities and fixed income instruments. The disadvantages of this asset class are that they may be illiquid, require higher and more complex fees, and are frequently dependent on the quality of external managers. In addition, they possess a limited return history versus traditional stocks and bonds. The risk of alternative nonmarketable investments shall be controlled with extensive due diligence and diversification. These investments are held through either limited partnership or as direct ownership interests. They include special equity, mezzanine venture capital, oil and gas, real estate and other investments that are privately held and which are not registered for sale on public exchanges. In partnership form, these investments require a commitment of capital for extended periods of time with no liquidity. They also generally require an extended period of time to achieve targeted investment levels.

## **Asset Allocation Policy**

The asset allocation policy and ranges herein recognize that the Fund's return/risk profile can be enhanced by diversifying the Fund's investments across different types of assets whose returns are not closely correlated. The targets and ranges seek to protect the Fund against both routine illiquidity in normal markets and extraordinary illiquidity during a period of extended deflation.

The long-term asset allocation policy for the Fund must recognize that the 5.5% real return objective requires a high allocation to broadly defined equities, including domestic, international stocks, and alternative equity investments, of 68% to 90%. The allocation to fixed income investments should therefore not exceed 32% of the Fund.

The Board delegates authority to UTIMCO to establish specific neutral asset allocations and ranges within the broad policy guidelines described above. UTIMCO may establish specific asset allocation targets and ranges for large and small capitalization U. S. stocks, established and emerging market international stocks, marketable and non-marketable alternative equity investments, and other asset classes as well as the specific performance objectives for each asset class. Specific asset allocation policies shall be decided by UTIMCO and reported to the U. T. Board.

## **Performance Measurement**

The investment performance of the Fund will be measured by an unaffiliated organization, with recognized expertise in this field and reporting responsibility to the UTIMCO Board, and compared against the stated investment benchmarks of the Fund. Such measurement will occur at least annually, and evaluate the results of the total Fund, major classes of investment assets, and individual portfolios.

## **Investment Guidelines**

The Fund must be invested at all times in strict compliance with applicable law. [~~The primary and constant standard for making investment decisions is the "Prudent Person Rule."~~]

Investment guidelines include the following:

### General

- Investment guidelines for index and other commingled funds managed externally shall be governed by the terms and conditions of the Investment Management Contract.

- All investments will be U. S. dollar denominated assets unless held by an internal or external portfolio manager with discretion to invest in foreign currency denominated securities.
- Investment policies of any unaffiliated liquid investment fund must be reviewed and approved by the chief investment officer prior to investment of Fund assets in such liquid investment fund.
- No securities may be purchased or held which jeopardize the Fund's tax exempt status.
- No investment strategy or program may purchase securities on margin or use leverage unless specifically authorized by the UTIMCO Board.
- No investment strategy or program employing short sales may be made unless specifically authorized by the UTIMCO Board.
- The Fund may utilize Derivative Securities with the approval of the UTIMCO Board to[;] a) simulate the purchase or sale of an underlying market index while retaining a cash balance for fund management purposes; b) [tø]facilitate trading; c) [tø]reduce transaction costs; d) [tø]seek higher investment returns when a Derivative Security is priced more attractively than the underlying security; e) [tø]index or to hedge risks associated with Fund investments; or f) [tø]adjust the market exposure of the asset allocation, including long and short strategies; provided that; i) no leverage is employed in the implementation of such Derivative purchases or sales; ii) no more than 5% of Fund assets are required as an initial margin deposit for such contracts; iii) the Fund's investments in warrants shall not exceed more than 5% of the Fund's net assets or 2% with respect to warrants not listed on the New York or American Stock Exchanges. Notwithstanding the above, leverage strategies are permissible within the alternative equities investment class with the approval of the UTIMCO Board, if the investment strategy is uncorrelated to the Fund as a whole, the manager has demonstrated skill in the strategy, and the strategy implements systematic risk control techniques, value at risk measures, and pre-defined risk parameters.

Such Derivative Securities shall be defined to be those instruments whose value is derived, in whole or part, from the value of any one or more underlying assets, or index of assets (such as stocks, bonds, commodities, interest rates, and currencies) and evidenced by forward, futures, swap, cap, floor, option, and other applicable contracts.

UTIMCO shall attempt to minimize the risk of an imperfect correlation between the change in market value of the securities held by the Fund and the prices of Derivative Security investments by investing in only those contracts whose behavior is expected to resemble that of the Fund's underlying securities. UTIMCO also shall attempt to minimize the risk of an illiquid secondary market for a Derivative Security contract and the resulting inability to close a position prior to its maturity date by entering into such transactions on an exchange with an active and liquid secondary market. The net market value of exposure of Derivative Securities purchased or sold over the counter may not represent more than 15% of the net assets of the Fund.

In the event that there are no Derivative Securities traded on a particular market index such as MSCI EAFE, the Fund may utilize a composite of other Derivative Security contracts to simulate the performance of such index. UTIMCO shall attempt to reduce any tracking error from the low correlation of the selected Derivative Securities with its index by investing in contracts whose behavior is expected to resemble that of the underlying securities.

UTIMCO shall minimize the risk that a party will default on its payment obligation under a Derivative Security agreement by entering into agreements that mark to market no less frequently than monthly and where the counterparty is an investment grade credit. UTIMCO also shall attempt to mitigate the risk that the Fund will not be able to meet its obligation to the counterparty by investing the Fund in the specific asset for which it is obligated to pay a return or by holding adequate short-term investments.

The Fund may be invested in foreign currency forward and foreign currency futures contracts in order to maintain the same currency exposure as its respective index or to protect against anticipated adverse changes in exchange rates among foreign currencies and between foreign currencies and the U. S. dollar.

#### Cash and Cash Equivalents

Holdings of cash and cash equivalents may include internal short term pooled investment funds managed by UTIMCO.

- Unaffiliated liquid investment funds ~~as~~[must be] approved by the chief investment officer.
- Commercial paper must be rated in the two highest quality classes by Moody's Investors Service, Inc. (P1 or P2) or Standard & Poor's Corporation (A1 or A2).

- Negotiable certificates of deposit must be with a bank that is associated with a holding company meeting the commercial paper rating criteria specified above or that has a certificate of deposit rating of 1 or better by Duff & Phelps.
- Bankers' Acceptances must be guaranteed by an accepting bank with a minimum certificate of deposit rating of 1 by Duff & Phelps.
- [• ~~Repurchase Agreements and Reverse Repurchase Agreements must be with a domestic dealer selected by the Federal Reserve as a primary dealer in U. S. Treasury securities; or a bank that is associated with a holding company meeting the commercial paper rating criteria specified above or that has a certificate of deposit rating of 1 or better by Duff & Phelps.~~]
- Repurchase Agreements and Reverse Repurchase Agreements must be transacted with a dealer that is approved by UTIMCO and selected by the Federal Reserve Bank as a Primary Dealer in U. S. Treasury securities and rated A-1 or P-1 or the equivalent.
  - Each approved counterparty shall execute the Standard Public Securities Association (PSA) Master Repurchase Agreement with UTIMCO.
  - Eligible Collateral Securities for Repurchase Agreements are limited to U. S. Treasury securities and U. S. Government Agency securities with a maturity of not more than 10 years.
  - The maturity for a Repurchase Agreement may be from one day to two weeks.
  - The value of all collateral shall be maintained at 102% of the notional value of the Repurchase Agreement, valued daily.
  - All collateral shall be delivered to the LTF custodian bank. Tri-party collateral arrangements are not permitted.
- The aggregate amount of repurchase agreements with maturities greater than seven calendar days may not exceed 10% of the Fund's fixed income assets.
- Overnight Repurchase Agreements may not exceed 25% of the Fund's fixed income assets.

- Mortgage Backed Securities (MBS) Dollar Rolls shall be executed as matched book transactions in the same manner as Reverse Repurchase Agreements above. As above, the rules for trading MBS Dollar Rolls shall follow the Public Securities Association standard industry terms.

## Fixed Income

### Domestic Fixed Income

Holdings of domestic fixed income securities shall be limited to those securities a) issued by or fully guaranteed by the U. S. Treasury, U. S. Government-Sponsored Enterprises, or U. S. Government Agencies, and b) issued by corporations and municipalities. Within this overall limitation:

- Permissible securities for investment include the components of the Lehman Brothers Aggregate Bond Index (LBAGG): investment grade government and corporate securities, agency mortgage pass-through securities, and asset-backed securities. These sectors are divided into more specific sub-indices 1) Government: Treasury and Agency; 2) Corporate: Industrial, Finance, Utility, and Yankee; 3) Mortgage-backed securities: GNMA, FHLMC, and FNMA; and 4) Asset-backed securities. In addition to the permissible securities listed above, the following securities shall be permissible: a) floating rate securities with periodic coupon changes in market rates issued by the same entities that are included in the LBAGG as issuers of fixed rate securities; b) medium term notes issued by investment grade corporations; c) zero coupon bonds and stripped Treasury and Agency securities created from coupon securities; and d) structured notes issued by LBAGG qualified entities.
- U.S. Domestic Bonds must be rated investment grade, Baa3 or better by Moody's Investors Services, BBB- by Standard & Poor's Corporation, or an equivalent rating by a nationally recognized rating agency at the time of acquisition.
- Not more than 5% of the market value of domestic fixed income securities may be invested in corporate and municipal bonds of a single issuer provided that such bonds, at the time of purchase, are rated, not less than Baa3 or BBB-, or the equivalent, by any two nationally-recognized rating services, such as Moody's Investors Service, Standard & Poor's Corporation, or Fitch Investors Service.

~~[Holdings of eligible fixed income derivative securities shall be limited by the following guidelines:~~

~~With prior written approval of the UTIMCO Board, the Portfolio Manager may enter into derivatives transactions utilizing exchange traded fixed income futures contracts or options on fixed income futures contracts; provided that such derivatives transactions are designed to control duration or manage risk.~~

~~Such derivatives transactions shall be established on a case by case basis. These contracts shall include, but shall not be limited to, Ten Year Treasury Futures, or Treasury Bill Futures, provided that the futures are rated AAA or the equivalent as determined by UTIMCO.~~

~~Such derivatives shall be priced daily.~~

~~Market risk shall be measured in dollar duration equivalent values or in the case of options in delta or percentage of equivalent futures contracts.~~

~~For the purpose of this policy Collateralized Mortgage Obligations ("CMOs") are considered to be MBS, not derivatives.]~~

#### Non-U.S. Fixed Income

- Not more than 35% of the Fund's fixed income portfolio may be invested in non-U. S. dollar bonds. Not more than 15% of the Fund's fixed income portfolio may be invested in bonds denominated in any one currency.
- Non-dollar bond investments shall be restricted to bonds rated equivalent to the same credit standard as the U.S. Fixed Income Portfolio.
- Not more than 7.5% of the Fund's fixed income portfolio may be invested in Emerging Market debt.
- International currency exposure may be hedged or unhedged at UTIMCO's discretion or delegated by UTIMCO to an external investment manager.

#### Equities

[L]—The Fund shall:

- A. hold no more than 25% of its equity securities in any one industry or industries (as defined by the standard industry classification code and supplemented by other reliable data sources) at market.

- B. hold no more than 5% of its equity securities in the securities of one corporation at cost unless authorized by the chief investment officer.

Alternative Investments[Assets]

Investments in alternative assets may be made through management contracts with unaffiliated organizations (including but not limited to limited partnerships, trusts, and joint ventures) so long as such organizations:

- A. ~~[H.]~~ possess specialized investment skills
- B. ~~[HH.]~~ possess full investment discretion subject to the management agreement
- C. ~~[IV.]~~ are managed by principals with a demonstrated record of accomplishment and performance in the investment strategy being undertaken
- D. ~~[V.]~~ align the interests of the investor group with the management as closely as possible
- E. ~~[VI.]~~ charge fees and performance compensation which do not exceed prevailing industry norms at the time the terms are negotiated.

Investments in alternative nonmarketable assets also may be made directly by UTIMCO in co-investment transactions sponsored by and invested in by a management firm or partnership in which the Fund has invested prior to the co-investment or in transactions sponsored by investment firms well known to UTIMCO management, provided that such direct investments shall not exceed 25% of the market value of the alternative nonmarketable assets portfolio at the time of the direct investment.

Members of UTIMCO management, with the approval of the UTIMCO Board, may serve as directors of companies in which UTIMCO has directly invested Fund assets. In such event, any and all compensation paid to UTIMCO management for their services as directors shall be endorsed over to UTIMCO and applied against UTIMCO management fees. Furthermore, UTIMCO Board approval of UTIMCO management's service as a director of an investee company shall be conditioned upon the extension of UTIMCO's Directors and Officers Insurance Policy coverage to UTIMCO management's service as a director of an investee company.

## **Fund Distributions**

The Fund shall balance the needs and interests of present beneficiaries with those of the future. Fund spending policy objectives shall be to:

- A. [a)] provide a predictable, stable stream of distributions over time
- B. [b)] ensure that the inflation adjusted value of distributions is maintained over the long-term
- C. [c)] ensure that the inflation adjusted value of Fund assets after distributions is maintained over the long-term.

The goal is for the Fund's average spending rate over time not to exceed the Fund's average annual investment return after inflation in order to preserve the purchasing power of Fund distributions and underlying assets.

Pursuant to the Uniform Management of Institutional Funds Act, a governing board may distribute, for the uses and purposes for which the fund is established, the net realized appreciation in the fair market value of the assets of an endowment fund over the historic dollar value of the fund to the extent prudent under the standard provided by the Act. In addition, income may be distributed for the purposes associated with the endowments/foundations.

UTIMCO shall be responsible for establishing the Fund's distribution percentage and determining the equivalent per unit rate for any given year. Unless otherwise established by UTIMCO and approved by the Board or prohibited by the Act, fund distributions shall be based on the following criteria:

The annual unit distribution amount shall be adjusted annually based on the following formula:

- A. Increase the prior year's per unit distribution amount (cents per unit) by the average inflation rate (C.P.I.) for the previous twelve quarters. This will be the per unit distribution amount for the next fiscal year. This amount may be rounded to the nearest \$.0005 per unit.

- B. If the inflationary increase in Step A. results in a distribution rate below 3.5% (computed by taking the proposed distribution amount per unit divided by the previous twelve quarter average market value price per unit), the UTIMCO Board, at its sole discretion, may grant an increase in the distribution amount as long as such increase does not result in a distribution rate of more than 5.5%[4.5%].
- C. If the distribution rate exceeds 5.5% (computed by taking the proposed distribution amount per unit divided by the previous twelve quarter average market value price per unit), the UTIMCO Board at its sole discretion, may reduce the per unit distribution amount.

Notwithstanding any of the foregoing provisions, the Board of Regents may approve a per unit distribution amount that, in their judgment, would be more appropriate than the rate calculated by the policy provisions.

Distributions from the Fund to the unitholders shall be made quarterly as soon as practicable on or after the last business day of November, February, May, and August of each fiscal year.

#### **Fund Accounting**

The fiscal year of the Fund shall begin on September 1st and end on August 31st. Market value of the Fund shall be maintained on an accrual basis in compliance with Financial Accounting Standards Board Statements, Government Accounting Standards Board Statements, or industry guidelines, whichever is applicable. Significant asset write-offs or write-downs shall be approved by the chief investment officer and reported to the UTIMCO Board.

#### **Valuation of Assets**

As of the close of business on the last business day of each month, UTIMCO shall determine the fair market value of all Fund net assets and the net asset value per unit of the Fund. Such valuation of Fund assets shall be based on the bank trust custody agreement in effect at the date of valuation. Valuation of alternative assets shall be determined in accordance with the UTIMCO Valuation Criteria for Alternative Assets.

The fair market value of the Fund's net assets shall include all related receivables and payables of the Fund on the valuation date and the value of each unit thereof shall be its proportionate part of such net value. Such valuation shall be final and conclusive.

### **Purchase of Fund Units**

Purchase of Fund units may be made on any quarterly purchase date (September 1, December 1, March 1, and June 1 of each fiscal year or the first business day subsequent thereto) upon payment of cash to the Fund or contribution of assets approved by the chief investment officer, at the net asset value per unit of the Fund as of the most recent quarterly valuation date.

In order to permit complete investment of funds and to avoid fractional units, any purchase amount will be assigned a whole number of units in the Fund based on the appropriate per unit value of the Fund. Any fractional amount of purchase funds which exceeds the market value of the units assigned will be transferred to the Fund but no units shall be issued. Each fund whose monies are invested in the Fund shall own an undivided interest in the Fund in the proportion that the number of units invested therein bears to the total number of all units comprising the Fund.

### **Redemption of Fund Units**

Redemption of Units shall be paid in cash as soon as practicable after the quarterly valuation date of the Fund. If the withdrawal is greater than \$10 million, advance notice of 30 business days shall be required prior to the quarterly valuation date. If the withdrawal is for less than \$10 million, advance notice of five business days shall be required prior to the quarterly valuation date. If the aggregate amount of redemptions requested on any redemption date is equal to or greater than 10% of the Fund's net asset value, the Board may redeem the requested units in installments and on a pro-rata basis over a reasonable period of time that takes into consideration the best interests of all Fund unitholders. Withdrawals from the Fund shall be at the market value price per unit determined for the period of the withdrawal except as follows: withdrawals to correct administrative errors shall be calculated at the per unit value at the time the error occurred. To be considered an administrative error, the contribution shall have been invested in the Fund for a period less than or equal to one year determined from the date of the contribution to the Fund. This provision does not apply to transfer of units between endowment unitholders.

### **Securities Lending**

The Fund may participate in a securities lending contract with a bank or nonbank security lending agent for either short-term or long-term purposes of realizing additional income. Loans of securities by the Fund shall be collateralized by cash, letters of credit, or securities issued or guaranteed by the U. S. Government or its agencies. The collateral will equal at least 100% of the current market value of the loaned securities. The contract shall state acceptable collateral for securities loaned, duties of the borrower, delivery of loaned securities and collateral, acceptable investment of collateral and indemnification provisions.

The contract may include other provisions as appropriate. The securities lending program will be evaluated from time-to-time as deemed necessary by the UTIMCO Board. Monthly reports issued by the agent shall be reviewed by UTIMCO to insure compliance with contract provisions.

### **Investor Responsibility**

As a shareholder, the Fund has the right to a voice in corporate affairs consistent with those of any shareholder. These include the right and obligation to vote proxies in a manner consistent with the unique role and mission of higher education as well as for the economic benefit of the Fund. Notwithstanding the above, the UTIMCO Board shall discharge its fiduciary duties with respect to the Fund solely in the interest of Fund unitholders and shall not invest the Fund so as to achieve temporal benefits for any purpose including use of its economic power to advance social or political purposes.

### **Amendment of Policy Statement**

The Board of Regents reserves the right to amend the Investment Policy Statement as it deems necessary or advisable.

### **Effective Date**

The effective date of this policy shall be August 12~~[February 11]~~, 1999.

**LONG TERM FUND**

**SPECIFIC ASSET ALLOCATION, EXPECTED RETURN AND RISK, NEUTRAL POSITION,  
RANGES, AND PERFORMANCE OBJECTIVES**

	<u>Expected Nominal Return</u>	<u>Expected Risk</u>	<u>Neutral</u>	<u>Range</u>	<u>Performance Objective</u>
Cash and Equivalents	3.75%	3.75%	0%	0.0%-5.0%	91 day T-Bill Ave. Yield
<b>Equities</b>					
U. S. Common Stocks:					
Med/Large Capitalization Stocks	9.25%	18.50%	30%	10%-40%	S&P 500 Index
Small Capitalization Stocks	10.25%	21.25%	<u>10%</u>	<u>5%-15%</u>	Russell 2000 Index
sub-total			40%	15%-55%	
International Common Stocks:					
Established Markets	9.75%	20.75%	12%	5%-20%	FT Actuaries World (ex-U.S.)
Emerging Markets	13.00%	30.00%	<u>3%</u>	<u>0%-10%</u>	MSCI-Emerging Mkts. Free
sub-total			<u>15%</u>	<u>5%-30%</u>	
<b>Total Common Stocks</b>			55%	35%-80%	
<b>Alternative Investments:</b>					
Marketable	7.75%	9.25%	7%	0%-10%	91 - Day T-Bills + 7%
Non-Marketable	12.25%	9.50%	<u>18%</u>	<u>5%-25%</u>	17%
<b>Total Alternative Assets</b>			25%	5%-35%	
<b>TOTAL EQUITIES</b>			<b>80%</b>	<b>68%-90%</b>	
<b>Fixed Income</b>					
U. S. (Domestic)	6.25%	9.25%	15%	10%-25%	Lehman Brothers Aggregate
International	6.50%	13.00%	5%	0%-7%	Salomon Non-U.S. WGBI Unhedged
<b>TOTAL FIXED INCOME</b>			<b>20%</b>	<b>10%-32%</b>	
<b>TOTAL ASSETS</b>	<b>9.37%</b>	<b>11.24%</b>	<b>100%</b>		

Achievement of these performance objectives is most appropriately evaluated over a full market cycle of roughly five years.

The rebalancing of Fund assets to achieve the neutral allocations shall be subject to the funding of alternative assets.

Risk is defined as the standard deviation of the expected return.

**THE UNIVERSITY OF TEXAS SYSTEM  
SEPARATELY INVESTED ENDOWMENT, TRUST, AND OTHER  
ACCOUNTS INVESTMENT POLICY STATEMENT**

**Purpose**

The Separately Invested Endowment, Trust, and Other Accounts are Accounts established in the name of the Board of Regents of The University of Texas System (the "Board") as trustee, and are Accounts which are not solely invested in one of the pooled investment vehicles. These Accounts are not invested in the pooled investment vehicle because: a) they are charitable trusts; b) of investment restrictions incorporated into the endowment document; c) of inability to sell the gifted investment asset; or d) they are assets being migrated upon liquidation into a pooled investment vehicle.

**Investment Management**

Ultimate fiduciary responsibility for the assets of the Accounts rests with the Board. Section 163 of the Property Code authorizes the U. T. Board to delegate to its committees, officers or employees of the U. T. System and other agents the authority to act for the U. T. Board in the investment of the institutional assets for the Account (endowment and operating accounts). The applicable trust instrument will apply to the management of trust investments. The assets for the Account shall be governed through The University of Texas Investment Management Company ("UTIMCO") which shall: a) recommend investment policy for the Accounts, b) determine specific asset allocation targets, ranges and performance benchmarks consistent with the Account objectives, and if appropriate c) monitor the Account's performance against Account objectives. UTIMCO shall invest the Account's assets in conformity with investment policy.

Unaffiliated investment managers may be hired by UTIMCO to improve the Account's return and risk characteristics. Such managers shall have complete investment discretion unless restricted by the terms of their management contracts. Managers shall be monitored for performance and adherence to investment disciplines.

**Account Administration**

UTIMCO shall employ an administrative staff to ensure that all transaction and Accounting records are complete and prepared on a timely basis. Internal controls shall be emphasized so as to provide for responsible separation of duties and adequacy of an audit trail. Custody of assets in the Account shall comply with applicable law and be structured so as to provide essential safekeeping and trading efficiency.

## **Investment Objectives**

Endowment Accounts - The primary investment objective shall be to invest the Account in assets that comply with the terms of the applicable endowment agreement, taking into consideration the investment time horizon of the Account.

Trust Accounts - Trust Accounts are defined as either Foundation Accounts or Charitable Trusts (Charitable Remainder Unitrusts (CRUT), Charitable Remainder Annuity Trusts (CRAT), Pooled Income Funds (PIF), Charitable Trusts (CT), or Charitable Lead Trusts (CLT)). The Board recognizes that the investment objective of a trust is dependent on the terms and conditions as defined in the trust document of each trust. The conditions that will affect the investment strategy are a) the trust payout provisions; b) the ages of the income beneficiaries; c) the ability to sell the gifted assets that were contributed to the trust; and d) consideration to investment preferences of the income beneficiaries. Taking these conditions into consideration, the fundamental investment objectives of the trust will be to generate a low to moderate growth in trust principal and to provide adequate liquidity in order to meet the payout provisions of the trust.

Operating Accounts - These are separate operating accounts of the Component institutions which invest in an[the] Equity Index Fund[-B] and a[the] U. S. Debt Index Fund as approved by the Chief Investment Officer[B]. The amount of component operating funds invested in the index funds is governed by the U. T. System Financial Policy.

## **Asset Allocation**

Asset allocation is the primary determinant of the volatility of investment return[investment performance] and, subject to the asset allocation ranges specified by UTIMCO. Specific asset allocation targets may be changed from time to time based on the economic and investment outlook.

If appropriate, the Account's assets shall be allocated among the following broad asset classes based upon their individual return/risk characteristics and relationships to other asset classes:

A.[1.]Cash Equivalents - are highly reliable in protecting the purchasing power of current income streams but historically have not provided a reliable return in excess of inflation. Cash equivalents provide good liquidity under both deflation and inflation conditions.

B.[2.]Fixed Income Investments - offer the best protection for hedging against the threat of deflation by providing a dependable and predictable source of income for the Account. Such bonds should be high quality, with reasonable call protection in order to ensure the generation of current income and preservation of nominal capital even during periods of severe economic contraction. This

classification shall include fixed income mutual funds.

C. ~~[3-]~~ Equities - provide both current income and growth of income, but their principal purpose is to provide appreciation for the Account. Historically, returns for equities have been higher than for bonds over all extended periods. Therefore, equities represent the best chance of preserving the purchasing power of the Account. This classification shall include equity mutual funds.

D. Variable Annuities - These are insurance contracts purchased on the life or lives of the income beneficiaries and for which the funds underlying the contract are invested in various mutual funds which offer diversification of the Account's assets. These contracts offer some downside market risk protection in case of the income beneficiary's death in the early years of the contract. These investment assets are only appropriate for the charitable remainder trusts.

### **Asset Allocation Policy**

The asset allocation policy and ranges for each trust or endowment herein is dependent on the terms and conditions of the endowment or trust document. With respect to the operating accounts, the U. T. System financial policies shall govern. If possible, the Account's assets shall be diversified among different types of assets whose returns are not closely correlated in order to enhance the return/risk profile of the Account.

The Board delegates authority to UTIMCO to establish specific asset allocation targets and ranges for each trust or endowment Account.

### **Performance Measurement**

The investment performance of the actively managed Accounts, where cost effective, will be calculated and evaluated annually.

### **Investment Guidelines**

The Accounts must be invested at all times in strict compliance with applicable law. [~~The primary and constant standard for making investment decisions is the "Prudent Person Rule."~~]

Investment guidelines include the following:

#### General

- Investment guidelines for index and other commingled funds managed externally shall be governed by the terms and conditions of the Investment Management Contract.

- All investments will be U. S. dollar denominated assets unless held by an internal or external portfolio manager with discretion to invest in foreign currency denominated securities.
- Investment policies of any unaffiliated liquid investment Account must be reviewed and approved by the chief investment officer prior to investment of Account's assets in such liquid investment Account.
- No securities may be purchased or held which would jeopardize, if applicable, the Account's tax-exempt status.
- No investment strategy or program may purchase securities on margin or use leverage unless specifically authorized by the UTIMCO Board.
- No investment strategy or program employing short sales may be made unless specifically authorized by the UTIMCO Board.
- The Account may utilize Derivative Securities with the approval of the UTIMCO Board to ~~[-]~~ a) simulate the purchase or sale of an underlying market index while retaining a cash balance for fund management purposes; b) ~~[-]~~ facilitate trading; c) ~~[-]~~ reduce transaction costs; d) ~~[-]~~ seek higher investment returns when a Derivative Security is priced more attractively than the underlying security; e) ~~[-]~~ index or to hedge risks associated with Account investments; or f) ~~[-]~~ adjust the market exposure of the asset allocation, including long and short strategies; provided that: i) no leverage is employed in the implementation of such Derivative purchases or sales; ii) no more than 5% of the Accounts assets are required as an initial margin deposit for such contracts; iii) the Account's investments in warrants shall not exceed more than 5% of the Account's net assets or 2% with respect to warrants not listed on the New York or American Stock Exchanges.
- Such Derivative Securities shall be defined to be those instruments whose value is derived, in whole or part, from the value of any one or more underlying assets, or index of assets (such as stocks, bonds, commodities, interest rates, and currencies) and evidenced by forward, futures, swap, cap, floor, option, and other applicable contracts.

UTIMCO shall attempt to minimize the risk of an imperfect correlation between the change in market value of the securities held by the Account and the prices of Derivative Security investments by investing in only those contracts whose behavior is expected to resemble that of the Account's underlying securities. UTIMCO also shall attempt to minimize the risk of an illiquid secondary market for a Derivative Security contract and the resulting inability to close a position prior to its maturity date by entering into such transactions on an exchange with an active and liquid secondary

market. The net market value of exposure of Derivative Securities purchased or sold over the counter may not represent more than 15% of the net assets of the Account.

In the event that there are no Derivative Securities traded on a particular market index, the Account may utilize a composite of other Derivative Security contracts to simulate the performance of such index. UTIMCO shall attempt to reduce any tracking error from the low correlation of the selected Derivative Securities with its index by investing in contracts whose behavior is expected to resemble that of the underlying securities.

UTIMCO shall minimize the risk that a party will default on its payment obligation under a Derivative Security agreement by entering into agreements that mark to market no less frequently than monthly and where the counterparty is an investment grade credit. UTIMCO also shall attempt to mitigate the risk that the Account will not be able to meet its obligation to the counterparty by investing the Account in the specific asset for which it is obligated to pay a return or by holding adequate short-term investments.

The Account may be invested in foreign currency forward and foreign currency futures contracts in order to maintain the same currency exposure as its respective index or to protect against anticipated adverse changes in exchange rates among foreign currencies and between foreign currencies and the U. S. dollar.

#### Risk Management

- Credit risk shall be controlled by UTIMCO who is responsible for the development and maintenance of credit quality standards for the Account.
- ~~• Not more than 5% of the total value of the securities in the Account shall be placed with any one issuer (i.e., Commercial Paper, Certificates of Deposit, or Bankers Acceptances) other than the U. S. Treasury, U. S. Agency, or Government Sponsored entities.]~~
- Counterparty exposure in the area of Repurchase Agreements and Reverse Repurchase Agreements – ~~Not~~[~~shall not be~~] more than 5% of the total value of the securities in the Account shall be placed with any one counterparty.
- Diversification of credit risk shall be determined on an account basis.

## Eligible Investments

Holdings of cash and cash equivalents may include the following:

- Unaffiliated liquid (Money Market Funds) investment funds rated AAA<sub>M</sub> by Standard & Poor's Corporation.
- Approved Tax Exempt unaffiliated liquid investment fund.
- Internal short term pooled investment fund managed by UTIMCO.
- Commercial paper, negotiable certificates of deposit, and Bankers' Acceptances must be rated at least A-1 by Standard & Poor's Corporation and P-1 by Moody's Investors Service, Inc.
- Floating rate securities, if they are based on a spread over or under a well known index such as LIBOR or a Constant Maturity Treasury index. No internally leveraged floating rate securities are permitted (i.e., a coupon equivalent to a formula that creates a multiplier of an index value). The following types of floating rate securities are not eligible for investment; inverse floaters, non-money market based floaters, interest only or principal only floaters, non-dollar based floaters, and range note floaters.
- Repurchase Agreements and Reverse Repurchase Agreements must be transacted with a dealer that is approved by UTIMCO and selected by the Federal Reserve Bank as a Primary Dealer in U. S. Treasury securities and rated A-1 or P-1 or the equivalent.
  - Each approved counterparty shall execute the Standard Public Securities Association (PSA) Master Repurchase Agreement with UTIMCO.
  - Eligible Collateral Securities for Repurchase Agreements are limited to U. S. Treasury securities and U. S. Government Agency securities with a maturity of not more than 10 years.
  - The maturity for a Repurchase Agreement may be from one day to two weeks.
  - The value of all collateral shall be maintained at 102% of the notional value of the Repurchase Agreement, valued daily.
  - All collateral shall be delivered to the Account's custodian bank. Tri-party collateral arrangements are not permitted.

- The aggregate amount of repurchase agreements with maturities greater than seven calendar days may not exceed 10% of the Account's total assets.
- Overnight repurchase agreements may not exceed 10% of the Account's total assets.
- Mortgage Backed Securities (MBS) Dollar Rolls shall be executed as matched book transactions in the same manner as Reverse Repurchase Agreements above. As above, the rules for trading MBS Dollar Rolls shall follow the Public Securities Association standard industry terms.

Holdings of eligible fixed income securities shall be limited to those securities a) issued by or fully guaranteed by the U. S. Treasury, U. S. Government-Sponsored Enterprises, or U. S. Government Agencies, and b) issued by corporations and municipalities. Within this overall limitation:

- Permissible securities for investment include the components of the Lehman Brothers Aggregate Bond Index (LBAGG): investment grade government and corporate securities, agency mortgage pass-through securities, and asset-backed securities. These sectors are divided into more specific sub-indices; 1) Government: Treasury and Agency; 2) Corporate: Industrial, Finance, Utility, and Yankee; 3) Mortgage-backed securities: GNMA, FHLMC, and FNMA; and 4) Asset-backed securities. In addition to the permissible securities listed above, the following securities shall be permissible: a) floating rate securities with periodic coupon changes in market rates issued by the same entities that are included in the LBAGG as issuers of fixed rate securities; b) medium term notes issued by investment grade corporations; c) zero coupon bonds and stripped Treasury and Agency securities created from coupon securities; and d) structured notes issued by LBAGG qualified entities.
- U.S. Domestic Bonds must be rated investment grade, Baa3 or better by Moody's Investors Services, BBB- by Standard & Poor's Corporation, or an equivalent rating by a nationally recognized rating agency at the time of acquisition.
- ~~• Not more than 5% of the market value of domestic fixed income securities may be invested in corporate and municipal bonds of a single issuer provided that such bonds, at the time of purchase, are rated, not less than Baa or BBB, or the equivalent, by any two nationally recognized rating services, such as Moody's Investors Service, Standard & Poor's Corporation, Fitch Investors Service.]~~
- Not more than 35% of the Account's fixed income portfolio may be invested in non-U. S. dollar bonds. Not more than 15% of the Account's fixed income portfolio may be invested in bonds denominated in any one currency.

- Non-dollar bond investments shall be restricted to bonds rated equivalent to the same credit standard as the U.S. Fixed Income Portfolio.
- Not more than 7.5% of the Account's fixed income portfolio may be invested in Emerging Market debt.
- International currency exposure may be hedged or unhedged at UTIMCO's discretion or delegated by UTIMCO to an external investment manager.
- Permissible securities for investment include Fixed Income Mutual Funds and Debt Index Funds as approved by the Chief Investment Officer.
- Permissible securities for investment include Fixed Income Variable Annuity Contracts as approved by the Chief Investment Officer.

~~[Holdings of eligible fixed income derivative securities shall be limited by the following guidelines:~~

~~With prior written approval of the UTIMCO Board, the Account may enter into derivatives transactions utilizing exchange traded fixed income futures contracts or options on fixed income futures contracts; provided that such derivatives transactions are designed to control duration or manage risk.~~

~~Such derivatives transactions shall be established on a case by case basis. These contracts shall include but shall not be limited to Ten Year Treasury Futures, Eurodollar Futures, or Treasury Bill Futures, provided that the futures exchanges are rated AAA or the equivalent as determined by UTIMCO.~~

~~Such derivatives shall be priced daily.~~

~~Market risk shall be measured in dollar duration equivalent values or in the case of options in delta or percentage of equivalent futures contracts.~~

~~For the purpose of this policy Collateralized Mortgage Obligations ("CMO's") are considered to be MBS, not derivatives.]~~

### Equities

[I.]—The Account may purchase equity securities as long as it:

- holds no more than 25% of its equity securities in any one industry or industries (as defined by the standard industry classification code and supplemented by other reliable data sources) at market.

- B. holds no more than 5% of its equity securities in the securities of one corporation at cost unless authorized by the Chief Investment Officer.

~~[These provisions do not apply to an endowment in which the agreement prohibits the sale of an equity security.]~~

~~[H.]~~—The Account may purchase Equity Mutual Funds and Equity Variables Annuity Contracts as approved by the Chief Investment Officer.

The provisions concerning investment in fixed income and equities securities shall not apply to an endowment in which the agreement prohibits the sale of an equity or fixed income security. Donor preferences shall be considered in determining the disposition of a gifted security.

### **Distributions**

Distributions of income or amounts from the Accounts to the beneficiaries shall be made as soon as practicable, either: a) based on the terms of the trust instrument; b) following the fiscal quarter end for endowments; or c) on or after the last day of the month for operating Accounts.

### **Accounting**

The fiscal year of the Accounts shall begin on September 1st and end on August 31st. Trusts will also have a tax year end which may be different than August 31st. Market value of the Accounts shall be maintained on an accrual basis in compliance with Financial Accounting Standards Board Statements, Government Accounting Standards Board Statements, industry guidelines, or federal income tax laws, whichever is applicable. Significant asset write-offs or write-downs shall be approved by the chief investment officer and reported to the UTIMCO Board.

### **Valuation of Assets**

As of the close of business for each month, UTIMCO shall determine the fair market value of all assets in the Accounts. Such valuation of assets shall be based on the bank trust custody agreement in effect or other external source if not held in the bank custody account at the date of valuation.

### **Securities Lending**

The Account may participate in a securities lending contract with a bank or nonbank security lending agent for either short-term or long-term purposes of realizing additional income. Loans of securities by the Accounts shall be collateralized by cash, letters of credit or

securities issued or guaranteed by the U. S. Government or its agencies. The collateral will equal at least 100% of the current market value of the loaned securities. The contract shall state acceptable collateral for securities loaned, duties of the borrower, delivery of loaned securities and collateral, acceptable investment of collateral and indemnification provisions. The contract may include other provisions as appropriate. The securities lending program will be evaluated from time to time as deemed necessary by the UTIMCO Board. Monthly reports issued by the agent shall be reviewed by UTIMCO to insure compliance with contract provisions.

### **Investor Responsibility**

As a shareholder, the Account has the right to a voice in corporate affairs consistent with those of any shareholder. These include the right and obligation to vote proxies in a manner consistent with the unique role and mission of higher education as well as for the economic benefit of the Account. Notwithstanding the above, the UTIMCO Board shall discharge its fiduciary duties with respect to the Account solely in the interest of the beneficiaries and shall not invest the Account so as to achieve temporal benefits for any purpose, including use of its economic power to advance social or political purposes.

### **Amendment of Policy Statement**

The Board of Regents reserves the right to amend the Investment Policy Statement as it deems necessary or advisable.

### **Effective Date**

The effective date of this policy shall be August 12 [~~February 11~~], 1999.

3. U. T. Board of Regents: Proposed Investment Policy Statement for the Permanent Health Fund, Approval of Third Amendment to Investment Management Services Agreement with UTIMCO, and Proposed Permanent Health Fund Distribution Rate and Approval of Investment Administration of Other Funds.--

### RECOMMENDATION

The Board of Directors of The University of Texas Investment Management Company ("UTIMCO") recommends that the U. T. Board of Regents approve:

- a. The Investment Policy Statement for the Permanent Health Fund as set out on Pages B of R 76 - 90
- b. The amendment of Section 1. (Definitions) of the Investment Management Services Agreement dated March 1, 1996, between the U. T. Board of Regents and UTIMCO as set out on Pages B of R 91 - 92.

Further, the Board of Directors of UTIMCO recommends that the distribution rate for the Permanent Health Fund be set at \$0.045 per unit effective November 30, 1999.

It is also recommended that the Chief Executive Officer of UTIMCO be authorized to execute an agreement with the Comptroller of Public Accounts to administer, on behalf of the U. T. Board of Regents, funds assigned by statute to the Comptroller for the creation of the Permanent Fund for Higher Education Nursing, Allied Health and Other Health-Related Programs and for the Permanent Fund for Minority Health, Research, and Education.

### BACKGROUND INFORMATION

The Permanent Health Fund (the "Fund") is a pooled fund for the collective investment of permanent funds for health-related institutions of higher education created, effective August 30, 1999, by Chapter 63 of the Texas Education Code. The Fund consists of:

1. The Permanent Health Fund for Higher Education ("PHFHE") -- Distributions will fund programs that benefit medical research, health education, or

treatment programs at 10 health-related institutions of higher education in Texas; and

2. Separate Permanent Funds for Health Related Institutions ("PFHRIs") -- Distributions will fund research and other programs that benefit public health at certain U. T. System component institutions.

Chapter 63 of the Texas Education Code designates: a) the U. T. Board of Regents as the administrator for the PHFHE and b) the governing board of an institution for which a PFHRI fund is established as the administrator for that institution's PFHRI fund.

Initially, the Fund shall consist of: a) the \$350 million PHFHE and b) eight separate PFHRI endowments with a combined value of \$470 million, for a total initial Fund value of \$820 million. According to the PHF Investment Policy Statement, the Fund shall be managed in a manner similar to that of the U. T. System Long Term Fund. The proposed investment management budget for the fiscal year ended August 31, 2000 (approved by the UTIMCO Board of Directors on June 24, 1999), is \$2,844,795, or approximately 0.35% of initial Fund value.

Chapter 63 of the Texas Education Code states that the Board may manage and invest the Fund in the same manner as the Board manages and invests other permanent endowments. It requires that the Board invest the funds in a manner that preserves the purchasing power of the funds' assets and distributions and that the Board make distributions in a manner consistent with the Board's policies and procedures for making distributions to the beneficiaries of its own endowments in the case of the PHFHE or the funds themselves in the case of the PFHRI funds.

Furthermore, Chapter 63 of the Texas Education Code authorizes the State Comptroller to contract with the governing board of any institution or component that is eligible to receive a grant as provided for in this Chapter. If the U. T. Board of Regents contracts with the State Comptroller to be the administrator of these other funds and furthermore authorizes UTIMCO to invest these funds in the Permanent Health Fund, such funds shall be managed subject to the PHF Investment Policy Statement.

The PHF Investment Policy Statement is identical to the Investment Policy Statement for the U. T. System Long Term Fund approved by the U. T. System Board of Regents on February 11, 1999, except for: a) conforming changes; and b) updated annual return and risk expectations for each asset class (see Exhibit A). The PHF Investment Policy Statement was approved by the UTIMCO Board on June 24, 1999.

The recommended amendment of the Investment Management Services Agreement (the "Agreement") dated March 1, 1996, between the U. T. Board of Regents and UTIMCO authorizes UTIMCO to invest the Permanent Health Fund, on behalf of the U. T. Board of Regents, through revision of the "Definitions" portion of the Agreement. The proposed amendment to the Agreement was reviewed by UTIMCO's legal counsel, Vinson & Elkins, Austin, Texas, and the U. T. System Office of General Counsel and approved by the UTIMCO Board of Directors on June 24, 1999.

Also, the Board of Directors of UTIMCO recommends that the distribution rate for the Permanent Health Fund be set at \$0.045 per unit effective November 30, 1999. The spending formula under the Permanent Health Fund Investment Policy increases distributions from the PHF at the rate of inflation subject to a distribution range of 3.5% to 5.5% of the average market value of PHF assets for the trailing 12 fiscal quarters. The initial distribution rate of \$.045 per unit is 4.5% of the initial capital contribution of \$820 million and the midpoint in the distribution range. Consequently, the initial PHF distribution will be \$36,900,000 per year.

Finally, it is recommended that the Board authorize UTIMCO to execute agreements necessary for UTIMCO to administer, on behalf of the U. T. Board of Regents, additional endowment funds at the request of the Comptroller of Public Accounts.

**THE UNIVERSITY OF TEXAS SYSTEM  
PERMANENT HEALTH FUND  
INVESTMENT POLICY STATEMENT**

**Purpose**

The Permanent Health Fund (the "Fund"), is hereby established by the Board of Regents of The University of Texas System, (the "Board"), as a pooled fund for the collective investment of permanent funds for health-related institutions of higher education created, effective August 30, 1999, by Chapter 63 of the Texas Education Code. These permanent health funds consist of:

- A. The Permanent Health Fund for Higher Education, ("PHFHE"), the distributions from which are to fund programs that benefit medical research, health education, or treatment programs at 10 health-related institutions of higher education; and
- B. Separate Permanent Funds for Health Related Institutions, ("PFHRI"), the distributions from which are to fund research and other programs, at certain U. T. System component institutions, that benefit public health.

The Fund provides for greater diversification of investments than would be possible if each account were managed separately.

**Fund Organization**

The Fund is organized as a mutual fund in which each eligible account purchases and redeems Fund units as provided herein.

**Fund Management**

Chapter 63 of the Texas Education Code designates: a) the Board as the administrator for the PHFHE; and b) the governing board of an institution for which a PFHRI fund is established as the administrator for its own PFHRI fund. Chapter 63 further states that the Board may manage and invest the Fund in the same manner as the Board manages and invests other permanent endowments. It also requires that the administrator invest the funds in a manner that preserves the purchasing power of the funds' assets and distributions. It further requires that the administrator make distributions in a manner consistent with the administrator's policies and procedures for making distributions to the beneficiaries of its own endowments in the case of the PHFHE or the funds themselves in the case of the PFHRI funds.

Section 163 of the Texas Property Code provides the guidelines for the management, investment and expenditure of endowment funds. It also authorizes the U. T. Board to delegate to its committees, officers or employees of the U. T. System and other agents the authority to act for the U. T. Board in the investment of the Fund. The Fund shall be governed through The University of Texas Investment Management Company ("UTIMCO") which shall: a) recommend investment policy for the Fund; b) determine specific asset allocation targets, ranges, and performance benchmarks consistent with Fund objectives; and c) monitor Fund performance against Fund objectives. UTIMCO shall invest the Fund assets in conformity with investment policy.

Unaffiliated investment managers may be hired by UTIMCO to improve the Fund's return and risk characteristics. Such managers shall have complete investment discretion unless restricted by the terms of their management contracts. Managers shall be monitored for performance and adherence to investment disciplines.

### **Fund Administration**

UTIMCO shall employ an administrative staff to ensure that all transaction and accounting records are complete and prepared on a timely basis. Internal controls shall be emphasized so as to provide for responsible separation of duties and adequacy of an audit trail. Custody of Fund assets shall comply with applicable law and be structured so as to provide essential safekeeping and trading efficiency.

### **Funds Eligible to Purchase Fund Units**

No fund shall be eligible to purchase units of the Fund unless it is a permanent health fund established pursuant to Chapter 63 of the Texas Education Code, under the control, with full discretion as to investments, by the Board and/or UTIMCO.

Any fund whose governing instrument contains provisions which conflict with this Policy Statement, whether initially or as a result of amendments to either document, shall not be eligible to purchase or hold units of the Fund.

### **Fund Investment Objectives**

The primary investment objective shall be to preserve the purchasing power of Fund assets and annual distributions by earning an average annual total return after inflation of 5.5% over rolling ten year periods or longer. The Fund's success in meeting its objectives depends upon its ability to generate high returns in periods of low inflation that will offset lower returns generated in years when the capital markets underperform the rate of inflation.

The secondary fund objectives are to generate a fund return in excess of the Policy Portfolio benchmark and the average median return of the universe of the college and university endowments as reported annually by Cambridge Associates and NACUBO over rolling five-year periods or longer. The Policy Portfolio benchmark will be established by UTIMCO and will be comprised of a blend of asset class indices weighted to reflect Fund's asset allocation policy targets.

### **Asset Allocation**

Asset allocation is the primary determinant of the volatility of investment return and, subject to the asset allocation ranges specified herein, is the responsibility of UTIMCO. Specific asset allocation targets may be changed from time to time based on the economic and investment outlook. Fund assets shall be allocated among the following broad asset classes based upon their individual return/risk characteristics and relationships to other asset classes:

- A. Cash Equivalents - are highly reliable in protecting the purchasing power of current income streams but historically have not provided a reliable return in excess of inflation. Cash equivalents provide good liquidity under both deflation and inflation conditions.
- B. Fixed Income Investments - offer the best protection for hedging against the threat of deflation by providing a dependable and predictable source of Fund income. Such bonds should be high quality, and intermediate to long-term duration with reasonable call protection in order to ensure the generation of current income and preservation of nominal capital even during periods of severe economic contraction.
- C. Equities - provide both current income and growth of income, but their principal purpose is to provide appreciation of the Fund. Historically, returns for equities have been higher than for bonds over all extended periods. Therefore, equities represent the best chance of preserving the purchasing power of the Fund.
- D. Alternative Investments - generally consist of alternative marketable investments and alternative nonmarketable investments.
  - Alternative Marketable Investments - These investments are broadly defined to include hedge funds, arbitrage and special situation funds, high yield bonds, distressed debt, market neutral, commodities and other non-traditional investment strategies whose underlying securities are traded on public exchanges or are otherwise readily marketable. Alternative marketable investments may be made directly by UTIMCO or through partnerships. If these investments

are made through partnerships they offer faster drawdown of committed capital and earlier realization potential than alternative nonmarketable investments. Alternative marketable investments made through partnerships will generally provide investors with liquidity at least annually.

- Alternative Nonmarketable Investments -

Alternative Nonmarketable investments shall be expected to earn superior equity type returns over extended periods. The advantages of alternative nonmarketable investments are that they enhance long-term returns through investment in inefficient, complex markets. They offer reduced volatility of Fund asset values through their characteristics of low correlation with listed equities and fixed income instruments. The disadvantages of this asset class are that they may be illiquid, require higher and more complex fees, and are frequently dependent on the quality of external managers. In addition, they possess a limited return history versus traditional stocks and bonds. The risk of alternative nonmarketable investments shall be controlled with extensive due diligence and diversification. These investments are held through either limited partnership or as direct ownership interests. They include special equity, mezzanine venture capital, oil and gas, real estate and other investments that are privately held and which are not registered for sale on public exchanges. In partnership form, these investments require a commitment of capital for extended periods of time with no liquidity. They also generally require an extended period of time to achieve targeted investment levels.

### **Asset Allocation Policy**

The asset allocation policy and ranges herein recognize that the Fund's return/risk profile can be enhanced by diversifying the Fund's investments across different types of assets whose returns are not closely correlated. The targets and ranges seek to protect the Fund against both routine illiquidity in normal markets and extraordinary illiquidity during a period of extended deflation.

The long-term asset allocation policy for the Fund must recognize that the 5.5% real return objective requires a high allocation to broadly defined equities, including domestic, international stocks, and alternative equity investments, of 68% to 90%. The allocation to fixed income investments should therefore not exceed 32% of the Fund.

The Board delegates authority to UTIMCO to establish specific neutral asset allocations and ranges within the broad policy guidelines described above. UTIMCO may establish specific asset allocation targets and ranges for large and small capitalization U. S. stocks, established and emerging market international stocks, marketable and non-marketable alternative equity investments, and other asset classes as well as the specific performance objectives for each asset class. Specific asset allocation policies shall be decided by UTIMCO and reported to the U. T. Board.

### **Performance Measurement**

The investment performance of the Fund will be measured by an unaffiliated organization, with recognized expertise in this field and reporting responsibility to the UTIMCO Board, and compared against the stated investment benchmarks of the Fund. Such measurement will occur at least annually, and evaluate the results of the total Fund, major classes of investment assets, and individual portfolios.

### **Investment Guidelines**

The Fund must be invested at all times in strict compliance with applicable law.

Investment guidelines include the following:

#### General

- Investment guidelines for index and other commingled funds managed externally shall be governed by the terms and conditions of the Investment Management Contract.
- All investments will be U. S. dollar denominated assets unless held by an internal or external portfolio manager with discretion to invest in foreign currency denominated securities.
- Investment policies of any unaffiliated liquid investment fund must be reviewed and approved by the chief investment officer prior to investment of Fund assets in such liquid investment fund.
- No securities may be purchased or held which jeopardize the Fund's tax exempt status.

- No investment strategy or program may purchase securities on margin or use leverage unless specifically authorized by the UTIMCO Board.
- No investment strategy or program employing short sales may be made unless specifically authorized by the UTIMCO Board.
- The Fund may utilize Derivative Securities with the approval of the UTIMCO Board to: a) simulate the purchase or sale of an underlying market index while retaining a cash balance for fund management purposes; b) facilitate trading; c) reduce transaction costs; d) seek higher investment returns when a Derivative Security is priced more attractively than the underlying security; e) index or to hedge risks associated with Fund investments; or f) adjust the market exposure of the asset allocation, including long and short strategies; provided that; i) no leverage is employed in the implementation of such Derivative purchases or sales; ii) no more than 5% of Fund assets are required as an initial margin deposit for such contracts; iii) the Fund's investments in warrants shall not exceed more than 5% of the Fund's net assets or 2% with respect to warrants not listed on the New York or American Stock Exchanges. Notwithstanding the above, leverage strategies are permissible within the alternative equities investment class with the approval of the UTIMCO Board, if the investment strategy is uncorrelated to the Fund as a whole, the manager has demonstrated skill in the strategy, the strategy implements systematic risk control techniques, value at risk measures, and pre-defined risk parameters.
- Such Derivative Securities shall be defined to be those instruments whose value is derived, in whole or part, from the value of any one or more underlying assets, or index of assets (such as stocks, bonds, commodities, interest rates, and currencies) and evidenced by forward, futures, swap, cap, floor, option, and other applicable contracts.

UTIMCO shall attempt to minimize the risk of an imperfect correlation between the change in market value of the securities held by the Fund and the prices of Derivative Security investments by investing in only those contracts whose behavior is expected to resemble that of the Fund's underlying securities. UTIMCO also shall attempt to minimize the risk of an illiquid secondary market for a Derivative Security contract and the resulting inability to close a position prior to its maturity date by entering into such transactions on an exchange with an active and liquid secondary market. The net market value of exposure of Derivative Securities purchased or sold over the counter may not represent more than 15% of the net assets of the Fund.

In the event that there are no Derivative Securities traded on a particular market index such as MSCI EAFE, the Fund may utilize a composite of other Derivative Security contracts to simulate the performance of such index. UTIMCO shall attempt to reduce any tracking error from the low correlation of the selected Derivative Securities with its index by investing in contracts whose behavior is expected to resemble that of the underlying securities.

UTIMCO shall minimize the risk that a party will default on its payment obligation under a Derivative Security agreement by entering into agreements that mark to market no less frequently than monthly and where the counterparty is an investment grade credit. UTIMCO also shall attempt to mitigate the risk that the Fund will not be able to meet its obligation to the counterparty by investing the Fund in the specific asset for which it is obligated to pay a return or by holding adequate short-term investments.

The Fund may be invested in foreign currency forward and foreign currency futures contracts in order to maintain the same currency exposure as its respective index or to protect against anticipated adverse changes in exchange rates among foreign currencies and between foreign currencies and the U. S. dollar.

#### Cash and Cash Equivalents

Holdings of cash and cash equivalents may include internal short term pooled investment funds managed by UTIMCO.

- Unaffiliated liquid investment funds as approved by the chief investment officer.
- Commercial paper must be rated in the two highest quality classes by Moody's Investors Service, Inc. (P1 or P2) or Standard & Poor's Corporation (A1 or A2).
- Negotiable certificates of deposit must be with a bank that is associated with a holding company meeting the commercial paper rating criteria specified above or that has a certificate of deposit rating of 1 or better by Duff & Phelps.
- Bankers' Acceptances must be guaranteed by an accepting bank with a minimum certificate of deposit rating of 1 by Duff & Phelps.

- Repurchase Agreements and Reverse Repurchase Agreements must be transacted with a dealer that is approved by UTIMCO and selected by the Federal Reserve Bank as a Primary Dealer in U. S. Treasury securities and rated A-1 or P-1 or the equivalent.
  - Each approved counterparty shall execute the Standard Public Securities Association (PSA) Master Repurchase Agreement with UTIMCO.
  - Eligible Collateral Securities for Repurchase Agreements are limited to U. S. Treasury securities and U. S. Government Agency securities with a maturity of not more than 10 years.
  - The maturity for a Repurchase Agreement may be from one day to two weeks.
  - The value of all collateral shall be maintained at 102% of the notional value of the Repurchase Agreement, valued daily.
  - All collateral shall be delivered to the PHF custodian bank. Tri-party collateral arrangements are not permitted.
- The aggregate amount of repurchase agreements with maturities greater than seven calendar days may not exceed 10% of the Fund's fixed income assets.
- Overnight Repurchase Agreements may not exceed 25% of the Fund's fixed income assets.
- Mortgage Backed Securities (MBS) Dollar Rolls shall be executed as matched book transactions in the same manner as Reverse Repurchase Agreements above. As above, the rules for trading MBS Dollar Rolls shall follow the Public Securities Association standard industry terms.

## Fixed Income

### Domestic Fixed Income

Holdings of domestic fixed income securities shall be limited to those securities: a) issued by or fully guaranteed by the U. S. Treasury, U. S. Government-Sponsored Enterprises, or U. S. Government Agencies; and b) issued by corporations and municipalities. Within this overall limitation:

- Permissible securities for investment include the components of the Lehman Brothers Aggregate Bond Index (LBAGG): investment grade government and corporate securities, agency mortgage pass-through securities, and asset-backed securities. These sectors are divided into more specific sub-indices: 1) Government: Treasury

and Agency; 2) Corporate: Industrial, Finance, Utility, and Yankee; 3) Mortgage-backed securities: GNMA, FHLMC, and FNMA; and 4) Asset-backed securities. In addition to the permissible securities listed above, the following securities shall be permissible: a) floating rate securities with periodic coupon changes in market rates issued by the same entities that are included in the LBAGG as issuers of fixed rate securities; b) medium term notes issued by investment grade corporations; c) zero coupon bonds and stripped Treasury and Agency securities created from coupon securities; and d) structured notes issued by LBAGG qualified entities.

- U.S. Domestic Bonds must be rated investment grade, Baa3 or better by Moody's Investors Services, BBB- by Standard & Poor's Corporation, or an equivalent rating by a nationally recognized rating agency at the time of acquisition.
- Not more than 5% of the market value of domestic fixed income securities may be invested in corporate and municipal bonds of a single issuer provided that such bonds, at the time of purchase, are rated, not less than Baa3 or BBB-, or the equivalent, by any two nationally-recognized rating services, such as Moody's Investors Service, Standard & Poor's Corporation, or Fitch Investors Service.

#### Non-U.S. Fixed Income

- Not more than 35% of the Fund's fixed income portfolio may be invested in non-U. S. dollar bonds. Not more than 15% of the Fund's fixed income portfolio may be invested in bonds denominated in any one currency.
- Non-dollar bond investments shall be restricted to bonds rated equivalent to the same credit standard as the U.S. Fixed Income Portfolio.
- Not more than 7.5% of the Fund's fixed income portfolio may be invested in Emerging Market debt.
- International currency exposure may be hedged or unhedged at UTIMCO's discretion or delegated by UTIMCO to an external investment manager.

## Equities

The Fund shall:

- A. hold no more than 25% of its equity securities in any one industry or industries (as defined by the standard industry classification code and supplemented by other reliable data sources) at market
- B. hold no more than 5% of its equity securities in the securities of one corporation at cost unless authorized by the chief investment officer.

## Alternative Investments

Investments in alternative assets may be made through management contracts with unaffiliated organizations (including but not limited to limited partnerships, trusts, and joint ventures) so long as such organizations:

- A. possess specialized investment skills
- B. possess full investment discretion subject to the management agreement
- C. are managed by principals with a demonstrated record of accomplishment and performance in the investment strategy being undertaken
- D. align the interests of the investor group with the management as closely as possible
- E. charge fees and performance compensation which do not exceed prevailing industry norms at the time the terms are negotiated.

Investments in alternative nonmarketable assets also may be made directly by UTIMCO in co-investment transactions sponsored by and invested in by a management firm or partnership in which the Fund has invested prior to the co-investment or in transactions sponsored by investment firms well known to UTIMCO management, provided that such direct investments shall not exceed 25% of the market value of the alternative nonmarketable assets portfolio at the time of the direct investment.

Members of UTIMCO management, with the approval of the UTIMCO Board, may serve as directors of companies in which UTIMCO has directly invested Fund assets. In such event,

any and all compensation paid to UTIMCO management for their services as directors shall be endorsed over to UTIMCO and applied against UTIMCO management fees. Furthermore, UTIMCO Board approval of UTIMCO management's service as a director of an investee company shall be conditioned upon the extension of UTIMCO's Directors and Officers Insurance Policy coverage to UTIMCO management's service as a director of an investee company.

### **Fund Distributions**

The Fund shall balance the needs and interests of present beneficiaries with those of the future. Fund spending policy objectives shall be to:

- A. provide a predictable, stable stream of distributions over time
- B. ensure that the inflation adjusted value of distributions is maintained over the long-term
- C. ensure that the inflation adjusted value of Fund assets after distributions is maintained over the long-term.

The goal is for the Fund's average spending rate over time not to exceed the Fund's average annual investment return after inflation in order to preserve the purchasing power of Fund distributions and underlying assets.

UTIMCO shall be responsible for establishing the Fund's distribution percentage and determining the equivalent per unit rate for any given year. Unless otherwise established by UTIMCO and approved by the Board, fund distributions shall be based on the following criteria:

The annual unit distribution amount shall be adjusted annually based on the following formula:

- A. Increase the prior year's per unit distribution amount (cents per unit) by the average inflation rate (C.P.I.) for the previous twelve quarters. This will be the per unit distribution amount for the next fiscal year. This amount may be rounded to the nearest \$.0005 per unit.
- B. If the inflationary increase in Step A. results in a distribution rate below 3.5%, (computed by taking the proposed distribution amount per unit divided by the previous twelve quarter average market value price per unit) the UTIMCO

Board, at its sole discretion, may grant an increase in the distribution amount as long as such increase does not result in a distribution rate of more than 5.5%.

- C. If the distribution rate exceeds 5.5%, (computed by taking the proposed distribution amount per unit divided by the previous twelve quarter average market value price per unit) the UTIMCO Board at its sole discretion, may reduce the per unit distribution amount.

Notwithstanding any of the foregoing provisions, the Board of Regents may approve a per unit distribution amount that, in their judgment, would be more appropriate than the rate calculated by the policy provisions.

Distributions from the Fund to the unitholders shall be made quarterly as soon as practicable on or after the last business day of November, February, May, and August of each fiscal year.

### **Fund Accounting**

The fiscal year of the Fund shall begin on September 1st and end on August 31st. Market value of the Fund shall be maintained on an accrual basis in compliance with Financial Accounting Standards Board Statements, Government Accounting Standards Board Statements, or industry guidelines, whichever is applicable. Significant asset write-offs or write-downs shall be approved by the chief investment officer and reported to the UTIMCO Board.

### **Valuation of Assets**

As of the close of business on the last business day of each month, UTIMCO shall determine the fair market value of all Fund net assets and the net asset value per unit of the Fund. Such valuation of Fund assets shall be based on the bank trust custody agreement in effect at the date of valuation. Valuation of alternative assets shall be determined in accordance with the UTIMCO Valuation Criteria for Alternative Assets.

The fair market value of the Fund's net assets shall include all related receivables and payables of the Fund on the valuation date and the value of each unit thereof shall be its proportionate part of such net value. Such valuation shall be final and conclusive.

### **Purchase of Fund Units**

Purchase of Fund units may be made on any quarterly purchase date (September 1, December 1, March 1, and June 1 of each fiscal year or the first business day subsequent

thereto) upon payment of cash to the Fund or contribution of assets approved by the chief investment officer, at the net asset value per unit of the Fund as of the most recent quarterly valuation date.

Each fund whose monies are invested in the Fund shall own an undivided interest in the Fund in the proportion that the number of units invested therein bears to the total number of all units comprising the Fund.

### **Redemption of Fund Units**

Redemption of Units shall be paid in cash as soon as practicable after the quarterly valuation date of the Fund. If the withdrawal is greater than \$5 million, advance notice of 30 business days shall be required prior to the quarterly valuation date. If the withdrawal is for less than \$5 million, advance notice of five business days shall be required prior to the quarterly valuation date. If the aggregate amount of redemptions requested on any redemption date is equal to or greater than 10% of the Fund's net asset value, the Board may redeem the requested units in installments and on a pro-rata basis over a reasonable period of time that takes into consideration the best interests of all Fund unitholders. Withdrawals from the Fund shall be at the market value price per unit determined for the period of the withdrawal.

### **Securities Lending**

The Fund may participate in a securities lending contract with a bank or nonbank security lending agent for either short-term or long-term purposes of realizing additional income. Loans of securities by the Fund shall be collateralized by cash, letters of credit, or securities issued or guaranteed by the U. S. Government or its agencies. The collateral will equal at least 100% of the current market value of the loaned securities. The contract shall state acceptable collateral for securities loaned, duties of the borrower, delivery of loaned securities and collateral, acceptable investment of collateral and indemnification provisions. The contract may include other provisions as appropriate. The securities lending program will be evaluated from time-to-time as deemed necessary by the UTIMCO Board. Monthly reports issued by the agent shall be reviewed by UTIMCO to insure compliance with contract provisions.

### **Investor Responsibility**

As a shareholder, the Fund has the right to a voice in corporate affairs consistent with those of any shareholder. These include the right and obligation to vote proxies in a manner consistent with the unique role and mission of higher education as well as for the economic benefit of the Fund. Notwithstanding the above, the UTIMCO Board shall discharge its fiduciary duties with respect to the Fund solely in the interest of Fund unitholders and shall not invest the Fund so as to achieve temporal benefits for any purpose including use of its economic power to advance social or political purposes.

**Amendment of Policy Statement**

The Board of Regents reserves the right to amend the Investment Policy Statement as it deems necessary or advisable.

**Effective Date**

The effective date of this policy shall be August 30, 1999.

## PERMANENT HEALTH FUND

SPECIFIC ASSET ALLOCATION, EXPECTED RETURN AND RISK, NEUTRAL POSITION,  
RANGES, AND PERFORMANCE OBJECTIVES

	<u>Expected Nominal Return</u>	<u>Expected Risk</u>	<u>Neutral</u>	<u>Range</u>	<u>Performance Objective</u>
Cash and Equivalents	3.75%	3.75%	0%	0.0%-5.0%	91 day T-Bill Ave. Yield
Equities					
U. S. Common Stocks:					
Med/Large Capitalization Stocks	9.25%	18.50%	30%	10%-40%	S&P 500 Index
Small Capitalization Stocks	10.25%	21.25%	<u>10%</u>	<u>5%-15%</u>	Russell 2000 Index
sub-total			40%	15%-55%	
International Common Stocks:					
Established Markets	9.75%	20.75%	12%	5%-20%	FT Actuaries World (ex-U.S.)
Emerging Markets	13.00%	30.00%	<u>3%</u>	<u>0%-10%</u>	MSCI-Emerging Mkts. Free
sub-total			<u>15%</u>	<u>5%-30%</u>	
Total Common Stocks			55%	35%-80%	
Alternative Investments:					
Marketable	7.75%	9.25%	7%	0%-10%	91 - Day T-Bills + 7%
Non-Marketable	12.25%	9.50%	<u>18%</u>	<u>5%-25%</u>	17%
Total Alternative Assets			25%	5%-35%	
<b>TOTAL EQUITIES</b>			<b>80%</b>	<b>68%-90%</b>	
Fixed Income					
U. S. (Domestic)	6.25%	9.25%	15%	10%-25%	Lehman Brothers Aggregate
International	6.50%	13.00%	5%	0%-7%	Salomon Non-U.S. WGBI Unhedged
<b>TOTAL FIXED INCOME</b>			<b>20%</b>	<b>10%-32%</b>	
<b>TOTAL ASSETS</b>	<b>9.37%</b>	<b>11.24%</b>	<b>100%</b>		

Achievement of these performance objectives is most appropriately evaluated over a full market cycle of roughly five years. The rebalancing of Fund assets to achieve the neutral allocations shall be subject to the funding of alternative assets. Risk is defined as the standard deviation of the expected return.

**THIRD AMENDMENT TO THE  
INVESTMENT MANAGEMENT SERVICES AGREEMENT**

This Third Amendment to the Investment Management Services Agreement (this "Amendment") by and between the Board of Regents (the "U. T. Board") of The University of Texas System (the "U. T. System") and The University of Texas Investment Management Company ("UTIMCO"), a Texas non-profit corporation, is effective August 30, 1999 (the "Effective Date").

**RECITALS**

WHEREAS, the U. T. Board and UTIMCO entered into a certain Investment Management Services Agreement (the "Agreement"), as amended, effective March 1, 1996 to authorize UTIMCO to invest certain designated funds under the control and management of the U. T. Board; and

WHEREAS, the U. T. Board and UTIMCO desire to enter into this Amendment to the Agreement in order to authorize UTIMCO to invest permanent funds for health-related institutions established pursuant to Chapter 63, Texas Education Code.

NOW THEREFORE, in consideration of the premises and the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**Section 1. Revision of Section 1. Definitions**

Section 1. Definitions. Accounts. of the Agreement shall be amended to read as follows:

**Accounts**: shall mean those funds for which the U. T. Board has responsibility, namely (a) the Permanent University Fund, excluding PUF Lands, (b) the Permanent Health Fund, (c) the U. T. Board Accounts and (d) the U. T. Board Trust Accounts.

Section 1. Definitions. of the Agreement shall be amended by adding the following:

**Permanent Health Fund** or **PHF** shall mean collectively the permanent funds for health-related institutions established pursuant to Chapter 63, Texas Education Code for which the U. T. Board is an administrator.

**Section 2. - Agreement in Effect.**

Except as specifically amended herein, all provisions and sections of the Agreement are valid and in full effect.

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

By: \_\_\_\_\_  
Donald L. Evans  
Chairman

**THE UNIVERSITY OF TEXAS  
INVESTMENT MANAGEMENT COMPANY**

By: \_\_\_\_\_  
Thomas G. Ricks  
President and CEO

MEETING OF THE BOARD

ADDITIONAL ITEM

AUGUST 12, 1999

4. U. T. Board of Regents: Approval of Appointments to Board of Directors of The University of Texas Investment Management Company (UTIMCO) Effective Immediately.—

RECOMMENDATION

It is recommended that the U. T. Board of Regents concur in the recommendation of Chairman Donald L. Evans that Regent A. R. (Tony) Sanchez, Jr., and Regent Woody L. Hunt be appointed to the Board of Directors of The University of Texas Investment Management Company (UTIMCO) effective immediately.

BACKGROUND INFORMATION

In accordance with the requirements of Texas Education Code Section 66.08, directors of UTIMCO are appointed by the U. T. Board of Regents. Chairman Evans recommends that Regent Sanchez be appointed to replace Regent Miller who resigned as a director and further recommends that Regent Hunt be appointed to replace Regent Oxford who resigned as a director.

I. 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 Evans  
Vice-Chairman Loeffler, Vice-Chairman Clements  
MSA Page Ex.C - 1

Business Affairs and Audit Committee: Chairman Riter  
Regent Hunt, Regent Oxford  
MSA Page BAAC - 1

Academic Affairs Committee: Chairman Miller  
Regent Hunt, Regent Oxford, Regent Romero  
MSA Page AAC - 1

Health Affairs Committee: Chairman Loeffler  
Regent Clements, Regent Oxford, Regent Sanchez  
MSA Page HAC - 1

Facilities Planning and Construction Committee:  
Chairman Clements, Regent Riter, Regent Romero, Regent Sanchez  
MSA Page FPCC - 1

J. RECONVENE AS COMMITTEE OF THE WHOLE

**K. REPORT OF BOARD FOR LEASE OF UNIVERSITY LANDS**

**Report of Board for Lease of University Lands.--**

**REPORT**

The Board for Lease of University Lands met on Wednesday, May 19, 1999, at the Center for Energy and Economic Diversification in Midland, Texas, for a general business meeting and to hold Regular Oil and Gas Lease Sale No. 95.

Following is a report on the result of the lease sale:

Regular Oil and Gas Lease Sale No. 95: Total bonuses were received in the amount of \$1,064,508.47 for 14,468.400 acres (49 tracts) leased out of 21,137.25 acres (74 tracts) of Permanent University Fund lands nominated for lease. The single highest bid was \$71,170.75 (\$152/acre) for a 469-acre tract in Ward County.

Following is a report on the general business meeting:

- a. Approved the Minutes of the November 17, 1998 meeting of the Board for Lease
- b. Elected Regent Raul R. Romero as Vice Chairman of the Board for Lease
- c. Appointed Pamela S. Bacon as Secretary to the Board for Lease
- d. Staff presented to the Board an overview of operations on University Lands and management of resources by staff at the West Texas Operations office

- e. Approved lease procedures and terms for Regular Oil and Gas Lease Sale No. 96 to be held in November 1999
- f. Approved management of the royalty in-kind programs as presented by staff
- g. Approved the application of Rust Oil Corporation for approval of two proposed 20-Acre Pooled Units – Section 10, Block 13, Andrews County, Texas
- h. Approved the application of Arco Permian for approval of proposed Horizontal Fusselman Well Pooled Unit – Section 13, Block 58, Upton County, Texas
- i. Staff presented information regarding the proposed Henry Petroleum Secondary Recovery Unit and historical information relating to another secondary recovery unit on University Lands that became effective in 1995.

The next meeting of the Board for Lease of University Lands and lease awards for Regular Oil and Gas Lease Sale No. 96 is scheduled in the Board Room of The University of Texas Health Science Center at Houston in Houston, Texas, on November 17, 1999. Bids will be opened at the Center for Energy and Economic Diversification in Midland, Texas, on November 16, 1999.

**L. OTHER MATTERS**

U. T. Board of Regents: Report from Chairman of the Special Committee on Minorities and Women on the U. T. Advanced Placement Initiative.--

REPORT

Regent Raul R. Romero, Chairman of the Special Committee on Minorities and Women, will report on the mission of the Special Committee and announce the inauguration of the U. T. Advanced Placement Initiative.

M. MEETING WITH REPRESENTATIVES OF THE U. T. SYSTEM FACULTY  
ADVISORY COUNCIL

N. SCHEDULED EVENTS

1. Board of Regents' Meetings -- 1999 and 2000

<u>Dates</u>	<u>Locations/Hosts</u>
November 10-11, 1999	U. T. Southwestern Medical Center - Dallas
February 9-10, 2000	U. T. Health Science Center - Houston
May 10-11, 2000	U. T. Health Center - Tyler
August 9-10, 2000	Austin
November 8-9, 2000	U. T. Arlington

2. Other Events

September 9, 1999	U. T. M.D. Anderson Cancer Center: Faculty Honors Convocation
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O. ADJOURNMENT

# Executive Committee

**EXECUTIVE COMMITTEE**  
**Committee Chairman Evans**

**Date:** August 12, 1999

**Time:** Following the Reconvening of the Board of Regents at  
approximately 10:00 a.m.

**Place:** Caduceus Room, Sixth Floor, Administration Building  
U. T. Medical Branch - Galveston

**Page**  
**Ex.C**

**There are no items to be considered by the Executive Committee for  
this meeting.**

## **Business Affairs & Audit Committee**

BUSINESS AFFAIRS AND AUDIT COMMITTEE  
Committee Chairman Riter

Date: August 12, 1999  
Time: Following the Meeting of the Executive Committee  
Place: Caduceus Room, Sixth Floor, Administration Building  
U. T. Medical Branch - Galveston

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3. U. T. Board of Regents: Proposed Amendments to the Regents' <u>Rules and Regulations</u> , Part Two, Chapter III, Section 1, Subsection 1.4 (Receipts, Admission Tickets, and Charges)	6
4. U. T. Board of Regents: Proposed Amendments to the Regents' <u>Rules and Regulations</u> , Part Two, Chapter V, Section 1 (Classified Personnel)	8

5. **U. T. Board of Regents: Proposed Adoption of Ninth Supplemental Resolution to the Master Resolution Approving and Authorizing the Issuance of Board of Regents of The University of Texas System Revenue Financing System Bonds, Series 1999A and Series 1999B, in an Amount Not to Exceed \$295,750,000; Authorization for Sale of the Series 1999A Bonds to Lehman Brothers Inc., New York, New York, and Sale of the Series 1999B Bonds to Goldman, Sachs & Co., New York, New York; Appointment of McCall, Parkhurst & Horton, L.L.P., Dallas, Texas, as Bond Counsel; Bankers Trust Company, New York, New York, as Escrow Agent; South Trust Bank, N.A., Birmingham, Alabama, as Paying Agent; and Ernst & Young, Memphis, Tennessee, as Escrow Verification Agent; Authorization for Officers of U. T. System to Complete All Transactions; and Approval of Use of Revenue Financing System Parity Debt, Receipt of Certificate, and Finding of Fact with Regard to Financial Capacity** 12
  
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8. **U. T. System: Request for Approval to Exceed the Full-Time Equivalent Limitation on Employees Paid from Appropriated Funds as Required by the General Appropriations Act of the 76th Legislature, Article IX, Section 9-6.15** 117
  
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10. U. T. System: Request to Approve Transfer of Funds Between Legislative Appropriation Items During the Biennium Beginning September 1, 1999 134
11. U. T. Board of Regents: Request for Authorization to (a) Acquire Approximately 1.1098 Acres of Land in Houston, Harris County, Texas, from the Texas Medical Center, Inc., for the Use and Benefit of U. T. M.D. Anderson Cancer Center, and to Submit Request to Coordinating Board for Approval of the Transaction; (b) Transfer Ownership of Approximately 1.0366 Acres of Land in Houston, Harris County, Texas, Held on Behalf of U. T. Health Science Center - Houston, to the Texas Medical Center, Inc.; (c) Transfer Approximately .1844 Acres of Land in Houston, Harris County, Texas, Held on Behalf of U. T. Health Science Center - Houston, to be Held on Behalf of U. T. M.D. Anderson Cancer Center; (d) Transfer Additional Consideration from U. T. M.D. Anderson Cancer Center to U. T. Health Science Center - Houston in Exchange for the Above 1.0366 Acres and .1844 Acres of Land; and (e) Execute All Documents Related Thereto 135
12. U. T. M.D. Anderson Cancer Center: Request for Authorization to (a) Acquire Approximately 1.1528 Acres of Land Located in Houston, Harris County, Texas, from Texas Medical Center, Inc.; (b) Transfer Ownership of Approximately 1.1197 Acres of Land Located in Houston, Harris County, Texas, to Texas Medical Center, Inc.; and (c) Execute All Documents Related Thereto 138

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- U. T. System: Discussion of the June 1999 Monthly Financial Report 140

1. U. T. System: Recommendation to Approve Chancellor's Docket No. 98.--

### RECOMMENDATION

It is recommended that Chancellor's Docket No. 98 be approved.

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

2. U. T. Board of Regents: Proposed Amendments to the Regents' Rules and Regulations, Part One, Chapter I, Section 9 (Documents Executed on Behalf of the Board), Subsection 9.2, Subdivision 9.22.--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs that the Regents' Rules and Regulations, Part One, Chapter I, Section 9, Subsection 9.2, Subdivision 9.22, relating to documents executed on behalf of the Board, be amended as set forth below in congressional style:

Sec. 9. Documents Executed on Behalf of the Board.

- 9.22 All contracts or agreements, including purchase orders and vouchers, with a cost or monetary value to the U. T. System Administration or the component institution of more than \$500,000 must be approved by the Executive Committee of the Board or approved by the Board via the docket or the agenda except the following, which do not

require prior approval or ratification by the Executive Committee or the Board regardless of the contract amount:

- 9.221 Contracts, agreements, and documents relating to construction projects previously approved by the Board in the Capital Improvement Program and Capital Budget.
- 9.222 Contracts or grant proposals for sponsored research, including institutional support grants, that do not include a license for or conveyance of intellectual property owned or controlled by the Board.
- 9.223 Contracts or agreements for the purchase of replacement equipment or replacement software.
- 9.224 Contracts or agreements for the purchase of routinely purchased supplies.
- 9.225 Purchases made under a group purchasing program.
- 9.226 Purchases of new equipment or new software identified specifically in the institutional budget approved by the Board.
- 9.227 Loans of institutional funds to certified nonprofit health corporations, which loans have been approved as provided in Part Two, Chapter III, Section 4, Subsection 4.5 of these Rules and Regulations.

.....

### BACKGROUND INFORMATION

These proposed amendments to the Regents' Rules and Regulations, Part One, Chapter I, Section 9, Subsection 9.2, Subdivision 9.22 clarify the provision relating to the requirement that the U. T. Board of Regents or the Executive Committee of the Board approve certain contracts or agreements, including purchase orders and vouchers, with a cost or value of more than \$500,000, to show that the cost or value of the contract or agreement is determined by considering the cost or monetary value to U. T. System Administration or a component institution.

3. U. T. Board of Regents: Proposed Amendments to the Regents' Rules and Regulations, Part Two, Chapter III, Section 1, Subsection 1.4 (Receipts, Admission Tickets, and Charges).--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs that the Regents' Rules and Regulations, Part Two, Chapter III, Section 1, Subsection 1.4, relating to receipts, admission tickets, and charges, be amended as set forth below in congressional style to require payment of certain oil and gas royalties to the U. T. Board of Regents by electronic funds transfer and filing of certain reports to the U. T. Board of Regents by electronic transmission:

Sec. 1. Receipts, Admission Tickets, and Charges.

...

- 1.4 Any person who paid oil and gas royalties to the Board in a total amount of \$20,000 [~~\$60,000~~] or more during a fiscal year, being September 1 to August 31, shall make timely oil and gas royalty payments to the Board by means of electronic funds transfer during the subsequent calendar year. Any person required to pay electronically shall timely take all actions necessary to facilitate payment of oil and gas royalties by electronic funds transfer [~~submit payments electronically shall also file the required Royalty Payment Summary (Form UT-3) by means of electronic transmission if requested by the University Lands Accounting Office in a manner compatible with the equipment and facilities of the University Lands Accounting Office. The payor shall timely take all actions necessary to facilitate payment of oil and gas royalties by electronic funds transfer if requested by the University Lands Accounting Office and electronic filing of the Form UT-3~~], including completing any documents required by the Comptroller of the State of Texas and the University Lands Accounting Office. Electronic funds transfers shall be made in accordance with applicable laws, including Section 404.095, Texas Government Code. This Subsection applies only to oil and gas royalties from

Permanent University Fund lands to the extent authorized by Section 404.095, Texas Government Code. Reports relating to oil and gas royalty payments shall also be filed electronically as described in Subdivisions 1.41-1.43.

1.41 Any person required to submit payments electronically shall also timely file the required Oil and Condensate Report (Form UT-1), Gas Report (Form UT-2), and Royalty Payment Summary (Form UT-3) by means of electronic transmission in a manner compatible with the requirements, equipment, and facilities of the University Lands Accounting Office.

1.42 Any lessee, operator, or reporting company who was required to file monthly an average of ten (10) or more oil or gas royalty reports to the Board during the last fiscal year, shall timely file the required Forms UT-1, UT-2 and UT-3 by means of electronic transmission during the subsequent calendar year in a manner compatible with the requirements, equipment, and facilities of the University Lands Accounting Office.

1.43 Any person, lessee, operator, or reporting company required to file reports electronically under Subdivisions 1.41 and 1.42, shall timely take all actions necessary to facilitate the electronic filing of the Forms UT-1, UT-2 and UT-3, including completing any documents required by the University Lands Accounting Office. Electronic transmission of UT-1s, UT-2s, and UT-3s in a form and manner compatible with the requirements, equipment, and facilities of the University Lands Accounting Office shall satisfy Section 66.77(d), Texas Education Code. Any person, lessee, operator, or reporting company who electronically submits these reports shall not be routinely required to submit purchase statements or other records to the Board unless requested by the University Lands Accounting Office. Nothing in Subsection 1.4 shall limit the authority to inspect, examine, copy, or audit all records, books and accounts, including purchase statements, as provided by applicable law and rules of the Board for Lease of University Lands.

## BACKGROUND INFORMATION

By lowering the threshold for requiring the electronic transfer of oil and gas royalties, this amendment to the Regents' Rules and Regulations, Part Two, Chapter III, Section 1, Subsection 1.4 will provide a higher degree of internal control over a greater percentage of oil and gas royalties paid to the Permanent University Fund. In addition, payments received by means of electronic transfer are received and available in a more timely manner.

The new Subdivisions 1.41-1.43 segregate and expand the requirements for electronically reporting information concerning oil and gas royalties. Electronic reporting is more convenient, more efficient, and less susceptible to error. These new Subdivisions require certain reporting entities and anyone paying electronically to file all their royalty reports electronically beginning January 2000. The University Lands Accounting Office intends to require that anyone filing electronic reports on leases where the Board for Lease of University Lands accepts oil and gas royalties paid in-kind continue to mail in monthly purchase statements and other records, but other electronic reporters will be required to provide such statements and records only upon the written request of the University Lands Accounting Office.

4. U. T. Board of Regents: Proposed Amendments to the Regents' Rules and Regulations, Part Two, Chapter V, Section 1 (Classified Personnel).--

## RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs, the Executive Vice Chancellor for Health Affairs, and the Vice Chancellor for Academic Affairs that the Regents' Rules and Regulations, Part Two, Chapter V, Section 1, relating to Classified Personnel, be amended as set forth on Pages BAAC 9 - 11 in congressional style.

Sec. 1. Classified Personnel.--The policy of the Board on the development and coordination of the classified personnel programs is as follows [and includes]:

...

1.2 [The d]Development and [e]Coordination of the System-wide Classified Personnel Program.

1.21 The Classification Plan.

...

1.22 The Pay Plan.

1.221 All classified positions will have a minimum and maximum defined for each salary range. The salary ranges shall be determined by annual market studies and the local economy. Merit increases will be awarded within the established salary ranges according to budget instructions and institutional policy approved for inclusion in the institutional Handbook of Operating Procedures.

1.222 A System-wide Personnel Pay Plan setting forth the salary ranges for each job classification shall be utilized encompassing the salary ranges reflected in the component unit pay plans.

1.223 [~~A classified employee appointed to a part time paid teaching rank shall be paid at the rate applicable to each position.~~]

1.224] Salary ranges for each job classification shall be dependent upon the competitive labor market [situation] environment for each institution.

1.224 The System-wide Personnel Pay Plan shall be approved annually by the Board. Subsequent changes to a component institution pay plan in a given fiscal year shall be processed as follows:

(a) The System Office of Human Resources shall process requested amendments to

a component institution pay plan based on the impact of the change upon the System-wide Personnel Pay Plan.

(b) The System Office of Human Resources is authorized to approve the following proposed changes to a component institution pay plan:

(1) The adjustment of a salary range within the established System-wide salary range, if the change will not change the System-wide Personnel Pay Plan.

(2) Deletion of a title.

(3) Change of a title.

(4) Change of a code number.

(5) Addition of a title that is in the System-wide Personnel Pay Plan if the salary range requested is within the established System-wide salary range.

(c) The following proposed changes to a component institution pay plan require the approval of the System Office of Human Resources and the Chancellor or his or her delegate:

(1) The addition of a new title that is not included in the System-wide Personnel Pay Plan.

(2) The addition of a title that is included in the System-wide Personnel Pay Plan at a salary range not within the established System-wide Personnel Pay Plan range for the title.

(3) The adjustment of a salary range that would change the established System-wide range by setting a new System-wide minimum or maximum salary.

- (d) The System Office of Human Resources shall notify a component institution of the approval or disapproval of a requested pay plan change as soon as practicable. No requested change may be implemented until authorized in writing.

It is further recommended that the Regents' Rules and Regulations, Part Two, Chapter V, Section 1, Subsection 1.2, Subdivisions 1.23 and 1.24 be deleted and Subdivision 1.25 be renumbered as Subdivision 1.23.

### BACKGROUND INFORMATION

The System-wide Personnel Pay Plan (Pay Plan) is the compilation of all component institution and System Administration classified personnel pay plans. Each August, the Pay Plan for the following fiscal year is presented to the U. T. Board of Regents for approval via the docket. Currently, requested changes to a component pay plan or the System Administration Pay Plan that require Regental approval prior to the implementation of the change include the addition of a new classified title; the use of a classified title already included in the pay plan at a salary range not within the System-wide salary range maximum or minimum; and the adjustment of the salary range for a current classified title to a level that will require adjustment to the System-wide salary range minimum or maximum.

The Pay Plan modification methodology presently contained in the Regents' Rules and Regulations, Part Two, Chapter V, Section 1, Subsection 1.2, results in the preparation of four lengthy docket items per year. In addition, component institutions often are required to wait for several months to add or modify classified titles needed immediately for effective business operations.

The requested amendments to Subdivision 1.22, relating to approval of pay plans, will continue to provide sufficient oversight of component institution plans and administration of the System-wide Personnel Pay Plan by the Chancellor or his or her delegate. The resulting change will streamline U. T. System business procedures and increase the efficiency of administrative procedures by:

- a. Changing the requirement to produce detailed docket items from four times a year to once per year

- b. Permitting the U. T. System Office of Human Resources to process component pay plan modification requests, obtain authorization from the Chancellor or his or her delegate, and provide a final response to the institution within days versus months as often required under current procedures
  - c. Streamlining the currently utilized process for pay plan amendments to effect a simple, but effective operational system.
5. U. T. Board of Regents: Proposed Adoption of Ninth Supplemental Resolution to the Master Resolution Approving and Authorizing the Issuance of Board of Regents of The University of Texas System Revenue Financing System Bonds, Series 1999A and Series 1999B, in an Amount Not to Exceed \$295,750,000; Authorization for Sale of the Series 1999A Bonds to Lehman Brothers Inc., New York, New York, and Sale of the Series 1999B Bonds to Goldman, Sachs & Co., New York, New York; Appointment of McCall, Parkhurst & Horton, L.L.P., Dallas, Texas, as Bond Counsel; Bankers Trust Company, New York, New York, as Escrow Agent; South Trust Bank, N.A., Birmingham, Alabama, as Paying Agent; and Ernst & Young, Memphis, Tennessee, as Escrow Verification Agent; Authorization for Officers of U. T. System to Complete All Transactions; and Approval of Use of Revenue Financing System Parity Debt, Receipt of Certificate, and Finding of Fact with Regard to Financial Capacity.--

#### RECOMMENDATION

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

- a. Adopt the Ninth Supplemental Resolution to the Master Resolution substantially in the form set out on Pages BAAC 16 - 109 to authorize the issuance of Board of Regents of The University of Texas System Bonds, Series 1999A and Series 1999B, in an aggregate principal

- amount not to exceed \$295,750,000 with a final maturity not to exceed August 15, 2020, to be used to refund Revenue Financing System Commercial Paper Notes, Series A in the amount of \$114,890,000, to provide new money of \$169,400,00 to fund construction and acquisition cost of projects in the Capital Improvement Program and to fund cost of issuance and any original issue discount
- b. Authorize the sale of the Revenue Financing System Bonds, Series 1999A, to Lehman Brothers Inc., New York, New York, and the Series 1999B to Goldman, Sachs & Co., New York, New York
  - c. Appoint McCall, Parkhurst & Horton, L.L.P., Dallas, Texas, as Bond Counsel
  - d. Appoint Bankers Trust Company, New York, New York, as Escrow Agent
  - e. Appoint the South Trust Bank, N.A., Birmingham, Alabama, as Paying Agent
  - f. Appoint Ernst & Young, Memphis, Tennessee, as Escrow Verification Agent
  - g. Authorize appropriate officers and employees of the U. T. System as set forth in the related documents to take any and all actions necessary to carry out the intentions of the U. T. Board of Regents to complete the transactions as provided in the Resolution.

The Chancellor also concurs in the recommendation of the Executive Vice Chancellor for Business Affairs that, in compliance with Section 5 of the Amended and Restated Master Resolution Establishing The University of Texas System Revenue Financing System (the "Master Resolution") adopted by the U. T. Board of Regents on February 14, 1991, and amended on October 8, 1993, and August 14, 1997, and upon delivery of the Certificate of an Authorized Representative as set out on Page BAAC - 15, the U. T. Board of Regents resolves that:

- a. Parity Debt shall be issued to pay the project's costs including any costs prior to the issuance of such Parity Debt

- b. Sufficient funds will be available to meet the financial obligations of the U. T. System, including sufficient Pledged Revenues as defined in the Master Resolution to satisfy the Annual Debt Service Requirements of the Financing System, and to meet all financial obligations of the U. T. Board of Regents relating to the Financing System
- c. The component institutions, which are "Members" as such term is used in the Master Resolution, possess the financial capacity to satisfy their Direct Obligation as defined in the Master Resolution relating to the issuance by the U. T. Board of Regents of tax-exempt Parity Debt
- d. This resolution satisfies the official intent requirements set forth in Section 1.150-2 of the U. S. Treasury Regulations.

#### BACKGROUND INFORMATION

Proceeds of the Revenue Financing System Bonds, Series 1999A, will be used to refund outstanding Revenue Financing System Commercial Paper Notes, Series A, in the amount of \$32,400,000, and fund construction costs of \$70,350,000 for projects authorized by Section 55.1722 of the Texas Education Code. Section 55.1722 identified Tuition Revenue Bonds as the method of financing for projects at specific U. T. System component institutions.

Proceeds of the Revenue Financing System Bonds, Series 1999B, will be used to refund outstanding Revenue Financing System Commercial Paper Notes, Series A, in the amount of \$82,490,000, and to fund construction costs for projects that generate revenues from the use of the facility in the amount of \$99,050,000. The remaining proceeds will be used to pay costs of issuance and provide for an original issue discount.

Generally, commercial paper debt is issued during the construction phase and the debt is not amortized. Once construction is complete, the commercial paper is refunded with 20-year, fixed-rate bonds. With municipal long-term interest rates at a relatively low level, outstanding commercial paper and new money for construction are being financed with 20-year, fixed-rate bonds.

**PARITY DEBT CERTIFICATE OF U. T. SYSTEM REPRESENTATIVE**

I, the undersigned Assistant Vice Chancellor for Finance of The University of Texas System, a U. T. System Representative under the Amended and Restated Master Resolution Establishing The University of Texas System Revenue Financing System (the "Master Resolution") adopted by the U. T. Board of Regents ("Board") on February 14, 1991, and amended on October 8, 1993, and August 14, 1997, do hereby execute this certificate for the benefit of the Board pursuant to Section 5(a)(ii) of the Master Resolution in connection with the authorization by the Board to issue "Parity Debt" and do certify that to the best of my knowledge, the Board is in compliance with and not in default of any terms, provisions, and conditions in the Master Resolution, the First Supplemental Resolution Establishing the Revenue Financing System Commercial Paper Program, ("First Supplemental"), the Second Supplemental Resolution, the Third Supplemental Resolution, the Fourth Supplemental Resolution, the Fifth Supplemental Resolution, the Sixth Supplemental Resolution, the Seventh Supplemental Resolution, and the Eighth Supplemental Resolution.

EXECUTED this 7th day of July, 1999

/s/ Pamela K. Clayton  
Assistant Vice Chancellor for Finance

**NINTH SUPPLEMENTAL RESOLUTION TO THE  
MASTER RESOLUTION AUTHORIZING THE  
ISSUANCE, SALE, AND DELIVERY OF BOARD OF  
REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM  
REVENUE FINANCING SYSTEM BONDS, AND  
APPROVING AND AUTHORIZING INSTRUMENTS AND  
PROCEDURES RELATING THERETO**

NINTH SUPPLEMENTAL RESOLUTION TO THE  
MASTER RESOLUTION AUTHORIZING THE  
ISSUANCE, SALE, AND DELIVERY OF BOARD OF  
REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM  
REVENUE FINANCING SYSTEM BONDS, AND  
APPROVING AND AUTHORIZING INSTRUMENTS AND  
PROCEDURES RELATING THERETO

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**NINTH SUPPLEMENTAL RESOLUTION TO THE  
MASTER RESOLUTION AUTHORIZING THE  
ISSUANCE, SALE, AND DELIVERY OF BOARD OF  
REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM  
REVENUE FINANCING SYSTEM BONDS, AND  
APPROVING AND AUTHORIZING INSTRUMENTS  
AND PROCEDURES RELATING THERETO**

WHEREAS, on February 14, 1991, the Board adopted the First Amended and Restated Master Resolution Establishing The University of Texas System Revenue Financing System and amended such resolution on October 8, 1993, and August 14, 1997 (referred to herein as the "Master Resolution"); and

WHEREAS, unless otherwise defined herein, terms used herein shall have the meaning given in the Master Resolution; and

WHEREAS, the Master Resolution establishes the Revenue Financing System comprised of the institutions now or hereafter constituting components of The University of Texas System which are designated "Members" of the Financing System by action of the Board and pledges the Pledged Revenues attributable to each Member of the Financing System to the payment of Parity Debt to be outstanding under the Master Resolution; and

WHEREAS, the Board, has previously adopted the First through Eighth Supplemental Resolutions to the Master Resolution authorizing Parity Debt thereunder; and

WHEREAS, the Board has determined to authorize the issuance of Parity Debt in the form of long term fixed rate bonds to (i) provide permanent financing for facilities and improvements financed with the proceeds of some of its outstanding Revenue Financing System Commercial Paper Notes, Series A (the "Refunded Obligations") and (ii) finance the cost of further facilities and improvements of the Members of the Revenue Financing System; and

WHEREAS, the Board hereby determines and deems it necessary to authorize the issuance of Parity Debt pursuant to this Ninth Supplement to the Master Resolution for such purposes; and

WHEREAS, the bonds (the "Bonds") authorized to be issued by this Ninth Supplement are to be issued and delivered pursuant to Chapter 55, Texas Education Code, Vernon's Texas Civil Statutes Article 717q, (after September 1, 1999, Chapter 1371, Texas Government Code) and other applicable laws, including Vernon's Texas Civil Statutes Article 717k (after September 1, 1999, Chapter 1207, Texas Government Code) insofar as it may be required in connection with the refunding of the Refunded Obligations.

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

Section 1. DEFINITIONS. (a) Definitions. In addition to the definitions set forth in the preamble of this Ninth Supplement, the terms used in this Ninth Supplement (except in the Form of Bonds) and not otherwise defined shall have the meanings given in the Master Resolution or in Exhibit "A" to this Ninth Supplement attached hereto and made a part hereof.

(b) Construction of Terms. If appropriate in the context of this Ninth Supplement, 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.

Section 2. AMOUNT, PURPOSE, AND DESIGNATION OF THE BONDS. (a) The Board's "BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM REVENUE FINANCING SYSTEM BONDS, SERIES 1999A", are hereby authorized to be issued and delivered in the maximum aggregate principal amount of \$102,750,000, for the purpose of (i) financing and refinancing the costs of acquiring, purchasing, constructing, improving, enlarging, and equipping the property and facilities of the members of the revenue financing system set forth in Exhibit D-1 pursuant to Section 55.1722 of the Texas Education Code by (a) refunding the aggregate principal amount of the Board of Regents of The University of Texas System Revenue Financing System Commercial Paper Notes, Series A issued for such purposes which are outstanding on the date of execution of the bond purchase contract authorized in Section 3(c) and (b) providing for the cost of acquiring, purchasing, constructing, improving, enlarging, and equipping such property and facilities not financed by that time with the proceeds of the commercial paper notes, and (ii) paying the costs related thereto.

(b) The Board's "BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM REVENUE FINANCING SYSTEM BONDS, SERIES 1999B", are hereby authorized to be issued and delivered in the maximum aggregate principal amount of \$193,000,000, for the purpose of (i) financing and refinancing the costs of acquiring, purchasing, constructing, improving, enlarging, and equipping the property and facilities of the members of the revenue financing system set forth in Exhibit D-2 by (a) refunding the aggregate principal amount of the Board of Regents of The University of Texas System Revenue Financing System Commercial Paper Notes, Series A issued for such purposes which are outstanding on the date of execution of the bond purchase contract authorized in Section 3(c) and (b) providing for the cost of acquiring, purchasing, constructing, improving, enlarging, and equipping such property and facilities not financed by that time with the proceeds of the commercial paper and (iii) paying the costs related thereto.

The Bonds, herein authorized, unless otherwise indicated, are hereinafter referred to as the "Bonds", which may be in the form of either Current Interest Bonds or Capital Appreciation Bonds as provided in Section 6.

Section 3. DATE, DENOMINATIONS, NUMBERS, MATURITIES AND TERMS OF BONDS. (a) Terms of Bonds. For each Series of Bonds, there shall initially be issued, sold, and delivered hereunder fully registered bonds, without interest coupons, in the form of Current Interest Bonds or Capital Appreciation Bonds, numbered consecutively for each Series of Bonds from R-1 upward, in the case of Current Interest Bonds and CR-1 upward, in the case of Capital Appreciation Bonds, payable to the respective initial registered owners thereof, or to the registered assignee or assignees of said bonds or any portion or portions thereof (in each case, the "Registered Owner"), in the denomination of \$5,000 or any integral multiple thereof with respect to Current Interest Bonds and in the denomination of \$5,000 in Maturity Amount or any integral multiple thereof with respect to Capital Appreciation Bonds (an "Authorized Denomination"), maturing not later than August 15, 2020, serially or otherwise on the dates, in the years and in the principal amounts, respectively, and dated, all as set forth in the Award Certificate of the U.T. System Representative.

(b) Award Certificate. As authorized by Vernon's Texas Civil Statutes Article 717q, as amended, the U.T. System Representative is hereby authorized, appointed, and designated to act on behalf of the Board in selling and delivering the Bonds of each Series and carrying out the other procedures specified in this Resolution, including determining and fixing the date of the Bonds of each Series, any additional or different designation or title by which the Bonds of each Series shall be known, the price at which the Bonds of each Series will be sold, the years in which the Bonds of each Series will mature, the principal amount to mature in each of such years, the aggregate principal amount of the Bonds of each Series, the aggregate principal amount of Current Interest Bonds and Capital Appreciation Bonds of each Series, the rate of interest to be borne by each maturity, the interest payment periods, the dates, price, and terms upon and at which the Bonds of each Series shall be subject to redemption prior to maturity at the option of the Board, as well as any mandatory sinking fund redemption provisions, and all other matters relating to the issuance, sale, and delivery of the Bonds of each Series, and the refunding of the Refunded Obligations, all of which shall be specified in a certificate of the U.T. System Representative delivered to the Executive Secretary to the Board (the "Award Certificate"); provided that (i) the price to be paid for the Bonds of each Series shall not be less than 95% of the aggregate original principal amount thereof plus accrued interest thereon from its date to its delivery, and (ii) none of the Bonds shall bear interest at a rate greater than 8% per annum or in excess of the maximum rate allowed by law. It is further provided, however, that, notwithstanding the foregoing provisions, the Bonds of a Series shall not be delivered unless prior to delivery, the Bonds of such Series have been rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for long term obligations, as required by Vernon's Texas Civil Statutes Article 717q, as amended. In addition to the information set forth above, the Award Certificate shall also specify the aggregate principal amount of Commercial Paper Notes outstanding with respect to the projects listed in Exhibits D-1 and D-2 as of the date of the execution of the Bond Purchase Contract authorized in (c) below. The Award Certificate is hereby incorporated in and made a part of this Resolution and shall be filed in the minutes of the Board as a part of this Ninth Supplement.

(c) Sale of Bonds. It is hereby found and determined to be in the best interests of the Financing System for the Bonds to be issued under this Ninth Supplement to be sold through a negotiated sale pursuant to the procedures set forth herein. Lehman Brothers Inc is hereby designated the senior managing underwriter for the Series 1999A Bonds and Goldman Sachs & Co. is hereby designated the senior managing underwriter for the Series 1999B Bonds. The U.T. System Representative shall select such additional investment banking firms as he or she deems appropriate to assure that the Bonds of each Series are sold on the

most advantageous terms to the Financing System. The U.T. System Representative, acting for and on behalf of the Board, is authorized to enter into and carry out a Bond Purchase Contract with each of the Underwriters for the Bonds at such price, with and subject to such terms as determined by the U.T. System Representative pursuant to Section 3(b) above. Each Bond Purchase Contract shall be substantially in the form and substance submitted to the Board at the meeting at which this Ninth Supplement is adopted with such changes as are acceptable to the U.T. System Representative, including those covered by Sections 20 and 23 below.

(d) Continuing Disclosure. (i) Annual Reports. The Board shall provide annually to each NRMSIR and any SID, within six months after the end of each Fiscal Year, financial information and operating data with respect to The University of Texas System of the general type included in the Official Statement, relating to the Bonds under the captions "Annual Debt Service Requirements", "Financial Management of The University of Texas System" and "General Description of The University of Texas System - Enrollment and Faculty and Employees" and in Appendix C to such Official Statement, Financial Statements of The University of Texas System. Any financial statements so to be provided shall be (1) prepared in accordance with the accounting principles described in Exhibit C hereto and (2) audited, if the Board commissions an audit of such statements and the audit is completed within the period during which they must be provided. If audited financial statements are not so provided within the required period, then the Board shall provide unaudited financial statements for the applicable Fiscal Year to each NRMSIR and any SID, and shall file audited financial statements when and if audited financial statements become available. If audited financial statements are not prepared for any Fiscal Year and audited financial statements are prepared with respect to the State of Texas for such Fiscal Year, the Board shall provide, or cause to be provided, the audited financial statements of the State of Texas for the applicable Fiscal Year to each NRMSIR and any SID within six months after the end of said Fiscal Year or as soon thereafter as such audited financial statements become available from the State Auditor of the State of Texas. Any such audited financial statements of the State of Texas so provided shall be prepared in accordance with generally accepted accounting principles for state governments, as such principles may be changed from time to time to comply with state law.

If the Board changes the Fiscal Year, the Board will notify each NRMSIR and any SID of the change (and of the date of the new Fiscal Year end) prior to the next date by which the Board otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to each NRMSIR and any SID or filed with the SEC.

(ii) Material Event Notices. The Board shall notify any SID and either each NRMSIR or the MSRB, in a timely manner, of any of the following events with respect to the Bonds, if such event is material within the meaning of the federal securities laws:

- A. Principal and interest payment delinquencies;
- B. Non-payment related defaults;
- C. Unscheduled draws on debt service reserves reflecting financial difficulties;
- D. Unscheduled draws on credit enhancements reflecting financial difficulties;
- E. Substitution of credit or liquidity providers, or their failure to perform;
- F. Adverse tax opinions or events affecting the tax-exempt status of the Bonds;
- G. Modifications to rights of holders of the Bonds;
- H. Bond calls;
- I. Defeasances;
- J. Release, substitution, or sale of property securing repayment of the Bonds; and
- K. Rating changes.

The Board shall notify any SID and either each NRMSIR or the MSRB, in a timely manner, of any failure by the Board to provide financial information or operating data in accordance with this Section of this Ninth Supplement by the time required.

(iii) Limitations, Disclaimers, and Amendments. The Board shall be obligated to observe and perform the covenants specified in this Section 3(d) for so long as, but only for so long as, the Board remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the Board in any event will give the notice required by this Ninth Supplement of any Bond calls and defeasance that cause the Bonds to be no longer outstanding.

The provisions of this Section are for the sole benefit of the holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Board undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the Board's financial results, condition, or prospects relating to the Financing System or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The Board does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE BOARD BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE BOARD, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the Board in observing or performing its obligations under this Section shall constitute a breach of or default under this Ninth Supplement for purposes of any other provision of this Ninth Supplement.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the Board under federal and state securities laws.

The provisions of this Section may be amended by the Board from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Board, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell the Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (A) the holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ninth Supplement that authorizes such an amendment) of the outstanding Bonds consent to such amendment or (B) a Person that is unaffiliated with the

Board (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the holders and beneficial owners of the Bonds. If the Board so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided. The Board may also amend or repeal the provisions of this continuing disclosure requirement if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling the Bonds in the primary offering of the Bonds.

(e) In General. The Bonds of each Series (i) may and shall be redeemed prior to the respective scheduled maturity dates, (ii) may be assigned and transferred, (iii) may be exchanged for other Bonds of such Series, (iv) shall have the characteristics, and (v) shall be signed and sealed, and the principal of and interest on the Bonds shall be payable, all as provided, and in the manner required or indicated, in the Form of Bonds set forth in Exhibit B to this Ninth Supplement and as determined by the U.T. System Representative as provided herein, with such changes and additions as are required to be consistent with the terms and provisions shown in the Award Certificate relating to the Bonds.

**Section 4. INTEREST.** The Current Interest Bonds of each Series of Bonds shall bear interest calculated on the basis of a 360-day year composed of twelve 30-day months from the dates specified in the Form of Bonds and in the Award Certificate to their respective dates of maturity at the rates set forth in the Award Certificate.

The Capital Appreciation Bonds of each Series of Bonds shall bear interest from the Issuance Date for such Series of Bonds, calculated on the basis of a 360-day year composed of twelve 30-day months (subject to rounding to the Compounded Amounts thereof), compounded semiannually on the dates set forth in the Award Certificate (the "Compounding Dates") commencing on the date set forth in the Award Certificate, and payable, together with the principal amount thereof, in the manner provided in the Form of Bonds at the rates set forth in the Award Certificate. Attached to the Award Certificate if Capital Appreciation Bonds are to be issued shall be an Exhibit (the "Compounded Amount Table") which will set forth the rounded original principal amounts at the Issuance Date for the Capital Appreciation Bonds and the Compounded Amounts and Maturity Amounts thereof (per \$5,000 Maturity Amount) as of each Compounding Date, commencing the date

set forth in the Award Certificate, and continuing until the final maturity of such Capital Appreciation Bonds. The Compounded Amount with respect to any date other than a Compounding Date is the amount set forth on the Compounded Amount Table with respect to the last preceding Compounding Date, plus the portion of the difference between such amount and the amount set forth on the Compounded Amount Table with respect to the next succeeding Compounding Date that the number of days (based on 30-day months) from such last preceding Compounding Date to the date for which such determination is being calculated bears to the total number of days (based on 30-day months) from such last preceding Compounding Date to the next succeeding Compounding Date.

**Section 5. REGISTRATION, TRANSFER, AND EXCHANGE; AUTHENTICATION; BOOK-ENTRY-ONLY SYSTEM.** (a) Paying Agent/Registrar. South Trust Bank, N.A. in Birmingham, Alabama, is hereby appointed the Paying Agent/Registrar for each Series of Bonds. The U.T. System Representative is authorized to enter into and carry out a Paying Agent/Registrar Agreement with the Paying Agent/Registrar with respect to the Bonds in substantially the form previously approved by the Board.

(b) Registration Books. The Board shall keep books or records for the registration of the transfer, exchange, and replacement of each Series of Bonds (the "Registration Books"); and the Board hereby designates the Paying Agent/Registrar as the initial registrar and transfer agent to keep such books or records and make such registrations of transfers, exchanges, and replacements under such reasonable regulations as the Board may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers, exchanges, and replacements as herein provided. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the registered owner of each Bond to which payments with respect to the Bonds shall be mailed, as herein provided; but it shall be the duty of each registered owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. The Board, if not the Paying Agent/Registrar, shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity.

(c) Ownership of Bonds. The entity in whose name any Bond shall be registered in the Registration Books at any time shall be deemed and treated as the absolute owner thereof for all purposes of this Ninth Supplement, whether or not

such Bond shall be overdue, and, to the extent permitted by law, the Board and the Paying Agent/Registrar shall not be affected by any notice to the contrary; and payment of, or on account of, the principal of, premium, if any, and interest on any such Bond shall be made only to such registered owner. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

(d) Payment of Bonds and Interest. The Board hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Bonds, all as provided in this Ninth Supplement. The Paying Agent/Registrar shall keep proper records of all payments made by the Board and the Paying Agent/Registrar with respect to the Bonds.

(e) Authentication. The Bonds of each Series initially issued and delivered pursuant to this Ninth Supplement shall be authenticated by the Paying Agent by execution of the Paying Agent's Authentication Certificate unless they have been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas, and on each substitute Bond issued in exchange for any Bond or Bonds issued under this Ninth Supplement the Paying Agent/Registrar shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE. The Authentication Certificate shall be in the form set forth in the Form of Bonds.

(f) Transfer, Exchange, or Replacement. Each Bond issued and delivered pursuant to this Ninth Supplement, to the extent of the unpaid or unredeemed principal amount or Maturity Amount thereof, may, upon surrender of such Bond at the corporate trust office of the Paying Agent/Registrar, together with a written request therefor duly executed by the registered owner or the assignee or assignees thereof, or its or their duly authorized attorneys or representatives, with guarantee of signatures satisfactory to the Paying Agent/Registrar, may, at the option of the registered owner or such assignee or assignees, as appropriate, be exchanged for fully registered bonds, without interest coupons, in the appropriate form prescribed in the Form of Bonds set forth in this Ninth Supplement, in the denomination of any Authorized Denominations (subject to the requirement hereinafter stated that each substitute Bond shall be of the same Series and have a single stated maturity date), as requested in writing by such registered owner or such assignee or assignees, in an aggregate principal amount equal to the unpaid or unredeemed principal amount or Maturity Amount, of any Bond or Bonds so surrendered, and payable to the appropriate registered owner, assignee, or assignees, as the case may be. If a portion of any Bond shall be redeemed prior to

its scheduled maturity as provided herein, a substitute Bond or Bonds having the same Series designation and maturity date, bearing interest at the same rate, and payable in the same manner, in Authorized Denominations at the request of the registered owner, and in aggregate principal amount or Maturity Amount equal to the unredeemed portion thereof, will be issued to the registered owner upon surrender thereof for cancellation. If any Bond or portion thereof is assigned and transferred, each Bond issued in exchange therefor shall have the same Series designation and maturity date and bear interest at the same rate and payable in the same manner as the Bond for which it is being exchanged. Each substitute Bond of each Series shall bear a letter and/or number to distinguish it from each other Bond of such Series. The Paying Agent/Registrar shall exchange or replace Bonds as provided herein, and each fully registered bond delivered in exchange for or replacement of any Bond or portion thereof as permitted or required by any provision of this Ninth Supplement shall constitute one of the Bonds for all purposes of this Ninth Supplement, and may again be exchanged or replaced. On each substitute Bond issued in exchange for or replacement of any Bond or Bonds issued under this Ninth Supplement there shall be printed an Authentication Certificate, in the form set forth in Exhibit B to this Ninth Supplement. An authorized representative of the Paying Agent shall, before the delivery of any such Bond, date and manually sign the Authentication Certificate, and, except as provided in (e) above, no such Bond shall be deemed to be issued or outstanding unless such Certificate is so executed. The Paying Agent/Registrar promptly shall cancel all Bonds surrendered for transfer, exchange, or replacement. No additional orders or resolutions need be passed or adopted by the Board or any other body or person so as to accomplish the foregoing transfer, exchange, or replacement of any Bond or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Bonds in the manner prescribed herein, and said Bonds shall be in typed or printed form as determined by the U.T. System Representative. Pursuant to Vernon's Texas Civil Statutes Article 717k-6, (after September 1, 1999, Chapter 1201, Texas Government Code), the duty of transfer, exchange, or replacement of Bonds as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of the above Paying Agent/Registrar's Authentication Certificate, the exchanged or replaced Bond shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Bonds which were originally issued pursuant to this Ninth Supplement. The Board shall pay the Paying Agent/Registrar's standard or customary fees and charges, if any, for transferring, and exchanging any Bond or any portion thereof, but the one requesting any such transfer and exchange shall pay any taxes or governmental charges required to be paid with respect thereto as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not

be required to make any such transfer, exchange, or replacement of Bonds or any portion thereof after it is selected for redemption prior to maturity. To the extent possible, any new Bond issued in an exchange, replacement, or transfer of a Bond will be delivered to the registered owner or assignee of the registered owner not more than three business days after the receipt of the Bonds to be cancelled and the written request as described above.

(g) Substitute Paying Agent/Registrar. The Board covenants with the registered owners of the Bonds that at all times while the Bonds are outstanding the Board will provide a competent and legally qualified bank, trust company, financial institution, or other agency to act as and perform the services of Paying Agent/Registrar for the Bonds under this Ninth Supplement. The Board reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 120 days written notice to the Paying Agent/Registrar, to be effective not later than 60 days prior to the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the Board covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Ninth Supplement. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Bonds, to the new Paying Agent/Registrar designated and appointed by the Board. Upon any change in the Paying Agent/Registrar, the Board promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each registered owner of the Bonds, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Ninth Supplement, and a certified copy of this Ninth Supplement shall be delivered to each Paying Agent/Registrar.

(h) Book-Entry-Only System. The Bonds of each Series issued in exchange for the Bonds initially issued shall be issued in the form of a separate single fully registered Bond for each of the maturities thereof registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), and except as provided in subsection (i) hereof, all of the Outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the Board, the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest on the Bonds. Without limiting the immediately preceding sentence, the Board, the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than a Bondholder, as shown on the Registration Books, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than a Bondholder, as shown in the Registration Books of any amount with respect to principal of, premium, if any, or interest on the Bonds. Notwithstanding any other provision of this Ninth Supplement to the contrary but to the extent permitted by law, the Board, the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Registration Books as the absolute owner of such Bond for the purpose of payment of principal, premium, if any, and interest, with respect to such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective owners, as shown in the Registration Books as provided in this Ninth Supplement, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Board's obligations with respect to payment of principal of, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No person other than an owner, as shown in the Registration Books, shall receive a Bond certificate evidencing the obligation of the Board to make payments of principal, premium, if any, and interest pursuant to this Ninth Supplement. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ninth Supplement with respect to interest checks being mailed to the registered owner at the close of business on the Record Date, the word "Cede & Co." in this Ninth Supplement shall refer to such new nominee of DTC.

(i) Successor Securities Depository; Transfers Outside Book-Entry-Only System. In the event that the Board determines to discontinue the use of the Book-Entry-Only System through DTC or DTC determines to discontinue providing its services with respect to the Bonds, the Board shall (i) appoint a successor

securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds of each such Series to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds of each such Series to DTC Participants having Bonds of such Series credited to their DTC accounts. In such event, the Bonds of such Series shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Bondholders transferring or exchanging such Bonds shall designate, in accordance with the provisions of this Ninth Supplement.

(j) Payments to Cede & Co. Notwithstanding any other provision of this Ninth Supplement to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the representation letter of the Board to DTC.

(k) Notices of Redemption and Defeasance. (i) In addition to the Notice of Redemption set forth in the Form of Bonds, the Board shall give notice of redemption or defeasance to the Paying Agent/Registrar at least 45 days prior to a redemption date in the case of a redemption and on the defeasance date in the case of a defeasance and the Paying Agent/Registrar shall give notice of redemption or of defeasance of Bonds by mail, first-class postage prepaid at least thirty (30) days prior to a redemption date and within thirty (30) days after a defeasance date to each registered securities depository and to any national information service that disseminates such notices. In addition, in the event of a redemption caused by an advance refunding of the Bonds, the Paying Agent/Registrar shall send a second notice of redemption to the persons specified in the immediately preceding sentence at least thirty (30) days but not more than ninety (90) days prior to the actual redemption date. Any notice sent to the registered securities depositories or such national information services shall be sent so that they are received at least two (2) days prior to the general mailing or publication date of such notice. The Paying Agent/Registrar shall also send a notice of prepayment or redemption to the registered owner of any Bond who has not sent the Bonds in for redemption sixty (60) days after the redemption date.

(ii) Each Notice of Redemption or Defeasance, whether required in the Form of Bonds or in this Section, shall contain a description of the Bonds to be redeemed or defeased including the complete name of the Bonds, the Series, the date of issue, the interest rate, the maturity date, the CUSIP number, the certificate numbers, the amounts called of each certificate, the publication and mailing date for the notice, the date of redemption or defeasance, the redemption price, if any, the name of the Paying Agent/Registrar and the address at which the Bonds may be redeemed or paid, including a contact person and telephone number.

(iii) All redemption payments made by the Paying Agent/Registrar to the registered owners of the Bonds shall include a CUSIP number relating to each amount paid to such registered owner.

**Section 6. FORM OF BONDS.** The form of the Bonds, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas, if needed with respect to the Bonds of each Series initially issued and delivered pursuant to this Ninth Supplement, shall be, respectively, substantially as set forth in Exhibit B, with such appropriate variations, omissions, or insertions as are permitted or required by this Ninth Supplement and any Award Certificate, including specifically information relating to Capital Appreciation Bonds and Current Interest Bonds, redemption provisions, and the information to be included in the purpose clause of each Series.

**Section 7. ESTABLISHMENT OF FINANCING SYSTEM AND ISSUANCE OF PARITY DEBT.** By adoption of the Master Resolution, the Board has established The University of Texas System Revenue Financing System for the purpose of providing a financing structure for revenue supported indebtedness of components of The University of Texas System which are from time to time included as Members of the Financing System. The Master Resolution is intended to establish a master plan under which revenue supported debt of the Financing System can be incurred. This Ninth Supplement provides for the authorization, issuance, sale, delivery, form, characteristics, provisions of payment and redemption, and security of the Bonds as Parity Debt. The Master Resolution is incorporated herein by reference and as such made a part hereof for all purposes, except to the extent modified and supplemented hereby, and the Bonds are hereby declared to be Parity Debt under the Master Resolution. As required by Section 5(a) of the Master Resolution, the Board hereby determines that upon the issuance of the Bonds it will have sufficient funds to meet the financial obligations of The University of Texas System, including sufficient Pledged Revenues to satisfy

the Annual Debt Service Requirements of the Financing System and to meet all financial obligations of the Board relating to the Financing System and that the Members on whose behalf the Bonds are to be issued possess the financial capacity to satisfy their Direct Obligations after taking the Bonds into account.

**Section 8. SECURITY AND PAYMENTS.** The Bonds are special obligations of the Board payable from and secured solely by the Pledged Revenues pursuant to the Master Resolution and this Ninth Supplement. The Pledged Revenues are hereby pledged, subject to the liens securing the Prior Encumbered Obligations, to the payment of the principal of, premium, if any, and interest on the Bonds as the same shall become due and payable. The Board agrees to pay the principal of, premium, if any, and the interest on the Bonds when due, whether by reason of maturity or redemption.

**Section 9. PAYMENTS.** (a) Immediately after the delivery of the Bonds the Board shall deposit all accrued interest received from the sale and delivery of each Series of Bonds to the credit of a special account to be held to pay interest on such Series of Bonds on the first interest payment date.

(b) Semiannually on or before each principal or interest payment date while any of the Bonds are outstanding and unpaid, commencing on the first interest payment date for each respective Series of Bonds as provided in the Award Certificate, the Board shall make available to the Paying Agent/Registrar, money sufficient to pay such interest on and such principal of the Bonds as will accrue or mature, or be subject to mandatory redemption prior to maturity, on such principal, redemption, or interest payment date. The Paying Agent/Registrar shall cancel all paid Bonds and shall furnish the Board with an appropriate certificate of cancellation.

**Section 10. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED BONDS.** (a) Replacement Bonds. In the event any outstanding Bond is damaged, mutilated, lost, stolen, or destroyed, the Paying Agent/Registrar shall cause to be printed, executed, and delivered, a new bond of the same Series, principal amount, maturity, and interest rate, and in the same form, as the damaged, mutilated, lost, stolen, or destroyed Bond, in replacement for such Bond in the manner hereinafter provided.

(b) Application for Replacement Bonds. Application for replacement of damaged, mutilated, lost, stolen, or destroyed Bonds shall be made to the Paying Agent/Registrar. In every case of loss, theft, or destruction of a Bond, the applicant

for a replacement bond shall furnish to the Board and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft, or destruction of a Bond, the applicant shall furnish to the Board and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft, or destruction of such Bond, as the case may be. In every case of damage or mutilation of a Bond, the applicant shall surrender to the Paying Agent/Registrar for cancellation the Bond so damaged or mutilated.

(c) Payment in Lieu of Replacement. Notwithstanding the foregoing provisions of this Section, in the event any such Bond shall have matured, and no default has occurred which is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Bond, the Board may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Bond) instead of issuing a replacement Bond, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Bonds. Prior to the issuance of any replacement bond, the Paying Agent/Registrar shall charge the owner of such Bond with all legal, printing, and other expenses in connection therewith. Every replacement bond issued pursuant to the provisions of this Section by virtue of the fact that any Bond is lost, stolen, or destroyed shall constitute a contractual obligation of the Board whether or not the lost, stolen, or destroyed Bond shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ninth Supplement equally and proportionately with any and all other Bonds duly issued under this Ninth Supplement.

(e) Authority for Issuing Replacement Bonds. In accordance with Section 6 of Vernon's Texas Civil Statutes Article 717k-6, this Section shall constitute authority for the issuance of any such replacement bond without the necessity of further action by the Board or any other body or person, and the duty of the replacement of such Bonds is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Bonds in the form and manner and with the effect, as provided in Section 5(f) of this Ninth Supplement for Bonds issued in exchange and replacement for other Bonds.

Section 11. AMENDMENT OF SUPPLEMENT. (a) Amendments Without Consent. This Ninth Supplement and the rights and obligations of the Board and of the owners of the Bonds may be modified or amended at any time without notice to or the consent of any owner of the Bonds or any other Parity Debt, solely for any one or more of the following purposes:

(i) To add to the covenants and agreements of the Board contained in this Ninth Supplement, other covenants and agreements thereafter to be observed, or to surrender any right or power reserved to or conferred upon the Board in this Ninth Supplement;

(ii) To cure any ambiguity or inconsistency, or to cure or correct any defective provisions contained in this Ninth Supplement, 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 this Ninth Supplement;

(iii) To supplement the security for the Bonds, replace or provide additional credit facilities, or change the form of the Bonds or make such other changes in the provisions hereof as the Board may deem necessary or desirable and which shall not, in the judgment of the Board, materially adversely affect the interests of the owners of the Outstanding Bonds; or

(iv) To make any changes or amendments requested by any bond rating agency then rating or requested to rate Bonds, 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 owners of the Outstanding Bonds.

(b) Amendments With Consent. Subject to the other provisions of this Ninth Supplement, the owners of Outstanding Bonds aggregating 51 percent in Outstanding Principal Amount shall have the right from time to time to approve any amendment, other than amendments described in Subsection (a) of this Section, to this Ninth Supplement which may be deemed necessary or desirable by the Board, provided, however, that nothing herein contained shall permit or be construed to permit, without the approval of the owners of all of the Outstanding Bonds, the amendment of the terms and conditions in this Ninth Supplement or in the Bonds so as to:

- (1) Make any change in the maturity of the Outstanding Bonds;
- (2) Reduce the rate of interest borne by Outstanding Bonds;
- (3) Reduce the amount of the principal payable on Outstanding Bonds;
- (4) Modify the terms of payment of principal of or interest on the Outstanding Bonds, or impose any conditions with respect to such payment;

- (5) - Affect the rights of the owners of less than all Bonds then Outstanding;  
or
- (6) Change the minimum percentage of the Outstanding Principal Amount of Bonds necessary for consent to such amendment.

(c) Notice. If at any time the Board shall desire to amend this Ninth Supplement other than pursuant to (a) above, the Board shall cause notice of the proposed amendment to be 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 successive calendar weeks. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the principal office of the Paying Agent/Registrar for inspection by all owners of Bonds. Such publication is not required, however, if the Board gives or causes to be given such notice in writing to each owner of Bonds.

(d) Receipt of Consents. Whenever at any time not less than thirty days, and within one year, from the date of the first publication of said notice or other service of written notice of the proposed amendment the Board shall receive an instrument or instruments executed by all of the owners or the owners of at least 51 percent in Outstanding Principal Amount of Bonds, as appropriate, which instrument or instruments shall refer to the proposed amendment described in said notice and which specifically consent to and approve such amendment in substantially the form of the copy thereof on file as aforesaid, the Board may adopt the amendatory resolution in substantially the same form.

(e) Effect of Amendments. Upon the adoption by the Board of any resolution to amend this Ninth Supplement pursuant to the provisions of this Section, this Ninth Supplement shall be deemed to be amended in accordance with the amendatory resolution, and the respective rights, duties, and obligations of the Board and all the owners of then Outstanding Bonds and all future Bonds shall thereafter be determined, exercised, and enforced under the Resolution and this Ninth Supplement, as amended.

(f) Consent Irrevocable. Any consent given by any owner of Bonds pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the first publication or other service of the notice provided for in this Section, and shall be conclusive and binding upon all future owners of the same Bonds during such period. Such consent may be revoked at any time after six months from the date of the first publication of such notice by the owner who gave

such consent, or by a successor in title, by filing notice thereof with the Paying Agent/Registrar and the Board, but such revocation shall not be effective if the owners of 51 percent in Outstanding Principal Amount of Bonds, prior to the attempted revocation, consented to and approved the amendment.

(g) Ownership. For the purpose of this Section, the ownership and other matters relating to all Bonds registered as to ownership shall be determined from the registration books kept by the Paying Agent/Registrar therefor. The Paying Agent/Registrar may conclusively assume that such ownership continues until written notice to the contrary is served upon the Paying Agent/Registrar.

Section 12. COVENANTS REGARDING TAX-EXEMPTION. (a) The Board covenants to refrain from any action which would adversely affect, or to take such action to assure, the treatment of the Bonds as obligations described in section 103 of 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 proceeds of the Bonds (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 Ninth Supplement or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Bonds, 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 (a) hereof exceeds 5 percent of the proceeds of the Bonds (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 proceeds of the Bonds (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 Bonds being treated as "private activity bonds" within the meaning of section 141(b) of the Code;

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

(vi) to refrain from using any portion of the proceeds of the Bonds, directly or indirectly, to acquire or to replace funds which were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) which produces a materially higher yield over the term of the Bonds, other than investment property acquired with --

(1) proceeds of the Bonds invested for a reasonable temporary period of 3 years or less or, in the case of a refunding bond, for a period of 30 days or less until such proceeds are needed for the purpose for which the bonds are issued,

(2) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Treasury Regulations, and

(3) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Bonds;

(vii) to otherwise restrict the use of the proceeds of the Bonds or amounts treated as proceeds of the Bonds, as may be necessary, so that the Bonds do not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage) and, to the extent applicable, section 149(d) of the Code (relating to advance refundings); and

(viii) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Bonds) 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 Bonds 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 .

The Board understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury regulations and, in the case of refunding bonds, transferred proceeds (if any) and proceeds of the Refunded Obligations expended prior to the date of issuance of the Bonds. It is the understanding of the Board that the covenants contained herein 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 Bonds, 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 Bonds 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 Bonds, 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 Bonds under section 103 of the Code. In furtherance of such intention, the Board hereby authorizes and directs the U.T. System Representative to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the Board, which may be permitted by the Code as are consistent with the purpose for the issuance of the Bonds.

In order to facilitate compliance with the above covenant (h), a "Rebate Fund" is hereby established by the Board for the sole benefit of the United States of America, and such Fund shall not be subject to the claim of any other person, including without limitation the bondholders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

(b) The Board covenants to account for the expenditure of sale proceeds and investment earnings to be used for the purposes described in Section 2 of this Ninth Supplement on its books and records by allocating proceeds to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the purposes for which the Bonds are issued have been accomplished. The foregoing notwithstanding, the Board shall not expend sale proceeds or investment earnings thereon more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Bonds, or (2) the date the Bonds are retired, unless the Board obtains an opinion of nationally-recognized bond counsel that such expenditure will not adversely affect the tax-exempt status of the Bonds. For purposes hereof, the

Board shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(c) The Board covenants that the property financed with the proceeds of the Refunded Obligations or the Bonds will not be sold or otherwise disposed in a transaction resulting in the receipt by the Board of cash or other compensation, unless the Board obtains an opinion of nationally-recognized bond counsel that such sale or other disposition will not adversely affect the tax-exempt status of the Bonds. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes hereof, the Board shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

**Section 13. NINTH SUPPLEMENT TO CONSTITUTE A CONTRACT; EQUAL SECURITY.** In consideration of the acceptance of the Bonds, the issuance of which is authorized hereunder, by those who shall hold the same from time to time, this Ninth Supplement shall be deemed to be and shall constitute a contract between the Board and the Holders from time to time of the Bonds and the pledge made in this Ninth Supplement by the Board and the covenants and agreements set forth in this Ninth Supplement 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 Bonds 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 Ninth Supplement.

**Section 14. 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 Bonds issued hereunder.

**Section 15. PAYMENT AND PERFORMANCE ON BUSINESS DAYS.** Except as provided to the contrary in the Form of Bonds, whenever under the terms of this Ninth Supplement or the Bonds, the performance date of any provision hereof or

thereof, including the payment of principal of or interest on the Bonds, shall occur on a day other than a Business Day, then the performance thereof, including the payment of principal of and interest on the Bonds, 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 16. LIMITATION OF BENEFITS WITH RESPECT TO THE NINTH SUPPLEMENT.** With the exception of the rights or benefits herein expressly conferred, nothing expressed or contained herein or implied from the provisions of this Ninth Supplement or the Bonds is intended or should be construed to confer upon or give to any person other than the Board, the Holders, the Paying Agent/Registrar, any legal or equitable right, remedy, or claim under or by reason of or in respect to this Ninth Supplement or any covenant, condition, stipulation, promise, agreement, or provision herein contained. This Ninth Supplement 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 Holders, the Paying Agent/Registrar as herein and therein provided.

**Section 17. CUSTODY, APPROVAL, BOND COUNSEL'S OPINION, CUSIP NUMBERS, PREAMBLE, AND INSURANCE.** The U.T. System Representative is hereby authorized to have control of each Series of Bonds issued hereunder and all necessary records and proceedings pertaining to such Series of Bonds pending their delivery and approval by the Attorney General of the State of Texas and registration by the Comptroller of Public Accounts and to cause an appropriate legend reflecting such approval and registration to appear on the Bonds of such Series and the substitute Bonds of such Series. The approving legal opinion of the Board's Bond Counsel and the assigned CUSIP numbers may, at the option of the U.T. System Representative, be printed on the Bonds and on any Bonds issued and delivered in exchange or replacement of any Bond, but neither shall have any legal effect, and shall be solely for the convenience and information of the registered owners of the Bonds. The preamble to the Ninth Supplement is hereby adopted and made a part of this Ninth Supplement for all purposes. If insurance is obtained on any of the Bonds, the Bonds shall bear, as appropriate and applicable, a legend concerning insurance as provided by the Insurer.

**Section 18. REFUNDING OF REFUNDED OBLIGATIONS; ESCROW AGREEMENT.** That concurrently with the delivery of the Bonds, the U.T. System Representative shall cause to be deposited an amount from the proceeds from the sale of the Bonds with Bankers Trust Company, as Escrow Agent, sufficient,

together with other legally available funds of the Board, to provide for the refunding and defeasance of the Refunded Obligations in accordance with Section 7A of Vernon's Ann. Tex. Civ. St. Article 717k, as amended. The U.T. System Representative is hereby authorized, for and on behalf of the Board, to execute an Escrow Agreement to accomplish such purpose, in substantially the form and substance submitted to the Board at the meeting at which this Ninth Supplement is adopted. The U.T. System Representative is further authorized and directed to apply and there is hereby appropriated such moneys of the Board as are necessary to fund the Escrow Fund to be established by the Escrow Agreement with amounts sufficient to provide for the defeasance of the Refunded Obligations on the date of delivery of the Bonds.

**Section 19. APPLICATION OF BOND PROCEEDS.** (a) Proceeds from the sale of the Bonds shall, promptly upon receipt thereof, be applied by the U.T. System Representative as follows:

- (i) accrued interest for the Bonds shall be deposited as provided in Section 9;
- (ii) an amount sufficient to accomplish the purposes of Section 18 shall be so applied;
- (iii) an amount sufficient to pay the cost of acquiring, purchasing, constructing, improving, enlarging, and equipping the improvements being financed with the proceeds of the Bonds shall be deposited in the Board's accounts to be used for such purposes; and
- (iv) any proceeds from the sale of Bonds remaining after the deposits provided for in clauses (i) through (iii) above, shall be applied to pay expenses arising in connection with the issuance of the Bonds and the refunding of the Refunded Obligations.

Any sale proceeds of the Bonds remaining after making all deposits and payments provided for above shall be applied to the payment of principal of and interest on the Bonds.

**Section 20. FURTHER PROCEDURES.** The Executive Committee, each member of the Executive Committee, each U.T. System Representative, and all other officers, employees, and agents of the Board, and each of them, shall be and they are hereby expressly authorized, empowered, and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge, and deliver in the name and under the corporate seal and on behalf

of the Board all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ninth Supplement, the Escrow Agreement, the Bonds, the sale and delivery of the Bonds and fixing all details in connection therewith, and the Paying Agent/Registrar Agreement, to approve the Official Statement, or supplements thereto, in connection with the Bonds, and to affect the amendment of the Swap Agreement and the execution and delivery of confirmations thereunder. In case any officer whose signature shall appear on the Bonds shall cease to be such officer before the delivery of the Bonds, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery. Notwithstanding anything to the contrary contained herein, while the Bonds are subject to DTC's Book-Entry-Only System and to the extent permitted by law, the Blanket Letter of Representation is hereby incorporated herein and its provisions shall prevail over any other provisions of this Ninth Supplement in the event of conflict. The U.T. System Representative is authorized to submit an application to the Texas Bond Review Board requesting the approval of the issuance of the Bonds. In addition, the U.T. System Representative, General Counsel, and Bond Counsel are hereby authorized to approve, subsequent to the date of the adoption of this Ninth Supplement, any amendments to the above named documents, and any technical amendments to this Ninth Supplement as may be required by Fitch IBCA, Inc., Moody's Investors Service, or Standard & Poor's Ratings Services, as a condition to the granting of a rating on the Bonds or as required by the office of the Texas Attorney General as a condition to the approval of the Bonds.

Section 21. DTC LETTER OF REPRESENTATIONS. The U.T. System Representative is authorized to implement the Book-Entry-Only System of Bond registration with respect to the Bonds pursuant to the Blanket Letter of Representation with DTC. The U.T. System Representative is authorized and directed to enter into any amendments to the Blanket Letter of Representation with DTC necessary to implement the Book-Entry-Only System.

Section 22. REPEAL OF CONFLICTING RESOLUTIONS; RATIFICATION OF CONTINUANCE OF COMMERCIAL PAPER NOTE PROGRAM. All resolutions and all parts of any resolutions which are in conflict or are inconsistent with this Ninth Supplement are hereby repealed and shall be of no further force or effect to the extent of such conflict or inconsistency. The Amended and Restated First Supplemental Resolution to the Master Resolution, authorizing the Revenue Financing System Commercial Paper Notes, Series A (the "First Supplement") is hereby ratified and reaffirmed and it is recognized that notes will be issued thereunder in the future pursuant to, in accordance with, and subject to the conditions contained in the First Supplement.

**Section 23. OFFICIAL STATEMENT.** The U.T. System Representative is authorized and directed to provide for and oversee the preparation of a preliminary and final official statement in connection with the issuance of the Bonds, and to approve such official statement and deem it final in compliance with the Rule and to provide it to the purchasers of the Bonds in compliance with such Rule.

**Section 24. CREDIT AGREEMENT.** (a) Pursuant to the Interest Rate Swap Agreement dated as of April 1, 1994, between the Board and Goldman Sachs Capital Markets, L.P. (the "1994 Goldman Swap Agreement"), the Interest Rate Swap Agreement dated as of June 1, 1999, between the Board and Goldman Sachs Mitsui Marine Derivative Products, L.P. (the "1999 Goldman Swap Agreement"), the ISDA MASTER AGREEMENT dated as of May 27, 1999, between the Board and Morgan Guaranty Trust Company of New York (the "1999 Morgan Swap Agreement"), and the ISDA MASTER AGREEMENT dated as of May 14, 1999 between the Board and Lehman Brothers Financial Products, Inc. (the "1999 Lehman Swap Agreement" and, collectively, with the 1994 Goldman Swap Agreement, the 1999 Goldman Swap Agreement, and the 1999 Morgan Swap Agreement, the "Swap Agreements") the U.T. System Representative may accept and execute confirmations under and as defined in one or more of the Swap Agreements when, in his or her judgment, the execution of such confirmation (i) would reduce the net interest to be paid by the Board with respect to the Bonds or any other Parity Debt over the term of the confirmation or (ii) given the market conditions at the time, is in the best interest of the Board. When such confirmations are executed on behalf of the Board, the costs thereof and the amounts payable thereunder shall be paid out of Pledged Revenues. The Swap Agreements each constitute a "Credit Agreement" as defined in the Master Resolution and Article 717q, Vernon's Texas Civil Statutes and constitute Parity Debt under the Master Resolution.

(b) The U.T. System Representative is hereby authorized to enter into amendments to the Swap Agreements to allow confirmations thereunder to be issued and entered into with respect to the Bonds or to any other Parity Debt and to make such other amendments as in the judgment of the U.T. System Representative and Bond Counsel are necessary to allow the Board to achieve the benefits of the Swap Agreements.

**Section 25. PUBLIC NOTICE.** It is hereby found and determined that each of the officers and members of the Board was duly and sufficiently notified officially and personally, in advance, of the time, place, and purpose of the Meeting at which

this Ninth Supplement was adopted; that this Ninth Supplement would be introduced and considered for adoption at said meeting; that said meeting was open to the public, and public notice of the time, place, and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

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## EXHIBIT A

### DEFINITIONS

As used in this Ninth Supplement the following terms and expressions shall have the meanings set forth below, unless the text hereof specifically indicates otherwise:

The term "Acts" shall mean, collectively, Articles 717k and 717q, Vernon's Texas Civil Statutes, as amended, (and, after September 1, 1999, Chapters 1207 and 1371 of the Government Code) and Chapter 55, Texas Education Code, as amended.

The term "Authorized Denominations" shall mean Authorized Denominations as defined in Section 2 of this Ninth Supplement.

The term "Award Certificate" shall mean the certificate executed by the U.T. System Representative in connection with each Series of Bonds which establishes the terms of the Series of Bonds pursuant to Section 3 of this Ninth Supplement.

The terms "Board" and "Issuer" shall mean the Board of Regents of The University of Texas System or any successor thereto.

The term "Bonds" shall mean collectively each Series of Bonds issued pursuant to this Ninth Supplement, and all substitute bonds exchanged therefor, and all other substitute and replacement bonds issued pursuant to this Ninth Supplement; and the term "Bond" means any of the Bonds.

The term "Business Day" shall mean any day which is not a Saturday, Sunday, legal holiday, or a day on which banking institutions in The City of New York, New York or in the city where the corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close.

The term "Capital Appreciation Bonds" shall mean the Bonds of each Series of the Bonds on which no interest is paid prior to maturity, maturing variously in each of the years and in the aggregate principal amount as set forth in the Award Certificate.

The term "Code" means the Internal Revenue Code of 1986, as amended.

The term "Compounded Amount" shall mean, with respect to a Capital Appreciation Bond, as of any particular date of calculation, the original principal amount thereof, plus all interest accrued and compounded to the particular date of calculation, as determined in accordance with Section 4 of this Ninth Supplement and the Compounded Amount Table relating to such Bonds.

The term "Compounded Amount Table" shall mean, with respect to the Capital Appreciation Bonds of a Series of Bonds, the table attached as an Exhibit to the Award Certificate relating to such Series of Bonds which shows the Compounded Amounts per \$5,000 Maturity Amount on the Compounding Dates for each maturity to its Stated Maturity.

The term "Compounding Dates" shall mean Compounding Dates as defined in Section 4 of this Ninth Supplement.

The term "Current Interest Bonds" shall mean the Bonds of each Series of the Bonds paying current interest and maturing in each of the years and in the aggregate principal amounts set forth in the Award Certificate.

The term "DTC" shall mean The Depository Trust Company, New York, New York, or any successor securities depository.

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

The term "Ninth Supplement" shall mean this Ninth Supplement Resolution to the Master Resolution authorizing the Bonds.

The term "Issuance Date" shall mean the date of delivery of each Series of Bonds to the initial purchaser or purchasers thereof against payment therefor.

The term "MSRB" shall mean the Municipal Securities Rulemaking Board.

The term "Master Resolution" shall mean the Amended and Restated Master Resolution Establishing The University of Texas System Revenue Financing System adopted by the Board on February 14, 1991, as amended on October 8, 1993, and August 14, 1997.

The term "Maturity" shall mean the date on which the principal of a Bond becomes due and payable as therein and herein provided, whether at Stated Maturity, by redemption, declaration of acceleration, or otherwise.

The term "Maturity Amount" shall mean the Compounded Amount of a Capital Appreciation Bond due on its Stated Maturity.

The term "NRMSIR" shall mean each person whom the SEC or its staff has determined to be a nationally recognized municipal securities information repository within the meaning of the Rule from time to time.

The term "Paying Agent/Registrar" shall mean the paying agent and registrar appointed pursuant to Section 5 of this Ninth Supplement, or any successor to such agent.

The term "Record Date" shall mean, with respect to the Bonds, the last calendar day of each month preceding an interest payment date.

The term "Refunded Obligations" shall mean the Board of Regents of The University of Texas System Revenue Financing Commercial Paper Notes, Series A to be refunded with the proceeds of the Bonds.

The term "Registration Books" shall mean the books or records relating to the registration, payment, and transfer or exchange of the Bonds maintained by the Paying Agent/Registrar pursuant to Section 5 of this Ninth Supplement.

The term "SEC" shall mean the United States Securities and Exchange Commission.

The term "SID" shall mean any person designated by the State of Texas or an authorized department, officer, or agency thereof as, and determined by the SEC or its staff to be, a state information depository within the meaning of the Rule from time to time.

The term "Stated Maturity", shall mean, when used with respect to the Bonds, the scheduled maturity or mandatory sinking fund redemption of the Bonds.

The term "U.T. System Representative" shall mean one or more of the following officers or employees of The University of Texas System, to wit: the Chancellor, the Executive Vice Chancellor for Business Affairs, and the Assistant Vice Chancellor for Finance, or such other officer or employee of The University of Texas System authorized by the Board to act as a U.T. System Representative.

**EXHIBIT B**

**FORM OF BONDS**

**UNITED STATES OF AMERICA  
STATE OF TEXAS  
BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM  
REVENUE FINANCING SYSTEM BONDS  
SERIES 1999\_**

**[FORM OF FIRST TWO PARAGRAPHS OF CURRENT INTEREST BONDS]**

NO. R-\_\_\_\_

PRINCIPAL  
AMOUNT  
\$ \_\_\_\_\_

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>BOND DATE</u>	<u>CUSIP NO.</u>
_____ %	_____	_____	_____

REGISTERED OWNER: \_\_\_\_\_

PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS

ON THE MATURITY DATE specified above, the BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM (the "Issuer"), being an agency and political subdivision of the State of Texas, hereby promises to pay to the Registered Owner specified above or the registered assignee hereof (either being hereinafter called the "registered owner") the principal amount specified above and to pay interest thereon, calculated on the basis of a 360-day year composed of twelve 30-day months, from the Bond Date specified above, to the Maturity Date specified above, or the date of redemption prior to maturity, at the interest rate per annum specified above; with interest being payable on \_\_\_\_\_, 199\_, and semi-annually on each \_\_\_\_\_ and \_\_\_\_\_ thereafter, except that if the date of authentication of this Bond is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date

next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date.

THE PRINCIPAL OF AND INTEREST ON this Bond are payable in lawful money of the United States of America, without exchange or collection charges, solely from funds of the Issuer required by the resolution authorizing the issuance of the Bonds to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided. The principal of this Bond shall be paid to the registered owner hereof upon presentation and surrender of this Bond at maturity or upon the date fixed for its redemption prior to maturity, at the corporate trust office of \_\_\_\_\_, in \_\_\_\_\_, Texas, which is the "Paying Agent/Registrar" for this Bond. The payment of interest on this Bond shall be made by the Paying Agent to the registered owner hereof on each interest payment date by check, dated as of such interest payment date, and such check shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the registered owner hereof, at the address of the registered owner, as it appeared on the last day of the month next preceding each such date (the "Record Date") on the Registration Books kept by the Paying Agent/Registrar, as hereinafter described; provided, that upon the written request of any owner of not less than \$1,000,000 in principal amount of Bonds provided to the Paying Agent/Registrar not later than the Record Date immediately preceding an interest payment date, interest due on such interest payment date shall be made by wire transfer to any designated account within the United States of America. In addition, interest may be paid by such other method acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner hereof. Any accrued interest due upon the redemption of this Bond prior to maturity as provided herein shall be paid to the registered owner upon presentation and surrender of this Bond for redemption and payment at the principal office of the Paying Agent/Registrar. The Issuer covenants with the registered owner of this Bond that on or before each principal payment date and interest payment date for this Bond it will make available to the Paying Agent/Registrar, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Bonds, when due. Notwithstanding the foregoing, during any period in which ownership of the Bonds is determined by a book entry at a securities depository for the Bonds, payments made to the securities depository, or its nominee, shall be made in accordance with arrangements between the Issuer and the securities depository. Terms used herein and not otherwise defined have the meaning given in the Bond Resolution.

UNITED STATES OF AMERICA  
STATE OF TEXAS  
BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM  
REVENUE FINANCING SYSTEM BONDS  
SERIES 199\_

**[FORM OF FIRST TWO PARAGRAPHS OF CAPITAL APPRECIATION BONDS]**

NO. CR-\_\_\_\_ MATURITY AMOUNT \$ \_\_\_\_\_

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>ISSUANCE DATE</u>	<u>CUSIP NO.</u>
_____ %	_____	_____	_____

REGISTERED OWNER: \_\_\_\_\_

PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS

ON THE MATURITY DATE specified above, the BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM (the "Issuer"), being an agency and political subdivision of the State of Texas, hereby promises to pay to the Registered Owner specified above or the registered assignee hereof (either being hereinafter called the "registered owner") the Maturity Amount specified above representing the original principal amount specified above and accrued and compounded interest thereon. Interest shall accrue on the original principal amount hereof from the Issuance Date at the interest rate per annum specified above (subject to rounding to the Compounded Amounts as provided in the Bond Resolution), compounded semi-annually on \_\_\_\_\_ and \_\_\_\_\_ of each year, commencing \_\_\_\_\_, 199\_. For convenience of reference, a table appears on the back of this Bond showing the "Compounded Amount" of the original principal amount per \$5,000 Maturity Amount compounded semiannually at the yield shown on such table.

THE MATURITY AMOUNT OF this Bond is payable in lawful money of the United States of America, without exchange or collection charges, solely from funds of the Issuer required by the Bond Resolution to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided. The Maturity Amount or

Compounded Amount of this Bond shall be paid to the registered owner hereof upon presentation and surrender of this Bond at maturity or upon the date fixed for its redemption prior to maturity, as the case may be, at the corporate trust office of \_\_\_\_\_ in \_\_\_\_\_, Texas, which is the "Paying Agent/Registrar" for this Bond. The Issuer covenants with the registered owner of this Bond that on or before the Maturity Date for this Bond it will make available to the Paying Agent/Registrar, the amount required to provide for the payment, in immediately available funds, of the Maturity Amount when due. Notwithstanding the foregoing, during any period in which ownership of the Bonds is determined by a book entry at a securities depository for the Bonds, payments made to the securities depository, or its nominee, shall be made in accordance with arrangements between the Issuer and the securities depository. Terms used herein and not otherwise defined have the meaning given in the Bond Resolution.

**[FORM OF REMAINDER OF CURRENT INTEREST BONDS  
AND CAPITAL APPRECIATION BONDS]**

\*This Bond is one of a Series of bonds authorized in the aggregate principal amount of \$ \_\_\_\_\_ pursuant to a Ninth Supplemental Resolution to the Master Resolution adopted \_\_\_\_\_, 1999, and pursuant to the Master Resolution referred therein (collectively, the "Bond Resolution") for the purpose of (i) refunding \$ \_\_\_\_\_, in aggregate principal amount of the Board of Regents of The University of Texas System Revenue Financing System Commercial Paper Notes, Series A issued for the purpose of acquiring, purchasing, constructing, improving, enlarging, and equipping the property and facilities of the Members of the Revenue Financing System pursuant to Section 55.1722 of the Texas Education Code, (ii) purchasing, constructing, improving, enlarging, and equipping the property and facilities of the Members of the Revenue Financing System pursuant to Section 55.1722 of the Texas Education Code, and (iii) paying the costs related thereto, [and comprised of (i) Bonds in the aggregate principal amount of \$ \_\_\_\_\_ that pay interest only at maturity (the "Capital Appreciation Bonds") and (ii) Bonds in the aggregate principal amount of \$ \_\_\_\_\_ that pay interest semiannually until maturity (the "Current Interest Bonds").]

\*\*This Bond is one of a Series of bonds authorized in the aggregate principal amount of \$ \_\_\_\_\_ pursuant to a Ninth Supplemental Resolution to the Master Resolution adopted \_\_\_\_\_, 1999, and pursuant to the Master Resolution

referred therein (collectively, the "Bond Resolution") for the purpose of (i) refunding \$\_\_\_\_\_, in aggregate principal amount of the Board of Regents of The University of Texas System Revenue Financing System Commercial Paper Notes, Series A, (ii) purchasing, constructing, improving, enlarging, and equipping the property and facilities of the Members of the Revenue Financing System, and (iii) paying the costs related thereto, [and comprised of (i) Bonds in the aggregate principal amount of \$\_\_\_\_\_ that pay interest only at maturity (the "Capital Appreciation Bonds") and (ii) Bonds in the aggregate principal amount of \$\_\_\_\_\_ that pay interest semiannually until maturity (the "Current Interest Bonds").]

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\* For inclusion in the Series 1999A Bonds.

\*\* For inclusion in the Series 1999B Bonds.

ON \_\_\_\_\_, \_\_\_\_\_, or on any date thereafter, the Bonds of this Series scheduled to mature on \_\_\_\_\_ in each of the years \_\_\_\_\_ through \_\_\_\_\_ and on \_\_\_\_\_, \_\_\_\_\_, may be redeemed prior to their scheduled maturities, at the option of the Issuer, with funds derived from any available and lawful source, as a whole, or in part, and, if in part, the particular Bonds, or portion thereof, to be redeemed shall be selected and designated by the Issuer (provided that a portion of a Bond may be redeemed only in an integral multiple of \$5,000), at a redemption price equal to \_\_\_\_\_ and accrued interest to the date fixed for redemption; provided that during any period in which ownership of the Bonds is determined by a book entry at a securities depository for the Bonds, if fewer than all of the Bonds of the same maturity and bearing the same interest rate are to be redeemed, the particular Bonds of such maturity and bearing such interest rate shall be selected in accordance with the arrangements between the Issuer and the securities depository.

The Bonds of this issue scheduled to mature on \_\_\_\_\_, \_\_\_\_\_, are subject to mandatory sinking fund redemption prior to their scheduled maturity and shall be redeemed by the Issuer, in part, prior to their scheduled maturity, with the particular Bonds or portions thereof to be redeemed to be selected and designated by the Issuer (provided that a portion of a Bond may be redeemed only in an integral multiple of \$5,000), at a redemption price equal to the par or principal amount thereof and accrued interest to the date of redemption, on the dates, and in the principal amounts, respectively, as set forth in the following schedule:

<u>Bonds Maturing</u>	<u>Principal</u>
<u>Redemption Date</u>	<u>Amount</u>

The principal amount of the Bonds required to be redeemed on each such redemption date pursuant to the foregoing operation of the mandatory sinking fund shall be reduced, at the option of the Issuer, by the principal amount of any Bonds, which, at least 45 days prior to the mandatory sinking fund redemption date, (1) shall have been acquired by the Issuer and delivered to the Paying Agent/Registrar for cancellation, or (2) shall have been acquired and cancelled by the Paying Agent/Registrar at the direction of the Issuer, in either case of (1) or (2) at a price not exceeding the par or principal amount of such Bonds, or (3) have been redeemed pursuant to the optional redemption provisions set forth above and not

therefore credited against a mandatory sinking fund redemption. During any period in which ownership of the Bonds is determined by a book entry at a securities depository for the Bonds, if fewer than all of the Bonds of the same maturity and bearing the same interest rate are to be redeemed, the particular Bonds of such maturity and bearing such interest rate shall be selected in accordance with the arrangements between the Issuer and the securities depository.

AT LEAST 30 days prior to the date fixed for any redemption of Bonds or portions thereof prior to maturity a written notice of such redemption shall be published once in a financial publication, journal, or report of general circulation among securities dealers in The City of New York, New York (including, but not limited to, The Bond Buyer and The Wall Street Journal), or in the State of Texas (including, but not limited to, The Texas Bond Reporter). Such notice also shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, not less than 30 days prior to the date fixed for any such redemption, to the registered owner of each Bond to be redeemed at its address as it appeared on the 45th day prior to such redemption date; provided, however, that the failure to send, mail, or receive such notice, or any defect therein or in the sending or mailing thereof, shall not affect the validity or effectiveness of the proceedings for the redemption of any Bond, and it is hereby specifically provided that the publication of such notice as required above shall be the only notice actually required in connection with or as a prerequisite to the redemption of any Bonds or portions thereof. By the date fixed for any such redemption due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Bonds or portions thereof which are to be so redeemed. If such written notice of redemption is published and if due provision for such payment is made, all as provided above, the Bonds or portions thereof which are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the registered owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Bond shall be redeemed, a substitute Bond or Bonds having the same maturity date, bearing interest at the same rate, payable in the same manner, in any authorized denomination at the written request of the registered owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the registered owner upon the surrender thereof for cancellation, at the expense of the Issuer, all as provided in the Bond Resolution.

IF THE DATE for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in The City of New York, New York, or in the city where the principal office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS BOND OR ANY PORTION OR PORTIONS HEREOF IN ANY AUTHORIZED DENOMINATION may be assigned and shall be transferred only in the Registration Books of the Issuer kept by the Paying Agent/Registrar acting in the capacity of registrar for the Bonds, upon the terms and conditions set forth in the Bond Resolution. Among other requirements for such assignment and transfer, this Bond must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Bond or any portion or portions hereof in any authorized denomination to the assignee or assignees in whose name or names this Bond or any such portion or portions hereof is or are to be transferred and registered. The form of Assignment printed or endorsed on this Bond shall be executed by the registered owner or its duly authorized attorney or representative, to evidence the assignment hereof. A new Bond or Bonds payable to such assignee or assignees (which then will be the new registered owner or owners of such new Bond or Bonds), or to the previous registered owner in the case of the assignment and transfer of only a portion of this Bond, may be delivered by the Paying Agent/Registrar in exchange for this Bond, all in the form and manner as provided in the next paragraph hereof for the exchange of other Bonds. The Issuer shall pay the Paying Agent/Registrar's fees and charges, if any, for making such transfer or exchange as provided below, but the one requesting such transfer or exchange shall pay any taxes or other governmental charges required to be paid with respect thereto. The Paying Agent/Registrar shall not be required to make transfers of registration or exchange of this Bond or any portion hereof (i) [with respect to Current Interest Bonds,] during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date, or, (ii) with respect to any Bond or any portion thereof called for redemption prior to maturity, within 45 days prior to its redemption date. The registered owner of this Bond shall be deemed and treated by the Issuer and the Paying Agent/Registrar as the absolute owner hereof for all purposes, including payment and discharge of liability upon this Bond to the extent of such payment, and, to the extent permitted by law, the Issuer and the Paying Agent/Registrar shall not be affected by any notice to the contrary.

ALL BONDS OF THIS SERIES are issuable solely as fully registered bonds, without interest coupons, [with respect to Current Interest Bonds,] in the denomination of any integral multiple of \$5,000, [and with respect to Capital Appreciation Bonds, in the denomination of \$5,000 Maturity Amounts or any integral multiple thereof.] As provided in the Bond Resolution, this Bond, or any unredeemed portion hereof, may, at the request of the registered owner or the assignee or assignees hereof, be exchanged for a like aggregate principal amount of fully registered bonds, without interest coupons, payable to the appropriate registered owner, assignee, or assignees, as the case may be, having the same maturity date, in the same form, and bearing interest at the same rate, in any authorized denomination as requested in writing by the appropriate registered owner, assignee, or assignees, as the case may be, upon surrender of this Bond to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Bond Resolution.

WHENEVER the beneficial ownership of this Bond is determined by a book entry at a securities depository for the Bonds, the foregoing requirements of holding, delivering, or transferring this Bond shall be modified to require the appropriate person or entity to meet the requirements of the securities depository as to registering or transferring the book entry to produce the same effect.

IN THE EVENT any Paying Agent/Registrar for the Bonds is changed by the Issuer, resigns, or otherwise ceases to act as such, the Issuer has covenanted in the Bond Resolution that it promptly will appoint a competent and legally qualified substitute therefor, and promptly will cause written notice thereof to be mailed to the registered owners of the Bonds.

IT IS HEREBY certified, recited, and covenanted that this Bond has been duly and validly authorized, issued, and delivered; that all acts, conditions, and things required or proper to be performed, exist, and be done precedent to or in the authorization, issuance, and delivery of this Bond have been performed, existed, and been done in accordance with law; that the Series of Bonds of which this Bond is one constitute Parity Debt under the Master Resolution; and that the interest on and principal of this Bond, together with the other Bonds of this Series and the other outstanding Parity Debt are equally and ratably secured by and payable from a lien on and pledge of the Pledged Revenues, subject only to the provisions of the Prior Encumbered Obligations.

THE ISSUER has reserved the right, subject to the restrictions referred to in the Bond Resolution, (i) to issue additional Parity Debt which also may be secured by and made payable from a lien on and pledge of the aforesaid Pledged

Revenues, in the same manner and to the same extent as this Bond, and (ii) to amend the provisions of the Bond Resolution under the conditions provided in the Bond Resolution.

THE REGISTERED OWNER hereof shall never have the right to demand payment of this Bond or the interest hereon out of any funds raised or to be raised by taxation or from any source whatsoever other than specified in the Bond Resolution.

BY BECOMING the registered owner of this Bond, the registered owner thereby acknowledges all of the terms and provisions of the Bond Resolution, agrees to be bound by such terms and provisions, acknowledges that the Bond Resolution is duly recorded and available for inspection in the official minutes and records of the Issuer, and agrees that the terms and provisions of this Bond and the Bond Resolution constitute a contract between each registered owner hereof and the Issuer.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be signed with the manual or facsimile signature of the Chairman of the Issuer and countersigned with the manual or facsimile signature of the Executive Secretary of the Issuer, and has caused the official seal of the Issuer to be duly impressed, or placed in facsimile, on this Bond.

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Executive Secretary, Board of Regents  
of The University of Texas System

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Chairman, Board of Regents  
of The University of Texas  
System

(BOARD SEAL)



**NOTICE:** The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever; and

**NOTICE:** Signature(s) must be guaranteed by the Securities Transfer Association signature guarantee program.

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

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

It is hereby certified that this Bond has been issued under the provisions of the Bond Resolution described in this Bond; and that this Bond has been issued in conversion of and exchange for or replacement of a bond, bonds, or a portion of a bond or bonds of an issue which originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

\_\_\_\_\_  
\_\_\_\_\_  
Paying Agent/Registrar

Dated:

\_\_\_\_\_  
Authorized Representative

**[FORM OF REGISTRATION CERTIFICATE OF  
COMPTROLLER OF PUBLIC ACCOUNTS TO BE USED IF  
THE BONDS ARE TO BE SO REGISTERED]**

**COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO.**

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

Witness my signature and seal this

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

(COMPTROLLER'S SEAL)

\_\_\_\_\_

Provisions of Bonds related to redemption are to be deleted if the Series of Bonds is not subject to redemption. Bracketed information relates to Capital Appreciation Bonds and its use will depend on whether any Bonds of a Series are Capital Appreciation Bonds.

## EXHIBIT C

### CONTINUING DISCLOSURE OF INFORMATION

#### Accounting Principles

The financial statements of The University of Texas System will be prepared in accordance with the Texas Comptroller of Public Accounts' Annual Financial Reporting Requirements, and follow to the extent practical, the AICPA Industry Audit Guide Audits of Colleges and Universities, 1973, as amended by AICPA Statement of Position (SOP) 74-8, Financial Accounting and Reporting by Colleges and Universities, or such other accounting principles as the Board may be required to employ from time to time pursuant to state law or regulation.

**EXHIBIT D-1**  
**THE UNIVERSITY OF TEXAS SYSTEM**  
**Revenue Financing System Bonds, Series 1999A**  
**Tuition Revenue Bond Projects**

<b><u>Campus</u></b>	<b><u>Project</u></b>	<b><u>Amount</u></b>
Arlington	E&G Space Reno (#301-957)	\$ 1,000,000
Arlington	Thermal Energy Plant/Chiller	4,020,000
Austin	Psychology & Child Dev Bld	12,500,000
Brownsville	Life & Health Sci Bldg Phase I (902-976)	22,500,000
Dallas	Upgrade/Equip/Reno F&Berkner (302-984)	3,100,000
El Paso	Upgrade Classroom & Lab	5,000,000
Pan Am	Classroom/Comp Ctr Bldg	17,000,000
Permian Basin	Lib/Lect Ctr Stage of the Lib/Lect Cntr, V Arts Studies	2,330,000
San Antonio	Downtown Bldg Phase III	30,000,000
Tyler	Longview Higher Ed Ctr	4,000,000
Tyler	Campus Upgrade and Equipment	<u>1,300,000</u>
	Sub-Total	<u>\$102,750,000</u>

**EXHIBIT D-2**  
**THE UNIVERSITY OF TEXAS SYSTEM**  
**Revenue Financing System Bonds, Series 1999B**  
**Revenue Bond Projects**

<u>Campus</u>	<u>Project</u>	<u>Amount</u>
Arlington	Residence Hall	\$ 19,000,000
Austin	Student Housing	45,400,000
Austin	Parking Garage #4B (102-985)	12,000,000
Austin	Jester Fire & Safety	5,000,000
Austin	Chilling Station Exp (#102-917b)	3,500,000
Austin	Lower Field	2,700,000
Galveston	MM Northern	12,500,000
MD Anderson	Rotary House	13,600,000
MD Anderson	Faculty Center	25,000,000
Pan Am	Student Union	5,750,000
SWMCD	North Campus Phase III	29,900,000
UTHSCSA	Parking Garage & Bookstore	<u>7,190,000</u>
	Sub-Total	<u>\$181,540,000</u>

\$ \_\_\_\_\_  
BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM  
REVENUE FINANCING SYSTEM BONDS  
\$ \_\_\_\_\_ SERIES 1999\_\_

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**PURCHASE AGREEMENT**

\_\_\_\_\_, 1999

The Board of Regents of  
The University of Texas System  
c/o Assistant Vice Chancellor for Finance  
201 West 7th Street  
Austin, Texas 78701

Ladies and Gentlemen:

The undersigned (hereinafter sometimes called the "Representative"), acting on behalf of itself and on behalf of the other underwriters named in the list attached hereto as Schedule 1 (the Representative and such other underwriters being herein collectively called the "Underwriters"), offers to enter into the following agreement with the Board of Regents of The University of Texas System (hereinafter called the "Board" or the "Issuer"), which, upon the Board's written acceptance of this offer, as evidenced by the execution of this Purchase Agreement by the Assistant Vice Chancellor for Finance of The University of Texas System, as the duly authorized agent of the Board (the "U.T. System Representative"), will be binding upon the Board and upon the Underwriters. Capitalized terms used herein and not otherwise defined shall have the respective meanings given to them in the Official Statement (as hereinafter defined).

1. **Purchase and Sale of the Bonds.** (a) Subject to the terms and conditions and in reliance upon the representations, warranties and agreements set forth herein, the Underwriters hereby agree to purchase from the Board, and the Board hereby agrees to sell and deliver to the Underwriters all (but not less than all) of the \$ \_\_\_\_\_ aggregate principal amount of Board of Regents of The University of Texas System Revenue Financing System Bonds, Series 1999\_\_ (the "Bonds").

(b) - The Bonds shall be authorized by, and shall be issued and secured under the provisions of, an amended and restated master resolution, adopted by the Board on February 14, 1991, as amended on October 8, 1993 and on August 14, 1997 (the "Master Resolution"), establishing The University of Texas System Revenue Financing System, and a ninth supplemental resolution, adopted by the Board on August 11, 1999 (the "Supplemental Resolution" and together with the Master Resolution, the "Resolution"), providing for the issuance of the Bonds. The Bonds shall be dated, shall be in the aggregate principal amount, shall have the maturities, shall bear interest from the dates and at the rates, shall be subject to redemption, and shall have the other characteristics and terms as set forth in Exhibit A.

(c) The purchase price for the Bonds shall be \$ \_\_\_\_\_ (representing the par amount of the Bonds of \$ \_\_\_\_\_, plus/less a net original issue premium/discount on the Bonds of \$ \_\_\_\_\_ and less an underwriting discount of \$ \_\_\_\_\_), plus interest accrued on the Bonds from the date of the Bonds to the Closing Date (as hereinafter defined).

(d) It shall be a condition to the Board's obligations to sell and deliver the Bonds to the Underwriters and to the Underwriters' obligations to purchase, to accept delivery of and to pay for the Bonds that the entire principal amount of the Bonds shall be issued, sold and delivered by the Board and purchased, accepted and paid for by the Underwriters at the Closing (as hereinafter defined). The Underwriters agree to make a bona fide public offering of all of the Bonds at prices not in excess of the initial offering prices or yields set forth on the inside cover of the Official Statement, plus interest accrued thereon from the date of the Bonds.

(e) In the event that the Underwriters fail (other than for a reason permitted hereunder) to accept delivery of and to pay for the Bonds at the Closing as herein provided, the Underwriters shall pay to the Board an amount equal to one percent of the aggregate principal amount of the Bonds as and for full liquidated damages for such failure and for any defaults hereunder on the part of the Underwriters and, except as set forth in Paragraphs 8 and 10 hereof, neither party hereto shall have any further rights against the other hereunder.

**2. The Official Statement; End of the Underwriting Period.** (a) The Board has heretofore delivered to the Underwriters copies of the Preliminary Official Statement of the Board, dated \_\_\_\_\_, 1999, including the cover page and Appendices thereto, relating to the Bonds (the "Preliminary Official Statement"), for the Underwriters' use in determining interest in the Bonds. The Board hereby represents and warrants that the Preliminary Official Statement was deemed final by

the Board as of its date, except for the omission of such information which is dependent upon the final pricing of the Bonds for completion, all as permitted to be excluded by Rule 15c2-12 under the Securities Exchange Act of 1934 ("Rule 15c2-12").

(b) On any date specified by the Underwriters following the date hereof, but in any event no more than seven (7) business days after the time of the Board's acceptance hereof and no less than three (3) business days prior to the Closing Date, the Board shall deliver to the Underwriters up to \_\_\_\_ printed copies of a final Official Statement related to the Bonds approved by the U.T. System Representative, to permit the Underwriters to comply with the requirements of Rule 15c2-12 and the applicable rules of the MSRB. Such final Official Statement shall be dated the date hereof and shall be substantially in the form of the most recent markup of the Preliminary Official Statement provided to the Underwriters on or before the date hereof (which Official Statement, including the cover page thereto, all exhibits, appendices, maps, pictures, diagrams, reports and statements included or incorporated therein or attached thereto, and all amendments and supplements that may be authorized for use with respect to the Bonds approved by the U.T. System Representative is herein called the "Official Statement"). In the event that the number of copies supplied to the Representative shall prove to be insufficient to enable the Underwriters to comply with their obligations under Rule 15c2-12 and the applicable rules of the MSRB, the Board agrees to make available from time to time, such additional printed copies or photocopies of the Official Statement as may be reasonably required to enable the Underwriters to continue to comply with their obligations under Rule 15c2-12 and the applicable rules of the MSRB. The U.T. System Representative, acting on behalf of the Board, is duly authorized to approve and execute the Official Statement which shall be deemed final for purposes of Rule 15c2-12.

(c) Unless otherwise notified in writing by the Representative by the Closing Date, the Board can assume that the "end of the underwriting period" for purposes of Rule 15c2-12 shall be the Closing Date. In the event such notice is so given in writing by the Representative, the Representative agrees to notify the Board in writing following the occurrence of the "end of the underwriting period" as defined in Rule 15c2-12. The "end of the underwriting period" as used in this Purchase Agreement shall mean the Closing Date or such later date as to which notice is given by the Representative in accordance with the preceding sentence.

(d) Prior to or concurrently with the acceptance hereof by the Board, the Board has delivered to the Representative one certified copy of the Resolution.

(e) - The Board has agreed in the Resolution to provide certain annual financial information and operating data, audited financial statements of the State of Texas as long as the financial statements of the Board are not audited and timely notices of material events and non-compliance in accordance with Rule 15c2-12 as described in the Preliminary Official Statement under "CONTINUING DISCLOSURE OF INFORMATION."

**3. Use of Documents; Certain Covenants and Agreements of the Board.** (a) The Board hereby authorizes the use by the Underwriters of the Resolution, the Escrow Agreement and the Official Statement, including any supplements or amendments thereto, and the information therein contained in connection with the public offering and sale of the Bonds. The Board ratifies and confirms the use by the Underwriters prior to the date hereof of the Preliminary Official Statement in connection with the public offering of the Bonds.

(b) The Board covenants and agrees:

(i) To cause reasonable quantities of the Official Statement, as requested by the Underwriters, to be delivered to the Underwriters, without charge, within seven business days of the date hereof.

(ii) To apply the proceeds from the sale of the Bonds as provided in and subject to all of the terms and provisions of the Resolution authorizing their issuance, and not to take or omit to take any action which action or omission will adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds under the Internal Revenue Code of 1986, as amended (the "Code").

(iii) If, after the date of this Purchase Agreement to and including the date the Underwriters are no longer required pursuant to Rule 15c2-12 to provide the Official Statement to potential customers requesting an Official Statement (such date being the earlier of (A) 90 days from the end of the underwriting period and (B) the time when the Official Statement is available to any person from a nationally recognized municipal securities repository, but in no case less than 25 days after the end of the underwriting period), any event shall occur as a result of which it is necessary to amend or supplement the Official Statement in order to make the statements therein, in the light of the circumstances when the Official Statement is delivered to a purchaser, not misleading, or if it is necessary to amend or supplement the Official Statement to comply with law, to notify the Representative (and for

the purposes of this clause (iii) to provide the Underwriters with such information as they may from time to time request), and to cooperate with the Underwriters in the preparation of either amendments or supplements to the Official Statement so that the statements in the Official Statement as so amended and supplemented will not, in light of the circumstances when the Official Statement is delivered to a purchaser, be misleading or so that the Official Statement will comply with law.

(iv) To furnish such information and execute such instruments and take such action in cooperation with the Representative as the Representative may reasonably request (A) to (y) qualify the Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions in the United States as the Representative may designate and (z) determine the eligibility of the Bonds for investment under the laws of such states and other jurisdictions and (B) to continue such qualifications in effect so long as required for the distribution of the Bonds; provided, however, that the Board will not be required to qualify as a foreign corporation or otherwise to do business or to file any general or special consents to service of process under the laws of any state.

(v) To advise the Representative immediately of receipt by the Board of any notification with respect to the suspension of the qualification of the Bonds for sale in any jurisdiction or the initiation or threat of any proceeding for that purpose.

(vi) To not issue any additional bonds, notes or other obligations for borrowed money payable in whole or in part from Pledged Revenues (other than Commercial Paper Notes) between the date hereof and the Closing Date without the prior written consent of the Underwriters; and neither the Board nor The University of Texas System (the "System") will incur any material liabilities, direct or contingent, (except as otherwise contemplated by the Official Statement) between the date hereof and the Closing Date without the prior written consent of the Underwriters.

**4. Representations and Warranties of the Board.** The Board hereby represents and warrants to each of the Underwriters, as of the date hereof and as of the Closing Date, that:

(a) The System is and will be as of the Closing Date a duly organized and existing agency of the State of Texas, and the Board is the duly appointed governing body of the System. The Board and the System have the powers and authority, among others, set forth in the Texas Education Code.

(b) The Board has, and at the time of the Closing will have, full legal right, power and authority (i) to enter into this Purchase Agreement and the Escrow Agreement, and (ii) to adopt the Resolution, to pledge the Pledged Revenues in the manner provided in the Resolution, and to issue, sell and deliver the Bonds as Parity Debt to the Underwriters as provided herein and in the Resolution and the Official Statement; and the Board has, and at the time of the Closing will have, duly adopted the Resolution and duly authorized and approved the execution and delivery of, and the performance of its obligations contained in, the Bonds, the Resolution, the Escrow Agreement and this Purchase Agreement.

(c) The Board has, and at the time of the Closing will have, duly authorized and approved the execution and delivery of, and the performance of the Board's obligations contained in, this Purchase Agreement. This Purchase Agreement has been duly executed and delivered by the U.T. System Representative and constitutes a legal, valid and binding obligation of the Board, enforceable in accordance with its terms.

(d) The Resolution creates a valid lien on the Pledged Revenues, and the Bonds, when validly executed, authenticated, certified and delivered in accordance with the Resolution and sold to the Underwriters as provided herein, will be validly issued and outstanding obligations of the Board entitled to the benefits of the Resolution.

(e) Neither the Board nor the System is in breach of or in default under any applicable law or administrative regulation, any applicable judgment or decree, or any loan agreement, note, resolution, agreement or other instrument to which the Board or the System is a party or by which they or any of their respective properties are otherwise subject, which would have a material and adverse effect upon the business or financial condition of the System or the Pledged Revenues.

(f) The Board is not in breach of or in default under the Resolution or any of its prior resolutions (the "Prior Resolutions") that authorized the issuance of the obligations being refunded by the Bonds (the "Refunded Notes"), and the execution and delivery of this Purchase Agreement and the Bonds by the Board and the adoption of the Resolution by the Board do not and will not violate or constitute a breach of or default under any existing law, administrative regulation, judgment or decree or any loan agreement, note, resolution, agreement or other instrument to which the Board or the System is a party or by which they or any of their respective properties are otherwise subject.

(g) All approvals, consents and orders of any governmental authority or agency having jurisdiction over any matter which would constitute a condition precedent to the performance by the Board of its obligations to sell and deliver the Bonds hereunder will be obtained prior to the Closing.

(h) At the time of the Board's acceptance hereof and (unless an event occurs of the nature described in Paragraph 3(b)(iii)) at all times subsequent thereto during the period up to and including the date the Underwriters are no longer required pursuant to Rule 15c2-12 to provide the Official Statement to potential customers requesting an Official Statement (as more particularly described in Paragraph 3(b)(iii)), the Official Statement does not and will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading.

(i) If the Official Statement is supplemented or amended pursuant to Paragraph 3(b)(iii), at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to such paragraph) at all times subsequent thereto during the period up to and including the date the Underwriters are no longer required pursuant to Rule 15c2-12 to provide the Official Statement to potential customers requesting an Official Statement (as more particularly described in Paragraph 3(b)(iii)), the Official Statement as so supplemented or amended will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading.

(j) The proceeds of the sale of the Bonds shall be applied as described in the Official Statement under the caption "SOURCES AND APPLICATIONS OF FUNDS."

(k) The financial data of the Board and the System contained in the Official Statement fairly present the receipts, disbursements, cash balances and financial condition of the Board and the System as of the dates and for the periods therein set forth.

(l) Subsequent to the respective dates as of which information is given in the Official Statement, up to and including the date hereof, there has been no material adverse change in the financial position, results of operations or condition, financial or otherwise, of the Board or the System.

(m) Except as described in the Official Statement, there is not any action, suit, investigation, inquiry or proceeding (whether or not purportedly on behalf of the Board) pending or, to the best knowledge of the Board, threatened, or that 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 any government board or body, (i) affecting the System's existence as a state agency or the Board's appointment as its governing body or its powers, or the title of its officers to their respective offices, or (ii) seeking to restrain or enjoin the issuance or delivery of the Bonds, or the collection or application of the Pledged Revenues to pay the principal of and interest on the Bonds, or (iii) in any way contesting or affecting the tax-exempt status of the interest on the Bonds or the Refunded Notes, or (iv) in any way contesting or affecting the validity or enforceability of the Bonds, the Resolution, this Purchase Agreement, the Escrow Agreement, the Refunded Notes or the Prior Resolutions, or (v) contesting in any manner the completeness, accuracy, or fairness of the Preliminary Official Statement or the Official Statement, or (vi) 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 System, or (vii) which might in any material respect adversely affect the transactions contemplated herein.

(n) Any certificate or copy of any certificate signed by any official of the Board or the System and delivered to the Representative pursuant hereto or in connection herewith shall be deemed a representation by the Board or the System to each of the Underwriters as to the truth of the statements therein made.

(o) The U.T. System Representative is authorized to act on behalf of the Board, for the purpose of selling the Bonds to the Underwriters, fixing the terms of the Bonds and taking the other actions provided for herein and in the Resolution, and such actions by the U.T. System Representative shall be deemed to be actions by the Board.

(p) The Assistant Vice Chancellor for Finance of the System has been duly authorized to act on behalf of the Board, as the U.T. System Representative, for the purpose of taking the actions provided for herein.

(q) The Board has not failed to comply in any material respect with any continuing disclosure agreement made by it in accordance with Rule 15c2-12.

5. **Closing.** (a) At 10:00 a.m., Texas time, on \_\_\_\_\_, 1999, or at such other time and date as shall have been mutually agreed upon by the Board and the Representative (the "Closing Date"), the Board will, subject to the terms and

conditions hereof, deliver the Bonds to the Representative duly executed and authenticated in the form and manner contemplated below, together with the other documents hereinafter mentioned and the Representative will, subject to the terms and conditions hereof, accept such delivery and pay the purchase price of the Bonds as set forth in Paragraph 1 hereof (such events being referred to herein as the "Closing").

(b) Delivery of the Bonds shall be made at the offices of McCall, Parkhurst & Horton L.L.P., 600 Congress Avenue, Suite 1250, Austin, Texas, or such other place as shall have been mutually agreed upon by the Board and the Representative. The Bonds shall be delivered in fully registered form bearing CUSIP numbers without coupons with one Bond for each maturity of each series of Bonds, registered in the name of \_\_\_\_\_ and shall be made available to the Representative at least one business day before the Closing for purposes of inspection.

**6. Closing Conditions.** The Representative has entered into this Purchase Agreement on behalf of itself and the other Underwriters in reliance upon the representations, warranties and agreements of the Board contained herein, and in reliance upon the representations, warranties and agreements to be contained in the documents and instruments to be delivered at the Closing and upon the performance by the Board of its obligations hereunder, both as of the date hereof and as of the Closing Date. Accordingly, the Underwriters' obligations under this Purchase Agreement to purchase, to accept delivery of and to pay for the Bonds shall be conditioned upon the performance by the Board of its obligations to be performed hereunder and under such documents and instruments at or prior to the Closing, and shall also be subject to the following additional conditions:

(a) The representations and warranties of the Board contained herein shall be true, complete and correct on the date hereof and on and as of the Closing Date, as if made on the Closing Date.

(b) At the time of the Closing, the Resolution (except with respect to the amended and restated first supplemental resolution, the second supplemental resolution, the third supplemental resolution, the fourth supplemental resolution, the fifth supplemental resolution, the sixth supplemental resolution, the seventh supplemental resolution and the eighth supplemental resolution to the Master Resolution) shall be in full force and effect and shall not have been amended, modified or supplemented, and the Official Statement shall not have been supplemented or amended, except in any such case as may have been agreed to by the Representative.

(c) At the time of the Closing, all official action of the Board relating to this Purchase Agreement, the Bonds, the Resolution and the Escrow Agreement shall be in full force and effect and shall not have been amended, modified or supplemented; and the Representative shall have received, in appropriate form, evidence thereof.

(d) At the time of the Closing, there shall not have occurred any change in the condition, financial or otherwise, or in the earnings or operations of the Board, from that set forth in the Official Statement that, in the judgment of the Representative, is material and adverse and that makes it, in the judgment of the Representative, impracticable to market the Bonds on the terms and in the manner contemplated in the Official Statement.

(e) The Board shall not have failed to pay principal or interest when due on any of its outstanding obligations for borrowed money or otherwise be in default on any such obligation, and there does not exist any event which, with the giving of notice, would constitute a default.

(f) At or prior to the Closing, the Representative shall have received each of the following documents:

(i) The Official Statement executed on behalf of the Board by the U.T. System Representative.

(ii) The Resolution certified by the Executive Secretary of the Board, under the Board's seal, as having been duly adopted by the Board and as being in effect, with such changes or amendments as may have been agreed to by the Underwriters.

(iii) A copy of all proceedings of the Board relating to the authorization of this Purchase Agreement and to the authorization and issuance of the Bonds, certified as true, accurate and complete by the Executive Secretary of the Board.

(iv) An unqualified opinion or certificate, dated on or prior to the Closing Date, of the Attorney General of the State of Texas, approving the Bonds.

(v) A letter, dated as of or prior to the Closing Date, from the Texas Bond Review Board approving the issuance of the Bonds.

(vi) A certificate, dated the Closing Date, of the Vice Chancellor and General Counsel of the System to the effect that there is not any action, suit, investigation, inquiry or proceeding (whether or not purportedly on behalf of the Board) pending, or, to the best of his or her knowledge, threatened or that 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, (A) affecting the System's existence as a state agency or the Board's appointment as its governing body or its powers, or the title of its officers to their respective offices, or (B) seeking to restrain or enjoin the issuance or delivery of the Bonds, or the collection or application of the Pledged Revenues to pay the principal of and interest on the Bonds, or (C) in any way contesting or affecting the tax-exempt status of the interest on the Bonds or the Refunded Notes, or (D) in any way contesting or affecting the validity or enforceability of the Bonds, the Resolution, this Purchase Agreement, the Escrow Agreement, the Refunded Notes or the Prior Resolutions, or (E) contesting in any manner the completeness, accuracy, or fairness of the Preliminary Official Statement or the Official Statement, or (F) 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 System, or (G) which might in any material respect adversely affect the transactions contemplated herein.

(vii) A certificate, dated the Closing Date, signed by the U.T. System Representative, to the effect that (A) to the best of her knowledge: (1) the representations and warranties of the Board contained herein are true and correct in all material respects on and as of the Closing Date as if made on the Closing Date; (2) the Official Statement does not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (3) no event affecting the Board, the System or the Pledged Revenues has occurred since the date of the Official Statement which should be disclosed in the Official Statement for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein not misleading in any respect; and

(4) there has not been any material adverse change in the financial condition of the System or the Pledged Revenues from that reflected in the financial statements and other financial information contained in the Official Statement; and (B) on the basis of (1) a reading of the Official Statement and of the financial statements of the System, (2) consultations with Board members, officers and other officials of the Board and the System responsible for financial and accounting matters, and (3) a reading of the minutes of the meetings of the Board, nothing has come to her attention which causes her to believe that as of a subsequent specified date not more than five business days prior to the Closing Date, there was (x) any material change in long-term debt of the System as compared with the amount shown in such financial statements, except for changes that the Official Statement discloses or changes that have occurred or may occur which are described in such certificate or (y) any material decrease in total assets or total fund balance of the System, in each case as compared with amounts shown in such financial statements, except in all instances for changes or decreases that the Official Statement discloses or that have occurred or may occur which are described in such certificate.

(viii) Unqualified bond opinions relating to the Bonds dated the Closing Date, of McCall, Parkhurst & Horton L.L.P., Austin and Dallas, Texas, Bond Counsel, in substantially the forms attached to the Official Statement as Appendix D.

(ix) A supplemental opinion relating to the Bonds addressed to the Underwriters and dated the Closing Date, of Bond Counsel, in substantially the form attached hereto as Exhibit B.

(x) An opinion, dated the Closing Date, of Vinson & Elkins L.L.P., Austin and Houston, Texas, counsel to the Underwriters, in form and substance satisfactory to the Underwriters.

(xi) Letters from Fitch IBCA, Inc., Standard & Poor's Rating Group and Moody's Investors Service, Inc. to the effect that the Bonds have been rated "AAA", "AAA" and "Aa1", respectively.

(xii) A certificate by an appropriate official of the Board or the System to the effect that, on the basis of the facts, estimates and circumstances in effect on the date of delivery of the Bonds, it is not expected that the proceeds of the Bonds will be used in a manner that would cause such Bonds to be arbitrage bonds within the meaning of section 148 of the Code.

(xiii) A report of Ernst & Young LLP, independent certified public accountants, stating that such firm has verified the mathematical accuracy of certain computations based upon assumptions provided to them relating to the adequacy of the maturing principal amounts of the Federal Securities and the interest thereon held in the Escrow Fund established by the Escrow Agreement on the Closing Date to pay when due all of the principal of and interest on the Refunded Notes.

(xiv) A fully executed copy of the Escrow Agreement which (together with any other appropriate documentation) evidences that all Federal Securities and cash required to be deposited with the Escrow Agent on the Closing Date have been purchased by or delivered to the Escrow Agent, all as described in the Official Statement, together with a certificate, dated as of the Closing Date, executed by an appropriate official of the Escrow Agent, to the effect that the Escrow Agreement has been duly authorized, executed, and entered into by the Escrow Agent.

(xv) Such additional legal opinions, certificates, instruments and other documents as the Underwriters may reasonably request to evidence the truth, accuracy and completeness, as of the date hereof and as of the Closing Date, of the Board's representations and warranties contained herein and of the statements and information contained in the Official Statement, and the due performance and satisfaction by the Board at or prior to the Closing Date of all agreements then to be performed and all conditions then to be satisfied by the Board.

(xvi) The Board will agree in the Resolution to provide certain periodic information and notices of material events in accordance with Rule 15c2-12, as described in the Official Statement under "Continuing Disclosure of Information". The Underwriters' obligation to accept and pay for the Bonds is conditioned upon delivery to the Underwriters or their agent of a certified copy of the Resolution containing the agreement described under such heading.

All of the opinions, letters, certificates, instruments and other documents mentioned above or elsewhere in this Purchase Agreement shall be deemed to be in compliance with the provisions hereof if, but only if, they are in form and substance satisfactory to the Representative.

If the Board shall be unable to satisfy the conditions to the obligations of the Underwriters to purchase, to accept delivery of and to pay for the Bonds contained in this Purchase Agreement, or if the obligations of the Underwriters to purchase, to accept delivery of and to pay for the Bonds shall be terminated for any reason permitted by this Purchase Agreement, this Purchase Agreement shall terminate and neither the Underwriters nor the Board shall be under any further obligation hereunder, except that the respective obligations of the Board and the Underwriters set forth in Paragraphs 8 and 10 hereof shall continue in full force and effect.

**7. Termination.** The Representative shall have the right to terminate in its absolute discretion the Underwriters' obligations under this Purchase Agreement to purchase, to accept delivery of and to pay for the Bonds by notifying the Board of its election to do so if, after the execution hereof and prior to the Closing:

(a) (i) Legislation (including any amendment thereto) shall have been introduced in or adopted by either House of the Congress of the United States or recommended to the Congress or otherwise endorsed for passage by the President of the United States, the Treasury Department of the United States, the Internal Revenue Service or the Chairman or ranking minority member of the Committee on Finance of the United States Senate or the Committee on Ways and Means of the United States House of Representatives, or legislation is under consideration by either such committee or is introduced as an option for consideration by either such committee by the staff of such committee, or by the staff of the Joint Committee on Taxation of the Congress of the United States, or a bill to amend the Internal Revenue Code (which, if enacted, would be effective as of a date prior to the Closing) shall be filed in either house, or (ii) a decision

shall have been rendered by a court established under Article III of the Constitution of the United States or by the United States Tax Court, or (iii) an order, filing, ruling or regulation shall have been issued or proposed by or on behalf of the Treasury Department of the United States or the Internal Revenue Service or any other agency of the United States, or (iv) a release or official statement shall have been issued by the President of the United States or by the Treasury Department of the United States or by the Internal Revenue Service, the effect of which, in any such case described in clause (i), (ii), (iii), or (iv), would be to impose, directly or indirectly, federal income taxation upon interest received on obligations of the general character of the Bonds or upon income of the general character to be derived by the Board, other than as imposed on the Bonds and income therefrom under the federal tax laws in effect on the date hereof, in such a manner as in the judgment of the Representative would make it impracticable to market the Bonds on the terms and in the manner contemplated in the Official Statement.

(b) Any action shall have been taken by the Securities and Exchange Commission or by a court which would require registration of any security under the Securities Act of 1933, as amended, or qualification of any indenture under the Trust Indenture Act of 1939, as amended, in connection with the public offering of the Bonds, or any action shall have been taken by any court or by any governmental authority suspending the use of the Official Statement or any amendment or supplement thereto, or any proceeding for that purpose shall have been initiated or threatened in any such court or by any such authority.

(c) (i) The Constitution of the State of Texas shall be amended or an amendment shall be proposed, or (ii) legislation shall be enacted, or (iii) a decision shall have been rendered as to matters of Texas law, or (iv) any order, ruling or regulation shall have been issued or proposed by or on behalf of the State of Texas by an official, agency or department thereof, affecting the tax status of the Board, its property or income, its notes or bonds (including the Bonds) or the interest thereon, which in the judgment of the Representative would make it impracticable to market the Bonds on the terms and in the manner contemplated in the Official Statement.

(d) Any fact or event shall exist or have existed that, in the Representative's judgment, requires or has required an amendment of or supplement to the Official Statement.

(e) (i) (A) Trading generally shall have been suspended or materially limited on or by, as the case may be, either of the New York Stock Exchange or the American Stock Exchange, (B) a general moratorium on commercial banking activities in New York shall have been declared by either Federal or New York State authorities, or (C) there shall have occurred any outbreak or escalation of hostilities or any change in financial markets or any calamity or crisis that, in the reasonable judgment of the Representative, is material and adverse and (ii) in the case of any of the events specified in clauses (A) through (C), such event singly or together with any other such event makes it, in the judgment of the Representative, impracticable to market the Bonds on the terms and in the manner contemplated in the Official Statement.

(f) There shall have occurred any downgrading, or any notice shall have been given of (i) any intended or potential downgrading or (ii) any review or possible change that does not indicate the direction of a possible change, in the rating accorded any of the Board's Parity Debt obligations (including the ratings to be accorded the Bonds) by any "nationally recognized statistical rating organization," as such term is defined for purposes of Rule 436(g)(2) under the Securities Act of 1933, as amended.

(g) Legislation shall have been enacted by the federal government or the State of Texas, a decision of any federal or State of Texas court shall have been made, or a ruling or regulation (proposed, temporary or final) of the Securities and Exchange Commission or other governmental agency shall have been made or issued that, in the opinion of Underwriters' Counsel, has the effect of requiring the contemplated distribution of the Bonds or any agreement offered in connection therewith to be registered under the Securities Act of 1933, as amended, or the Resolution to be qualified as an indenture under the Trust Indenture Act of 1939, as amended.

(h) The purchase of and payment for the Bonds by the Underwriters, or the resale of the Bonds by the Underwriters, on the terms and conditions herein provided shall be prohibited by any applicable law, governmental authority, board, agency or commission.

8. **Expenses.** (a) The Underwriters shall be under no obligation to pay, and the Board shall pay, all expenses incident to the performance of the obligations of the Board hereunder, including, but not limited to: (i) the cost of the printing or other reproduction (for distribution prior to, on or after the date of acceptance of this Purchase Agreement) of the Resolution, the Preliminary Official Statement and the Official Statement, together with the number of copies the Underwriters deem

reasonable; (ii) the fees and disbursements of Bond Counsel and any other consultants, advisors or counsel retained by the System or the Board; (iii) the fees, if any, for ratings of any of the Bonds; and (iv) all advertising expenses in connection with the public offering of the Bonds. The foregoing fees and expenses shall be paid promptly upon receipt of an invoice therefor.

(b) The Underwriters shall pay (i) the fees and disbursements of counsel for the Underwriters, and (ii) all other reasonable customary expenses incurred by the Underwriters in connection with their public offering and distribution of the Bonds, other than the costs and items described in Paragraph 8(a) above.

9. **Notices.** Any notice or other communication to be given to the Board under this Purchase Agreement may be given by delivering the same in writing at 201 West 7th Street, Austin, Texas 78701, Attention: Assistant Vice Chancellor for Finance, and any notice or other communication to be given to the Underwriters under this Purchase Agreement may be given by delivering the same in writing to the \_\_\_\_\_ Representative, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, Attention: \_\_\_\_\_.

10. **Parties in Interest.** This Purchase Agreement as heretofore specified shall constitute the entire agreement between the Board and the Underwriters and is made solely for the benefit of the Board and the Underwriters (including successors or assigns of any Underwriter) and no other person shall acquire or have any right hereunder or by virtue hereof. This Purchase Agreement may not be assigned by the Board. All of the Board's representations, warranties and agreements contained in this Purchase Agreement shall remain operative and in full force and effect, regardless of (a) any investigations made by or on behalf of any of the Underwriters; (b) delivery of and payment for the Bonds pursuant to this Purchase Agreement; and (c) any termination of this Purchase Agreement.

11. **Effectiveness.** This Purchase Agreement shall become effective upon the acceptance hereof by the Board and shall be valid and enforceable at the time of such acceptance.

12. **CHOICE OF LAW. THIS PURCHASE AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS.**

13. **Representative Capacity.** The Representative represents that it has been duly authorized by the Underwriters to execute this Purchase Agreement and to act hereunder by and on behalf of the other Underwriters. Any authority, right, discretion or other power conferred upon the Underwriters or the Representative under any provision of this Purchase Agreement may be exercised by the Representative, and the Board shall be entitled to rely upon any request, notice or statement if the same shall have been given or made by the Representative.

14. **Severability.** If any provision of this Purchase Agreement shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions, or in all jurisdictions because it conflicts with any provisions of any constitution, statute, rule of public policy, or any other reason, such circumstances shall not have the effect of rendering the provision in question invalid, inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions of this Purchase Agreement invalid, inoperative or unenforceable to any extent whatever.

15. **Business Day.** For purposes of this Purchase Agreement, "business day" means any day on which the New York Stock Exchange is open for trading.

16. **Paragraph Headings.** Paragraph headings have been inserted in this Purchase Agreement as a matter of convenience of reference only, and it is agreed that such paragraph headings are not a part of this Purchase Agreement and will not be used in the interpretation of any provisions of this Purchase Agreement.

17. **Counterparts.** This Purchase Agreement may be executed in several counterparts each of which shall be regarded as an original (with the same effect as if the signatures thereto and hereto were upon the same document) and all of which shall constitute one and the same document.

Very truly yours,

\_\_\_\_\_  
as Representative

By:

Title: \_\_\_\_\_

Accepted and agreed to this  
\_\_\_\_\_ day of \_\_\_\_\_, 1999.

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

By: \_\_\_\_\_  
Assistant Vice Chancellor for Finance

**LIST OF UNDERWRITERS**

TERMS OF THE BONDS

BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM  
REVENUE FINANCING SYSTEM BONDS  
SERIES 1999\_\_

PRINCIPAL AMOUNT

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

MATURITY SCHEDULE

\$ \_\_\_\_\_ Serial Bonds

<u>Due</u> <u>August 15</u>	<u>Amount</u>	<u>Rate</u>	<u>Price</u> <u>or Yield</u>
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GENERAL DESCRIPTION OF BONDS

The Bonds will be issued as Current Interest Bonds, will be dated \_\_\_\_\_, 1999, will mature on the dates and in the amounts set forth above, and will bear interest at the rates set forth above from their date and will be payable February 15 and August 15 of each year, commencing \_\_\_\_\_, \_\_\_\_\_ until maturity or prior redemption.

The Bonds shall be initially issued as one bond for each maturity and registered in the name of \_\_\_\_\_. Bonds registered in the name of \_\_\_\_\_ shall, immediately following their delivery, be exchanged for Bonds registered in the name of Cede & Co., as nominee of The Depository Trust Company, pursuant to the Book-Entry Only System described in the Resolution. Beneficial ownership of the Bonds may be acquired in denominations of \$5,000 or integral multiples thereof.

## REDEMPTION PROVISIONS

***Optional Redemption.*** On August 15, \_\_\_\_ or on any date thereafter, the Bonds scheduled to mature on August 15, \_\_\_\_, and thereafter may be redeemed prior to their scheduled maturities, at the option of the Issuer, with funds derived from any available and lawful source, as a whole, or in part, and, if in part, the particular Bonds, or portion thereof, to be redeemed shall be selected and designated by the Issuer (provided that a portion of a Bond may be redeemed only in an integral multiple of \$5,000), at a redemption price of par, plus accrued interest to the date fixed for redemption; provided that during any period in which ownership of the Bonds is determined by a book entry at a securities depository for the Bonds, if fewer than all of the Bonds of the same maturity and bearing the same interest rate are to be redeemed, the particular Bonds of such maturity and bearing such interest rate shall be selected in accordance with the arrangements between the Issuer and the securities depository.

**FORM OF BOND COUNSEL'S SUPPLEMENTAL OPINION**

\_\_\_\_\_, 1999

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

\_\_\_\_\_  
as Representative of the  
Underwriters listed in the  
Purchase Agreement relating  
to the captioned Bonds

Re: \$ \_\_\_\_\_ Board of Regents of The University of Texas System Revenue  
Financing System Bonds, Series 1999\_\_

Ladies and Gentlemen:

The undersigned have been retained by the Board of Regents of The University of Texas System (the "Board"), as bond counsel with reference to the above issue of bonds (collectively, the "Bonds"), which were authorized by the Master Resolution and the Supplemental Resolution (collectively, the "Bond Resolution"). Pursuant to the Bond Resolution, the Board entered into a Purchase Agreement dated \_\_\_\_\_, 1999 (the "Purchase Agreement") relating to the Bonds with \_\_\_\_\_ on behalf of itself and the other underwriters listed in the Purchase Agreement (collectively, the "Underwriters"). Terms used herein and not otherwise defined have the meaning given in the Purchase Agreement.

It is our opinion that the Bonds are exempt securities within the meaning of Section 3(a)(2) of the Securities Act of 1933, as amended and Section 304(a)(4) of the Trust Indenture Act of 1939, as amended, and that it is not necessary in connection with the offer and sale of the Bonds to register the Bonds under the Securities Act of 1933, as amended, or to qualify the Bond Resolution under the Trust Indenture Act of 1939, as amended.

We were not requested to participate, and did not take part, in the preparation of the Official Statement prepared in connection with the sale of the Bonds (the "Official Statement"), and except to the extent noted herein, we have not verified and are not passing upon and do not assume any responsibility for, the accuracy, completeness, or fairness of the statements contained in the Official Statement. We have, however, reviewed the information relating to the Revenue Financing System, the Bonds, and the Bond Resolution contained in the Official Statement under the captions "INTRODUCTION," "PLAN OF FINANCING," "SOURCES AND APPLICATIONS OF FUNDS," "DESCRIPTION OF THE BONDS," "DESCRIPTION OF THE REVENUE FINANCING SYSTEM," "CONTINUING DISCLOSURE OF INFORMATION," "LEGAL MATTERS," "TAX MATTERS," "LEGAL INVESTMENTS IN TEXAS," Appendix A, "GLOSSARY OF TERMS," and Appendix B, "SUMMARY OF THE MASTER RESOLUTION" (except for financial and statistical data contained under any of the foregoing), and we are of the opinion that the information relating to the Revenue Financing System, the Bonds, and the Bond Resolution contained under such captions is a fair and accurate summary of the information purported to be shown therein.

It is further our opinion that the Escrow Agreement, dated \_\_\_\_\_, 1999 (the "Escrow Agreement"), between the Board and Bankers Trust Company of New York (the "Escrow Agent"), executed in connection with the delivery of the Bonds, has been duly authorized, executed, and delivered and (assuming due authorization by the Escrow Agent) constitutes a binding agreement, enforceable in accordance with its terms, and that the Refunded Notes, as defined in the Escrow Agreement, being refunded by the Bonds, are outstanding under the resolutions authorizing their issuance only for the purpose of receiving the funds provided by, and are secured solely by and payable solely from, the Escrow Agreement and the cash and investments, including the income therefrom, held by the Escrow Agent pursuant to the Escrow Agreement. In rendering this opinion, we have relied upon the report and mathematical verifications of Ernest & Young LLP, certified public accountants, with respect to the adequacy of the cash and investments deposited with the Escrow Agent pursuant to the Escrow Agreement to provide for the timely payment and retirement of the principal of and interest on the Refunded Notes. Further, the opinions expressed in this paragraph are expressed only insofar as the laws of the State of Texas and of the United States of America may be applicable and are qualified to the extent that (i) enforceability of the Escrow Agreement may be limited by bankruptcy, reorganization, insolvency, moratorium, or other similar laws of general application

in effect from time to time relating to or affecting the enforcement of creditors' rights and (ii) certain equitable remedies, including specific performance, or legal remedies awarded pursuant to principles of equity, including mandamus, may be unavailable.

This letter is furnished to you by us, and is solely for your benefit, and no one other than the Board and the Underwriters is entitled to rely upon this letter.

Respectfully,

## ESCROW AGREEMENT

THIS ESCROW AGREEMENT, dated as of \_\_\_\_\_, 1999 (herein, together with any amendments or supplements hereto, called the "Agreement") is entered into by and between The Board of Regents of The University of Texas System (herein called the "Issuer") and Bankers Trust Company, as escrow agent (herein, together with any successor in such capacity, called the "Escrow Agent"). The addresses of the Issuer and the Escrow Agent are shown on Exhibit "A" attached hereto and made a part hereof.

### WITNESSETH:

WHEREAS, the Issuer heretofore has issued and there presently remain outstanding the obligations (the "Refunded Obligations") described in the Verification Report of Ernst & Young (the "Report") relating to the Refunded Obligations, attached hereto as Exhibit "B" and made a part hereof; and

WHEREAS, the Refunded Obligations are scheduled to come due on such dates, bear interest at such rates, and be payable at such times and in such amounts as are set forth in the Report; and

WHEREAS, when firm banking arrangements have been made for the payment of all principal and interest of the Refunded Obligations when due, then the Refunded Obligations shall no longer be regarded as outstanding except for the purpose of receiving payment from the funds provided for such purpose; and

WHEREAS, Chapter 1207, Texas Government Code (herein "Chapter 1207"), authorizes the Issuer to issue refunding bonds and to deposit the proceeds from the sale thereof, and any other available funds or resources, directly with any place of payment (paying agent) for any of the Refunded Obligations, and such deposit, if made before such payment dates and in sufficient amounts, shall constitute the making of firm banking and financial arrangements for the discharge and final payment of the Refunded Obligations; and

WHEREAS, Chapter 1207 further authorizes the Issuer to enter into an escrow agreement with any such paying agent for any of the Refunded Obligations with respect to the safekeeping, investment, administration and disposition of any such deposit, upon such terms and conditions as the Issuer and such paying agent may agree, provided that such deposits may be invested only in direct obligations of the United States of America, including obligations the principal of and interest on

which are unconditionally guaranteed by the United States of America, and which may be in book entry form, and which shall mature and/or bear interest payable at such times and in such amounts as will be sufficient to provide for the scheduled payment of principal and interest on the Refunded Obligations when due; and

WHEREAS, the Escrow Agent is a paying agent (the "Paying Agent") for the Refunded Obligations and this Agreement constitutes an escrow agreement of the kind authorized and required by said Chapter 1207; and

WHEREAS, Chapter 1207 makes it the duty of the Escrow Agent to comply with the terms of this Agreement and as the paying agent to pay the principal of, premium, if any, and interest on the Refunded Obligations when due, and in accordance with their terms, but solely from the funds, in the manner, and to the extent provided in this Agreement; and

WHEREAS, the issuance, sale, and delivery of The Board of Regents of The University of Texas System Revenue Financing System Bonds, Series 1999A and The Board of Regents of The University of Texas System Revenue Financing System Bonds, Series 1999B (collectively, the "Refunding Obligations") have been duly authorized to be issued, sold, and delivered for the purpose, among others, of obtaining the funds required to provide for the payment of the principal of, premium, if any, and interest on the Refunded Obligations when due; and

WHEREAS, the Issuer desires that, concurrently with the delivery of the Refunding Obligations to the purchasers thereof, certain proceeds of the Refunding Obligations, together with certain other available funds of the Issuer, shall be applied to purchase certain direct obligations of the United States of America hereinafter defined as the "Escrowed Securities" for deposit to the credit of the Escrow Fund created pursuant to the terms of this Agreement and to establish a beginning cash balance (if needed) in such Escrow Fund; and

WHEREAS, the Escrowed Securities shall mature and the interest thereon shall be payable at such times and in such amounts so as to provide moneys which, together with cash balances from time to time on deposit in the Escrow Fund, will be sufficient to pay interest on the Refunded Obligations as it accrues and becomes payable and the principal of the Refunded Obligations as it becomes due and payable; and

WHEREAS, to facilitate the receipt and transfer of proceeds of the Escrowed Securities, particularly those in book entry form, the Issuer desires to establish the Escrow Fund at the principal corporate trust office of the Escrow Agent in New York, New York; and

WHEREAS, the Escrow Agent is a party to this Agreement to acknowledge its acceptance of the terms and provisions hereof;

NOW, THEREFORE, in consideration of the mutual undertakings, promises and agreements herein contained, the sufficiency of which hereby are acknowledged, and to secure the full and timely payment of principal of and the interest on the Refunded Obligations, the Issuer and the Escrow Agent mutually undertake, promise, and agree for themselves and their respective representatives and successors, as follows:

## ARTICLE I

### DEFINITIONS AND INTERPRETATIONS

Section 1.01. Definitions. Unless the context clearly indicates otherwise, the following terms shall have the meanings assigned to them below when they are used in this Agreement:

"Escrow Fund" means the fund created by this Agreement to be administered by the Escrow Agent pursuant to the provisions of this Agreement.

"Escrowed Securities" means the noncallable and nonprepayable United States Treasury obligations and obligations the due and timely payment of which is unconditionally guaranteed by the United States of America described in Exhibit "B" attached to this Agreement, or cash or other direct obligations of the United States of America or obligations the due and timely payment of which is unconditionally guaranteed by the United States of America substituted therefor pursuant to Article IV of this Agreement.

Section 1.02. Other Definitions. The terms "Agreement", "Issuer", "Escrow Agent", "Refunded Obligations", "Refunding Obligations" and "Paying Agent", when they are used in this Agreement, shall have the meanings assigned to them in the preamble to this Agreement.

Section 1.03. Interpretations. The titles and headings of the articles and sections of this Agreement have been inserted for convenience and reference only and are not to be considered a part hereof and shall not in any way modify or

restrict the terms hereof. This Agreement and all of the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to achieve the intended purpose of providing for the refunding of the Refunded Obligations in accordance with applicable law.

## ARTICLE II

### DEPOSIT OF FUNDS AND ESCROWED SECURITIES

Section 2.01. Deposits in the Escrow Fund. Concurrently with the sale and delivery of the Refunding Obligations the Issuer shall deposit, or cause to be deposited, with the Escrow Agent, for deposit in the Escrow Fund, the funds and Escrowed Securities described herein, and the Escrow Agent shall, upon the receipt thereof, acknowledge such receipt to the Issuer in writing.

## ARTICLE III

### CREATION AND OPERATION OF ESCROW FUND

Section 3.01. Escrow Fund. The Escrow Agent has created on its books a special trust fund and irrevocable escrow to be known as "Board of Regents of The University of Texas System Revenue Financing System Commercial Paper Notes, Series A 1999 Escrow Fund" (the "Escrow Fund"). The Escrow Agent hereby agrees that upon receipt thereof it will deposit to the credit of the Escrow Fund the funds and the Escrowed Securities described in the Report. Such deposit, all proceeds therefrom, and all cash balances from time to time on deposit therein (a) shall be the property of the Escrow Fund, (b) shall be applied only in strict conformity with the terms and conditions of this Agreement, and (c) are hereby irrevocably pledged to the payment of the principal of, premium, if any, and interest on the Refunded Obligations, which payment shall be made by timely transfers of such amounts at such times as are provided for in Section 3.02 hereof. When the final transfers have been made for the payment of such principal of, premium, if any, and interest on the Refunded Obligations, any balance then remaining in the Escrow Fund shall be transferred to the Issuer upon its written request, and the Escrow Agent shall thereupon be discharged from any further duties hereunder.

Section 3.02. Payment of Principal and Interest. The Escrow Agent is hereby irrevocably instructed to transfer to the respective paying agents for the Refunded Obligations from the cash balances from time to time on deposit in the Escrow

Fund, the amounts required to pay the principal of the Refunded Obligations at their respective maturity dates and interest thereon to such maturity dates in the amounts and at the times shown in the Report.

Section 3.03. Sufficiency of Escrow Fund. The Issuer represents that the successive receipts of the principal of and interest on the Escrowed Securities will assure that the cash balance on deposit from time to time in the Escrow Fund will be at all times sufficient to provide moneys for transfer to the Paying Agent at the times and in the amounts required to pay the interest on the Refunded Obligations as such interest comes due and the principal of the Refunded Obligations as the Refunded Obligations mature, all as more fully set forth in the Report. If, for any reason, at any time, the cash balances on deposit or scheduled to be on deposit in the Escrow Fund shall be insufficient to transfer the amounts required by each place of payment (paying agent) for the Refunded Obligations to make the payments set forth in Section 3.02 hereof, the Issuer shall timely deposit in the Escrow Fund, from any funds that are lawfully available therefor, additional funds in the amounts required to make such payments. Notice of any such insufficiency shall be given promptly as hereinafter provided, but the Escrow Agent shall not in any manner be responsible for any insufficiency of funds in the Escrow Fund or the Issuer's failure to make additional deposits thereto.

Section 3.04. Trust Fund. The Escrow Agent shall hold at all times the Escrow Fund, the Escrowed Securities and all other assets of the Escrow Fund, wholly segregated from all other funds and securities on deposit with the Escrow Agent; it shall never allow the Escrowed Securities or any other assets of the Escrow Fund to be commingled with any other funds or securities of the Escrow Agent; and it shall hold and dispose of the assets of the Escrow Fund only as set forth herein. The Escrowed Securities and other assets of the Escrow Fund shall always be maintained by the Escrow Agent as trust funds for the benefit of the owners of the Refunded Obligations; and a special account thereof shall at all times be maintained on the books of the Escrow Agent. The owners of the Refunded Obligations shall be entitled to the same preferred claim and first lien upon the Escrowed Securities, the proceeds thereof, and all other assets of the Escrow Fund to which they are entitled as owners of the Refunded Obligations. The amounts received by the Escrow Agent under this Agreement shall not be considered as a banking deposit by the Issuer, and the Escrow Agent shall have no right to title with respect thereto except as a constructive trustee and Escrow Agent under the terms of this Agreement. The amounts received by the Escrow Agent under this Agreement shall not be subject to warrants, drafts or checks drawn by the Issuer or, except to the extent expressly herein provided, by the Paying Agent.

## ARTICLE IV

### LIMITATION ON INVESTMENTS

Section 4.01. Investments. Except as provided in Section 4.02 hereof, the Escrow Agent shall not have any power or duty to invest or reinvest any money held hereunder, or to make substitutions of the Escrowed Securities, or to sell, transfer or otherwise dispose of the Escrowed Securities.

Section 4.02. Substitutions and Reinvestments. At the discretion of the Issuer, the Escrow Agent shall reinvest cash balances representing receipts from the Escrowed Securities, make substitutions of the Escrowed Securities or redeem the Escrowed Securities and reinvest the proceeds thereof or hold such proceeds as cash, together with other moneys or securities held in the Escrow Fund provided that the Issuer delivers to the Escrow Agent the following:

(1) an opinion by an independent certified public accountant that after such substitution or reinvestment the principal amount of the securities in the Escrow Fund (which shall be noncallable, nonprepayable direct obligations of the United States of America or obligations which are unconditionally guaranteed as to full and timely payment by the United States of America), together with the interest thereon and other available moneys, will be sufficient to pay, without further investment or reinvestment, as the same become due in accordance with the Report, the principal of, interest on and premium, if any, on the Refunded Obligations which have not previously been paid, and

(2) an unqualified opinion of nationally recognized municipal bond counsel to the effect that (a) such substitution or reinvestment will not cause the Refunded Obligations to be "arbitrage bonds" within the meaning of Section 103 of the Code or the regulations thereunder in effect on the date of such substitution or reinvestment, or otherwise make the interest on the Refunded Obligations subject to federal income taxation, and (b) such substitution or reinvestment complies with the Constitution and laws of the State of Texas and with all relevant documents relating to the issuance of the Refunded Obligations.

The Escrow Agent shall have no responsibility or liability for loss or otherwise with respect to investments made at the direction of the Issuer.

Notwithstanding anything to the contrary contained herein, the Issuer and the Escrow Agent shall not enter into a forward purchase agreement in connection with the Escrowed Securities unless Moody's Investors Service has confirmed in writing the rating on the Refunded Obligations.

Section 4.03. Arbitrage. The Issuer hereby covenants and agrees that it shall never request the Escrow Agent to exercise any power hereunder or permit any part of the money in the Escrow Fund or proceeds from the sale of Escrowed Securities to be used directly or indirectly to acquire any securities or obligations if the exercise of such power or the acquisition of such securities or obligations would cause any Refunding Obligations or Refunded Obligations to be an "arbitrage bond" within the meaning of Section 148 of the Code or Section 103(c) of the Internal Revenue Code of 1954.

## ARTICLE V

### APPLICATION OF CASH BALANCES

Section 5.01. In General. Except as provided in Sections 3.02 and 4.02 hereof, no withdrawals, transfers, or reinvestment shall be made of cash balances in the Escrow Fund.

## ARTICLE VI

### RECORDS AND REPORTS

Section 6.01. Records. The Escrow Agent will keep books of record and account in which complete and correct entries shall be made of all transactions relating to the receipts, disbursements, allocations and application of the money and Escrowed Securities deposited to the Escrow Fund and all proceeds thereof, and such books shall be available for inspection at reasonable hours and under reasonable conditions by the Issuer and the owners of the Refunded Obligations.

Section 6.02. Reports. While this Agreement remains in effect, the Escrow Agent monthly shall prepare and send to the Issuer a written report summarizing all transactions relating to the Escrow Fund during the preceding month, including, without limitation, credits to the Escrow Fund as a result of interest payments on or maturities of the Escrowed Securities and transfers from the Escrow Fund for

payments on the Refunded Obligations or otherwise, together with a detailed statement of all Escrowed Securities and the cash balance on deposit in the Escrow Fund as of the end of such period.

## ARTICLE VII

### CONCERNING THE PAYING AGENTS AND ESCROW AGENT

Section 7.01. Representations. The Escrow Agent hereby represents that it has all necessary power and authority to enter into this Agreement and undertake the obligations and responsibilities imposed upon it herein, and that it will carry out all of its obligations hereunder.

Section 7.02. Limitation on Liability and Indemnification. The liability of the Escrow Agent to transfer funds for the payment of the principal of and interest on the Refunded Obligations shall be limited to the proceeds of the Escrowed Securities and the cash balances from time to time on deposit in the Escrow Fund. Notwithstanding any provision contained herein to the contrary, neither the Escrow Agent nor the Paying Agent shall have any liability whatsoever for the insufficiency of funds from time to time in the Escrow Fund or any failure of the obligors of the Escrowed Securities to make timely payment thereon, except for the obligation to notify the Issuer promptly of any such occurrence.

The recitals herein and in the proceedings authorizing the Refunding Obligations shall be taken as the statements of the Issuer and shall not be considered as made by, or imposing any obligation or liability upon, the Escrow Agent. The Escrow Agent is not a party to the proceedings authorizing the Refunding Obligations or the Refunded Obligations and is not responsible for nor bound by any of the provisions thereof (except as a place of payment and paying agent and/or a Paying Agent/Registrar therefor). In its capacity as Escrow Agent, it is agreed that the Escrow Agent need look only to the terms and provisions of this Agreement.

The Escrow Agent makes no representations as to the value, conditions or sufficiency of the Escrow Fund, or any part thereof, or as to the title of the Issuer thereto, or as to the security afforded thereby or hereby, and the Escrow Agent shall not incur any liability or responsibility in respect to any of such matters.

It is the intention of the parties hereto that the Escrow Agent shall never be required to use or advance its own funds or otherwise incur personal financial liability in the performance of any of its duties or the exercise of any of its rights and powers hereunder.

The Escrow Agent shall not be liable for any action taken or neglected to be taken by it in good faith in any exercise of reasonable care and believed by it to be within the discretion or power conferred upon it by this Agreement, nor shall the Escrow Agent be responsible for the consequences of any error of judgment; and the Escrow Agent shall not be answerable except for its own action, neglect or default, nor for any loss unless the same shall have been through its negligence or want of good faith. In addition, to the extent permitted by law, the Issuer agrees to indemnify the Escrow Agent and its employees, directors, officers and agents and hold each harmless against any and all losses, liabilities, litigation costs and expenses (including reasonable counsel fees and expenses), that may arise out of any action or inaction of the Escrow Agent under this Agreement other than any action or inaction resulting from the Escrow Agent's negligence or want of good faith.

Unless it is specifically otherwise provided herein, the Escrow Agent has no duty to determine or inquire into the happening or occurrence of any event or contingency or the performance or failure of performance of the Issuer with respect to arrangements or contracts with others, with the Escrow Agent's sole duty hereunder being to safeguard the Escrow Fund, to dispose of and deliver the same in accordance with this Agreement. If, however, the Escrow Agent is called upon by the terms of this Agreement to determine the occurrence of any event or contingency, the Escrow Agent shall be obligated, in making such determination, only to exercise reasonable care and diligence, and in event of error in making such determination the Escrow Agent shall be liable only for its own misconduct or its negligence and shall be entitled to advice of counsel concerning its duties hereunder. In determining the occurrence of any such event or contingency the Escrow Agent may request from the Issuer or any other person such reasonable additional evidence as the Escrow Agent in its discretion may deem necessary to determine any fact relating to the occurrence of such event or contingency, and in this connection may make inquiries of, and consult with, among others, the Issuer at any time.

Section 7.03. Compensation. (a) Concurrently with the sale and delivery of the Refunding Obligations, the Issuer shall pay to the Escrow Agent, as a fee for performing the services hereunder and for all expenses incurred or to be incurred by the Escrow Agent in the administration of this Agreement and as Paying Agent for the Refunded Obligations, the sum of \$500, the sufficiency of which is hereby acknowledged by the Escrow Agent for services hereunder and for all future paying agency services for the Refunded Obligations; and the Escrow Agent warrants that such sum is sufficient for such purpose. In the event that the Escrow Agent is

requested to perform any extraordinary services hereunder, the Issuer hereby agrees to pay reasonable fees and expenses to the Escrow Agent for such extraordinary services and to reimburse the Escrow Agent for all expenses incurred by the Escrow Agent in performing such extraordinary services, including counsel fees and expenses, and the Escrow Agent hereby agrees to look only to the Issuer for the payment of such fees and reimbursement of such expenses. The Escrow Agent hereby agrees that in no event shall it ever assert any claim or lien against the Escrow Fund for any fees for its services, whether regular or extraordinary, as Escrow Agent, or in any other capacity, or for reimbursement for any of its expenses.

(b) Upon receipt of the aforesaid specific sum stated in subsections (a) of this Section 7.03 for Escrow Agent and paying agency fees, expenses, and services, the Escrow Agent shall acknowledge such receipt to the Issuer in writing.

Section 7.04. Successor Escrow Agents. If at any time the Escrow Agent or its legal successor or successors should become unable, through operation or law or otherwise, to act as escrow agent hereunder, or if its property and affairs shall be taken under the control of any state or federal court or administrative body because of insolvency or bankruptcy or for any other reason, a vacancy shall forthwith exist in the office of Escrow Agent hereunder. In such event the Issuer, by appropriate action, promptly shall appoint an Escrow Agent to fill such vacancy. If no successor Escrow Agent shall have been appointed by the Issuer within 60 days, a successor may be appointed by the owners of a majority in principal amount of the Refunded Obligations then outstanding by an instrument or instruments in writing filed with the Issuer, signed by such owners or by their duly authorized attorneys-in-fact. If, in a proper case, no appointment of a successor Escrow Agent shall be made pursuant to the foregoing provisions of this section within three months after a vacancy shall have occurred, the owner of any Refunded Obligation may apply to any court of competent jurisdiction to appoint a successor Escrow Agent. Such court may thereupon, after such notice, if any, as it may deem proper, prescribe and appoint a successor Escrow Agent.

Any successor Escrow Agent shall be a corporation organized and doing business under the laws of the United States or the State of Texas, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least \$25,000,000, subject to the supervision or examination by Federal or State authority and qualified to act as Escrow Agent under Chapter 1207.

Any successor Escrow Agent shall execute, acknowledge and deliver to the Issuer and the Escrow Agent an instrument accepting such appointment hereunder, and the Escrow Agent shall execute and deliver an instrument transferring to such successor Escrow Agent, subject to the terms of this Agreement, all the rights, powers and trusts of the Escrow Agent hereunder. Upon the request of any such successor Escrow Agent, the Issuer shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor Escrow Agent all such rights, powers and duties. The Escrow Agent shall pay over to its successor Escrow Agent a proportional part of the Escrow Agent's fee hereunder.

## ARTICLE VIII

### MISCELLANEOUS

Section 8.01. Notice. Any notice, authorization, request, or demand required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when mailed by registered or certified mail, postage prepaid addressed to the Issuer or the Escrow Agent at the address shown on Exhibit "A" attached hereto. The United States Post Office registered or certified mail receipt showing delivery of the aforesaid shall be conclusive evidence of the date and fact of delivery. Any party hereto may change the address to which notices are to be delivered by giving to the other parties not less than ten (10) days prior notice thereof. Moody's Investors Service is to receive prior written notice and draft legal documents of any contemplated amendment at the address specified in Section 8.04.

Section 8.02. Termination of Responsibilities. Upon the taking of all the actions as described herein by the Escrow Agent, the Escrow Agent shall have no further obligations or responsibilities hereunder to the Issuer, the owners of the Refunded Obligations or to any other person or persons in connection with this Agreement.

Section 8.03. Binding Agreement. This Agreement shall be binding upon the Issuer and the Escrow Agent and their respective successors and legal representatives, and shall inure solely to the benefit of the owners of the Refunded Obligations, the Issuer, the Escrow Agent and their respective successors and legal representatives.

Section 8.04. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or

unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. Immediate written notice is to be sent by the Issuer to Moody's Investors Service after any incidence of severance. Such notice should be sent to Moody's Investors Service, Attention: Public Finance Rating Desk/Refunded Bonds, 99 Church Street, New York, New York, 10007.

Section 8.05. Texas Law Governs. This Agreement shall be deemed to be an agreement made under the laws of the State of Texas and for all purposes shall be governed by and construed in accordance with the laws of the State of Texas, except that the Escrow Agent's immunities and its standard of care in the performance of its responsibilities under this Agreement shall be governed by and construed in accordance with the laws of the State of New York.

Section 8.06. Time of the Essence. Time shall be of the essence in the performance of obligations from time to time imposed upon the Escrow Agent by this Agreement.

Section 8.07. Effective Date of Agreement. This Agreement shall be effective upon receipt by the Escrow Agent of the funds described in the Report and the Escrowed Securities, together with the specific sums stated in subsections (a) and (b) of Section 7.03 for Escrow Agent and paying agency fees, expenses, and services.

Section 8.08. Amendments. This Agreement is made for the benefit of The Board of Regents of The University of Texas System, the Escrow Agent and the holders or owners from time to time of the Refunded Obligations, and it shall not be repealed, revoked, altered or amended without the written consent of all such holders or owners and the written consent of the Escrow Agent; provided, however, that The Board of Regents of The University of Texas System and the Escrow Agent may, without the consent of, or notice to, such holders or owners and as shall not be inconsistent with the terms and provisions of this Agreement amend this Agreement to cure any ambiguity or formal defect or omission in this Agreement; but provided further that no amendment to or alteration of this Agreement shall conflict with the requirements for firm banking and financial arrangements in accordance with Chapter 1207. No such amendment shall adversely affect the rights of the holders of the Refunded Obligations. No amendment shall be effective unless the same shall be in writing and signed by the parties thereto. The Escrow Agent shall

provide Moody's Investors Service with documents relating to any proposed amendment to this Agreement prior to execution of any such amendment. All notices to Moody's shall be sent at the address set forth in Section 8.04 of this Agreement.

[The remainder of this page is intentionally left blank.]

EXECUTED as of the date first written above.

BOARD OF REGENTS OF  
THE UNIVERSITY OF TEXAS SYSTEM

By:

\_\_\_\_\_  
Assistant Vice Chancellor for Finance

ATTEST:

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

(SEAL)

BANKERS TRUST COMPANY,  
as Escrow Agent

By:

\_\_\_\_\_  
(Title)  
\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Trust Officer

(SEAL)

## INDEX TO EXHIBITS

Exhibit "A"	Addresses of the Issuer and the Escrow Agent
Exhibit "B"	Verification Report of Ernst & Young, relating to the Refunded Obligations

EXHIBIT "A"

ADDRESSES OF  
THE ISSUER AND ESCROW AGENT

ISSUER

The University of Texas System  
201 W. 7th Street  
Austin, Texas 78701

Attention: Pamela K. Clayton

ESCROW AGENT

Bankers Trust Company  
4 Albany Street, 4th Floor  
New York, New York 10006

Attention: Corporate Trust & Agency Services (Municipal Group)

EXHIBIT "B"

VERIFICATION REPORT

6. U. T. System: Recommended Approval of Non-Personnel Aspects of the Operating Budgets for the Fiscal Year Ending August 31, 2000, Including Auxiliary Enterprises, Grants and Contracts, Designated Funds, Restricted Current Funds, and Medical and Dental Services, Research and Development Plans and Authorization for the Chancellor to Make Editorial Corrections Therein; and Approval of Permanent University Fund Bond Proceeds Reserve Allocation for Library, Equipment, Repair and Rehabilitation Projects.--

### RECOMMENDATION

The Chancellor, with the concurrence of the Executive Vice Chancellor for Business Affairs, the Executive Vice Chancellor for Health Affairs, the Vice Chancellor for Academic Affairs, and chief administrative officers of the U. T. System component institutions, recommends that the non-personnel aspects of the U. T. System Operating Budgets for the Fiscal Year ending August 31, 2000, including Auxiliary Enterprises, Grants and Contracts, Designated Funds, Restricted Current Funds, and Medical and Dental Services, Research and Development Plans be approved.

It is further recommended that the Chancellor be authorized to make editorial corrections therein and that subsequent adjustments be reported to the U. T. Board of Regents through the institutional dockets.

It is requested that Permanent University Fund Bond Proceeds in the amount of \$18,000,000 be appropriated from reserves to fund Library, Equipment, Repair and Rehabilitation Projects for Fiscal Year 2000. In addition, it is recommended that the U. T. System component institutions be authorized to purchase approved equipment items and library materials and to contract for repair and rehabilitation projects following standard purchasing and contracting procedures within approved dollar limits. Substitute equipment purchases are to receive prior approval by the Chancellor and appropriate Executive Vice Chancellor or Vice Chancellor and, where required, the U. T. Board of Regents. Transfers by the U. T. System Administration of allocated funds to institutional control or to vendors will coincide with vendor payment requirements. Final approval of specific repair and rehabilitation projects will be in accordance with procedures for construction projects established by the Board.

Fiscal Year-2000 funds from these reserves not expended or obligated by contract/ purchase order within six months after the close of Fiscal Year 2000 are to be available for future System-wide reallocation unless specific authorization to continue obligating the funds is given by the Executive Vice Chancellor for Business Affairs on recommendation of the chief administrative officer and the appropriate Executive Vice Chancellor or Vice Chancellor.

This item requires the concurrence of the Academic Affairs and Health Affairs Committees.

### BACKGROUND INFORMATION

The Chancellor will present a statement in support of the Operating Budget recommendations.

See Page Ex.S - 1 related to the personnel aspects of the Operating Budgets.

The appropriation of Permanent University Fund Bond Proceeds Reserves will be presented in the Fiscal Year 2000 Library, Equipment, Repair and Rehabilitation Budget. An allocation of \$18,000,000 is being requested for Library, Equipment, Repair and Rehabilitation Projects for Fiscal Year 2000. The allocation of these reserves to the U. T. System component institutions was developed from prioritized lists of projects submitted by the component institutions and reviewed by U. T. System Administration staff.

As required by the Available University Fund (AUF) Spending Policy, a forecast of revenues and expenses of the AUF for seven years, including the above allocation, has been prepared and is provided on Page BAAC - 112. The additional appropriation of Permanent University Fund Bond Proceeds for this allocation is within the policy as shown in the forecast.

**AVAILABLE UNIVERSITY FUND OPERATING STATEMENT  
ACTUAL AND FORECAST DATA  
(MILLIONS)**

	Actual		Budget	Budget	Forecast Data				
	FYE 97	FYE 98	FYE 99	FYE 00	FYE 01	FYE 02	FYE 03	FYE 04	FYE 05
Investment Income (a)	280.0	273.3	251.3	252.3	254.0	256.2	256.2	259.9	265.1
Surface & Other Income	5.7	6.9	5.0	5.5	5.5	5.5	5.5	5.5	5.5
Earnings - 50 Leagues Land	-	-	-	-	-	-	-	-	-
Exp. of Revenue Bearing Property (a)	-28.0	-24.0	-11.6	-11.2	-11.5	-11.9	-12.2	-12.6	-13.0
Net Divisible Income	257.7	256.2	244.7	246.6	248.0	249.8	249.5	252.8	257.6
UT Share (2/3)	171.8	170.8	163.1	164.4	165.3	166.5	166.3	168.5	171.7
AUF Interest Income	5.6	7.8	5.0	5.0	5.5	5.3	5.0	4.8	4.8
Earnings - 50 Leagues Land	-	-	-	-	-	-	-	-	-
Income Available to UT	177.4	178.6	168.1	169.4	170.8	171.8	171.3	173.4	176.5
PUF Debt Service Transfers	-57.8	-57.8	-68.7	-68.8	-71.1	-73.7	-74.1	-74.6	-75.0
System Administration Transfers	-10.2	-11.6	-12.1	-13.8	-14.2	-14.6	-15.1	-15.5	-16.0
System Adm. Capital Budget	-1.1	-0.4	-0.9	-1.0	-1.0	-1.0	-1.0	-1.0	-1.0
System Non-Divisible Expenditures	-6.6	-4.9	-5.6	-8.1	-8.3	-8.6	-8.9	-9.1	-9.4
UT Austin (B. R. Bond Reimbursement)	-3.8	-3.7	-3.4	-3.4	-3.4	-3.4	-3.4	-3.4	-3.4
UT Austin Telecommunications	-0.8	-1.1	-0.8	-1.1	-1.1	-1.2	-1.2	-1.2	-1.3
UT Austin Excellence Funds (b)	-74.4	-76.4	-76.4	-85.4	-75.2	-75.8	-75.7	-76.7	-78.1
Other Transfers and Changes	-0.3	-16.5	-0.2	0.0	0.0	0.0	0.0	0.0	0.0
Cash Defeasance	0.0	-47.0	-25.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Transfers	-155.0	-219.5	-193.0	-181.6	-174.4	-178.3	-179.3	-181.6	-184.2
Net Surplus/(Deficit)	22.3	-40.9	-24.9	-12.2	-3.6	-6.4	-8.0	-8.2	-7.7
Ending AUF Fund Balance (b)	135.6	94.8	69.9	57.7	54.1	47.6	39.6	31.4	23.7
End. AUF Fund Bal. Excl. \$9 mil transfer (b)				66.7	63.1	56.6	48.6	40.4	32.7
UT Austin Excellence Fund Share	42%	43%	47%	52%	46%	46%	46%	46%	46%
PUF Debt Service Coverage - Pledge	3.10:1	3.09:1	2.45:1	2.46:1	2.40:1	2.33:1	2.31:1	2.32:1	2.35:1
PUF Debt Service Coverage - Net of Transfers (excluding Other Transfers/Changes)	1.42:1	1.39:1	1.00:1	0.82:1	0.95:1	0.91:1	0.89:1	0.89:1	0.90:1

(a) In accordance with GASB Statement No. 28, securities lending income of \$18.3 mil. and expenses of \$17.1 mil. are reported in FY97 and income of \$14.6 mil. and expenses of \$13.3 mil. are reported for FY98.

(b) If HJR58 is not approved by the voters in November 1999, the transfer to U.T. Austin Excellence Funds will be reduced by \$9 million.

BAAC - 112

7. U. T. System: Request to Approve an Aggregate Amount of Equipment Financing for Fiscal Year 2000 and Approve the Use of Revenue Financing System Parity Debt, Receipt of Certificate, and Finding of Fact with Regard to Financial Capacity.--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs that the U. T. Board of Regents approve an aggregate amount of \$9,700,000 under the Revenue Financing System for equipment to be purchased in Fiscal Year 2000 by the following U. T. System component institutions:

U. T. Austin	\$2,500,000
U. T. Southwestern Medical Center – Dallas	\$4,000,000
U. T. M.D. Anderson Cancer Center	\$3,000,000
U. T. System Administration	\$ 200,000

The Chancellor also concurs in the recommendation of the Executive Vice Chancellor for Business Affairs that, in compliance with Section 5 of the Amended and Restated Master Resolution Establishing The University of Texas System Revenue Financing System (the "Master Resolution") adopted by the U. T. Board of Regents on February 14, 1991, amended on October 8, 1993, and August 14, 1997, and upon delivery of the Certificate of an Authorized Representative as set out on Page BAAC - 115, the U. T. Board of Regents resolves that:

- a. Parity Debt shall be issued to pay the project's cost prior to the issuance of such Parity Debt
- b. Sufficient funds will be available to meet the financial obligations of the U. T. System, including sufficient Pledged Revenues as defined in the Master Resolution to satisfy the Annual Debt Service Requirements of the Financing System, and to meet all financial obligations of the Board relating to the Financing System

- c. The component institutions and U. T. System Administration, which are "Members" as such term is used in the Master Resolution, possess the financial capacity to satisfy their direct obligation as defined in the Master Resolution relating to the issuance by the U. T. Board of Regents of tax-exempt Parity Debt in the aggregate amount of \$9,700,000 for the purchase of equipment
- d. This resolution satisfies the official intent requirements set forth in Section 1.150-2 of the U. S. Treasury Regulations.

### BACKGROUND INFORMATION

At the April 1994 meeting, the U. T. Board of Regents approved the use of Revenue Financing System debt for equipment purchases in accordance with the Guidelines Governing Administration of the Revenue Financing System. The guidelines specify that the equipment to be financed must have a useful life of at least three years. The debt is amortized twice a year with full amortization not to exceed ten years.

This agenda item requests approval of an aggregate amount of \$9,700,000 for equipment financing for Fiscal Year 2000. With the issuance of the equipment debt, the debt service coverage for the U. T. System is projected to range from 1.7 times to 2.2 times for the next six years (see Page BAAC - 116). Each fiscal year, the U. T. Board of Regents may be asked to approve an aggregate financing amount, and any amount approved for a fiscal year, but not used, may not be carried forward. For Fiscal Year 1999, the Board approved \$20,468,000 of equipment financing, of which \$4,406,000 had been issued as of July 7, 1999. An additional \$6,284,000 is projected to be issued August 1, 1999.

PARITY DEBT CERTIFICATE OF U. T. SYSTEM REPRESENTATIVE

I, the undersigned Assistant Vice Chancellor for Finance of The University of Texas System, a U. T. System Representative under the Amended and Restated Master Resolution Establishing The University of Texas System Revenue Financing System (the "Master Resolution") adopted by the U. T. Board of Regents ("Board") on February 14, 1991, and amended on October 8, 1993, and August 14, 1997, do hereby execute this certificate for the benefit of the Board pursuant to Section 5(a)(ii) of the Master Resolution in connection with the authorization by the Board to issue "Parity Debt" to finance equipment cost at U. T. Austin, U. T. Southwestern Medical Center - Dallas, U. T. M.D. Anderson Cancer Center, and U. T. System Administration, and do certify that to the best of my knowledge, the Board is in compliance with and not in default of any terms, provisions, and conditions in the Master Resolution, the First Supplemental Resolution Establishing the Revenue Financing System Commercial Paper Program ("First Supplemental"), the Second Supplemental Resolution, the Third Supplemental Resolution, the Fourth Supplemental Resolution, the Fifth Supplemental Resolution, the Sixth Supplemental Resolution, the Seventh Supplemental Resolution, and the Eighth Supplemental Resolution.

EXECUTED this 7th day of July, 1999

/s/ Pamela K. Clayton  
Assistant Vice Chancellor for Finance

**APPROVAL OF FINANCING FOR  
EQUIPMENT PROJECTS  
FOR FY 2000  
(\$ in millions)**

Component Institution:	Requested Equip. Financing	Annual Debt Service Equip.	Debt Service Coverage (times) FY 1999-FY 2004 Minimum to Maximum		Debt Service as a % of Budget FY 1999-FY 2005 Minimum to Maximum		Source of Repayment:
UT Austin	\$2.500	\$0.613	1.5x	1.9x	4.11%	5.16%	Student Fees, User Charges, Special Equipment Allocations
Total Academics	2.500	0.613					
UT Southwest Medical Ctr	4.000	0.751	1.7x	2.5x	3.44%	5.19%	Interest on Institutional Funds
UT MD Anderson	3.000	0.735	4.0x	7.2x	0.90%	1.43%	Patient Income
Total Healths	7.000	1.486					
UT System Administration	0.200	0.049	72.0x	157.0x	0.36%	1.10%	AUF & Departmental Funds
<b>Grand Total</b>	<b>\$9.700</b>	<b>\$2.148</b>	<b>1.7x</b>	<b>2.2x</b>	<b>2.37%</b>	<b>3.24%</b>	

BAAC - 116

At the April 1994 meeting, the U.T. Board of Regents approved the use of Revenue Financing System debt for equipment purchases in accordance with the Guidelines Governing Administration of the Revenue Financing System. The Guidelines specify that the equipment to be financed must have a useful life of at least three years with the debt amortization to match the useful life. The maximum amortization period is ten years.

For FY99, the Board approved \$20,468,000 of equipment financing, of which \$4,406,000 has been issued as of July 7, 1999, and \$6,284,000 is projected to be issued August 1, 1999.

8. U. T. System: Request for Approval to Exceed the Full-Time Equivalent Limitation on Employees Paid from Appropriated Funds as Required by the General Appropriations Act of the 76th Legislature, Article IX, Section 9-6.15.--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the U. T. System Executive Officers and the chief administrative officers of certain U. T. System component institutions that the U. T. Board of Regents approve those institutions, as set forth in the table on Page BAAC - 118, to exceed the number of full-time equivalent (FTE) employees that are authorized in the General Appropriations Act. Also, as required by Article IX, Section 9-6.15 of the General Appropriations Act, it is recommended that the U. T. Board of Regents submit a request to the Governor's Office and the Legislative Budget Board to grant approval for these institutions to exceed the authorized number of FTE employees paid from Appropriated Funds.

### BACKGROUND INFORMATION

The proposed request is in accordance with Article IX, Section 9-6.15 of House Bill 1 (General Appropriations Act) passed by the 76th Texas Legislature, Regular Session. This rider places a limit on the number of full-time equivalent (FTE) employees paid from Appropriated Funds that an institution may employ without written approval of the Governor and the Legislative Budget Board. In order to exceed the FTE limitation, a request must be submitted by the governing board and must include the date on which the board approved the request, a statement justifying the need to exceed the limitation, the source of funds to be used to pay the salaries, and an explanation as to why the functions of the proposed additional FTEs cannot be performed within current staffing levels.

**The University of Texas System**  
**REQUEST TO EXCEED FULL-TIME EQUIVALENT LIMITATION**  
**ON EMPLOYEES PAID FROM APPROPRIATED FUNDS**  
**(House Bill No. 1, Article IX, Section 9-6.15)**  
**Fiscal Year 2000**

Component	H. B. 1 FTE Limitation	Estimated Average FTE FY2000	Requested Increase In Number of FTEs
U. T. Arlington	1,828.00	1,851.00	23.00
U. T. Brownsville	294.00	667.28	373.28
U. T. Dallas	1,044.00	1,114.10	70.10
U. T. El Paso	1,419.00	1,494.00	75.00
U. T. Pan American	1,067.00	1,164.32	97.32
U. T. SWMC - Dallas	1,579.50	1,629.50	50.00
U. T. HSC - San Antonio	2,188.00	2,331.00	143.00
U. T. MDA Cancer Center	6,029.00	6,852.47	823.47

9. U. T. System: Request to Revise the Bank Depository Agreement.--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs that the U. T. Board of Regents revise the Bank Depository Agreement for The University of Texas System, as set out on Pages BAAC 120 - 133, to include the option for banks to secure deposits with a surety bond in lieu of providing securities as collateral as allowed for in the Regents' Rules and Regulations, Part Two, Chapter III, Section 4 (Local Institutional Funds) and to reduce the percentage of securities as collateral required on deposits from 103% to 102%.

BACKGROUND INFORMATION

Amendments to the Bank Depository Agreement requiring U. T. Board of Regents' approval were last approved at the October 11, 1991, Board of Regents' meeting.

The Regents' Rules and Regulations, Part Two, Chapter III, Section 4, relating to local institutional funds, allow for banks to furnish adequate surety bonds or securities to assure the safety of U. T. System component institutions' deposits. The Bank Depository Agreement currently permits U. S. Government Securities to be pledged as collateral and is being amended to expand eligible collateral to include surety bonds. The amendment will allow banks to obtain a surety bond from a triple A rated surety company equal to the component institutions' deposits. The current Bank Depository Agreement requirement that pledged U. S. Government Securities be equal to 103% of bank deposits is amended to 102% of component institutions' deposits with the bank.

The use of surety bonds to secure component institutions' deposits will result in time and cost savings to both the banks and to the U. T. System. The security collateral requirement reduction to 102% of component institutions' deposits provides sufficient collateral coverage for market value fluctuations.

**THE STATE OF TEXAS**

**BANK DEPOSITORY AGREEMENT**

**COUNTY OF TRAVIS**

This Bank Depository Agreement (the "Agreement") is made and entered into on the date last herein written by and between the BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM hereinafter called the "Board" and

\_\_\_\_\_ a national banking association, organized under the laws of the United States of America, or

\_\_\_\_\_ a state banking association, organized under the laws of a state within the United States of America which is a member of the Federal Reserve System and the Federal Deposit Insurance Corporation

and is authorized by law to conduct banking business in the State of Texas and now carrying on such business in said State, hereinafter called the "Bank", and is as follows:

SECTION I. AUTHORIZATION

The Board hereby designates the Bank as a depository for the period beginning \_\_\_\_\_ and continuing until this Agreement has been canceled in accordance with its provisions, for certain accounts in the name of THE UNIVERSITY OF TEXAS SYSTEM, hereinafter called the "System", including accounts in the name of any component institution which is now or may hereafter become a part of the System. Such accounts shall be opened by the Board or its component by designating the accounts and making deposits therein and by the Bank accepting said deposits. The Bank and the Board may from time to time enter into such Service Agreements as are deemed necessary to further define the rights and duties of the Bank and the Board with regard to specific deposit banking services which may include Bank compensation levels, service termination dates, authorization designations and codes, or such other covenants as required for the proper implementation of the proposed services. Such Service Agreements shall be subordinate to this Agreement and should any conflict arise, the terms of this Agreement shall in all cases prevail. Service Agreements may

be entered into on behalf of the Board by the chief administrative officer and chief business officer of a component institution of the System or the Executive Vice Chancellor for Business Affairs for the System or any other Authorized Representative of the Board and must be cancelable by Board on no more than 90 days written notice. Except for any indemnity provisions, such Service Agreements are hereby null and void upon the termination of this Agreement as provided in Section XII.

The Board may open or close accounts, as needed, under this Agreement and any Service Agreements. As evidence to the Bank that such new account has been properly authorized by the Board, each such account shall be identified and the authorized signers designated by the Executive Vice Chancellor for Business Affairs of the System or, in the case of components institutions of the System, the chief administrative officer and the chief business officer as authorized under the Rules and Regulations of the Board such rules having been adopted by an official resolution of the Board. Under such Rules and Regulations said representatives may remove, substitute or add signers to the account as may be deemed necessary.

## SECTION II. DEPOSIT OF FUNDS

The Board shall deposit such of its funds as it may choose and the Bank shall accept such deposits in the form of "Demand Deposits", "Time Deposits-Open Account" and "Time Certificates of Deposit" as designated by the Board, and shall hold said deposits subject to payment in accordance with the terms of the deposit. The Bank will allow, credit, and pay interest at rates and payment dates on such deposits as determined by negotiation between the Bank and the Board. Provided, however, that notwithstanding any other provisions of this Agreement, the Bank shall never be required to accept initially any Time Deposit-Open Account or Time Certificate of Deposit from Board that it does not elect to accept, but once having initially accepted any such deposit, the Bank may terminate such deposit only in accordance with the terms of such deposit and this Agreement.

## SECTION III. PAYMENT OF DEPOSITS

Subject to the provisions of the deposit in the case of time deposits, the Bank shall pay on demand to the order of the Board upon the proper presentation of wire transfer instructions, checks, drafts, or vouchers properly issued, all or any portion of the funds now on deposit or to be deposited with the Bank. The Bank shall make no deductions for its own account from the Board's account except as authorized in writing by the Board or to correct operational errors in the normal course of business. The obligations of the Bank under this Section shall survive the termination of this Agreement.

#### SECTION IV. COMPENSATION

The Bank shall have a right to compensation for any and all services properly rendered to the Board under this Agreement and such Service Agreement (s) as may be executed. An account analysis shall be provided to the Board each month on transaction accounts which details deposit activity, earnings credits, if any, services used, volumes, unit prices and total fees. Compensation shall be based upon the terms of a Service agreement between the Bank and the Board or, if no such Service Agreement exists and the Board elects to use such services, the standard charges for such services as published by the Bank. The Bank agrees to offset monthly service fees first against an earnings credit for deposit balances in the Board's transaction accounts as may be defined in a Service Agreement or if not so defined based on its customary earnings credit for commercial accounts. No such service fees may be offset against deposits including any interest payments that accrue to the Board. Should such earnings credits be insufficient to cover the monthly service fees or if no earnings credit is provided by the Bank, a statement of such fees shall be provided the Board which will then have 30 days to examine such statement and remit payment as provided by this Agreement or a Service Agreement to the Bank.

#### SECTION V. COLLATERAL CUSTODY

In accordance with the Rules and Regulations of the Board of Regents of The University of Texas System, Part Two, Chapter III, Section 4.2, the Bank shall furnish to the Board adequate securities or surety bonds to assure the safety of the deposited funds, hereinafter called "Collateral." The Bank will determine which method it will utilize to provide Collateral, taking into consideration cost savings to the Board. Under no circumstance will cost savings outweigh the need for compliance with the terms of this Agreement.

If Collateral is provided in the form of Government Securities, the Board hereby designates the Federal Reserve Bank of Dallas - Houston Branch, (the "Custodian"), an unrelated third party (see "Operating Circular No. 7, Book-Entry Securities Account Maintenance and Transfer Services", Exhibit "B") to hold in a Restricted Securities Account of the Board, the Governmental Securities of the Bank pledged to the Board. The Bank acknowledges and accepts that it will maintain the required Collateral with the Custodian or through the Insurer and will pay charges for custody or surety bond services as set by and between the Custodian or Insurer and the Bank. All administrative fees and charges of the Custodian related to the receipt, delivery, and holding of income on securities, collection of income, annual administration, and transfer in or out of securities of the Bank shall be paid by the Bank. Without limiting the Bank's liability to pay such fees and charges, the Custodian shall have the right, but shall not be under any duty, to collect such fees and charges from the

income received on Collateral if so directed by the Bank or upon the Bank's failure to pay the same. The Board may substitute at its discretion a new Custodian upon 15 days written notice to the Bank.

#### SECTION VI. ELIGIBLE COLLATERAL

If the Collateral is to be in the form of securities, the Bank hereby pledges to the Board a security interest in the securities delivered to the Custodian as collateral to secure all the deposits of the Board. The Bank hereby represents that it shall pledge as security for deposits of the Board only those securities in which it is the legal and actual owner, free and clear of all other liens or claims. Securities eligible for pledge shall be Government Securities defined as follows:

"Government Securities" shall mean book entry U.S. Treasury Securities (as defined Subpart O, 306.115 (d) of Treasury Department Circular No. 300, 31 CFR Part 306) and any other securities issued or guaranteed by the United States Government or any agency or instrumentality thereof (except declining principal securities) and registered in the form of an entry on the records of the Federal Reserve System.

If the Collateral is in the form of a Surety Bond, the Insurer must be licensed to do business in the state of Texas and have and maintain a "AAA" rating on its claims paying resources from a Nationally Recognized Ratings Agency. If the rating of the Insurer falls below a "AAA" rating at any time, the Bank must simultaneously provide for Collateral in the form of Government Securities as defined above.

#### SECTION VII. REQUIRED COLLATERAL

If Government Securities are pledged as Collateral, they shall have an aggregate Market Value as determined by the Board, exclusive of accrued interest, at all times at least equal to 102% (the "Required Collateral Percent") of the sum of the Ledger Balances on deposit with the Bank in all accounts of the Board.

If, after the close of trading on any business day, the Market Value (as defined in Exhibit A) of the Government Securities then held by the Custodian as a percent of the Ledger Balances on deposit of the Board is less than the Required Collateral Percent, the Bank agrees to deliver to the Custodian, without notice from the Board, Collateral in an amount such that the Market Value of the Government Securities then held by the Custodian plus the Market Value of the Government Securities and/or the Insured amount of a Surety Bond so delivered as a percent of the total deposits of the Board will at least equal the Required Collateral Percent.

If a Surety Bond is pledged as Collateral, the Insured Amount will initially be equal to the highest daily Ledger Balances on deposit during a three months period. The Campus Representative will determine the initial Insured Amount. Subsequent to the initial determination, the Insured Amount is subject to change based on agreement between the Campus Representative and the Bank. In the event the amount of Ledger Balances held by the Bank exceeds the Surety Bond amount, the Bank will either increase the amount of the Surety Bond or provide Collateral in the form of Government Securities defined above. The Bank will hold any such Government Securities as Collateral until such time the amount of Ledger Balances no longer exceeds the value of the Surety Bond.

#### SECTION VIII. DELIVERY, RELEASE AND SUBSTITUTION OF COLLATERAL

If Collateral is in the form of Government Securities, the Bank will deliver by means of the Custodian's National Book-Entry System, Government Securities sufficient in amount to cover at least the Required Collateral Percent of the funds of the Board now or hereafter on deposit as provided above. By not later than 12:00 P.M. Central Time on the day the Government Securities are delivered to the Custodian hereunder, including any substituted Government Securities as described under this Section, the Bank shall deliver by facsimile transmission or other written means to the Board and the Custodian a list of such Government Securities on which the Bank shall record the then Market Value thereof based on the closing market price as received from a recognized bond pricing data service or as published in The Wall Street Journal dated the close of the business day next preceding the date such Government Securities are first pledged. Written notice to the Board and the Custodian must be in the form of a completed Securities and Exchange Commission Form 19-A (see "Request for Substitution of Non-U.S. Government or Agency Securities and or Immediate Withdrawal of any Securities Held by the Federal Reserve Bank of Dallas in Joint Safekeeping", Exhibit "C"). Such Government Securities shall be kept and retained by the Custodian in trust for the Board until such time as the Board, in its sole discretion, shall have authorized the Custodian, in writing, to release such Government Securities as the Board may designate. Requests for release from the Bank must be received by the Board not later than 12:00 P.M. Central Time, the business day next preceding the business day on which the Bank requests the Government Securities be released. Should the Board approve such release, a signed approval detailing such Government Securities shall be delivered by the Board to the Bank by not later than 9:00 A.M. Central Time, the business day on which Government Securities are requested to be released.

If the Bank shall desire to substitute any one or more of the Government Securities deposited with the Custodian, it may, with prior approval of the Board, substitute for any one or more of such Government Securities, other Government Securities of the same or higher Market Value, of the character authorized herein and in accordance with Operating Circular No. 7. Any request for substitution shall be delivered to the Board no later than 12:00 P.M.

Central Time on the day preceding the day on which such Government Securities are requested to be released and delivered to the Bank or its designee. Such request for substitution shall include the current Market Value, as defined in Exhibit A, of the proposed new Government Securities and the Government Securities to be released.

If the Collateral is in the form of a Surety Bond, the form of the Surety Bond must be approved in advance by legal counsel for the Board, and the Bank will provide to the Board, at the time the Surety Bond issued: (a) a copy of the certificate of insurance; (b) a letter of proof of the Board's ownership of the deposits; and (c) a complete list of any other documents the Insurer and its assigns require to pay out under the Surety Bond in the event of the Bank's default. The Surety Bond, in accordance with the Texas Education Code, Section 51.003, must be payable to the Governor of the State of Texas and his or her successors in office. The Surety Bond must also state that the venue for a suit to recover an amount claimed by the state to be due on a Surety Bond is in Travis County, Texas.

#### SECTION IX. INCOME ON SECURITIES

So long as the Bank is in compliance with this Agreement, the Bank shall be entitled to income on Government Securities held by the Custodian in accordance with Paragraph 9.2 of Operating Circular No. 7., and the Custodian may dispose of such income as directed by the Bank without approval of the Board. Fees associated with the payment of income by the Custodian shall be for the account of the Bank.

## SECTION X. EVENTS OF DEFAULT

The following events shall be considered Events of Default by the Bank:

- A. The Bank fails at any time to pay immediately and satisfy upon presentation an order for payment lawfully issued against any deposit and the Board has determined, in its sole discretion, that such failure has not occurred due to operational errors of the Bank and such failure has not been corrected after one additional business day from the date the failure first occurred, or
- B. The Bank is declared insolvent by a State or Federal bank regulatory agency, or
- C. The Bank shall fail to maintain Collateral of the type and in the amount required under Sections VI and VII of this Agreement and such failure to maintain Collateral has not been corrected by the Bank by 12:00 P.M. Central Time the next business day after written notice by the Board has been sent (by facsimile transmission or other immediately available method) to the Bank, or
- D. Other than the events listed above, the Bank shall breach its contract with the Board and such failure has not been corrected to the satisfaction of the Board after the Bank has been sent (by facsimile transmission or other immediately available method) three days written notice by the Board.

## SECTION XI. REMEDIES

If an Event of Default shall occur, the Board may:

- A. Immediately withdraw any or all its funds on deposit including accrued interest with the Bank without penalty regardless of the form of the deposit instrument, and to the extent the Board is unable to withdraw such funds,
- B. If the Collateral is in the form of Government Securities, pursuant to Paragraph 6.1 of Appendix C of Operating Circular No. 7, direct the Custodian to sell the Collateral, and out of the proceeds therefrom transfer specific amounts and issues of Collateral and, if applicable, specific amounts of interest payments or other proceeds of Collateral not previously credited to the Bank or otherwise released, to designated accounts on the books of the Custodian.
- C. If the Collateral is in the form of surety bonds, present the Surety Bond to the Insurer for payment of the deposits as defined above.

Any sale by the Custodian herein made of such Government Securities, or any part thereof, may be in any market for such Government Securities after notice to the Bank and shall convey the Government Securities absolutely to purchaser. Notice to the Bank shall be deemed to have been properly given by transmission of a facsimile message and shall be

transmitted to the Bank at least two hours before such sale. The Bank may bid at any such sale of Government Securities. The Board shall also have all other rights of a secured party under the Texas Uniform Commercial Code whether or not the Government Securities are subject to a security interest of the type governed by the Texas Uniform Commercial Code. The Board may apply the Government Securities to any obligation of the Bank under this Agreement or any Service Agreement including prior accrued interest due to the Board hereunder and not paid by the Bank. The Board shall immediately notify the Bank after any such action. The rights of the Board, the Custodian and the Bank under this Section shall survive the cancellation or termination of this Agreement.

#### SECTION XII. TERMINATION

The Board or the Bank shall have the right to terminate this Agreement by advance written notice to the other of its election so to do, and this Agreement and any Service Agreements, except for the provisions of Section III and XII, shall be void from and after the expiration of ninety (90) days after the receipt of such notice, provided all provisions of this Agreement have been fulfilled. The Board may immediately terminate this Agreement upon an Event of Default as listed in Section XI.

#### SECTION XIII. RETURN OF COLLATERAL

When the depository relationship of the Board and the Bank shall have ceased to exist, and when the Bank shall have paid out all deposits of the Board, it shall be the duty of the Board to give the Custodian a certificate to that effect, whereupon the Custodian shall, with the approval of the Board, redeliver to the Bank all Government Securities held as Collateral then in its possession belonging to the Bank, or if a Surety Bond is pledged as Collateral, the Board will provide all necessary consent or approval to terminate coverage under the Surety Bond.

#### SECTION XIV. MISCELLANEOUS

- A. No failure or delay by the Board in exercising any right, power or privilege hereunder or under any Service Agreement 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 provide by law.
- B. Any provision of this Agreement may be amended or modified if, and only if, such amendment or modification is in writing and is signed by the Board and the Bank.

- C. Any provision of this Agreement which is prohibited, un-enforceable or not authorized shall be ineffective to the extent of such prohibition, un-enforceability or non-authorization without invalidating the remaining provisions thereof.
- D. 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 and all applicable laws of the United States of America. The venue for any legal action to enforce or interpret this Agreement shall be in Travis County, Texas.
- E. This Agreement may not be assigned by the Bank without the prior written consent of the Board. Any successor to the Bank whether by sale, merger or operation of law shall be bound by the terms of this Agreement and any Service Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers or representatives as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Address:

BOARD OF REGENTS OF THE UNIVERSITY  
OF TEXAS SYSTEM

201 West Seventh Street  
Austin, Texas 78701

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

Its: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Francie A. Frederick  
Executive Secretary to the Board of Regents

Address:

\_\_\_\_\_  
Bank

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

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

Its: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT A**  
**DEFINITIONS**

As used in this Agreement the following terms and expressions shall have the meanings set forth below, unless the text hereof specifically indicates otherwise:

“Agreement” shall mean this Bank Depository Agreement.

“Authorized Representative of the Board” shall mean one or more of the following officers or employees of The University of Texas System, to wit: the Chancellor, the Executive Vice Chancellor for Business Affairs, the Assistant Vice Chancellor for Finance, or such other officer or employee of The University of Texas System authorized by the Board to act as a Authorized Representative.

“Bank” shall mean a national banking association, organized under the laws of the United States of America, or a state banking association, organized under the laws of a state within the United States of America which is a member of the Federal Reserve System and the Federal Deposit Insurance Corporation and is authorized by law to conduct banking business in the State of Texas and now carrying on such business in said State.

“Board” shall mean the Board of Regents of The University of Texas System or any successor thereto.

“Campus Representative” shall mean the Chief Business Officer of a Component or his/her assignee.

“Component” is defined under "System"

“Custodian” shall mean the Federal Reserve Bank of Dallas - Houston Branch or other subsequent party the Board designates as it’s agent to maintain Restricted Securities Accounts for the purpose of providing collateral for bank deposits.

“Collateral” shall mean adequate Government Securities or Surety Bonds furnished by the Bank to ensure the safety of the System's deposits.

“Insurer” shall mean the AAA rated Surety Company providing the Surety Bond for the Bank as Collateral for the deposits.

“Ledger Balances” shall mean the total ledger account balances as reflected on the books of the Bank.

**"Market Value"** shall mean the closing market price of the security, determined using the most recent available closing market price information as received from a recognized bond pricing data service or as published in the most recent issue of The Wall Street Journal, times the par amount of the security.

**"Nationally Recognized Rating Agency"** shall mean Moody's Investor Service, A. M. Best Company, Standard and Poor's or Fitch Investors Service, L.P.

**"Operating Circular No. 7"** shall mean the Federal Reserve Bank of Dallas' Operating Circular No. 7: Book-Entry Securities Account Maintenance and Transfer Service.

**"Required Collateral Percent"** shall mean 102% of the sum of the Ledger Balances on deposit with the Bank in all accounts of the Board.

**"Restricted Securities Account"** shall have the meaning pursuant to Operating Circular No. 7.

**"Surety Bond"** shall mean an insurance policy guaranteeing payment of principal and interest on deposits of the System at the Bank, in the event of nonpayment by the Bank.

**"System"** shall mean THE UNIVERSITY OF TEXAS SYSTEM and includes each of the following existing and operating Components, respectively:

- The University of Texas at Arlington;
- The University of Texas at Austin;
- The University of Texas at Brownsville;
- The University of Texas at Dallas;
- The University of Texas at El Paso;
- The University of Texas - Pan American;
- The University of Texas of the Permian Basin;
- The University of Texas at San Antonio;
- The University of Texas at Tyler;
- The University of Texas Southwestern Medical Center at Dallas;
- The University of Texas Medical Branch at Galveston;
- The University of Texas Health Science Center at Houston;
- The University of Texas Health Science Center at San Antonio;
- The University of Texas M.D. Anderson Cancer Center;
- The University of Texas Health Center at Tyler

together with every other institution or branch thereof now or hereafter operating by or under the jurisdiction of the Board pursuant to law.

**EXHIBIT B**

**FEDERAL RESERVE BANK OF DALLAS  
OPERATING CIRCULAR NO. 7**  
(Exhibit B not included in this sample contract)

**EXHIBIT C**

**SECURITY AND EXCHANGE COMMISSION FORM 19-A**

(Exhibit C not included in this sample contract)

10. U. T. System: Request to Approve Transfer of Funds Between Legislative Appropriation Items During the Biennium Beginning September 1, 1999.--

RECOMMENDATION

The Chancellor, with the concurrence of the Executive Vice Chancellor of Business Affairs, the Executive Vice Chancellor for Health Affairs, and the Vice Chancellor for Academic Affairs and the chief administrative officers of the U. T. System component institutions, recommends that the U. T. Board of Regents adopt the resolution which follows to provide for the most effective utilization of the General Revenue Appropriations during the biennium beginning September 1, 1999:

Pursuant to the appropriate transfer provisions of the General Appropriations Act of the 76th Legislature, it is hereby resolved that the State Comptroller be requested to make necessary transfers within the Legislative Appropriations (and/or Cost Centers) from the General Revenue Fund for each of the following components as authorized by the Chief Financial Officers of The University of Texas System institution concerned:

The University of Texas at Arlington  
The University of Texas at Austin  
The University of Texas at Brownsville  
The University of Texas at Dallas  
The University of Texas at El Paso  
The University of Texas - Pan American  
The University of Texas of the Permian Basin  
The University of Texas at San Antonio  
The University of Texas at Tyler  
The University of Texas Southwestern Medical Center at  
Dallas  
The University of Texas Medical Branch at Galveston  
The University of Texas Health Science Center at  
Houston  
The University of Texas Health Science Center at  
San Antonio

The University of Texas M.D. Anderson Cancer  
Center  
The University of Texas Health Center at Tyler  
The University of Texas System Administration

### BACKGROUND INFORMATION

This resolution is a standard action by the U. T. Board of Regents at the beginning of each biennium and is pursuant to provisions of the General Appropriations Act enacted by the 76th Texas Legislature.

11. U. T. Board of Regents: Request for Authorization to (a) Acquire Approximately 1.1098 Acres of Land in Houston, Harris County, Texas, from the Texas Medical Center, Inc., for the Use and Benefit of U. T. M.D. Anderson Cancer Center, and to Submit Request to Coordinating Board for Approval of the Transaction; (b) Transfer Ownership of Approximately 1.0366 Acres of Land in Houston, Harris County, Texas, Held on Behalf of U. T. Health Science Center - Houston, to the Texas Medical Center, Inc.; (c) Transfer Approximately .1844 Acres of Land in Houston, Harris County, Texas, Held on Behalf of U. T. Health Science Center - Houston, to be Held on Behalf of U. T. M.D. Anderson Cancer Center; (d) Transfer Additional Consideration from U. T. M.D. Anderson Cancer Center to U. T. Health Science Center - Houston in Exchange for the Above 1.0366 Acres and .1844 Acres of Land; and (e) Execute All Documents Related Thereto.--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs, the Executive Vice Chancellor for Business Affairs, and Presidents

Low and Mendelsohn that authorization be granted by the U. T. Board of Regents, on behalf of U. T. Health Science Center - Houston and U. T. M.D. Anderson Cancer Center, to:

- a. Acquire ownership, for the use and benefit of U. T. M.D. Anderson Cancer Center, of approximately 1.1098 acres of land located southeast of Bertner Avenue in the P. W. Rose Survey, Abstract No. 645, Houston, Harris County, Texas, referred to as the portion of the K-Lot, from the Texas Medical Center, Inc., Houston, Texas, and submit a request to the Texas Higher Education Coordinating Board for approval of this transaction
- b. Transfer ownership of approximately 1.0366 acres of land located southwest of Moursund Street in the P. W. Rose Survey, Abstract No. 645, Houston, Harris County, Texas, from the U. T. Board of Regents, for the use and benefit of U. T. Health Science Center - Houston, to the Texas Medical Center, Inc., Houston, Texas, in exchange for the tract referenced in a. above
- c. Transfer ownership of approximately .1844 acres of land located southwest of Moursund Street in the P. W. Rose Survey, Abstract No. 645, Houston, Harris County, Texas, from the U. T. Board of Regents, for the use and benefit of U. T. Health Science Center - Houston to the U. T. Board of Regents, for the use and benefit of U. T. M.D. Anderson Cancer Center
- d. Approve transfer of additional consideration from U. T. M.D. Anderson Cancer Center to U. T. Health Science Center - Houston in consideration for the approximate 1.0366 acres of land to be transferred to the Texas Medical Center, Inc., Houston, Texas, and the .1844 acres to be transferred for the use and benefit of U. T. M.D. Anderson Cancer Center. This consideration to be exchanged shall be determined at a later date and the form of this consideration shall be acceptable to both component institutions.

- e. Authorize the Executive Vice Chancellor for Business Affairs or the Executive Director of Real Estate to execute all documents, instruments, and other agreements, following approval from the Office of General Counsel, and to take all such actions deemed necessary or desirable to carry out the purpose and intent of the foregoing recommendations.

### BACKGROUND INFORMATION

U. T. M.D. Anderson Cancer Center plans to construct a Basic Science Research Building which will house research laboratories, a vivarium for small animals, space for the Graduate School of Biomedical Sciences, connections to existing structures, and associated support space. See Item 13 on Page FPCC - 24 related to this construction project.

U. T. M.D. Anderson Cancer Center initially investigated seven potential sites for this building and the K-Lot owned by the Texas Medical Center, Inc., was chosen for these reasons: (1) proximity to recent research facility construction; (2) superior ability to phase construction; (3) better long-term development compared to other sites; and (4) potential development of common areas and other amenities benefiting U. T. M.D. Anderson Cancer Center.

The Texas Medical Center, Inc., U. T. Health Science Center - Houston, and U. T. M.D. Anderson Cancer Center propose a land swap whereby the U. T. Board of Regents acquires title to a 1.1098 acre portion of the K-Lot site to construct U. T. M.D. Anderson Cancer Center's new Basic Science Research Building. In exchange for this 1.1098 acre tract, the U. T. Board of Regents will convey a 1.0366 acre tract located west of the existing Dental Branch Building and held for the use and benefit of U. T. Health Science Center - Houston to the Texas Medical Center, Inc.

U. T. Health Science Center - Houston and U. T. M.D. Anderson Cancer Center recommend transfer of the 1.0366 acre tract to the Texas Medical Center, Inc., and transfer of the .1844 acre tract to U. T. M.D. Anderson Cancer Center with the stipulation that U. T. Health Science Center - Houston receive additional consideration to be mutually determined at a later date.

The Texas Medical Center, Inc., intends to build an underground parking lot on the remainder portion of the K-Lot and to lease the 1.0366 acres to the Baylor College of Medicine for the construction of a research building that will connect to U. T. M.D. Anderson Cancer Center's Basic Science Research Building.

See Item 12 below related to an additional land swap between Texas Medical Center, Inc., and U. T. M.D. Anderson Cancer Center.

12. U. T. M.D. Anderson Cancer Center: Request for Authorization to (a) Acquire Approximately 1.1528 Acres of Land Located in Houston, Harris County, Texas, from Texas Medical Center, Inc.; (b) Transfer Ownership of Approximately 1.1197 Acres of Land Located in Houston, Harris County, Texas, to Texas Medical Center, Inc.; and (c) Execute All Documents Related Thereto.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs, the Executive Vice Chancellor for Business Affairs, and President Mendelsohn that authorization be granted by the U. T. Board of Regents, on behalf of U. T. M.D. Anderson Cancer, to:

- a. Acquire ownership of approximately 1.1528 acres of land located in the P. W. Rose Survey, Abstract No. 645, Houston, Harris County, Texas, from Texas Medical Center, Inc., Houston, Texas
- b. Transfer ownership of approximately 1.1197 acres of land located in the P. W. Rose Survey, Abstract No. 645, Houston, Harris County, Texas, to Texas Medical Center, Inc. in exchange for the 1.1528 acres in a. above
- c. Authorize the Executive Vice Chancellor for Business Affairs or the Executive Director of Real Estate to execute all documents, instruments, and other agreements following approval of the

Office of General Counsel and to take all such actions deemed necessary or desirable to carry out the purpose and intent of the foregoing recommendations.

### BACKGROUND INFORMATION

The U. T. Board of Regents has previously approved three construction projects for U. T. M.D. Anderson Cancer Center located in the Texas Medical Center area bounded by Holcombe Boulevard to the north, Pressler Street to the south, Braeswood Drive to the east, and Bertner Avenue to the west: the Faculty Center, Jesse H. Jones Rotary House International Phase II, and the Parking Structure Medical - Model Fitness Center (now referred to as the Fitness Center)

At its meeting in February 1999, the U. T. Board of Regents approved Design and Development Plans for the construction of the Faculty Center that will provide office space, conference rooms, and support facilities for the growing U. T. M.D. Anderson Cancer Center faculty.

At its meeting in May 1998, the U. T. Board of Regents approved an amendment to the FY 1998-2003 Capital Improvement Program for the Jesse H. Jones Rotary House International Phase II and the Parking Structure Medical - Model Fitness Center ("Fitness Center") at U. T. M.D. Anderson Cancer Center.

U. T. M.D. Anderson Cancer Center will use the 1.1528 acre tract as the site for the Fitness Center. The conveyance of the 1.1197 acre tract to Texas Medical Center, Inc., will provide a suitable site for the construction of a covered parking garage. The garage will be constructed by Texas Medical Center, Inc., and will serve the three previously approved U. T. M.D. Anderson Cancer Center facilities as mentioned above.

No cash consideration is proposed to be exchanged between the parties, as the tracts are considered to be of equivalent value. The tract to be conveyed to the U. T. Board of Regents, on behalf of U. T. M.D. Anderson Cancer Center, is larger than the tract to be conveyed to the Texas Medical Center, Inc., but an easement will be granted to the Texas Medical Center, Inc., across the 1.1528 acre tract to facilitate access from the parking garage south to Pressler Street.

See Item 11 on Page BAAC - 135 related to an additional land swap with Texas Medical Center, Inc., U. T. M.D. Anderson Cancer Center, and U. T. Health Science Center - Houston.

INFORMATIONAL REPORT

U. T. System: Discussion of the June 1999 Monthly Financial Report.--

REPORT

Mr. R. D. Burck, Executive Vice Chancellor for Business Affairs, will discuss the June 1999 Monthly Financial Report for the U. T. System.

## Academic Affairs Committee

ACADEMIC AFFAIRS COMMITTEE  
Committee Chairman Miller

Date: August 12, 1999  
Time: Following the Meeting of the Business Affairs and Audit Committee  
Place: Caduceus Room, Sixth Floor, Administration Building  
U. T. Medical Branch - Galveston

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1. U. T. Board of Regents: Proposed Amendments to the Regents' Rules and Regulations, Part Two, Chapter I, Section 7 (General Admission Policy).--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs, the Executive Vice Chancellor for Health Affairs, the Vice Chancellor for Academic Affairs, and the Vice Chancellor and General Counsel that the Regents' Rules and Regulations, Part Two, Chapter I, Section 7, regarding the general admission policy, be revised to delete outdated language and to amend the remaining first sentence as set forth below in congressional style:

Sec. 7. General Admission Policy.

~~The component institutions of the U. T. System will make maximum use of [its] resources, consistent with standards of appropriate accrediting bodies and [subject to the limited] enrollment and admissions policies approved by [policy of] the Board, to admit and educate as many [qualified] students as possible[, consistent with accreditation standards and consistent with maintaining a high quality of education. Neither the faculty nor students of any component institution will solicit or recruit for admission to that institution any person who cannot meet the usual academic requirements for admission to that institution. Other than for the exceptions set forth in the General Appropriations Act, no funds appropriated by the Legislature, including local institutional funds, may be expended for the recruitment of students, whether qualified or unqualified. However, this provision does not prohibit the distribution of informational literature about an institution or a particular program in appropriate schools or among economic or social groups which might have a special interest in a particular institution or educational program. Such information might focus upon, but need not be limited to, programs for which there is a statewide need for graduates. Nor does it prohibit visits by students, faculty members, or administrators, upon request, with groups of high school or college students or other groups interested in information on higher education, a particular institution, or particular programs when such visits are supported by funds from gifts and bequests].~~

This item requires the concurrence of the Health Affairs Committee.

## BACKGROUND INFORMATION

The proposed revisions to the Regents' Rules and Regulations, Part Two, Chapter I, Section 7, regarding the general admission policy, deletes outdated language restricting use of funds for recruitment of students within the U. T. System. The language restricting the use of appropriated funds for student recruitment was added to the Regents' Rules and Regulations in 1969 as required by a rider now absent from the General Appropriations Act. Also deleted is language detailing the intent of the recruitment restriction that was added to the Regents' Rules and Regulations in 1972 to provide clarification for the statutory requirement.

The first sentence of Section 7 is retained with nonsubstantive revisions to delete repetitive language and make this general policy statement consistent with the review of multiple individual criteria now utilized in the admissions process. Criteria for admission at each institution are submitted to the U. T. Board of Regents for approval via the institutional docket.

2. U. T. System: Request for Adoption of Academic Program Approval Standards at the General Academic Institutions.--

## RECOMMENDATION

The Chancellor concurs in the recommendation of the Vice Chancellor for Academic Affairs that the U. T. Board of Regents adopt standards for approval of new academic programs at the U. T. System general academic institutions as set forth on Page AAC - 4.

## Academic Program Approval Standards

The standards used for review and approval of academic program proposals are derived from three overarching principles that guide decisions about program goals, design, and implementation at the U. T. System general academic institutions. These principles are:

1. *New university degree and certificate programs should be consistent with the higher education goals and mission of the State of Texas, The University of Texas System, and the offering institution.* This principle has implications not only for which programs should be offered by U. T. institutions, but also for how they are designed and delivered so as to be responsive to the needs of students, parents, the business, and public sectors.
2. *U. T. degree and certificate programs should be of excellent quality.* Program design, resources, and implementation plan, judged critically in view of the stated goals for a particular program, should compare favorably with state, national, and international standards and competing programs. In general, they should exceed minimum standards of the Texas Higher Education Coordinating Board or appropriate accrediting bodies.
3. *Academic programs at U. T. universities should represent good investments and efficient use of public and private resources.* Program choice, design, and implementation plans should reflect wise use of institutional and inter-institutional or shared resources.

Applying these principles of excellence to review of proposed new academic degree or certificate programs, the Academic Affairs Committee approves proposals that provide good evidence of meeting the following standards:

### A. Standards Relating to Goals, Need, Fit

1. Program goals and educational objectives are clear.
2. Connections between proposed program goals and State and U. T. System goals and mission are strong and convincing.
3. Program goals advance institutional mission and strategic plan. Program is on the approved Table of Programs.

4. Program would meet a well-documented unmet need related to present or future manpower or social needs or regional priorities.
5. Program complements and builds upon existing university programs, strengths, and resources.

**B. Standards for Quality of Implementation**

1. Design of the degree or certificate program reflects understanding of state-of-the-art in the discipline.
2. Resources, including faculty, facilities, special equipment, field placement sites for internships, library and information access, and others as necessary, are adequate to deliver program of excellent quality, meeting or exceeding Southern Association of Colleges and Schools (SACS) standards and those of other professional accrediting bodies where applicable.
3. Faculty responsible for program design and delivery have appropriate, relevant content expertise, scholarship records, and other professional experience and credentials.
4. New graduate programs are built upon demonstrated competence in related areas at the undergraduate or (where appropriate) master's level.
5. Program implementation and delivery plans are responsive to student needs and supportive of student retention and graduation, in light of program goals and resource availability.
6. The program proposal includes a plan for periodic program evaluation focusing on the program objectives, productivity, faculty and resources, changes in environment such as competition and delivery modes, student outcomes, retention, and graduation.
7. An efficient administration plan for the program is described, with clear accountability and appropriate roles for faculty committees and unit administrators.
8. Interdisciplinary, cross-departmental, or cross-college programs are supported by administrative reporting structures likely to preserve interdisciplinary cooperation.

**C. Standards for Costs and Revenues**

1. Proposal presents clear, logically consistent estimates of program costs and revenues.
2. Prospective student demand adequate for an efficient program is convincingly demonstrated, with specific attention to competing programs, other providers, and other delivery systems.
3. Proposal establishes growth potential to generate adequate resources to support program costs from state formula funding sources after the first three years and, where appropriate, from non-state sources.
4. Available inter-institutional, shared resources are utilized where appropriate.
5. Overall program costs are justifiable in light of potential program benefits and impact.

**D. Compliance Standard**

Proposal complies in content and format with Coordinating Board rules and instructions for program authorization, so that approval is not likely to be delayed or complicated unnecessarily at that level.

**E. Additional Standards for Doctoral Programs**

1. There is a sufficient base of sponsored research programs in place to support student and faculty research.
2. Proposal presents convincing plans for recruitment of a critical mass of very talented students, carefully screened in accord with the goals of the program.
3. Proposed program addresses preparation for graduates' future roles of teaching, research or creative endeavor, and work in nonacademic professional settings as appropriate.
4. Appropriate student support is available and/or there is a convincing plan for development of future support.

5. Because of the high level of resource requirements for doctoral programs, particularly rigorous attention must be applied to almost all approval standards in this document.

### BACKGROUND INFORMATION

In its broad authority to administer The University of Texas System, the U. T. Board of Regents is responsible for approval of all academic degree programs at the fifteen component institutions. While final authorization of degree programs in Texas is vested in the Texas Higher Education Coordinating Board, the Coordinating Board requires and relies on, to a considerable extent, the prior review and approval by the governing board of any institution requesting program changes.

The U. T. Board of Regents has vested in the executive officer of each component the responsibility and authority for academic program leadership at that institution, within the overall policy and standards articulated by the Board. The Academic Affairs Committee of the U. T. Board of Regents considers and reports to the full Board on matters of academic planning and instruction at the nine general academic institutions. This document describes the principles and standards that are used for program proposal review by the Academic Affairs Committee and the staff of the Vice Chancellor for Academic Affairs in support of the work of the Committee.

## INFORMATIONAL REPORT

### U. T. Austin: Presentation of UTeach Program.--

#### REPORT

A brief presentation will be made by officials of U. T. Austin on the UTeach Program. The program is a collaborative effort between the College of Natural Sciences, the College of Education, and the Austin Independent School District to prepare future science and mathematics teachers.

# Health Affairs Committee

HEALTH AFFAIRS COMMITTEE  
Committee Chairman Loeffler

**Date:** August 12, 1999  
**Time:** Following the Meeting of the Academic Affairs Committee  
**Place:** Caduceus Room, Sixth Floor, Administration Building  
U. T. Medical Branch - Galveston

Page  
HAC

1. U. T. Board of Regents: Request to Authorize the Transfer of the Moncrief Radiation Center from U. T. M.D. Anderson Cancer Center to U. T. Southwestern Medical Center - Dallas; Delegate Authority to Enter into a Third Amended and Restated Gift Agreement, Assignment of the Second Amended and Restated Gift Agreement, and Related Agreements; Authorize Sublicenses for Use of Trademark Names; Authorize Amendment of Applicable Charters and Termination of Applicable Agreements; and Authorization to Execute All Documents Related Thereto 3
  
2. U. T. Medical Branch - Galveston: Request for Authorization to Submit a Revised Mission Statement to the Coordinating Board 5
  
3. U. T. M.D. Anderson Cancer Center: Request for Authorization to Establish a Bachelor of Science in Allied Health Degree with Majors in Cytogenetic Technology, Cytotechnology, Medical Technology, Medical Dosimetry, and Radiation Therapy; Approval to Submit the Proposed Degree Programs to the Coordinating Board for Approval (Catalog Change); and Authorization of Certification that Coordinating Board Criteria for Approval are Met 9

4. **U. T.-M.D. Anderson Cancer Center: Request for Authorization to Lease Approximately 4.9 Acres of Land on Old Spanish Trail in Houston, Harris County, Texas, to Proton Therapy Center - Houston, Ltd., L.L.P.; Authorization to Enter into a Limited Partnership Agreement with Proton Therapy Center of Texas, Inc., and PTCA Investments, Inc.; Authorization to Enter into a Medical Direction Agreement, a Professional Services Agreement, a Program Services Agreement, a Research Agreement, and a Sublicense Agreement, All with Proton Therapy Center - Houston, Ltd., L.L.P.; and Authorization to Take Actions to Carry Out the Intent of the Foregoing Agreements**

1. U. T. Board of Regents: Request to Authorize the Transfer of the Moncrief Radiation Center from U. T. M.D. Anderson Cancer Center to U. T. Southwestern Medical Center - Dallas; Delegate Authority to Enter into a Third Amended and Restated Gift Agreement, Assignment of the Second Amended and Restated Gift Agreement, and Related Agreements; Authorize Sublicenses for Use of Trademark Names; Authorize Amendment of Applicable Charters and Termination of Applicable Agreements; and Authorization to Execute All Documents Related Thereto.--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs, the Executive Vice Chancellor for Business Affairs, and Presidents Mendelsohn and Wildenthal that the U. T. Board of Regents:

- a. Authorize the transfer of the Moncrief Radiation Center from The University of Texas M.D. Anderson Cancer Center to The University of Texas Southwestern Medical Center at Dallas
- b. Delegate to the Chancellor and the Presidents of the U. T. M.D. Anderson Cancer Center and the U. T. Southwestern Medical Center - Dallas the authority to negotiate and enter into a Third Amended and Restated Gift Agreement, an assignment of the Second Amended and Restated Gift Agreement, and other related and necessary agreements, all as fully approved by the Office of General Counsel
- c. Authorize the U. T. Southwestern Medical Center - Dallas to sublicense Board trademarks for use of the name "The University of Texas Southwestern Medical Center" and/or "U. T. Southwestern Health Systems" and/or "Southwestern Health Systems" in connection with the operation of the Moncrief Radiation Center facilities

- d. Authorize the President of the U. T. M.D. Anderson Cancer Center to amend the Articles of Incorporation and Bylaws of the M.D. Anderson Cancer Center Outreach Corporation to implement the above recommendations
- e. Authorize the President of the U. T. Southwestern Medical Center - Dallas to amend the Articles of Incorporation and Bylaws of the U. T. Southwestern Health Systems, as needed and in accordance with such Bylaws, and/or to establish a separate similar nonprofit corporate entity in which the President of U. T. Southwestern Medical Center - Dallas is the sole member to implement the above recommendations
- f. Authorize the President of U. T. M.D. Anderson Cancer Center to amend the Articles of Incorporation and Bylaws of the Moncrief Radiation and Research Foundation to implement the above recommendations
- g. Authorize and approve the following corporations to take such actions as necessary or advisable to implement the above recommendations: the M.D. Anderson Cancer Center Outreach Corporation, the M.D. Anderson Moncrief Cancer Center at Fort Worth and the M.D. Anderson Cancer Network - Tarrant County
- h. Authorize the termination of the following agreements between the M.D. Anderson Cancer Center Outreach Corporation and the M.D. Anderson Cancer Network – Tarrant County: Clinical Support Services Agreement and Sublicense Agreement
- i. Authorize the Chancellor or his delegate(s) to execute all documents, instruments, and other agreements following approval from the Office of General Counsel and to take all such actions deemed necessary or desirable to carry out the purpose and intent of the foregoing recommendations.

## BACKGROUND INFORMATION

At the February 1995 meeting, the U. T. Board of Regents approved a Gift Agreement dated December 12, 1994 regarding the Moncrief Radiation Center (Center) in Fort Worth, Texas, and related matters. This Gift Agreement contained provisions for the donation of the Center to the M.D. Anderson Cancer Center Outreach Corporation (Outreach). It also transferred control of the Radiation and Medical Research Foundation of the Southwest (Foundation) to the President of The University of Texas M.D. Anderson Cancer Center as its sole member.

The U. T. Southwestern Medical Center - Dallas is much closer in proximity to the Moncrief Radiation Center than the U. T. M.D. Anderson Cancer Center. It is proposed that the Moncrief Radiation Center be transferred from Outreach and U. T. M.D. Anderson Cancer Center to the U. T. Southwestern Medical Center - Dallas and U. T. Southwestern Health Systems or to another nonprofit corporate entity in which the President of U. T. Southwestern Medical Center - Dallas is the sole member. This will allow the Center to pursue a Metroplex-wide strategy in the Fort Worth-Dallas area. This change would be accomplished by replacing the President of the U. T. M.D. Anderson Cancer Center with the President of U. T. Southwestern Medical Center - Dallas as the sole member of the Foundation. The change would also replace Outreach with U. T. Southwestern Health Systems or another nonprofit corporate entity of a similar type in the operations of the Moncrief Radiation Center.

2. U. T. Medical Branch - Galveston: Request for Authorization to Submit a Revised Mission Statement to the Coordinating Board.--

## RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Stobo that authorization be granted for the U. T. System Administration to submit to the Texas Higher Education Coordinating Board a revised Mission Statement for U. T. Medical Branch - Galveston as set out in congressional style on Pages HAC 7 - 8. The revised Mission Statement is consistent with the component institution's long-range strategic plans.

## BACKGROUND INFORMATION

Section 61.051 of the Texas Education Code requires the Texas Higher Education Coordinating Board to review periodically the Role and Mission Statements, Tables of Programs, and all degree and certificate programs offered by public institutions of higher education.

In May 1998, the U. T. Board of Regents approved a Mission Statement for U. T. Medical Branch - Galveston. Some changes to the narrative Mission Statement for U. T. Medical Branch - Galveston are now being proposed to provide a more simplified format.

It is anticipated that the Coordinating Board will consider this Mission Statement at its October 1999 meeting. The next comprehensive review by the Coordinating Board will provide the framework and planning authorization for new degree programs to be implemented during the following four years.

# THE UNIVERSITY OF TEXAS MEDICAL BRANCH AT GALVESTON

## MISSION STATEMENT

The mission of The University of Texas Medical Branch at Galveston is to provide scholarly teaching, innovative scientific investigation, and state-of-the-art patient care, in a learning environment to better the health of society.

~~[UTMB is unique among the health science centers in the State of Texas in that its academic, clinical, and research programs and facilities operate under a single administration. This integration of education, patient care and scientific investigation provides consistency in goal setting and administrative support for UTMB's commitment to excellence and ethical integrity in all aspects of its mission.]~~

UTMB's education~~[outstanding]~~ programs ~~[in professional education]~~ enable the State's ~~[most]~~ talented individuals to become outstanding practitioners, teachers, and investigators in the health care sciences, thereby meeting the needs of the people of Texas and its national and international neighbors. ~~[Special emphasis is placed on programs for correcting shortages in primary care among medically underserved populations of the state. At the same time, the finest training in specialty and subspecialty care, for which UTMB hospitals are known, is made available to students and graduate clinicians. UTMB recruits and supports the career goals of students and faculty from disadvantaged groups.]~~

~~An integral part of UTMB's mission is to care for patients. UTMB is committed to serving the community through the discovery and application of new approaches to preventing, diagnosing, and treating disease. This commitment is expressed through the full spectrum of patient care services provided by UTMB's Hospitals and Clinics. State-of-the-art clinical programs supported by the latest technological advances position UTMB to serve the state's diverse health care needs. The] UTMB's comprehensive [clinical programs in] primary, specialty, and subspecialty care clinical programs support the educational mission and are committed to the health and well-being of all Texans through the delivery of state-of-the-art preventive, diagnostic and treatment services~~[provided by UTMB help support its teaching and research activities, which, in turn, support further advances in clinical care for patients].~~~~

UTMB's research programs are committed to the discovery of new, innovative biomedical and health services knowledge leading to increasingly effective and accessible health care for the citizens of Texas ~~[With quality research programs~~

devoted to the discovery and dissemination of scientific knowledge and the development of future investigators, UTMB continues to build one of the nation's outstanding academic health science centers. In addition to basic scientific and clinical investigations, research on health policy and health care outcomes and study in the medical humanities form an integral part of this endeavor. The ultimate goal of all research endeavors at UTMB is the development of more effective health care programs for Texas and the nation].

3. U. T. M.D. Anderson Cancer Center: Request for Authorization to Establish a Bachelor of Science in Allied Health Degree with Majors in Cytogenetic Technology, Cytotechnology, Medical Technology, Medical Dosimetry, and Radiation Therapy; Approval to Submit the Proposed Degree Programs to the Coordinating Board for Approval (Catalog Change); and Authorization of Certification that Coordinating Board Criteria for Approval are Met.--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Mendelsohn that authorization be granted to establish a Bachelor of Science degree in Allied Health with majors in Cytogenetic Technology, Cytotechnology, Medical Technology, Medical Dosimetry, and Radiation Therapy at the U. T. M.D. Anderson Cancer Center; to submit the proposal to the Texas Higher Education Coordinating Board for review and appropriate action; and to authorize the Executive Vice Chancellor for Health Affairs to certify on behalf of the Board of Regents that relevant Coordinating Board criteria for approval by the Commissioner of Higher Education have been met. In addition, the Coordinating Board will be asked to change the U. T. M.D. Anderson Cancer Center's Table of Programs to reflect authorization for the proposed degree programs. The proposed bachelor's degree programs are consistent with U. T. M.D. Anderson Cancer Center's mission and plans for offering quality degree programs to meet student needs. A description of the degree programs is included in the Background Information of this agenda item.

Upon approval by the Coordinating Board, the next appropriate catalog published at U. T. M.D. Anderson Cancer Center will be amended to reflect this action.

## BACKGROUND INFORMATION

### Program Description

The U. T. M.D. Anderson Cancer Center currently provides three semesters of Allied Health professional education to students in each of the following five disciplines – Cytogenetic Technology, Cytotechnology, Medical Technology, Medical Dosimetry, and Radiation Therapy. Each of these Allied Health education programs is accredited by its respective national credentialing agency. At the present time, the U. T. M.D. Anderson Cancer Center awards certificates to students successfully completing their professional training. Since most of these professional disciplines require the bachelor's degree to sit for their registry examination, it is necessary for students entering U. T. M.D. Anderson Cancer Center programs to already possess their baccalaureate degree and to register for an additional three semesters. The total number of undergraduate credit hours required to award the proposed Bachelor of Science degree in each of the professional disciplines would be: Cytotechnology, 132; Cytogenetic Technology and Medical Technology, 134; Radiation Therapy, 145; and Medical Dosimetry, 146. Prior to admission to these professional curricula in Allied Health, the student must have completed a preprofessional course of study consisting of a minimum of 90 semester credit hours in specified prerequisites with a minimum grade point average of 2.5, with a 2.7 in science courses, on a 4.0 scale from an accredited college or university.

The primary faculty and staff of these ongoing professional training programs are administratively located in the Office of Academic Programs at the U. T. M.D. Anderson Cancer Center. Consistent with the current level of enrollment, the institution's Allied Health education programs anticipate enrolling 45 degree-seeking applicants in the Fall of 2000.

### Need

Graduates in each of these Allied Health professional disciplines are in high demand in the health service industry at the State and national level. Current national vacancy rates in the five specialty areas range between 7.0% and 14.0%. Several of the professional education programs at U. T. M.D. Anderson Cancer Center are important resources for technologists in Texas and the nation. The Medical Dosimetry training program is one of only five approved academic training programs in the United States, and, of the sixteen total annual graduates, six are

trained at the U. T. M.D. Anderson Cancer Center. Similarly, the Cytogenetic Technology program is one of only eight accredited training programs in the United States. The U. T. M.D. Anderson Cancer Center Radiation Therapy and Medical Dosimetry programs are the first Allied Health training programs in these specialties to be offered by distance education in the nation.

Since undergraduate Allied Health education programs were discontinued at the U. T. Health Science Center – Houston, U. T. M.D. Anderson Cancer Center has assumed the duties of providing training in the cited professional disciplines and will be the only U. T. System component in Houston offering baccalaureate level training in these fields. At the present time, the U. T. M.D. Anderson Cancer Center enrolls 45 students, annually, in its Allied Health education programs. Consistently, there are approximately four applicants for each of these positions.

### Quality

The curriculum for each of these Allied Health programs involves three semesters of professional education at the U. T. M.D. Anderson Cancer Center and consist of: Cytotechnology – 42 semester credit hours; Cytogenetic Technology and Medical Technology – 44 semester credit hours; Radiation Therapy – 55 semester credit hours; and Medical Dosimetry – 56 semester credit hours.

The U. T. M.D. Anderson Cancer Center Allied Health education programs are recognized nationally for their quality and are supported by a renowned clinical and basic science faculty. Currently, there are 11 full-time equivalent faculty members and 73 adjunct faculty members providing clinical and didactic support to the five professional programs. Academic program administration supporting the current certificate programs is in place, including a chief academic officer and a dean for Allied Health. Retention and completion rates for these programs are above 90% and the program graduates successfully pass their registry exams with score rankings above the national average.

### Cost

No new or supplemental funds will be associated with adding degree-granting status to these ongoing certificate programs. Current program funding is supported through the institution's education and general budget funds.

### Coordinating Board Criteria

The proposed program meets all applicable Coordinating Board criteria (8) for degree programs which may be approved by the Commissioner of Higher Education on behalf of the Coordinating Board.

A copy of the proposal for the Bachelor of Science degree in Allied Health at U. T. M.D. Anderson Cancer Center is on file in the U. T. System Office of Health Affairs.

4. U. T. M.D. Anderson Cancer Center: Request for Authorization to Lease Approximately 4.9 Acres of Land on Old Spanish Trail in Houston, Harris County, Texas, to Proton Therapy Center - Houston, Ltd., L.L.P.; Authorization to Enter into a Limited Partnership Agreement with Proton Therapy Center of Texas, Inc., and PTCA Investments, Inc.; Authorization to Enter into a Medical Direction Agreement, a Professional Services Agreement, a Program Services Agreement, a Research Agreement, and a Sublicense Agreement, All with Proton Therapy Center - Houston, Ltd., L.L.P.; and Authorization to Take Actions to Carry Out the Intent of the Foregoing Agreements.--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs and President Mendelsohn that the U. T. Board of Regents, on behalf of U. T. M.D. Anderson Cancer Center, authorize the President of U. T. M.D. Anderson Cancer Center to:

- a. Enter into the following agreements, in substantially the form provided to the U. T. Board of Regents and as finally approved by the Office of General Counsel:
  - (1) a Ground Lease of approximately 4.9 acres of land on Old Spanish Trail in Houston, Harris County, Texas, between the U. T. Board of Regents, for the use and benefit of U. T. M.D. Anderson Cancer Center, and the Proton Therapy Center - Houston, Ltd., L.L.P.

- (2) a Limited Partnership Agreement between Proton Therapy Center of Texas, Inc., PTCA Investments, Inc., and U. T. M.D. Anderson Cancer Center
  - (3) a Medical Direction Agreement, a Professional Services Agreement, a Program Services Agreement, a Research Agreement, and a Sublicense Agreement between U. T. M.D. Anderson Cancer Center and Proton Therapy Center - Houston, Ltd., L.L.P.
- b. Take any and all actions necessary or desirable to carry out the purpose and intent of the foregoing agreements including, without limitation, the authority to sublicense trademarks owned by the U. T. Board of Regents for the specific purposes set forth in the Sublicense Agreement and the authority to take any and all such actions necessary to fulfill the rights and obligations and receive the benefits provided in each of the above listed agreements, on behalf of the U. T. Board of Regents and U. T. M.D. Anderson Cancer Center.

### BACKGROUND INFORMATION

Tenet Healthcare Corporation, a Nevada corporation, and U. T. M.D. Anderson Cancer Center have negotiated for the previous nine months to create a series of documents that would authorize investment in a Texas registered limited liability limited partnership (LLLP) consisting of a Tenet Healthcare Corporation subsidiary, Proton Therapy Center of Texas, Inc.; a holding company subsidiary, PTCA Investments, Inc.; and U. T. M.D. Anderson Cancer Center. As envisioned, the three parties would invest in a business entity in which Proton Therapy Center of Texas, Inc., would serve as the general partner with a 1% interest in the LLLP. U. T. M.D. Anderson Cancer Center would hold an approximate 5% interest in the LLLP, and PTCA Investments, Inc. would hold the balance of the 94% interest in the LLLP.

As structured, Tenet Healthcare Corporation will contribute building and equipment valued at approximately \$77.5 million, free of debt, to the LLLP. The U. T. Board of Regents, for the use and benefit of U. T. M.D. Anderson Cancer Center and acting through the President of U. T. M.D. Anderson Cancer Center, would lease to the LLLP a parcel of approximately 4.9 acres of land in the south campus research area on Old Spanish Trail in Houston, Texas. The lease would provide for a \$1.00 a year rental for a maximum term of 99 years with the further provision that, in the event that U. T. M.D. Anderson Cancer Center no longer participated in the LLLP, the U. T. Board of Regents, for the use and benefit of U. T. M.D. Anderson Cancer Center, would be entitled to receive fair market value rental or a discounted fair market value rental, depending upon the circumstances of the withdrawal of U. T. M.D. Anderson Cancer Center from the LLLP. If the LLLP expired at its primary term of forty years or after a renewal period, the lease would also terminate.

In addition to the Limited Partnership Agreement and the lease, there are five additional related agreements: (1) a Medical Direction Agreement which, for a fee to be received by U. T. M.D. Anderson Cancer Center, provides that the Division Head for Radiation Oncology of U. T. M.D. Anderson Cancer Center is appointed as the Medical Director of the facility; (2) a Professional Services Agreement under which U. T. M.D. Anderson Cancer Center provides the doctors, dosimetrists, and physicists for the delivery of proton therapy and bills and collects for the professional fees so generated; (3) a Program Services Agreement which provides for other services that either voluntarily or mandatorily would be purchased by the LLLP from U. T. M.D. Anderson Cancer Center for support services (such as triage nurses and other support personnel); (4) a Research Agreement which provides certain obligations of the LLLP to provide facilities and resources to U. T. M.D. Anderson Cancer Center researchers for research; and (5) a Sublicense Agreement for the use of the name, U. T. M.D. Anderson Cancer Center, for the promotion of proton therapy services at the proton therapy facility.

Vinson & Elkins, L.L.P. has issued an opinion that U. T. M.D. Anderson Cancer Center has the authority to enter into the Limited Partnership Agreement, pursuant to Texas Education Code Section 73.113, which provides that U. T. M.D. Anderson Cancer Center "shall ensure that institutional funds and the institution's hospital and clinic fees and patient base are sufficient to fund and achieve the mission and strategic plan of the institution and protect the State's investment in the development of the institution." The opinion of Vinson & Elkins also concluded that the proposed business investment does not violate the constitutional prohibition against the unconditional use of public credit cited in Texas Attorney General Opinion No. JM-769 (1987) because U. T. M.D. Anderson Cancer Center, as a limited liability limited partner, may not be held responsible for the debts of the LLLP.

There are no mandatory cash calls provided for in the Limited Partnership Agreement such that additional investment would be mandatory for U. T. M.D. Anderson Cancer Center. In addition, the Vinson & Elkins opinion concluded that there exist sufficient controls to ensure that the public purpose is achieved.

This transaction presents a unique opportunity for U. T. M.D. Anderson Cancer Center to fulfill its mission areas of research, education, and patient care (including charity care), as well as an opportunity to fulfill U. T. M.D. Anderson Cancer Center's mandate from the State of Texas to ensure that its patient base, professional fees, and hospital and clinic fees are enhanced and increased.

**Facilities, Planning & Construction  
Committee**

FACILITIES PLANNING AND CONSTRUCTION COMMITTEE  
Committee Chairman Clements

Date: August 12, 1999  
Time: Following the Meeting of the Health Affairs Committee  
Place: Caduceus Room, Sixth Floor, Administration Building  
U. T. Medical Branch - Galveston

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1. U. T. Board of Regents: Proposed Amendments to the Regents' Rules and Regulations, Part Two, Chapter VIII (Physical Plant Improvements).--

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs, the Executive Vice Chancellor for Health Affairs, and the Vice Chancellor for Academic Affairs that the Regents' Rules and Regulations, Part Two, Chapter VIII (Physical Plant Improvements) be amended as set forth below in congressional style:

- a. Amend Section 2, Subsection 2.1, Subdivision 2.11, relating to major construction and repair and rehabilitation projects, as follows:

2.11 Subject to Subdivisions 2.12, 2.13, 2.14 and 2.15 of this Section and the general provisions of Part One, Chapter I, Section 9 and except as otherwise specified in these Rules and Regulations, the Chancellor with the advice of the appropriate Executive Vice Chancellor or Vice Chancellor and chief administrative officer is authorized to appoint architects, approve plans and execute contracts for all new construction projects exceeding \$1,000,000 [~~\$300,000~~] and for major repair and rehabilitation [~~renovation~~] projects exceeding \$2,000,000 [~~\$600,000~~] ("Major Projects") that have previously been approved or authorized by the Board.

- b. Amend Section 3, Subsection 3.1, relating to minor construction and repair and rehabilitation projects, as set forth below:

3.1 Delegation of Authority.--Subject to Subsections 3.2 and 3.3 of this Section and the general provisions of Part One, Chapter I, Section 9 and except as otherwise specified in these Rules and Regulations, each chief administrative officer is authorized to appoint architects, approve plans and Construction Documents, and execute and deliver contracts,

agreements, guaranteed maximum price or stipulated sum proposals, and other documents on behalf of the Board for all new construction projects of \$1,000,000 [~~\$300,000~~] or less and for repair and rehabilitation projects of \$2,000,000 [~~\$600,000~~] or less ("Minor Projects").

c. Amend Section 5, Sections 5.1 and 5.2, relating to constitutional and legislative restrictions, as follows:

- 5.1 Improvements Financed by Bonds.--Sections 17 and 18 of Article VII of the Texas Constitution (regarding the Permanent University Fund and the Higher Education [~~Assistance~~] Fund) require approval by the Legislature, or an agency designated by the Legislature, prior to the construction of physical improvements financed by bonds authorized under those Sections at components other than The University of Texas at Austin.
- 5.2 Texas Higher Education Coordinating Board.--Unless otherwise authorized by law, new construction projects in excess of \$1,000,000 [~~\$300,000~~] and major repair and rehabilitation projects in excess of \$2,000,000 [~~\$600,000~~] must be approved by the Texas Higher Education Coordinating Board. Format for submission will be as prescribed by the Coordinating Board. Submission will be prepared by the component, in consultation with and assisted by the Office of Facilities Planning and Construction, if necessary, and forwarded to System Administration for review, approval, and handling of submission. It is anticipated that necessary documents will be submitted to the Coordinating Board when the project scope and estimated cost are sufficiently defined to meet the Coordinating Board's requirements for approval. Normally, submission will be made after the Chancellor and the Board have approved the Design Development Plans and the related cost estimate.

The Texas Higher Education Coordinating Board has delegated to its Commissioner approval authority for certain projects qualifying under Coordinating Board Rule 17.46. This delegation requires a certification that the project meets specified criteria. The authority to execute this certification for the Board of Regents is delegated to the Executive Vice Chancellor for Business Affairs or his delegate, the Director of the Office of Facilities Planning and Construction.

### BACKGROUND INFORMATION

The 76th Texas Legislature amended Section 61.058 of the Texas Education Code by raising the Texas Higher Education Coordinating Board approval level for new construction and major repair and rehabilitation projects. Approval levels were raised from \$300,000 to \$1,000,000 for new construction and \$600,000 to \$2,000,000 for major repair and rehabilitation projects.

Currently, Section 2, Subsection 2.1, Subdivision 2.11 of Chapter VIII, Part Two of the Regents' Rules and Regulations authorizes U. T. System personnel to execute documents for new construction projects exceeding \$300,000 and repair and rehabilitation projects exceeding \$600,000 that have previously been approved or authorized by the U. T. Board of Regents. Section 3, Subsection 3.1 currently delegates authority to the component institution's chief administrative officer to execute documents for projects of \$300,000 or less for new construction and \$600,000 or less for repair and rehabilitation projects. Section 5, Subsection 5.2 specifies that new construction projects in excess of \$300,000 and major repair and rehabilitation projects in excess of \$600,000 must be approved by the Texas Higher Education Coordinating Board.

Approval of the proposed amendments will more accurately align these Sections of the Regents' Rules and Regulations with the action of the Legislature and will delegate more authority to the U. T. System components to manage smaller projects.

In January 1999 and April 1999, the Texas Higher Education Coordinating Board adopted new rules for approval of campus planning projects that included a new approval process to allow action by the Commissioner of Higher Education after certification by governing boards that Board-approved criteria are met. This process

was developed to streamline the Coordinating Board project approval process for the following categories of projects: auxiliary enterprise projects being acquired, constructed, or renovated without the use of State general revenue funds having a total project cost of less than \$10,000,000; major repair and rehabilitation of existing educational and general buildings that will not add educational and general space with a total projected project cost of less than \$5,000,000; gifts, purchases, or acquisitions of real property having a value of \$300,000 or less; construction of new educational and general space having a value of \$1,000,000 or less; or projects funded more than fifty percent with Tuition Revenue Bond Proceeds.

Applications for approval by the Commissioner of Higher Education of projects meeting any one of the above categories may be submitted at any time when accompanied by a governing board certification that the project meets specified criteria established by the Coordinating Board. This new process may significantly streamline these project approvals since the approvals will not be linked to the quarterly Coordinating Board meeting schedule.

Approval of the addition of a new paragraph under Subsection 5.2, Section 5, Chapter VIII, Part Two of the Regents' Rules and Regulations will authorize the Executive Vice Chancellor for Business Affairs or his delegate, the Director of the Office of Facilities Planning and Construction, to certify on behalf of the U. T. Board of Regents, that a project meets the Coordinating Board criteria. The proposed minor amendment to Subsection 5.1 reflects the current name for the Higher Education Fund (HEF).

2. U. T. Board of Regents: Request for (a) Authorization for U. T. M.D. Anderson Cancer Center to Amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to Modify Preliminary Project Cost and Appropriate Funds for the Replacement Research Facility/Land Acquisition Project; (b) Authorization to Transfer Real Property Located at 1300 Moursund Street, Houston, Harris County, Texas, Known as the Mental Sciences Institute, Held on Behalf of U. T. Health Science Center - Houston, to be Held on Behalf of U. T. M.D. Anderson Cancer Center; (c) Approval to Transfer Funds from U. T. M.D. Anderson Cancer Center to U. T. Health Science Center - Houston in Exchange for the Above Property and in Accordance with a Mutually Acceptable Payment Schedule; and (d) Authorization to Execute All Documents Related Thereto.--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Health Affairs, the Executive Vice Chancellor for Business Affairs, and Presidents Low and Mendelsohn, that authorization be granted by the U. T. Board of Regents, on behalf of U. T. Health Science Center - Houston and U. T. M.D. Anderson Cancer Center, to:

- a. Amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to modify the preliminary project cost and funding for the Replacement Research Facility/Land Acquisition project to reflect and appropriate \$15,000,000 from Hospital Revenue Funds for project funding
- b. Transfer ownership of real property including land and improvements located at 1300 Moursund Street, Houston, Harris County, Texas, known as the Mental Sciences Institute and further described as 5.019 acres in the P. W. Rose Survey, Abstract No. 645, Houston, Harris County, Texas, from the U. T. Board of Regents for the use and benefit of U. T. Health Science Center - Houston to the U. T. Board of Regents for the use and benefit of U. T. M.D. Anderson Cancer Center

- c. Transfer Hospital Revenue Funds totaling \$15,000,000 from U. T. M.D. Anderson Cancer Center to U. T. Health Science Center - Houston in exchange for the property referenced in b. above and in accordance with a mutually acceptable payment schedule
- d. Authorize the Executive Vice Chancellor for Business Affairs or the Executive Director of Real Estate to execute all documents, instruments, and other agreements following approval from the Office of General Counsel and to take all such actions deemed necessary or desirable to carry out the purpose and intent of the foregoing recommendations.

### BACKGROUND INFORMATION

The Replacement Research Facility/Land Acquisition project at U. T. M.D. Anderson Cancer Center is included in the FY 1998-2003 Capital Improvement Program at a cost of \$10,000,000 with funding from Unexpended Plant Funds. Currently, the building and land identified as the Mental Sciences Institute is owned by the U. T. Board of Regents for the use and benefit of U. T. Health Science Center - Houston. In connection with the establishment of the Texas Medical Center Research Campus located in the Texas Medical Center, as well as other related transactions, it has been agreed between the parties that, subject to the approval of the U. T. Board of Regents, U. T. Health Science Center - Houston will transfer its interest in the Mental Sciences Institute, including both the land and improvements located thereon, to U. T. M.D. Anderson Cancer Center in exchange for the payments totaling \$15,000,000 described therein. A Memorandum of Understanding concerning the exchange and the schedule of payments has been executed by M. David Low, M.D., President of U. T. Health Science Center - Houston, and John Mendelsohn, M.D., President of U. T. M.D. Anderson Cancer Center. The terms and conditions for payment may be revised based upon the completion of the replacement facility.

Funds transferred from U. T. M.D. Anderson Cancer Center to U. T. Health Science Center - Houston will be used to finance a replacement facility for the Mental Sciences Institute at U. T. Health Science Center - Houston.

See Item 11 on Page BAAC - 135 and Item 12 on Page BAAC - 138 related to land exchanges between U. T. M.D. Anderson Cancer Center and U. T. Health Science Center - Houston and Item 13 on Page FPCC - 24 related to redesignation of the U. T. M.D. Anderson Cancer Center Replacement Research Facility - Phase I.

3. U. T. System: Request to Authorize Award of Contracts at U. T. Dallas, U. T. Permian Basin, and U. T. San Antonio for Operation, Maintenance, and Management of the Central Utility Plants.--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs and the Vice Chancellor for Academic Affairs that the U. T. Board of Regents authorize the Executive Vice Chancellor for Business Affairs to award operation, maintenance, and management contracts for the central utility plants at U. T. Dallas, U. T. Permian Basin, and U. T. San Antonio at a preliminary cost not to exceed \$15,000,000, with funding from appropriated Institutional Funds.

### BACKGROUND INFORMATION

In August 1980, the U. T. Board of Regents entered into contracts with Win-Sam, Inc., Oklahoma City, Oklahoma, for operation and maintenance of the central chilling station plants for U. T. Dallas, U. T. Permian Basin, and U. T. San Antonio. These contracts will expire on September 1, 1999. Consequently, award of new contracts is required prior to the November 1999 Board meeting. All three institutions have expressed a desire to continue outside management and maintenance of their campus plants.

The Office of Facilities Planning and Construction (OFPC) has prepared a Request for Proposal (RFP) for the maintenance and operation of energy plants at the three component institutions. The RFP will be sent to qualified thermal energy contractors who may submit their competitive sealed proposals to OFPC. When awarded, the new contract will cover an initial period of five years, with two options for five-year extensions. The estimated cost for all three components over the five-year

period is less than \$15,000,000 and will be paid for out of the respective component's operating budget. The RFP has been written to award three separate contracts, or a combination thereof, and to allow other institutions to participate at a later time.

The Regents' Rules and Regulations, Part One, Chapter I, Section 9, Subsection 9.2, Subdivision 9.22 require that contracts exceeding \$500,000 be approved by the U. T. Board of Regents and also list a number of exceptions to the requirement. The proposed utility plant contracts will exceed \$500,000, and will not meet any of the listed exceptions.

State law requires that service contracts over \$100,000 utilizing State funds be processed by the General Services Commission. A request has been forwarded to the Executive Director of the General Services Commission to allow the U. T. System to award these service contracts.

Results of the contract award will be submitted in the November 1999 U. T. System docket. Any extensions or expansions of the initial contract will be submitted through the docket.

4. U. T. Austin - Disch-Falk Field - Replacement of Artificial Turf: Request to Amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to Include Project; Authorize Local Management of Project; and Appropriation of Funds.--

#### RECOMMENDATION

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

- a. Amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to include the Disch-Falk Field - Replacement of Artificial Turf project at U. T. Austin at a preliminary project cost of \$1,500,000, with funding from Auxiliary Enterprise Balances

- b. Authorize U. T. Austin to manage the total project budget, prepare final plans, and award contracts associated with the project
- c. Appropriate funds of \$1,500,000 from Auxiliary Enterprise Balances for total project funding.

### BACKGROUND INFORMATION

The current artificial surface at Disch-Falk Field, the U. T. Austin men's baseball stadium, was installed in 1985. The artificial turf has exceeded the expected life span for this type of surface, and replacement is required to ensure a safe playing surface.

This is a small purchase order contract and can easily be managed by U. T. Austin.

Approval of this item will amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to include the Disch-Falk Field - Replacement of Artificial Turf project at U. T. Austin at a total project cost of \$1,500,000, with funding from Auxiliary Enterprise Balances.

- 5. U. T. Austin - Jester Center Dining Renovations (Project No. 102-993): Request for Appropriation of Funds.--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs, the Vice Chancellor for Academic Affairs, and President Faulkner that the U. T. Board of Regents approve the appropriation of funds for the Jester Center Dining Renovations project at U. T. Austin in the amount of \$13,000,000, with funding from Auxiliary Enterprise Balances.

## BACKGROUND INFORMATION

The Jester Center Dining Renovations project at U. T. Austin will expand dining service capabilities to meet the increased demand from the new residence hall, upgrade the facility infrastructure, and redesign the food service facilities. The redesign of the facility is required to meet current student demand and to create a food service facility which can be quickly reconfigured to meet changing customer tastes.

The proposal for a capital renovation project of Jester Center Dining is a direct response to the stated goals of U. T. Austin to focus on the first-year freshman experience and its relation to retention and academic success rates. U. T. Austin wishes to double the on-campus residential community and beginning in Fall 2000, an 850-bed residence hall on the north end of Clark Field will open.

The renovation of the Jester Center Dining will be phased. As it will be financed completely from the Division of Housing and Food Service Reserves, the separate phases will begin when funds are available. The total renovated area is approximately 53,000 gross square feet on three floors, two dining floors, and one preparation facility. Each dining floor will have a separate serving concept to provide eating options for the residents. The first part of the work is projected to start in December 1999.

This project is included in the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget at a preliminary project cost of \$13,000,000, with funding from Auxiliary Enterprise Balances.

6. U. T. Permian Basin - The Presidential Museum: Request to Amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to Include Project.--

## RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs, the Vice Chancellor for Academic Affairs, and President Sorber that the U. T. Board of Regents amend the FY 1998-2003 Capital Improvement

Program and the FY 1998 and FY 1999 Capital Budget to include The Presidential Museum at U. T. Permian Basin at a preliminary project cost of \$2,500,000, with funding from General Revenues.

### BACKGROUND INFORMATION

The Presidential Museum at U. T. Permian Basin involves the construction of a new campus facility of approximately 25,000 gross square feet. The building will be located adjacent to the Ellen Noël Art Museum of the Permian Basin and will display memorabilia from the past Presidents of the United States of America.

The Presidential Museum is currently housed in a downtown building in Odessa. The location near the Noël Art Museum will unlock The Presidential Museum's potential by enhancing tourism, expanding the Museum's education mission, and creating a cultural cluster for the community. Relocation of The Presidential Museum to the campus was supported by an appropriation of \$2,500,000 in the General Appropriations Act passed by the 76th Texas Legislature for the 2000-2001 biennium and will benefit both the citizenry of the Permian Basin and the students.

Approval of this item will amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to include The Presidential Museum at U. T. Permian Basin at a preliminary project cost of \$2,500,000, with funding from General Revenues.

7. U. T. San Antonio - 1604 Campus Thermal Energy Plant Upgrade: Request to Amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to Include Project.--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs, the Vice Chancellor for Academic Affairs, and President Romo that the U. T. Board of Regents amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to include the 1604 Campus Thermal

Energy Plant Upgrade project at U. T. San Antonio at a preliminary project cost of \$9,000,000, with funding from Revenue Financing System Bond Proceeds.

### BACKGROUND INFORMATION

The 1604 Campus Thermal Energy Plant Upgrade project at U. T. San Antonio will upgrade approximately 3,000 tons of chiller capacity, modify the existing chilled water piping, and extend the existing loop. This will provide future tie-in and thermal energy capabilities for Academic Building III, a future Engineering/Biotechnology Building, and a future Recreation/Wellness Center. As part of this project, energy performance measures will replace inefficient pumps, motors, controls, and lights, thus reducing current campus thermal loads.

The U. T. San Antonio 1604 campus is comprised of ten buildings with an aggregate of approximately 1,130,000 gross square feet (GSF) that are served by the present 6,000-ton capacity of the central thermal energy plant. Planned major construction projects comprise an additional 450,000 GSF and are scheduled to require chilled water in the Fall 2000, resulting in demand exceeding capacity. This project must be completed by Fall 2000 to meet the chilled water requirements of these projects.

Approval of this item will amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to include the 1604 Campus Thermal Energy Plant Upgrade at U. T. San Antonio at a preliminary project cost of \$9,000,000, with funding from Revenue Financing System Bond Proceeds.

8. U. T. Medical Branch - Galveston - Medical Research Building: Request for Approval to Name Building (Regents' Rules and Regulations, Part One, Chapter VIII, Section 1, Honorific Namings) (No Publicity).--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs, the Executive Vice Chancellor for Health Affairs, and President Stobo that the U. T. Board of Regents rename the Medical Research Building at

U. T. Medical Branch - Galveston as The Truman Graves Blocker Medical Research Building in honor of Truman G. Blocker, Jr., M.D., the first person to hold the title of president at that institution.

### BACKGROUND INFORMATION

Truman G. Blocker, Jr., M.D., served the U. T. Medical Branch - Galveston as chief administrative officer from 1964 to 1974, and in 1967 became the first person to hold the title of President, a position he held until his retirement in 1974. A 1933 graduate of the School of Medicine at the U. T. Medical Branch - Galveston, Dr. Blocker served on the faculty and in various senior administrative positions, including Chairman of the Department of Surgery, during the period 1937-1974. Dr. Blocker was an internationally renowned plastic surgeon who distinguished himself as a talented clinician, revered teacher, tireless administrator, devoted researcher, and accomplished fund-raiser.

During World War II, Dr. Blocker gained extensive experience with war casualties at Wakeman General Hospital in Indiana, where he rose to the rank of Colonel. He continued to serve as a consultant to the Surgeon General of the Army, and in 1956 was promoted to Brigadier General. As Director of Operations at the time of the Texas City Disaster in 1947, Dr. Blocker mobilized the staff at the U. T. Medical Branch - Galveston in a massive effort to provide care to the victims of that catastrophe.

Internationally recognized as an expert on the treatment of burns and wound healing, Dr. Blocker and his team of burn specialists were a key factor in the decision by the Shrine organization to locate the Shriners Burns Institute in Galveston.

Those who knew Dr. Blocker were awed by his physical size, amazed by his energy, and inspired by his dedication to his profession, the U. T. Medical Branch - Galveston, and the State of Texas. Over the past several months, numerous letters have been received from Dr. Blocker's former students, urging the naming of a prominent campus building in his honor; moreover, the Board of Trustees of the School of Medicine Alumni Association has unanimously endorsed this honorific naming recommendation. The Medical Research Building is an imposing twelve-floor structure situated on the western side of the main campus. The building consists of 290,309 gross square feet dedicated to medical research and is headquarters for the Sealy Center for Molecular Sciences, the Sealy Center for Molecular Cardiology, the Marine Biomedical Institute, and several School of Medicine

departments. The Medical Research Building was completed in 1993 and will be a fitting tribute to the memory of Dr. Truman G. Blocker, Jr.

The naming of the Medical Research Building at U. T. Medical Branch - Galveston as The Truman Graves Blocker Medical Research Building is consistent with the Regents' Rules and Regulations, Part One, Chapter VIII, Section 1, and institutional guidelines on the honorific naming of buildings.

NO PUBLICITY.

9. U. T. Medical Branch - Galveston - John and Jennie Sealy Hospitals Renovation: Request for Project Redesignation; Authorize Local Management of Projects; Approve Revised Preliminary Project Cost; and Appropriation of Funds.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs, the Executive Vice Chancellor for Health Affairs, and President Stobo that the U. T. Board of Regents:

- a. Redesignate the John and Jennie Sealy Hospitals Renovation at the U. T. Medical Branch - Galveston as the John Sealy Hospitals Complex Renovation
- b. Authorize U. T. Medical Branch - Galveston to manage the total project budgets, appoint architects, approve facility programs, prepare final plans, and award contracts associated with the renovations
- c. Approve a revised preliminary project cost of \$7,000,000, with funding of \$3,500,000 from Gifts and Grants and \$3,500,000 from Hospital Revenues
- d. Appropriate funds of \$3,500,000 from Gifts and Grants and \$3,500,000 from Hospital Revenues for total project funding.

## BACKGROUND INFORMATION

The John and Jennie Sealy Hospitals Renovation project at U. T. Medical Branch - Galveston will expand and reconfigure approximately 45,000 gross square feet of space in hospital areas for various departments. The redesignation of this project to John Sealy Hospitals Complex Renovation more clearly describes various buildings that are included within the scope of this project.

Several major patient care initiatives have been identified by the U. T. Medical Branch - Galveston. These include expanded facilities for the elderly, intensive care, family support areas, and inpatient rehabilitation. These expanded programs directly address the institution's goal of improving access to patient care and outcomes while controlling costs. This project also supports the Capital Improvement Program directive of placing priorities on the renovation and maintenance of existing facilities and the Campus Master Plan emphasis of responding to changes in the health care industry as these relate to patient care, along with reducing operations and maintenance costs.

Funding appropriations of \$14,800,000 from Hospital Revenues for this project were previously approved in August 1997. The scope of this project has been revised since that time and it is now requested that the preliminary project cost be reduced to \$7,000,000, with funding of \$3,500,000 from Gifts and Grants and \$3,500,000 from Hospital Revenues.

U. T. Medical Branch - Galveston has developed a staff of professional project managers that are trained to execute clinical renovation projects under the difficult conditions of construction in occupied space. Because of the nature of the work and the specialized ability of U. T. Medical Branch - Galveston personnel, it has been determined that U. T. Medical Branch - Galveston is best able to manage this project.

Approval of this item will amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to redesignate the John and Jennie Sealy Hospitals Renovation as the John Sealy Hospitals Complex Renovation at U. T. Medical Branch - Galveston at a preliminary project cost of \$7,000,000, with funding of \$3,500,000 from Gifts and Grants and \$3,500,000 from Hospital Revenues.

10. U. T. Health Science Center - Houston - Buildout of the University Center Tower: Request to Amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to Include Project; Authorize Local Management of Project; and Appropriation of Funds.--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs, the Executive Vice Chancellor for Health Affairs, and President Low that the U. T. Board of Regents:

- a. Amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to include the Buildout of the University Center Tower project at the U. T. Health Science Center - Houston at a preliminary project cost of \$10,000,000, with funding from Designated Tuition Funds
- b. Authorize U. T. Health Science Center - Houston to manage the total project budgets, appoint architects, approve facility programs, prepare final plans, and award contracts associated with the project
- c. Appropriate funds of \$10,000,000 from Designated Tuition Funds for total project funding.

### BACKGROUND INFORMATION

The Buildout of the University Center Tower project at the U. T. Health Science Center - Houston consists of the demolition and build-back of approximately 75,000 gross square feet on nine floors of the University Center Tower. The work will be phased over a six-year period. As various floors are renovated, academic functions and academic and research support personnel will be relocated to the University Center Tower. Floors will be renovated to include modernized heating,

venting, and air conditioning and life safety systems. The work will also include abatement of asbestos-containing material and renovation of rest rooms to comply with the Americans with Disabilities Act.

U. T. Health Science Center - Houston has developed a staff of professional project managers that are trained to execute clinical renovation projects under the difficult conditions of construction in occupied space. They work closely with facilities operating personnel to coordinate construction activities with minimal disruption. Because of the nature and lengthy duration of the work and the specialized ability of U. T. Health Science Center - Houston personnel, it has been determined that U. T. Health Science Center - Houston is best able to manage this project.

Approval of this item will amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to include the Buildout of the University Center Tower project at the U. T. Health Science Center - Houston at a total project cost of \$10,000,000, with funding from Designated Tuition Funds.

11. U. T. M.D. Anderson Cancer Center - Biochemistry and Molecular Biology Laboratory Renovation: Request to Amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to Include Project; Authorize Local Management of Project; and Appropriation of Funds.--

#### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs, the Executive Vice Chancellor for Health Affairs, and President Mendelsohn that the U. T. Board of Regents:

- a. Amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to include the Biochemistry and Molecular Biology Laboratory Renovation project at the U. T. M.D. Anderson Cancer Center at a preliminary project cost of \$1,900,000, with funding from Hospital Revenues

- b. Authorize U. T. M.D. Anderson Cancer Center to manage the total project budgets, appoint architects, approve facility programs, prepare final plans, and award contracts associated with the project
- c. Appropriate funds of \$1,900,000 from Hospital Revenues for total project funding.

### BACKGROUND INFORMATION

The Biochemistry and Molecular Biology Laboratory Renovation project at the U. T. M.D. Anderson Cancer Center will renovate approximately 6,600 gross square feet of research lab space for biochemistry and molecular biology. Work will include mechanical, electrical, and plumbing systems upgrade to meet laboratory requirements and life safety and building codes. The existing space is inadequate to support the utility and performance demands of this mission critical program now housed in the Bates-Freeman Building of the main complex. The strategic plan for the research program includes recruiting and retaining outstanding scientific leaders and new investigators. The existing infrastructure of the Bates-Freeman Building has proven to be inadequate to support current technology.

U. T. M.D. Anderson Cancer Center has developed a staff of professional project managers that are trained to execute clinical renovation projects under the difficult conditions of construction in occupied space. They are trained to maintain specialized conditions required in hospital operations such as infection control, compliance with Joint Commission on Accreditation of Healthcare Organizations interim life safety codes, and critical utility systems. They also work closely with facilities operating personnel and medical/nursing staff to coordinate construction activities with minimal disruption. Because of the nature of the work and the specialized ability of U. T. M.D. Anderson Cancer Center personnel, it has been determined that U. T. M.D. Anderson Cancer Center is best able to manage this project.

Approval of this item will amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to include the Biochemistry and Molecular Biology Laboratory Renovation project at the U. T. M.D. Anderson Cancer Center at a total project cost of \$1,900,000, with funding from Hospital Revenues.

12. U. T. M.D. Anderson Cancer Center - Life Safety/Fire Access/Pedestrian Traffic Improvements at R. Lee Clark Clinic Entrance: Request to Amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to Include Project; Authorize Local Management of Project; and Appropriation of Funds.--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs, the Executive Vice Chancellor for Health Affairs, and President Mendelsohn that the U. T. Board of Regents:

- a. Amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to include the Life Safety/Fire Access/Pedestrian Traffic Improvements at R. Lee Clark Clinic Entrance project at the U. T. M.D. Anderson Cancer Center at a preliminary project cost of \$3,500,000, with funding from Hospital Revenues
- b. Authorize U. T. M.D. Anderson Cancer Center to manage the total project budgets, appoint architects, approve facility programs, prepare final plans, and award contracts associated with the project
- c. Appropriate funds of \$3,500,000 from Hospital Revenues for total project funding.

### BACKGROUND INFORMATION

The Life Safety/Fire Access/Pedestrian Traffic Improvements at R. Lee Clark Clinic Entrance project at the U. T. M.D. Anderson Cancer Center will reconstruct Bates Street and associated drives that serve the Clark Clinic entrance. The project encompasses approximately 85,000 gross square feet of road surface and setbacks along Bates Street and the Bates Street entrance from Holcombe Boulevard.

Due to the nature of services provided in the Texas Medical Center, a large number of pedestrian trips are made between parking areas and member institution facilities. This is particularly true in front of major hospital and clinic facilities such as the U. T. M.D. Anderson Cancer Center. Clark Clinic was built in 1976 and designed to handle the traffic load at that time. In 1998, internal studies estimated that the Clark Clinic and the Lutheran Hospital Pavilion entrances experience up to 8,800 visits per day. These visits are serviced by two drives from Bates Street: the primary new patient, outpatient, and visitor entrance at the Clark Clinic is served by a two-lane drive; the primarily inpatient access at the Lutheran Hospital Pavilion is also served by a two-lane drive. At times, traffic is backed up on Holcombe Boulevard, creating further congestion on the circulation of this major artery, creating safety concerns for the patients, guests, and employees of U. T. M.D. Anderson Cancer Center. The redesign of the main driveway, patient drop-off, fire access, and pedestrian traffic from the parking facilities that serve the campus is greatly needed.

U. T. M.D. Anderson Cancer Center has developed a staff of professional project managers that are trained to execute renovation projects under the difficult conditions of construction in heavily utilized areas. They work closely with facilities operating personnel and staff to coordinate construction activities with minimal disruption. Because of the nature of the work and the specialized ability of U. T. M.D. Anderson Cancer Center personnel, it has been determined that U. T. M.D. Anderson Cancer Center is best able to manage this project.

Approval of this item will amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to include the Life Safety/Fire Access/Pedestrian Traffic Improvements at R. Lee Clark Clinic Entrance project at U. T. M.D. Anderson Cancer Center at a total project cost of \$3,500,000, with funding from Hospital Revenues.

13. U. T. M.D. Anderson Cancer Center - Replacement Research Facility - Phase I: Request for Approval of Project Redesignation and Revised Preliminary Project Cost.--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs, the Executive Vice Chancellor for Health Affairs, and President Mendelsohn that the U. T. Board of Regents:

- a. Approve redesignation of the Replacement Research Facility - Phase I at U. T. M.D. Anderson Cancer Center as the Basic Science Research Building
- b. Approve a revised preliminary project cost of \$137,200,000, with funding of \$30,000,000 from Permanent University Fund Bond Proceeds, \$32,200,000 from Revenue Financing System Bond Proceeds, and \$75,000,000 from Gifts and Grants.

### BACKGROUND INFORMATION

The FY 1998-2003 Capital Improvement Program includes the construction of a Replacement Research Facility - Phase I at the U. T. M.D. Anderson Cancer Center consisting of 250,000 gross square feet at a cost of \$68,000,000, with funding of \$40,000,000 from Revenue Financing System Bond Proceeds, and \$28,000,000 from Gifts and Grants. Since its conceptual approval in 1994, the implementation strategy for the Replacement Research Facility has undergone a number of changes. The most profound change has been the steady increase in grant-funded research by the National Cancer Institute, including an upward adjustment of the core grant to U. T. M.D. Anderson Cancer Center. In addition, the National Institutes of Health has announced planned cancer research increases over the next several years. To have the facilities necessary to better meet this challenge, the concept of the project has been adjusted from a single building with a shell vivarium (for future fit-out) to a phased, master planned, multibuilding development in the

Texas Medical Center. The Basic Science Research Building at the U. T. M.D. Anderson Cancer Center will be part of a collaborative research campus which includes the U. T. Health Science Center - Houston and the Baylor College of Medicine.

As part of its commitment, the institutional Facilities Steering Committee recommended an increase to the scope of the proposed Replacement Research Facility. As envisioned, the revised project scope for the Basic Science Research Building includes research laboratories, a complete vivarium for small animals, and space for the Graduate School of Biomedical Sciences (a shared program with the U. T. Health Science Center - Houston). The facility will be constructed on the property currently known as the K-Lot property that is to be transferred from the Texas Medical Center to the U. T. M.D. Anderson Cancer Center. See Item 11 on Page BAAC - 135 relating to this land transfer.

Future buildings on the site will provide additional research space supported by the new vivariums: one planned by the U. T. M.D. Anderson Cancer Center and the other currently under construction at Baylor College of Medicine. In addition, the site will eventually include loading docks, auditoriums, seminar space, and other support facilities to be shared by the three institutions.

The Basic Science Research Building will be approximately 403,000 gross square feet. The proposed building includes 145,000 gross square feet for laboratory and lab support space, 138,000 gross square feet for a vivarium, 87,000 gross square feet for laboratory and lab support space (shell only), and 33,000 gross square feet for facilities support space (such as Graduate School of Biomedical Sciences, dock, maintenance, and electrical transformer vault) and connections to existing structures.

Approval of this item will amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to redesignate the Replacement Research Facility - Phase I at U. T. M.D. Anderson Cancer Center as the Basic Science Research Building and revise the preliminary project cost, with funding of \$30,000,000 from Permanent University Fund Bond Proceeds, \$32,200,000 from Revenue Financing System Bond Proceeds, and \$75,000,000 from Gifts and Grants.

14. U. T. M.D. Anderson Cancer Center - Research Lab Renovations: Request to Amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to Include Project: Authorize Local Management of Project; and Appropriation of Funds.--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs, the Executive Vice Chancellor for Health Affairs, and President Mendelsohn that the U. T. Board of Regents:

- a. Amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to include the Research Lab Renovations at the U. T. M.D. Anderson Cancer Center at a preliminary project cost of \$11,800,000, with funding from Hospital Revenues
- b. Authorize U. T. M.D. Anderson Cancer Center to manage the total project budgets, appoint architects, approve facility programs, prepare final plans, and award contracts associated with the project
- c. Appropriate funds of \$11,800,000 from Hospital Revenues for total project funding.

### BACKGROUND INFORMATION

The Research Lab Renovations project at the U. T. M.D. Anderson Cancer Center consists of renovations of approximately 36,700 gross square feet of laboratory space. The following departments are included for this project: Experimental Radiation Oncology with 10,000 gross square feet of major renovation; Human Cancer Genetics with 5,900 gross square feet of medium renovation; and Human Cancer Genetics with 10,000 gross square feet of medium renovation. In addition, this project includes the buildout of existing shell space for research lab and animal support areas of approximately 10,800 gross square feet.

The strategic plan for the research program includes recruiting and retaining outstanding scientific leaders and new investigators. This project provides for the renovation of laboratory space for research recruitment and retention as well as the technology support each requires. The existing research facilities are inadequate to support current technology or to support the utility and performance demands of mission critical programs. The mechanical, electrical, and plumbing systems will require significant upgrades to meet lab requirements, life safety, and building codes.

U. T. M.D. Anderson Cancer Center has developed a staff of professional project managers that are trained to execute clinical renovation projects under the difficult conditions of construction in occupied space. They are trained to maintain specialized conditions required in hospital operations such as infection control, compliance with Joint Commission on Accreditation of Healthcare Organizations interim life safety codes, and critical utility systems. They also work closely with facilities operating personnel and medical/nursing staff to coordinate construction activities with minimal disruption. Because of the nature of the work and the specialized ability of U. T. M.D. Anderson Cancer Center personnel, it has been determined that U. T. M.D. Anderson Cancer Center is best able to manage this project.

Approval of this item will amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to include the Research Lab Renovations at U. T. M.D. Anderson Cancer Center at a total project cost of \$11,800,000, with funding from Hospital Revenues.

15. U. T. M.D. Anderson Cancer Center - Roof Replacement Gimbel, Bates-Freeman, M. D. Anderson Hospital Center, New R. Lee Clark Clinic Buildings: Request to Amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to Include Project; Authorize Local Management of Project; and Appropriation of Funds.--

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Business Affairs, the Executive Vice Chancellor for Health Affairs, and President Mendelsohn that the U. T. Board of Regents:

- a. Amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to include Roof Replacement at the Gimbel, Bates-Freeman, M. D. Anderson Hospital Center, and new R. Lee Clark Clinic Buildings at the U. T. M.D. Anderson Cancer Center at a preliminary project cost of \$4,000,000, with funding from Hospital Revenues
- b. Authorize U. T. M.D. Anderson Cancer Center to manage the total project budgets, appoint architects, approve facility programs, prepare final plans, and award contracts associated with the project
- c. Appropriate funds of \$4,000,000 from Hospital Revenues for total project funding.

### BACKGROUND INFORMATION

The Roof Replacement at Gimbel, Bates-Freeman, M. D. Anderson Hospital Center, and new R. Lee Clark Clinic Buildings project at the U. T. M.D. Anderson Cancer Center consists of roof replacement of approximately 60,000 gross square feet on the Gimbel, Bates-Freeman, and M. D. Anderson Hospital Center Buildings, and

approximately 40,000 gross square feet of roof replacement on the new Clark Clinic Building. The project also includes relocation, demolition, or replacement of selected rooftop equipment.

The Gimbel, Bates-Freeman, and M. D. Anderson Hospital Center existing roof systems were installed approximately twenty years ago and have reached the end of their life expectancy. Numerous mechanical, electrical, and plumbing penetrations added after the original roof installation have created water drainage obstructions and damage to the roof and interior finish. Some of the equipment creating the obstructions will require relocation. Equipment that has been abandoned in place and not scheduled for reuse will be removed and deck repairs made. Many of the roof equipment support curbs will require replacement. Removal and replacement of this roof will provide a watertight roofing system to protect the building's interior finishes and occupants. Additionally, the roof system's insulating thermal "R" value will be increased by removing water trapped in the roof system and by replacing deteriorated fiberglass insulation.

The new R. Lee Clark Clinic's existing roof system was installed approximately fifteen years ago and consists of a loose aggregate surface. An infrared moisture survey and test cut data revealed wet insulation in several areas. Removal and replacement of this roof will eliminate the hazards associated with loose aggregate becoming airborne during high winds and provide a watertight roofing system. It will also increase the roof system's insulating "R" value by removing trapped water and wet insulation.

U. T. M.D. Anderson Cancer Center has developed a staff of professional project managers that are trained to execute renovation projects under the difficult conditions of construction in heavily utilized areas. They work closely with facilities operating personnel and staff to coordinate construction activities with minimal disruption. Because of the nature of the work and the specialized ability of U. T. M.D. Anderson Cancer Center personnel, it has been determined that U. T. M.D. Anderson Cancer Center is best able to manage this project.

Approval of this item will amend the FY 1998-2003 Capital Improvement Program and the FY 1998 and FY 1999 Capital Budget to include the Roof Replacement at Gimbel, Bates-Freeman, M. D. Anderson Hospital Center, and new R. Lee Clark Clinic Buildings at U. T. M.D. Anderson Cancer Center at a total project cost of \$4,000,000, with funding from Hospital Revenues.

INFORMATIONAL REPORT

U. T. System: Report on Campus Master Plan Process.--

REPORT

Vice-Chairman Rita C. Clements, Chairman of the Facilities Planning and Construction Committee, will report on the status of the Campus Master Plan Process.

## Executive Session of the Board

**BOARD OF REGENTS  
EXECUTIVE SESSION**  
Pursuant to Texas Government Code  
Chapter 551, Sections 551.072 and 551.074

Date: August 12, 1999

Time: 8:30 a.m.  
1:30 p.m. if necessary

Place for 8:30 a.m.: Executive Vice Presidents' Conference Room  
(Room 624), Sixth Floor, Administration Building,  
The University of Texas Medical Branch at Galveston

Place for 1:30 p.m.: Caduceus Room, Sixth Floor, Administration Building  
The University of Texas Medical Branch at Galveston

1. Deliberations Regarding the Purchase, Exchange, Lease or Value of Real Property - Section 551.072

U. T. Pan American: Request for Approval to Lease the  
Baseball Stadium to the City of Edinburg, Texas, and  
Authorization to Execute All Documents Related Thereto

2. Personnel Matters Relating to Appointment, Employment, Evaluation, Assignment, Duties, Discipline, or Dismissal of Officers or Employees - Section 551.074

U. T. System: Consideration of Personnel Aspects of  
the Operating Budgets for the Fiscal Year Ending  
August 31, 2000, Including Auxiliary Enterprises,  
Grants and Contracts, Designated Funds, Restricted  
Current Funds, and Medical and Dental Services,  
Research and Development Plans and Authorization  
for the Chancellor to Make Editorial Corrections  
Therein