

TEXAS TECH UNIVERSITY
LUBBOCK, TEXAS

MINUTES OF THE BOARD OF REGENTS
OF
TEXAS TECH UNIVERSITY

SEPTEMBER 1, 1996 THROUGH DECEMBER 31, 1996

VOLUME I

TEXAS TECH UNIVERSITY

MINUTES OF THE BOARD OF REGENTS
OF
TEXAS TECH UNIVERSITY

NOVEMBER 8, 1996

**TEXAS TECH UNIVERSITY
Lubbock, Texas**

Minutes

**Board of Regents
November 08, 1996**

Chairman Whitacre convened the meeting in open session in order to reconvene in executive session. Before the Chair proceeded, Chancellor Montford asked if he could address the Board before it retired into Executive Session. Chancellor Montford made the following remarks:

There was an issue raised in this morning's edition of the *Lubbock Avalanche-Journal* relative to the propriety of whether posting was required at the County Courthouse for today's meeting. I would like for Mr. Pat Campbell, General Counsel, to comment on this issue.

The Chancellor then called on Mr. Pat Campbell, General Counsel, to address the Board of Regents. Mr. Campbell had the following comments related to the legal requirements of the posting of Board of Regents meetings:

Chancellor Montford and members of the Board, I would like to distribute copies of the article that appeared in this morning's *Lubbock Avalanche-Journal*. There was a question raised in regard to whether the meeting times were given to the media. This statement is in fact inaccurate. The notice that was cited in this article pertains, specifically in the government code, to one institution governed by one governing board. First, let me cite the specific statutes that state that Texas Tech University and Texas Tech University Health Sciences Center are to be separate institutions. Section 110.01 of the Government Code states that Texas Tech University Health Sciences Center is a separate institution. It is not to be a department, school, or branch of Texas Tech University, but it is to be under the direction, management, and control of the Texas Tech University Board of Regents. Further, the statute continues to read in Section 110.01 Subsection 2 that the Board of Regents has the same powers of direction, management, and control over Texas Tech University Health Sciences Center as they exercise over Texas Tech University. However, the Board of Regents shall act separately and independently on all matters affecting the Texas Tech University Health Sciences Center as a separate institution.

Therefore by law and specific statute, Texas Tech University and Texas Tech University Health Sciences Center are separate institutions and entities. The *Lubbock Avalanche-Journal* cites a statute that is inapplicable to the Texas Tech Board of Regents. It is a law that states, in summary, that the governing board of a single institution must post notice of its meetings at the county courthouse. This statute specifically speaks to a governing board that is not the governing board of a single institution.

Regent Elizabeth Ward asked if Texas Tech had previously posted notice at the courthouse. Mr. Campbell replied:

No, we have never done this in the past because it has been a non-issue. The statute cited in the *Lubbock Avalanche-Journal* article does not apply to the Texas Tech University Board of Regents. Apparently, the University News and Publications Department has notified the media of meeting times as a courtesy, but we are not required by law to do so. It was unfortunate that this occurred, and the Chancellor and his staff will review this incident carefully. Also, we will ensure that the media does continue to receive courtesy notices in order to be aware of the meeting times in the future. It is interesting to note that the Board of Regents has followed the same practice

for many meetings now, and no questions have been raised as to the propriety of the posting. I think that without question if an error was committed, then it was inadvertent. If that is the case, then an apology will be given. However, no legal requirements were breached, and only a person that is unfamiliar with the Texas Education Code would believe that a breach had occurred. The Education Code is very clear on this issue.

Chairman Whitacre then asked Mr. Campbell if the Board could legally proceed with the meetings, and Mr. Campbell replied that it could proceed.

- M1 The Board of Regents of Texas Tech University met in regular session on Friday, November 08, 1996, at 2:00 p.m. in the Board Suite on campus. The following regents were present: Mr. Edward E. Whitacre, Jr., Chairman; Mr. John C. Sims, Vice Chairman; Mr. J. Robert Brown; Dr. Bernard A. Harris, Jr.; Dr. Carl E. Noe; Mr. James E. Sowell; Mrs. Elizabeth C. Ward and Mr. Alan B. White. Officials and staff present were: Mr. John T. Montford, Chancellor; Mr. James Crowson, Deputy Chancellor; Mr. Ben Lock, Executive Assistant to the Chancellor; Dr. John Opperman, Vice Chancellor for Administration and Finance; Mr. Mike Sanders, Vice Chancellor for Governmental Relations; Mr. Pat Campbell, Vice Chancellor and General Counsel; Mr. William Wehner, Vice Chancellor for Institutional Advancement; Dr. Donald R. Haragan, President, TTU; Dr. David Smith, President, TTUHSC; Dr. John Burns, Interim Provost, TTU; Mr. Jim Brunjes, Vice President for Fiscal Affairs, TTU; Dr. Robert Ewalt, Vice President for Student Affairs; Dr. Monty Davenport, Vice President for Operations; Dr. David Schmidly, Vice President for Research and Graduate Studies and Dean of the Graduate School; Mr. Gerald Myers, Interim Athletic Director; Dean Sam Curl, College of Agricultural Sciences and Natural Resources; Dean Jane Winer, College of Arts and Sciences; Dean Carl Stem, College of Business Administration; Dean Elaine Jarchow, College of Education; Dean Jorge Auñon, College of Engineering; Dean Elizabeth Haley, College of Human Sciences; Dean Martin Harms, College of Architecture; Dean Frank Newton, School of Law; Mr. Richard Butler, Vice President for Operations and Student Support Services, TTUHSC; Mr. Glen Provost, Vice President for Federal Relations, TTUHSC; Mr. Victor Mellinger, Associate, Office of General Counsel; Mr. Elmo Cavin, Vice President for Fiscal Affairs, TTUHSC; Dr. Virginia M. Sowell, Vice Provost, TTU; Dr. Thomas G. Newman, Associate Vice President for Computing and Information Technology; Mr. Steve Pruitt, Associate Vice President for Business Affairs and Comptroller, TTU; Mr. Ed McGee, Assistant Vice Chancellor for Investments; Dr. Pat Yoder Wise, Dean, School of Nursing; Dr. Arthur Nelson, Dean, School of Pharmacy; Dr. Dale M. Dunn, Regional Dean, School of Medicine, TTUHSC at Lubbock; Mr. D. Kent Kay, Director, Internal Audit; Mrs. Theresa Drewell, Director, and Mr. Gene Bals, Assistant Director, Facilities Planning and Construction; Dr. Margaret Lutherer, Director, News and Publications; Mr. Steve Kauffman, Associate Director, News and Publications; Mr. Jim Lewis, Executive Assistant to Executive Vice President and Provost, TTUHSC; Ms. Jacqueline Garcia, Assistant Vice Chancellor, Administration and Finance; and Ms. Melissa McDonald, Interim Executive Assistant to the Board.
- M2 Chairman Whitacre called the meeting to order and asked Dr. Donald Haragan to give the invocation.
- M3 Upon motion made by Mr. Brown, seconded by Mrs. Ward, the Minutes of the meeting of August 20, 1996, were approved.
- M4 Dr. Noe reported for the Academic, Student, and Clinical Affairs Committee. The following five items (M5 through M9) constitute action taken upon committee recommendations.
- M5 Upon recommendation made by the Academic, Student, and Clinical Affairs Committee, the following was unanimously approved: *RESOLVED, that the Board of Regents elects James L.*

Crowson as Assistant Secretary to the Board of Regents of Texas Tech University and Texas Tech University Health Sciences Center, effective this date.

- M6 Upon recommendation made by the Academic, Student, and Clinical Affairs Committee, the following was unanimously approved: *RESOLVED, that the Board of Regents approves the appointment of John T. Montford as Professor, with tenure, in the School of Law.*
- M7 Upon recommendation made by the Academic, Student, and Clinical Affairs Committee, the following was unanimously approved: *RESOLVED, that the Board of Regents of Texas Tech University approves the conferral of an honorary degree of Doctor of Humane Letters on Admiral Elmo R. Zumwalt, Jr. and RESOLVED, that the Board of Regents of Texas Tech University approves the conferral of an honorary degree of Doctor of Humane Letters on Queen Noor.*
- M8 Upon recommendation made by the Academic, Student, and Clinical Affairs Committee, the following was unanimously approved: *RESOLVED, that the Board of Regents authorizes the President to enter into an agreement with Cassidy & Associates to enhance Federal research and development funding; Attachment No. M1.*
- M9 Upon recommendation made by the Academic, Student, and Clinical Affairs Committee, the following was unanimously approved: *RESOLVED, that the Board of Regents ratifies administrative actions as follows:*
- a. *Approve leave of absence without pay for Fred Kemp, Associate Professor in the Department of English, College of Arts and Sciences, for the period September 1, 1996, through January 15, 1997. The purpose of the leave is to write a book and to investigate computer-based extended learning.*
 - b. *The conferral of degrees upon all candidates who have completed requirements for degrees since the last official commencement. These are to be certified by the faculties, deans and registrar of Texas Tech University as having met all degree requirements of the degree, as indicated by the official printed commencement program of December 14, 1996.*
 - c. *Commission as peace officers, Bobby R. Thompson, effective September 6, 1996, Hector J. Vasquez, effective October 1, 1996, Gerald L. Coke, effective October 15, 1996, and Jonathan K. Weidner, effective October 14, 1996.*
- M10 Mr. White reported for the Finance and Administration Committee. The following thirteen items (M11 through M23) constitute action taken upon committee recommendations.
- M11 Upon recommendation made by the Finance and Administration Committee, the following was unanimously approved: *RESOLVED, that the Board of Regents approves the award of a contract to Bob Jordan Amusement Company, Inc. to provide electronic game machines and service to the University Center for the period beginning January 1, 1997, through December 31, 2000, and authorizes the Chancellor to sign the contract; Attachment No. M2.*
- M12 Upon recommendation made by the Finance and Administration Committee, the following was unanimously approved: *RESOLVED, that the Board of Regents approves the Resolution amending the Master Resolution establishing the Revenue Financing System, substantially in the form of Attachment A, under the authority and responsibility of the Board of Regents of Texas Tech University.*

BE IT FURTHER RESOLVED, that the Board of Regents approves the Third Supplemental Resolution to the Master Resolution, substantially in the form of Attachment B, authorizing the issuance, sale, and delivery of Board of Regents of Texas Tech University Revenue Financing

System Refunding and Improvement Bonds, Third Series (1996) and approving and authorizing instruments and procedures relating thereto.

BE IT FURTHER RESOLVED, that the Board of Regents approves the Fourth Supplemental Resolution to the Master Resolution, substantially in the form of Attachment C, authorizing the issuance, sale, and delivery of Board of Regents of Texas Tech University Revenue Financing System Bonds, Fourth Series (Taxable 1996) and approving and authorizing instruments and procedures thereto.

BE IT FURTHER RESOLVED, that the Board of Regents hereby selects the underwriting firms on the attached listing, Attachment D, to assist Texas Tech University, its Bond Counsel, and its Financing Advisor, First Southwest Company, in the issuance of proposed Revenue Financing System bonds.

BE IT FURTHER RESOLVED, that the Board of Regents selects the firm of McCall, Parkhurst & Horton L.L.P. to serve as Bond Counsel.

BE IT FURTHER RESOLVED, that the Board of Regents' Finance Committee, consisting of Regents Whitacre, Ward and White, together with the Chancellor and Deputy Chancellor, be appointed as the Pricing Committee. The Pricing Committee is hereby authorized, appointed, and designated to act on behalf of the Board of Regents of Texas Tech University in the selling and delivering of the Revenue Financing System Bonds, and carrying out the other procedures specified as the Third and Fourth Supplemental Resolutions to the Master Resolution. The Pricing Committee shall meet in accordance with law to approve the specific terms pertaining to the issuance of the Third Series and the Fourth Series Bonds.

BE IT FURTHER RESOLVED, that the Chancellor or the Deputy Chancellor be authorized to execute all required documents necessary to conclude the financing within the parameters of the authorizing Resolutions; Attachment No. M3.

M13 Item Withdrawn.

M14 Upon recommendation made by the Finance and Administration Committee, the following was unanimously approved: *RESOLVED, that the Board of Regents authorizes the Chancellor to execute the amendment for additional services to the existing Southwestern Bell Telephone Company contract for Plexar Custom Analog Service. Mr. Whitacre recused himself from any and all discussion and vote on this item.*

M15 Upon recommendation made by the Finance and Administration Committee, the following was unanimously approved: *RESOLVED, that the Board of Regents authorizes the Chancellor to execute the addendum to the existing Energy Agreement between Texas Tech University and Texas Tech University Health Sciences Center and Lubbock Power & Light; Attachment No. M4.*

M16 Upon recommendation made by the Finance and Administration Committee, the following was unanimously approved: *RESOLVED, that the Chancellor be authorized to execute an agreement between Texas Tech University and Lubbock Power and Light for advertising in the United Spirit Arena; Attachment No. M5.*

M17 Upon recommendation made by the Finance and Administration Committee, the following was unanimously approved: *RESOLVED, that the Board of Regents appoints Ethel McLeod to the Board of Directors of the Texas Tech Foundation, Inc. for a two-year term beginning November 7, 1996, and ending August 31, 1998.*

- M18 Upon recommendation made by the Finance and Administration Committee, the following was unanimously approved: *RESOLVED, that two (2) quasi-endowments be established at \$2,500,000 each and be made available for matching funds in an attempt to increase the amount of each endowment to \$5,000,000, the funds from which will be used for (i) scholarships for undergraduate students at Texas Tech University and (ii) graduate school fellowships for students in the Texas Tech University graduate school. RESOLVED FURTHER, the \$1 million of the balance of the funds received from the Proctor Estate be used as matching funds to augment Presidential Scholarships for students at Texas Tech University. RESOLVED FURTHER, that these quasi-endowments shall be operated under the endowment policies of Texas Tech University.*
- M19 Upon recommendation made by the Finance and Administration Committee, the following was unanimously approved: *RESOLVED, that the Board of Regents approves the sale of the farm (surface only) received from the Ruth Ann Franklin Estate in accordance with the terms of the Sales Contract dated October 1, 1996, and executed by Paul David Gabel, James Kent Gabel, and Texas Tech University and authorizes the Chancellor to sign the deed and any other legal documents necessary to close the sale; Attachment No. M6.*
- M20 Upon recommendation made by the Finance and Administration Committee, the following was unanimously approved: *RESOLVED, that the Board of Regents wishes to express its sincere appreciation to the residents of and businesses in the Lubbock area for their support of the United Spirit Arena initiative. Through their generosity and assistance, the project is very near becoming a reality. In particular, the Board of Regents would like to acknowledge and thank United Supermarkets, Lubbock Power & Light, Southwest Coca-Cola, Plains National Bank, Southwestern Public Service, and several anonymous donors for their very generous support of the project.*
- M21 Upon recommendation made by the Finance and Administration Committee, the following was unanimously approved: *RESOLVED, that the gift of computer software donated by the Society of Manufacturing Engineers Education Foundation of Dearborn, Michigan to Texas Tech University for the College of Engineering be accepted by the Texas Tech University Board of Regents.*
- M22 Upon recommendation made by the Finance and Administration Committee, the following was unanimously approved: *RESOLVED, that the Board of Regents ratifies the attached budget adjustments; Attachment No. M7.*
- M23 Upon recommendation made by the Finance and Administration Committee, the following was unanimously approved: *RESOLVED, that in accordance with V.T.C.A. Government Code, Sec. 2103.061, the Board of Regents of Texas Tech University ratifies the administrative actions relating to Finance as follows:*
- a. *To authorize the Chancellor to designate officers and employees of the University to approve all travel of employees of Texas Tech University, except to countries outside the United States other than United States possessions, Canada and Mexico, provided that such travel contributes to the mission of the University and is in accordance with current travel regulations and who may further delegate their authority, effective November 8, 1996 through August 31, 1997.*
 - b. *To authorize the Chancellor to designate officers and employees of the University to approve official travel reimbursement from State appropriations and all other funds for officers and employees of Texas Tech University provided that the purpose of the travel and the reimbursement for such are in accordance with State travel regulations, other statutory requirements, or other action promulgated by this Board, effective November 8,*

1996, and to continue until such time as they are separated from the University or assigned other responsibilities.

- c. To authorize the Chancellor to designate officers and employees of the University to approve and pay all accounts covering expenditures for State-appropriated funds and all other University-controlled funds, effective November 8, 1996, and to continue until such time as they are separated from the University or assigned other responsibilities.
- d. To sign checks drawn on the Revolving Fund and all other checking accounts of the University in any depository bank, except the University's Cashier's Account in the American State Bank, Lubbock, Texas, effective November 8, 1996, and to continue until such time as they are separated from the University or assigned other responsibilities, and further provided that any mechanically signed check of \$10,000 or more shall be reviewed and manually signed by one of the employees listed who may sign:

John T. Montford, Chancellor
James Crowson, Deputy Chancellor
John Opperman, Vice Chancellor for Administration and Finance
Donald R. Haragan, President
Jim Brunjes, Vice President
Steve R. Pruitt, Associate Vice President for Business Affairs and Comptroller
Gloria J. Hale, Assistant for Human Resources
Charlie L. Stallings, Assistant Comptroller
Carole Wardroup, Director of Accounting Services
Ted W. Johnston, Manager of Grants and Contracts Accounting
Deana Miller, Manager of Accounting Business Services
Dee Hollis, Manager of Accounting Services

- e. To sign and/or countersign cashier's checks drawn on the University's Cashier's Account in the American State Bank, Lubbock, Texas, effective November 8, 1996, and to continue until such time as they are separated from the university or assigned other responsibilities, and further provided that any mechanically signed check of \$10,000 or more shall be reviewed and manually signed by one of the employees listed who may sign or countersign:

Employees who may counter sign:

John T. Montford, Chancellor
James Crowson, Deputy Chancellor
John Opperman, Vice Chancellor for Administration and Finance
Donald R. Haragan, President TTU
Jim Brunjes, Vice President for Fiscal Affairs TTU
Steve R. Pruitt, Associate Vice President for Business Affairs and Comptroller
Gloria J. Hale, Assistant Vice President for Human Resources
Charlie L. Stallings, Assistant Comptroller
Carole Wardroup, Director of Accounting Services
Ted W. Johnston, Manager of Grants and Contracts Accounting
Deana Miller, Manager of Accounting Business Services
Dee Hollis, Manager of Accounting Services

Employees who may countersign only:

James E. Meiers, University Bursar
Robert Fisher, Assistant Bursar

- f. To authorize transfer by wire or other means, of funds between Texas Tech University depositories, effective November 8, 1996, and to continue until such time as they are separated from the University or assigned other responsibilities:

Employees who may authorize or counter-authorize:

*John T. Montford, Chancellor
James Crowson, Deputy Chancellor
John Opperman, Vice Chancellor for Administration and Finance
Donald R. Haragan, President
Jim Brunjes, Vice President for Fiscal Affairs
Steve R. Pruitt, Associate Vice President for Business Affairs and Comptroller
Charlie L. Stallings, Assistant Comptroller
Carole Wardroup, Director of Accounting Services
Edmund W. McGee, Assistant Vice Chancellor for Investments
Winnie Long, Manager of Cash Management*

- g. To authorize and approve the sale, purchase and transfer of stocks, bonds, and other securities which are owned or controlled by Texas Tech University provided such action is approved by any two of the individuals listed below, effective November 8, 1996, and to continue until such time as they are separated from the University or assigned other duties or responsibilities:

*John T. Montford, Chancellor
James Crowson, Deputy Chancellor
John Opperman, Vice Chancellor for Administration and Finance
Donald R. Haragan, President
Jim Brunjes, Vice President for Fiscal Affairs
Steve R. Pruitt, Associate Vice President for Business Affairs and Comptroller
Charlie L. Stallings, Assistant Comptroller
Edmund W. McGee, Assistant Vice Chancellor for Investments*

However, for all instruments contributed to the University, one of the two required signatures must be from one of the following:

*William G. Wehner, Vice Chancellor for Institutional Advancement
Greg Teeter, Interim Legal Counsel for Institutional Advancement*

- M24 Dr. Harris reported for the Facilities Committee. The following nine items (M25 through M33) constitute action taken upon committee recommendations.
- M25 Upon recommendation made by the Facilities Committee, the following was unanimously approved: *RESOLVED, that the Board of Regents approves renaming the existing President's Residence as the Chancellor's Residence.*
- M26 Upon recommendation made by the Facilities Committee, the following was unanimously approved: *RESOLVED, that the Board of Regents authorizes the Chancellor to proceed with the project and with documents for submittal to the Texas Higher Education Coordinating Board for review and approval, and upon approval, to enter into a contract with the State Energy Conservation Office for the Building Recommissioning Program for the Campus.*

BE IT FURTHER RESOLVED, that the Chancellor is authorized to establish a project budget at \$1,000,000.

M27 Upon recommendation made by the Facilities Committee, the following was unanimously approved: *RESOLVED, that the Board of Regents of Texas Tech University authorizes the Chancellor to enter into a loan agreement with the State Energy Conversation Office for renovation of the mechanical and electrical systems in the Library.*

M28 Upon recommendation made by the Facilities Committee, the following was unanimously approved: *RESOLVED, that the Board of Regents authorizes the Chancellor to proceed with the project, approves the schematic design, and authorizes the Chancellor to proceed with documents for submittal to the Texas Higher Education Coordinating Board for review and approval, and upon approval, to proceed with contract documents and the receipt of bids for expansion of the chiller and cooling tower at Central Heating and Cooling Plant I.*

BE IT FURTHER RESOLVED, that the project budget is established at \$12,400,000.

BE IT FURTHER RESOLVED, that Texas Tech University expects to pay expenditures in connection with the design, planning, acquisition and construction of the project prior to the issuance of obligations to finance the project;

BE IT FURTHER RESOLVED, that Texas Tech University finds, considers, and declares that the reimbursement of Texas Tech University for the payments of such expenditures will be appropriate and consistent with the lawful objectives of Texas Tech University and, as such, chooses to declare its intention, in accordance with the provisions of Section 1.150-2 of the Treasury Regulations, to reimburse itself for such payments at such time as it issues obligations to finance the Project;

BE IT FURTHER RESOLVED BY THE BOARD OF REGENTS OF TEXAS TECH UNIVERSITY THAT:

Section 1. Texas Tech University reasonably expects to incur debt, as one or more series of obligations, with an aggregate maximum principal amount equal to \$12,400,000 for the purpose of paying the costs of the Project.

Section 2. All costs to be reimbursed pursuant hereto will be capital expenditures. No tax-exempt obligations will be issued by the Issuer to furtherance of this Statement after a date which is later than 18 months after the later of (1) the date of expenditures are paid or (2) the date on which the property, with respect to which such expenditures were made, is placed in service.

Section 3. The foregoing notwithstanding, no tax-exempt obligation will be issued pursuant to this Statement more than three years after the date any expenditures which is to be reimbursed is paid.

M29 Upon recommendation made by the Facilities Committee, the following was unanimously approved: *RESOLVED, that the Board of Regents authorizes the Chancellor to proceed with the project, approves the schematic design, and authorizes the Chancellor to process with documents for submittal to the Texas Higher Education Coordinating Board for review and approval, and upon approval, to proceed with contract documents and the receipt of bids, and to award a construction contract for a voice and data network for the Residence Halls.*

BE IT FURTHER RESOLVED, that the project budget is established at \$4,000,000.

BE IT FURTHER RESOLVED, that Texas Tech University expects to pay expenditures in connection with the design, planning, acquisition and construction of the project prior to the issuance of obligations to finance the project;

BE IT FURTHER RESOLVED, that Texas Tech University finds, considers, and declares that the reimbursement of Texas Tech University for the payments of such expenditures will be appropriate and consistent with the lawful objectives of Texas Tech University and, as such, chooses to declare its intention, in accordance with the provisions of Section 1.150-2 of the Treasury Regulations, to reimburse itself for such payments at such time as it issues obligations to finance the Project;

BE IT FURTHER RESOLVED BY THE BOARD OF REGENTS OF TEXAS TECH UNIVERSITY THAT:

Section 1. Texas Tech University reasonably expects to incur debt, as one or more series of obligations, with an aggregate maximum principal amount equal to \$4,000,000 for the purpose of paying the costs of the Project.

Section 2. All costs to be reimbursed pursuant hereto will be capital expenditures. No tax-exempt obligations will be issued by the Issuer in furtherance of this Statement after a date which is later than 18 months after the later of (1) the date of expenditures are paid or (2) the date on which the property, with respect to which such expenditures were made, is placed in service.

Section 3. The foregoing notwithstanding, no tax-exempt obligation will be issued pursuant to this Statement more than three years after the date any expenditure which is to be reimbursed is paid.

- M30** Upon recommendation made by the Facilities Committee, the following was unanimously approved: *RESOLVED, that the Board of Regents of Texas Tech University authorizes the Chancellor to proceed with the project, approves the schematic design, and authorizes the Chancellor to proceed with documents for submittal to the Texas Higher Education Coordinating Board for review and approval, and upon approval, to proceed with contract documents and the receipt of bids, and to award a construction contract for a pulse lab addition to the Charles A. Bassett, II Laboratories.*

BE IT FURTHER RESOLVED, that the project budget is established at \$1,500,000.

- M31** Upon recommendation made by the Facilities Committee, the following was unanimously approved: *RESOLVED, that the Board of Regents of Texas Tech University authorizes the Chancellor to proceed with the project, approves the schematic design, and authorizes the Chancellor to proceed with documents for submittal to the Texas Higher Education Coordinating Board for review and approval, and upon approval, to proceed with contract documents and the receipt of bids, and to award a construction contract for the renovation of the Naval Reserve Building.*

BE IT FURTHER RESOLVED, that the project budget is established at \$2,200,000.

- M32** Upon recommendation made by the Facilities Committee, the following was unanimously approved: *RESOLVED, that the initial budget for the construction of the arena which was established at \$40 Million be increased to \$47 Million.*

BE IT FURTHER RESOLVED, that the previous Board Action Item M142, August 20, 1996, remain unchanged to the extent that it does not conflict with this item.

- M33 Upon recommendation made by the Facilities Committee, the following was unanimously approved: *RESOLVED, that the Board of Regents ratifies the administrative actions relating to Facilities as follows:*
- a. *To record August 9, 1996 as the completion date for renovation of the mechanical system in Horn/Knapp Residence Halls.*
 - b. *To record September 20, 1996 as the completion date for the construction of the International Cultural Center.*
 - c. *To record October 7, 1996 as the completion date for the construction of the Southwest Collection /Special Collections Library.*
 - d. *To record September 18, 1996 as the completion date for the construction of the Athletic Service Building.*
 - e. *The Facilities Construction and Deferred Maintenance Master Plan (also known as the Five-Year Campus Master Plan Update), dated October 15, 1996, as submitted to the Texas Higher Education Coordinating Board.*
- M34 Upon recommendation by the Committee of the Whole, the following was unanimously approved: *RESOLVED, by vote of the Board of Regents, Mr. Edward E. Whitacre, Jr. is elected Chair and Dr. Bernard A. Harris, Jr. is elected Vice Chair of the Board of Regents of Texas Tech University and Texas Tech University Health Sciences Center to serve the terms as set forth in the Board of Regents Bylaws 01.01 (4).*
- M35 Chairman Whitacre call on Mr. John T. Montford for the Chancellor's Report, Attachment No. M7.

Chairman Whitacre expressed sincere appreciation to Dean Sam Curl, College of Agriculture and Natural Resources, for all of the work he had done for the university. He expressed that Dean Curl had made a big impact on the people at Texas Tech University, and he wished him the best of luck on his new endeavor.

Chairman Whitacre then asked if there was any further business; and, Scott Smith, representative of the student body of the College of Engineering, asked to address the board. Mr. Smith wanted to make the Board aware that the dean of the College of Engineering wanted to integrate the Engineering Technology department with the other perspective engineering departments. The student asked that the Board review the provided information and possibly consider it an agenda item at the next board meeting. The students of the College of Engineering also asked that the Board support the students in this matter. Mr. Smith then submitted a signed petition. Mr. Whitacre thanked Mr. Smith for bringing this matter to the Board's attention, and he asked that he come back and address the Board if the need arose.

The next meeting was announced for February 14, 1997.

- M36 There being no further business, the meeting was adjourned.


Attachments

- M1. Contract between Texas Tech University and Cassidy & Associates, Item M8.
- M2. Contract with Bob Jordan Amusement Company, Inc., Item M11.
- M3. Resolution amending the Master Resolution, Item M12.
- M4. Addendum to the Energy Agreement between Texas Tech University, Texas Tech University Health Sciences Center and Lubbock Power & Light, Item M15.

- M5. Agreement between Texas Tech University and Lubbock Power and Light for advertising in the United Spirit Arena, Item M16.
- M6. Contract of sale from the Ruth Ann Franklin estate, Item M19.
- M7. Budget adjustment, Item M22.
- M8. Chancellor's Report, Item M35.

I, James L. Crowson, the duly appointed and qualified Assistant Secretary of the Board of Regents, hereby certify that the above and foregoing is a true and correct copy of the Minutes of Texas Tech University Board of Regents meeting on November 08, 1996.

SEAL



James L. Crowson
Assistant Secretary

SERVICE CONTRACT

(CASSIDY & ASSOCIATES, INC.

(TEXAS TECH UNIVERSITY

ARTICLE I. RENUMERATION

A. The State of Texas, County of Lubbock, and Know All Men By These Present, that G. CASSIDY AND ASSOCIATES, INC., a corporation duly organized under the laws of the State of Delaware, and doing business as CASSIDY & ASSOCIATES, INC. with its principal place of business at 700 13th Street, N.W., Suite 400, Washington, D.C. 20005, does contract with TEXAS TECH UNIVERSITY, whose principal office is Lubbock, Texas 79409, to provide consultant services for the period of three (3) years, commencing October 21, 1996, and terminating on October 20, 1999, in consideration for the fee of Fifteen Thousand Dollars (\$15,000) per month to be paid quarterly, plus four and two tenths percent (4.2%) administrative charges. The fee will be annually adjusted for inflation according to the Department of Labor's Consumer Price Index (CPI), but not to exceed three and five tenths percent (3.5%) per annum.

B. Payment shall be made to CASSIDY & ASSOCIATES, INC. in twelve (12) advance quarterly payments of Forty Five Thousand Dollars (\$45,000) per quarter, commencing on or before October 21, 1996, to be followed by a payment on or before the twenty-first day of each of the next eleven (11) quarters with the final payment due on or before July 21, 1999.

C. A statement of expenses shall be made to TEXAS TECH UNIVERSITY by CASSIDY & ASSOCIATES, INC. at the end of each month for expenses incurred during the previous month. The statement shall be made payable monthly. Out-of-pocket expenses for travel and travel related expenses such as hotel costs and other direct charges including business meals, local transportation, and printing of documents will be billed separately. A standard administrative charge covering all other administrative costs, such as telephone, faxing, and duplicating, in the amount of four and two tenths percent (4.2%) of fee billing (as described in I.B. above) will be added to the monthly invoice. Federally appropriated funds may not be used to pay for any services provided or expenses incurred under this contract.

D. All fees to CASSIDY & ASSOCIATES, INC. for services will be due and payable, as set out above, on the dates specified herein.

ARTICLE II. DELIVERABLES AND SERVICES

A. In its capacity as a consultant, CASSIDY & ASSOCIATES, INC. shall make its best effort to assist TEXAS TECH UNIVERSITY in pursuing its business and government affairs objectives. The nature of these objectives shall be determined by TEXAS TECH UNIVERSITY with the advice and assistance of CASSIDY & ASSOCIATES, INC.

B. In this role, CASSIDY & ASSOCIATES, INC. shall assist TEXAS TECH UNIVERSITY in its long-range planning for organizational and institutional development of federal R&D initiatives, in establishing priorities among its federal objectives, in developing and implementing strategic plans for research funding objectives, and in expanding its government outreach activities at the federal level.

C. CASSIDY & ASSOCIATES, INC. with the cooperation of TEXAS TECH UNIVERSITY, will conduct an extensive inventory (with written documentation) of TEXAS TECH UNIVERSITY's resources for R&D initiatives; develop the concept for agreed-upon initiatives; create a theme for these initiatives; formulate a comprehensive plan and timetable for the initiatives; prepare the outline of a proposal for the initiatives; assist the University in the preparation of supporting documentation for the initiatives; develop meetings with Members of Congress; prepare testimony for presentation before all relevant committees of the Congress; develop legislative strategies concerning the initiatives; serve as liaison to government agencies for the initiatives as necessary; and monitor and report on government programs relevant to the initiatives and other possible areas of interest to TEXAS TECH UNIVERSITY.

ARTICLE III. ASSIGNMENT

A. Neither party shall assign any of its rights or delegate any of its duties or obligations under this Agreement without the express written consent of the other party.

ARTICLE IV. EVALUATION AND TERMINATION

A. On or about October 21, 1997, October 21, 1998, and October 21, 1999, CASSIDY & ASSOCIATES, INC. and TEXAS TECH UNIVERSITY shall review the progress made pursuant to this agreement. If at this time either party should decide to discontinue this effort, the last quarterly payment under this agreement shall be the one due on July 21, 1997, July 21, 1998, or July 21, 1999, respectively. No payment will be made beyond the date of termination.

B. Any dispute arising under this contract shall be resolved by arbitration in accordance with the rules of the American Arbitration Association. The American Arbitration Association shall select the jurisdiction if Arbitration becomes necessary.

ARTICLE V. APPROVAL

A. This agreement contains the entire understanding between the parties. It may be changed only by written agreement signed by both parties.

B. In witness whereof the authorized representatives of TEXAS TECH UNIVERSITY and CASSIDY & ASSOCIATES, INC. do hereby execute this contract.

Date:

10.17.96

CASSIDY & ASSOCIATES, INC.

By

TEXAS TECH UNIVERSITY

Date:

By

BACKGROUND INFORMATION

ELECTRONIC GAME MACHINES - UNIVERSITY CENTER

Presently, Bob Jordan Amusement Company is supplying the University Center with thirty-eight (38) electronic game machines which produce an annual income of \$45,163 for the University Center. The current contract expires December 31, 1996.

Commission on video and other coin operated games is set by Texas Statute at 50%. Law also requires that contractors of this type furnish the state agency with financial statements prepared by a CPA and a bond equal to the annual commissions to be paid. Evaluation of proposals for award of this type of contract must be based upon expected performance and financial soundness.

Proposals were solicited and received from two (2) vendors. Based upon the proposals and financial statements submitted, we recommend Bob Jordan Amusement Company, Inc., be awarded the contract to supply electronic game machines for the University Center for the period beginning January 1, 1997, through December 31, 2000, with the option to renew for two additional one year periods, upon mutual agreement of both parties.

**RESOLUTION AMENDING
MASTER RESOLUTION ESTABLISHING THE REVENUE FINANCING SYSTEM
UNDER THE AUTHORITY AND RESPONSIBILITY OF THE
BOARD OF REGENTS OF TEXAS TECH UNIVERSITY**

WHEREAS, on October 21, 1993, the Board of Regents of Texas Tech University (the "Board"), acting separately and independently for and on behalf of Texas Tech University ("TTU") and separately and independently for and on behalf of Texas Tech University Health Sciences Center (the "Health Sciences Center"), adopted the "MASTER RESOLUTION ESTABLISHING THE REVENUE FINANCING SYSTEM UNDER THE AUTHORITY AND RESPONSIBILITY OF THE BOARD OF REGENTS OF TEXAS TECH UNIVERSITY" (the "Master Resolution"); and

WHEREAS, terms used herein and not otherwise defined have the meanings given in the Master Resolution; and

WHEREAS, the Master Resolution provides that it may be amended without the consent of the Holders to supplement the security for the outstanding Parity Obligations; and

WHEREAS, in addition to the outstanding Parity Obligations, the Board authorized, issued, and delivered prior to the adoption of the Master Resolution various series of bonds defined in the Master Resolution as the "Housing System Bonds"; and

WHEREAS, at the time the Master Resolution was initially adopted, the Board did not include within the Revenue Financing System therein established the Housing System Bonds or the Encumbered Housing Revenues pledged in support of the debt service on the Housing System Bonds; and

WHEREAS, the Board deems it desirable to amend the Master Resolution to make such changes thereto as may be necessary to permit the issuance of Parity Obligations for the purpose of financing student housing at TTU and the Health Sciences Center as part of the Revenue Financing System;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF REGENTS OF TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER THAT:

Section 1. Section 4(m) of the Master Resolution specifically reserved to the Board the right to issue Parity Obligations to refund all or any part of the Housing System Bonds, and to supplement the Pledged Revenues with all or a portion of the Encumbered Housing Revenues, in accordance with the terms of a Supplement. The Board hereby declares that upon the issuance and delivery of the Board of Regents of Texas Tech University Revenue Financing System Refunding and Improvement Bonds, Third Series (1996), the provisions in the Master Resolution declaring that the Housing System Bonds and the Encumbered Housing Revenues do not constitute a portion of the Financing

System shall be rendered null and void, and that such revenues constitute revenues, incomes, receipts, rentals, rates, charges, fees, including interest or other income and balances now or hereafter lawfully available to the Board and derived from or attributable to TTU or the Health Sciences Center which are lawfully available to the Board for payments on Parity Obligations, consistent with clause (v) of the definition of Pledged Revenues.

Section 2. The Deputy Chancellor, as a Board Representative, is hereby authorized and directed to take such action and give any notice of this amendment to the Master Resolution as may be required to implement this amendment.

Section 3. Other than set forth in this amendment, the Master Resolution is not amended, altered or rescinded and is in full force and effect.

ADOPTED 11/08/96

**THIRD SUPPLEMENTAL RESOLUTION TO THE MASTER RESOLUTION
AUTHORIZING THE ISSUANCE, SALE, AND DELIVERY OF BOARD OF REGENTS OF
TEXAS TECH UNIVERSITY REVENUE FINANCING SYSTEM REFUNDING AND
IMPROVEMENT BONDS, THIRD SERIES (1996) AND APPROVING AND
AUTHORIZING INSTRUMENTS AND PROCEDURES RELATING THERETO**

**THIRD SUPPLEMENTAL RESOLUTION TO THE MASTER RESOLUTION
AUTHORIZING THE ISSUANCE, SALE, AND DELIVERY OF BOARD OF
REGENTS OF TEXAS TECH UNIVERSITY REVENUE FINANCING SYSTEM
REFUNDING AND IMPROVEMENT BONDS, THIRD SERIES (1996), AND
APPROVING AND AUTHORIZING INSTRUMENTS AND PROCEDURES
RELATING THERETO**

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**THIRD SUPPLEMENTAL RESOLUTION TO THE MASTER RESOLUTION
AUTHORIZING THE ISSUANCE, SALE, AND DELIVERY OF BOARD OF
REGENTS OF TEXAS TECH UNIVERSITY REVENUE FINANCING
SYSTEM REFUNDING AND IMPROVEMENT BONDS, THIRD SERIES
(1996) AND APPROVING AND AUTHORIZING INSTRUMENTS AND
PROCEDURES RELATING THERETO**

WHEREAS, on October 21, 1993, the Board of Regents of Texas Tech University (the "Board"), acting separately and independently for and on behalf of Texas Tech University ("TTU") and separately and independently for and on behalf of Texas Tech University Health Sciences Center (the "Health Sciences Center"), adopted the **"MASTER RESOLUTION ESTABLISHING THE REVENUE FINANCING SYSTEM UNDER THE AUTHORITY AND RESPONSIBILITY OF THE BOARD OF REGENTS OF TEXAS TECH UNIVERSITY"**; and

WHEREAS, concurrently with the adoption of this resolution, the Board adopted the **"RESOLUTION AMENDING MASTER RESOLUTION ESTABLISHING THE REVENUE FINANCING SYSTEM UNDER THE AUTHORITY AND RESPONSIBILITY OF THE BOARD OF REGENTS OF TEXAS TECH UNIVERSITY"** (which resolution, together with the resolution adopted October 21, 1993, is 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 TTU and, to the extent permitted by law (including specifically Section 55.17(e), Texas Education Code), the Health Sciences Center, and pledges the Pledged Revenues to the payment of Parity Obligations to be outstanding under the Master Resolution; and

WHEREAS, the Board heretofore has adopted a **"RESOLUTION AUTHORIZING THE ISSUANCE, SALE, AND DELIVERY OF BOARD OF REGENTS OF TEXAS TECH UNIVERSITY REVENUE FINANCING SYSTEM REFUNDING BONDS, FIRST SERIES (1993) AND APPROVING AND AUTHORIZING INSTRUMENTS AND PROCEDURES RELATING THERETO"** (defined as the "First Supplement") and pursuant to the First Supplement to the Master Resolution issued its **"BOARD OF REGENTS OF TEXAS TECH UNIVERSITY REVENUE FINANCING SYSTEM REFUNDING BONDS, FIRST SERIES (1993)"** in the aggregate principal amount of \$46,420,000 as Parity Obligations under the terms of the Master Resolution; and

WHEREAS, the Board heretofore has adopted a **"RESOLUTION AUTHORIZING THE ISSUANCE, SALE, AND DELIVERY OF BOARD OF REGENTS OF TEXAS TECH UNIVERSITY REVENUE FINANCING SYSTEM BONDS, SECOND SERIES (1995) AND**

APPROVING AND AUTHORIZING INSTRUMENTS AND PROCEDURES RELATING THERETO" (defined as the "Second Supplement") and pursuant to the Second Supplement to the Master Resolution issued its **"BOARD OF REGENTS OF TEXAS TECH UNIVERSITY REVENUE FINANCING SYSTEM BONDS, SECOND SERIES (1995)"** in the aggregate principal amount of \$25,000,000 as Parity Obligations under the terms of the Master Resolution; and

WHEREAS, the Board reserved the right under the terms of the Master Resolution to issue obligations on a parity with the outstanding Parity Obligations; and

WHEREAS, in addition to the outstanding Parity Obligations, the Board heretofore authorized, issued, and delivered various series of bonds, with such bonds that are currently outstanding hereinafter defined as the "Housing System Bonds"; and

WHEREAS, at the time the Master Resolution was initially adopted, the Board did not include within the system-wide financing structure therein established the Housing System Bonds or the revenues pledged to secure the payment of the Housing System Bonds (defined as the "Encumbered Housing Revenues"), and

WHEREAS, the Board hereby determines that it is in the best interest of TTU to refund the outstanding Housing System Bonds for the purpose of consolidating the housing system within the system-wide financing structure established by the Master Resolution; and

WHEREAS, the bonds authorized to be issued by this Third Supplement (the "Bonds") are to be issued and delivered pursuant to Chapter 55, Texas Education Code, Vernon's Ann. Tex. Civ. St. Articles 717k and 717q, and other applicable laws; and

WHEREAS, the bonds hereinafter authorized are being issued concurrently with other bonds of the Board (herein defined as the "Concurrent Bonds") which constitute Parity Obligations.

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

Section 1. DEFINITIONS. In addition to the definitions set forth in the preamble of this Third Supplement, the terms used in this Third 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 Third Supplement attached hereto and made a part hereof.

Section 2. AMOUNT, PURPOSE, AND DESIGNATION OF THE BONDS. The **"BOARD OF REGENTS OF TEXAS TECH UNIVERSITY REVENUE FINANCING SYSTEM REFUNDING AND IMPROVEMENT BONDS, THIRD SERIES (1996)"**, are hereby authorized to be issued and delivered in the aggregate principal amount not to exceed \$80,000,000 **FOR THE PURPOSE OF (i) REFUNDING THE OUTSTANDING HOUSING SYSTEM BONDS, (ii) ACQUIRING, PURCHASING, CONSTRUCTING, IMPROVING, RENOVATING,**

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ENLARGING OR EQUIPPING PROPERTY, BUILDINGS, STRUCTURES, FACILITIES, ROADS, OR RELATED INFRASTRUCTURE AT TTU AND THE HEALTH SCIENCES CENTER, AND (iii) PAYING THE COSTS RELATED THERETO.

Section 3. DATE, DENOMINATIONS, NUMBERS, MATURITIES AND TERMS OF BONDS. (a) *Terms of Bonds.* Initially there shall be issued, sold, and delivered hereunder fully registered bonds, without interest coupons, numbered consecutively from R-1 upward, 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 (an "Authorized Denomination"), maturing not later than February 15, 2022, serially or otherwise on the dates, in the years and in the principal amounts, respectively, and dated, all as set forth in the Bond Purchase Contract relating to the Bonds.

(b) *Underwriters.* Smith Barney Inc. and Artemis Capital Group are hereby designated the co-senior managing underwriters for the Bonds, and the Pricing Committee is hereby authorized, on behalf of the Board, to negotiate with the co-senior managing underwriters acting on their behalf and on behalf of the other investment banking firms named in the Bond Purchase Contract (such firms, together with the co-senior managing underwriters, are hereafter collectively referred to as the "Underwriters") to assure that the Bonds are sold on the most advantageous terms to the Board.

(c) *Bond Purchase Contract.* As authorized by Vernon's Ann. Tex. Civ. St. Article 717q, as amended, the Pricing Committee is hereby authorized, appointed, and designated to act on behalf of the Issuer in the selling and delivering the Bonds and carrying out the other procedures specified in this Third Supplement, including determining and fixing the date of the Bonds, any additional designation or title by which the Bonds shall be known, the price at which the Bonds will be sold, the years in which the Bonds will mature, the principal amount to mature in each of such years, and the aggregate principal amount of the Bonds, the rate of interest to be borne by each such maturity, the interest payment periods, the dates, price, and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the Issuer, as well as any mandatory sinking fund redemption provisions, and all other matters relating to the issuance, sale, and delivery of the Bonds, and the refunding of the Housing System Bonds, all of which shall be specified in the Bond Purchase Contract. In establishing the aggregate principal amount of the Bonds, the Pricing Committee shall establish an amount not to exceed the amount authorized in Section 2 hereof, which amount shall be sufficient to provide, *inter alia*, for the refunding of the Housing System Bonds in a manner that will result in a savings to the Board or, if such refunding results in a loss to the Board, that the net present value loss so resulting from the refunding of the Housing System Bonds does not exceed \$300,000.00, as the primary reason for the refunding of the Housing System Bonds is the extinguishment of covenants adverse to the ability of the Board to finance housing improvements for students at TTU, as more fully set forth in Section 20 hereof. Upon the approval of a Bond Purchase Contract by the Pricing Committee, the Chancellor or the Deputy Chancellor, acting for and on behalf of the Board, is authorized to enter into with the Underwriters and carry out a Bond Purchase Contract for the Bonds, at such price and subject to such terms as are set forth therein. The Bond Purchase Contract shall be substantially in the form and substance approved by the Pricing

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Committee, provided that the price to be paid for the Bonds shall not be less than 95% of the aggregate principal amount thereof, and none of the Bonds shall bear interest at a rate greater than 10% per annum. It is further provided, however, that, notwithstanding the foregoing provisions, the Bonds shall not be delivered unless (i) prior to the execution of the Bond Purchase Contract, the approval of the issuance of the Bonds by the Texas Bond Review Board has been received and (ii) prior to their delivery, the Bonds 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 Ann. Tex. Civ. St. Article 717q, as amended.

(d) *In General.* The Bonds (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, (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 Third Supplement and as determined by the Board Representative as provided herein, with such changes and additions as are required to meet the terms of the Bond Purchase Contract with respect to the Bonds.

Section 4. **INTEREST.** The 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 Bond Purchase Contract to their respective dates of maturity at the rates set forth in the Bond Purchase Contract.

Section 5. **REGISTRATION, TRANSFER, AND EXCHANGE; AUTHENTICATION; BOOK-ENTRY ONLY SYSTEM.** (a) *Paying Agent/Registrar.* Bank One Texas, NA, is hereby appointed the Paying Agent/Registrar for the bonds. The Board 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 submitted to the Board at the meeting at which this Third Supplement is adopted.

(b) *Registration Books.* The Issuer shall keep or cause to be kept at the corporate trust office of the Paying Agent/Registrar in Dallas, Texas (the "Designated Trust Office") books or records for the registration of the transfer, exchange, and replacement of the Bonds (the "Registration Books"), and the Issuer hereby appoints the Paying Agent/Registrar as its 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 Issuer and Paying Agent/Registrar 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 Issuer shall have the right to inspect the Registration Books at the Designated Trust Office of the Paying Agent/Registrar during regular business hours, but otherwise the Paying Agent/Registrar shall keep the Registration Books

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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 Third Supplement, whether or not such Bond shall be overdue, and, to the extent permitted by law, the Issuer 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 Paying Agent/Registrar shall further act as the paying agent for paying the principal of, premium, if any, and interest on the Bonds, all as provided in this Third Supplement. The Paying Agent/ Registrar shall keep proper records of all payments made by the Issuer and the Paying Agent/Registrar with respect to the Bonds.

(e) *Authentication* The Bonds initially issued and delivered pursuant to this Third Supplement shall be authenticated by the Paying Agent/Registrar by execution of the Paying Agent/Registrar'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 Third Supplement the Paying Agent/Registrar shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE (the "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 Third Supplement, to the extent of the unpaid or unredeemed principal amount thereof, may, upon surrender of such Bond at the Designated 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 Third Supplement, in any Authorized Denomination (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 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 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 trans-

ferred, 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 shall bear a letter and/or number to distinguish it from each other Bond. 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 Third Supplement shall constitute one of the Bonds for all purposes of this Third 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 Third Supplement there shall be printed an Authentication Certificate, in the form set forth in Exhibit B to this Third Supplement. An authorized representative of the Paying Agent/Registrar 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 the Authentication 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 Issuer 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 Board Representative. Pursuant to Vernon's Ann. Tex. Civ. St. Art. 717k-6, and particularly Section 6 thereof, 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 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 Third Supplement. The Issuer 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 (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following interest payment date, or, (ii) with respect to any Bond or portion thereof called for redemption prior to maturity, within 45 days prior to its redemption date. 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 Issuer covenants with the registered owners of the Bonds that at all times while the Bonds are outstanding the Issuer 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 Third Supplement, and that the Paying Agent/Registrar will be one entity. The Issuer 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 Issuer 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 Third 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 Issuer. Upon any change in the Paying Agent/Registrar, the Issuer 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 Third Supplement, and a certified copy of this Third Supplement shall be delivered to each Paying Agent/Registrar.

(h) **Book-Entry Only System.** The Bonds issued in exchange for the Bonds initially issued and delivered to the Underwriters 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. A Board Representative may, to the extent necessary, execute a "DTC Letter of Representations" in connection with utilizing the DTC Book-Entry Only System.

With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the Board and 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 and 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 Third Supplement to the contrary but to the extent permitted by law, the Board and 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 Third 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

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evidencing the obligation of the Board to make payments of principal, premium, if any, and interest pursuant to this Third 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 Third 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 Third 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 or the Paying Agent/Registrar determines that DTC is incapable of discharging its responsibilities described herein and in the representation letter of the Board to DTC (as described in Section 20 of this Third Supplement) 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 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 to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds 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 Bonds shall designate, in accordance with the provisions of this Third Supplement.

(j) *Payments to Cede & Co.* Notwithstanding any other provision of this Third 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) *Notice of Redemption.* In addition to the method of providing a notice of redemption set forth in the FORM OF BONDS, the Paying Agent/Registrar shall give notice of redemption of Bonds by mail, first-class postage prepaid at least thirty (30) days prior to a redemption date to each registered securities depository and to any national information service that disseminates redemption 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.

Each Notice of Redemption, whether required in the FORM OF BONDS or in this Section, shall contain a description of the Bonds to be redeemed including the complete name of the Bonds, the Series, the date of issue, the interest rate, the maturity date, the CUSIP number, a reference to the certificate numbers and the amounts called of each certificate, the publication and mailing date for the notice, the date of redemption, the redemption price, the name of the Paying Agent/Registrar and the address at which the Bonds may be redeemed, including a contact person and telephone number.

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 forms of the Bonds, including the form of the Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas, with respect to the Bonds initially issued and delivered to the Underwriters pursuant to this Third 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 Third Supplement and the Bond Purchase Contract.

Section 7. ESTABLISHMENT OF FINANCING SYSTEM AND ISSUANCE OF PARITY OBLIGATIONS. By adoption of the Master Resolution the Board has established the Revenue Financing System for the purpose of providing a financing structure for revenue supported indebtedness of TTU and the Health Sciences Center. The Master Resolution is intended to establish a master plan under which revenue supported debt of the Financing System can be incurred. This Third Supplement provides for the authorization, issuance, sale, delivery, form, characteristics, provisions of payment and redemption, and security of the Bonds which are the third series of Parity Obligations issued under the terms of the Master Resolution. 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 Obligations under the Master Resolution. As required by Section 5(a) of the Master Resolution, the Board hereby determines, in connection with the issuance of the Bonds, that it will have sufficient funds, 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. Furthermore, the Board hereby determines that TTU possesses the financial capability to satisfy its Direct Obligation in respect to the payment of the Annual Debt Service Requirements on the Bonds.

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 Third 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. In accordance with the provisions of the Master Resolution, upon the delivery of the Bonds and the funding of the Escrow Agreement as described in Section 20 of this Third Supplement, Pledged Revenues shall include any and all revenues securing the Housing System Bonds, to the extent the inclusion of any or all of such revenues does not

adversely affect the tax-exempt status of the Bonds and any Parity Obligations secured by the Pledged Revenues. 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. 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 the Bonds as provided in the Bond Purchase Contract, 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 Issuer 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 Issuer 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 Issuer 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 Issuer 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 Third Supplement equally and proportionately with any and all other Bonds duly issued under this Third Supplement.

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(e) **Authority for Issuing Replacement Bonds.** In accordance with Section 6 of Vernon's Ann. Tex. Civ. St. Art. 717k-6, this Section shall constitute authority for the issuance of any such replacement bond without the necessity of further action by the Issuer 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 Third Supplement for Bonds issued in exchange and replacement for other Bonds.

Section 11. AMENDMENT OF SUPPLEMENT. (a) **Amendments Without Consent.** This Third 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 Obligations, solely for any one or more of the following purposes:

(i) To add to the covenants and agreements of the Board contained in this Third 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 Third Supplement;

(ii) To cure any ambiguity or inconsistency, or to cure or correct any defective provisions contained in this Third Supplement, upon receipt by the Board of an opinion of Bond Counsel, that the same is needed for such purpose, and will more clearly express the intent of this Third 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;

(iv) To make any changes or amendments requested by any bond rating agency then rating or requested to rate Parity Obligations, 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 Parity Obligations;

(v) To make such changes, modifications or amendments as may be necessary or desirable, which shall not adversely affect the interests of the owners of the Outstanding Parity Obligations, in order, to the extent permitted by law, to facilitate the economic and practical utilization of Credit Agreements with respect to the Parity Obligations; or

(vi) To 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 Outstanding Parity Obligations.

Notice of any such amendment may be published by the Board in the manner described in subsection (c) of this Section; provided, however, that the publication of such notice shall not constitute a

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condition precedent to the adoption of such amendatory resolution and the failure to publish such notice shall not adversely affect the implementation of such amendment as adopted pursuant to such amendatory resolution.

(b) *Amendments With Consent.* Subject to the other provisions of this Third Supplement, the owners of Outstanding Bonds aggregating a majority 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 Third 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 Third 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 Third 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 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 a majority 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 Third Supplement pursuant to the provisions of this Section, this Third 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 Third 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 Registrar and the Board, but such revocation shall not be effective if the owners of a majority 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 Registrar thereof. The Registrar may conclusively assume that such ownership continues until written notice to the contrary is served upon the Registrar.

Section 12. COVENANTS REGARDING TAX-EXEMPTION. The Issuer 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 Issuer covenants as follows:

(a) To take any action to assure that no more than 10 percent of the proceeds of the Bonds or the projects financed therewith (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 Issuer, with respect to such private business use, do not, under the terms of this Resolution or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the bonds, in contravention of Section 141(b)(2) of the Code;

(b) 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 or the projects financed therewith (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;

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(c) 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;

(d) 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;

(e) 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;

(f) 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;

(g) 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

(h) 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.

For purposes of the foregoing clauses (a) and (b) above, the Issuer understands that the term "proceeds" included "disposition proceeds" as defined in the Treasury Regulations and, in the case of a refunding bond, transferred proceeds (if any) and proceeds of the refunded bonds expended prior to the date of the issuance of the Bonds. It is the understanding of the Issuer 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 Issuer 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 Issuer 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 Issuer hereby authorizes and directs any Board Representative to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the Issuer, 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 clause (h), a "Rebate Fund" is hereby established by the Board for the sole benefit of the United States of America, and such Rebate Fund shall not be subject to the claim of any other person, including without limitation the registered owners of the Bonds. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

Section 13. THIRD 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 Third 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 Third Supplement by the Board and the covenants and agreements set forth in this Third 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 Third 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 Third 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

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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 THIRD SUPPLEMENT. With the exception of the rights or benefits herein expressly conferred, nothing expressed or contained herein or implied from the provisions of this Third Supplement or the Bonds is intended or should be construed to confer upon or give to any person other than the Board, the Holders, and the Paying Agent/Registrar, any legal or equitable right, remedy, or claim under or by reason of or in respect to this Third Supplement or any covenant, condition, stipulation, promise, agreement, or provision herein contained. This Third 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, and the Paying Agent/Registrar as herein and therein provided.

Section 17. CUSTODY, APPROVAL, BOND COUNSEL'S OPINION, CUSIP NUMBERS, PREAMBLE AND INSURANCE. The Board Representative is hereby authorized to have control of the Bonds issued hereunder and all necessary records and proceedings pertaining to the Bonds pending their delivery and approval by the Attorney General of the State of Texas of the proceedings authorizing the Bonds in accordance with Vernon's Ann. Tex. Civ. St. Article 717q, as amended. The Board Representative is hereby authorized, to the extent deemed necessary or advisable thereby, in the discretion thereof, to request that the Attorney General approve the Bonds as permitted by Vernon's Ann. Tex. Civ. St. Article 717k-8, in which case the Board Representative also is authorized to request the Comptroller of Public Accounts register the Bonds, and to cause an appropriate legend reflecting such approval and registration to appear on the Bonds and the substitute Bonds. The approving legal opinion of the Issuer's Bond Counsel and the assigned CUSIP numbers may, at the option of the Issuer, 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 Third Supplement is hereby adopted and made a part of this Third 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 municipal bond insurance company issuing any such insurance.

Section 18. FURTHER PROCEDURES; OFFICIAL STATEMENT. Each Board 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 Issuer 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 Third Supplement, the Bonds, the sale and delivery of the Bonds and fixing all details in connection therewith, and to approve any Official Statement, or supplements thereto, in connection with the Bonds. The form of the Official Statement relating to the Bonds submitted to the Board at the meeting at which this Third Supplement is adopted is hereby approved. Each Board Representative

is authorized to approve any supplement to the Official Statement incorporating the information contained in the Bond Purchase Contract and such additional information as deemed material consistent with the requirements of the Rule and to authorize the distribution of such final Official Statement to the Underwriters for their use in the sale of the Bonds to members of the general public. The use of such final Official Statement in the offer and sale of the Bonds is hereby approved. 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.

Section 19. CONTINUING ONGOING DISCLOSURE. (a) *Annual Reports.* (i) The Board shall provide annually to each NRMSIR and any SID, within six months after the end of each fiscal year ending in or after 1996, financial information and operating data with respect to the Board of the general type included in the final Official Statement authorized by Section 18 of this Third Supplement, being the information described in Exhibit C hereto. Any financial statements so to be provided shall be prepared in accordance with the accounting principles described in Exhibit C hereto, or such other accounting principles as the Board may be required to employ from time to time pursuant to state law or regulation. If the Board commissions an audit of such statements and the audit is completed within the period during which they must be provided, a copy of such audit also shall be provided in accordance with the Rule. If any such audit of such financial statements, if one is commissioned by the Board, is not complete within such period, then the Board shall provide unaudited financial statements and audited financial statements for the applicable fiscal year to each NRMSIR and any SID, when and if the audit report on such statements become available.

(ii) If the Board changes its fiscal year, it 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.

(b) *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:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;

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5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions or events affecting the tax-exempt status of the Bonds;
7. Modifications to rights of holders of the Bonds;
8. Bond calls;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Bonds; and
11. 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 subsection (a) of this Section by the time required by such subsection.

(c) *Limitations, Disclaimers, and Amendments.* (i) The Board shall be obligated to observe and perform the covenants specified in this Section 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 notice of any deposit made in accordance with this Third Supplement or applicable law that causes the Bonds no longer to be Outstanding.

(ii) The provisions of this Section are for the sole benefit of the registered owners 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 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.

(iii) UNDER NO CIRCUMSTANCES SHALL THE BOARD BE LIABLE TO THE REGISTERED OWNER 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.

(iv) No default by the Board in observing or performing its obligations under this Section shall comprise a breach of or default under the Third Supplement for purposes of any other provision of this Third 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.

(v) 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 Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the registered owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Third Supplement that authorizes such an amendment) of the Bonds then outstanding consent to such amendment or (b) a person that is unaffiliated with the Board (such as nationally recognized bond counsel) determined that such amendment will not materially impair the interest of the registered owners 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 subsection (a) of this Section an explanation, in narrative form, of the reason 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 agreement if the SEC amends or repeals the applicable provision 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 Bonds in the primary offering of the Bonds.

Section 20. REFUNDING OF HOUSING SYSTEM BONDS; ESCROW AGREEMENT. Concurrently with the delivery of the Bonds the Board Representative shall cause to be deposited with the Escrow Agent an amount, from available moneys including the proceeds from the sale of the Bonds, sufficient to provide for the refunding of the Housing System Bonds in accordance with Section 7A of Vernon's Ann. Tex. Civ. St. Article 717k, as amended. The Board Representative is hereby authorized, for and on behalf of the Issuer, to execute the Escrow Agreement to accomplish such purposes, in substantially the form and substance submitted to the Board at the meeting at which this Third Supplement is adopted. It is specifically found and determined that it is advisable to refund the Housing System Bonds in order to eliminate covenants which are burdensome to the economical and efficient operation of the Financing System and to enable the more economical financing of improvements to student housing at TTU.

Section 21. REDEMPTION OF HOUSING SYSTEM BONDS. The Pricing Committee is hereby authorized to take such actions, consistent with the resolutions authorizing the issuance of the Housing System Bonds, that may be required to redeem prior to their scheduled maturities any of the Housing System Bonds that are refunded in a manner that, for federal income tax purposes, results in a debt service savings.

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Section 22. REPEAL OF CONFLICTING RESOLUTIONS. All resolutions and all parts of any resolutions (other than the Master Resolution) which are in conflict or inconsistent with this Third Supplement are hereby repealed and shall be of no further force or effect to the extent of such conflict or inconsistency.

Section 23. 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 Third Supplement was adopted; that this Third 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.

EXHIBIT A DEFINITIONS

As used in this Third 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, V.A.T.C.S., as amended, and Chapter 55, Texas Education Code, as amended.

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

The term "*Board Representative*" shall mean the Chancellor of TTU and the Health Sciences Center, the Deputy Chancellor of TTU and the Health Sciences Center, the Vice President for Fiscal Affairs of TTU, the Vice President for Fiscal Affairs of the Health Sciences Center, or such other official of TTU or the Health Sciences Center appointed by the Chairman of the Board to carry out the functions of the Board specified herein.

The term "*Bond Purchase Contract*" shall mean the bond purchase agreement between the Board and the Underwriters pertaining to the purchase of the Third Series Bonds by the Underwriters.

The term "*Bonds*" shall mean the Third Series Bonds, and all substitute bonds exchanged therefor, and all other substitute and replacement bonds issued pursuant to this Third 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 Designated Trust Office of the Paying Agent/Registrar is located are authorized by law or executive order to close.

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

The term "*Concurrent Bonds*" shall mean the Fourth Series Bonds.

The term "*Designated Trust Office*" shall have the meaning ascribed to said term in Section 5(b) of this Third Supplement.

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

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to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

The term "*Encumbered Housing Revenues*" shall mean the revenues pledged to and securing the Housing System Bonds.

The term "*Escrow Agent*" shall mean American State Bank, Lubbock, Texas.

The term "*Escrow Agreement*" shall mean the Escrow Agreement between the Board and the Escrow Agent, dated as of November 8, 1996, and executed for the benefit of the owners and holders of the Housing System Bonds.

The term "*First Series Bonds*" shall mean the Board of Regents of Texas Tech University Revenue Financing System Refunding Bonds, First Series (1993) authorized by the First Supplement.

The term "*First Supplement*" shall mean the resolution adopted by the Board on October 21, 1993, authorizing the First Series Bonds.

The term "*Fourth Series Bonds*" shall mean the Board of Regents of Texas Tech University Revenue Financing System Bonds, Fourth Series (Taxable 1996) authorized by the Fourth Supplement.

The term "*Fourth Supplement*" shall mean the resolution adopted by the Board on November 8, 1996, authorizing the Fourth Series Bonds.

The term "*Housing System Bonds*" means those bonds listed below which are secured by the Encumbered Housing Revenues:

Housing System Revenue Bonds, 1962, Series E, currently outstanding in the aggregate principal amount of \$5,570,000;

Housing System Revenue Bonds, 1963, Series A, currently outstanding in the aggregate principal amount of \$778,000; and

Housing System Revenue Bonds, Series 1966, currently outstanding in the aggregate principal amount of \$6,690,000

The term "*Issuance Date*" shall mean the date of delivery the Bonds to the Underwriters against payment therefor.

The term "*Master Resolution*" shall mean the Master Resolution Establishing The Revenue Financing System under the Authority and Responsibility of the Board of Regents of Texas Tech University, adopted by the Board on October 21, 1993, as amended by the Resolution Amending

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Master Resolution Establishing The Revenue Financing System under the Authority and Responsibility of the Board of Regents of Texas Tech University, adopted by the Board on November 8, 1996.

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 "*MSRB*" shall mean the Municipal Securities Rulemaking Board.

The term "*NRMISIR*" 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 "*Parity Obligations*" shall mean, collectively, the First Series Bonds, the Second Series Bonds, the Third Series Bonds and the Concurrent Bonds.

The terms "*Paying Agent/Registrar*," "*Paying Agent*" or "*Registrar*" shall mean the agent appointed pursuant to Section 5 of this Third Supplement, or any successor to such agent.

The term "*Pricing Committee*" shall mean the current members of the Board of Regents' finance committee (Regents Edward F. Whitacre, Jr., Elizabeth "Cissy" Ward and Alan B. White), the current Chancellor (John Montford) and the current Deputy Chancellor (Jim Crowson).

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

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 Third Supplement.

The term "*Regulations*" shall mean all applicable temporary, proposed and final regulations and procedures promulgated under the Code or promulgated under the Internal Revenue Code of 1954, to the extent applicable to the Code.

The term "*Rule*" shall mean SEC Rule 15c2-12, as amended from time to time.

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

The term "*Second Series Bonds*" shall mean the Bonds as authorized by the Second Supplement.

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The term "*Second Supplement*" shall mean the Second Supplement adopted by the Board on February 10, 1995, authorizing the sale of the Second Series Bonds.

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 "*Third Series Bonds*" shall mean the Bonds as authorized by the Third Supplement.

The term "*Third Supplement*" shall mean the Third Supplement adopted by the Board on November 8, 1996, authorizing the sale of the Third Series Bonds.

The term "*Underwriters*" shall mean the investment banking firm or syndicate of investment banking firms which contract to purchase the Bonds in accordance with the terms and conditions of the Bond Purchase Contract.

All terms not herein defined shall have the meanings given to said terms by the Master Resolution or as otherwise defined in this Third Supplement.

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EXHIBIT B**FORM OF BONDS**

**UNITED STATES OF AMERICA
STATE OF TEXAS
BOARD OF REGENTS OF TEXAS TECH UNIVERSITY
REVENUE FINANCING SYSTEM REFUNDING
AND IMPROVEMENT BOND,
THIRD SERIES (1996)**

NO. R-__			PRINCIPAL AMOUNT
			\$ _____
INTEREST RATE_	MATURITY DATE_	BOND DATE_	CUSIP

REGISTERED OWNER:**PRINCIPAL AMOUNT: DOLLARS**

ON THE MATURITY DATE specified above, the BOARD OF REGENTS OF TEXAS TECH UNIVERSITY (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 August 15, 1997, and semiannually on each February 15 and August 15 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 Bank One, Texas, NA, in Dallas, Texas (the "Designated Trust Office"), which is the "Paying Agent/Registrar" for this Bond. The payment of interest on this Bond shall be made by the Paying Agent/Registrar 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 business 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 Bonds 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 Designated Trust 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 (hereinafter defined).

THIS BOND is one of a series of bonds authorized in the aggregate principal amount of \$_____,000,000 pursuant to a Third Supplemental Resolution to the Master Resolution adopted November 8, 1996, and pursuant to the Master Resolution referred therein (collectively, the "Bond Resolution") **FOR THE PURPOSE OF (i) REFUNDING THE OUTSTANDING HOUSING SYSTEM BONDS, (ii) ACQUIRING, PURCHASING, CONSTRUCTING, IMPROVING, RENOVATING, ENLARGING OR EQUIPPING PROPERTY, BUILDINGS, STRUCTURES, FACILITIES, ROADS, OR RELATED INFRASTRUCTURE AT TTU AND THE HEALTH SCIENCES CENTER, AND (iii) PAYING THE COSTS RELATED THERETO.**

ON FEBRUARY 15, 2006, or on any date thereafter, the Bonds of this series scheduled to mature on and after February 15, 2007 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 the par value thereof and accrued interest to the date fixed for redemption; provided that during any period in which ownership of the Bonds is

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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 corporate trust 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

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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) 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 in the denomination of any integral multiple of \$5,000. 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

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have been performed, existed, and been done in accordance with law; that the Series of Bonds of which this Bond is one constitute Parity Obligations 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 Obligations are equally and ratably secured by and payable from a lien on and pledge of the Pledged Revenues, subject only to the provisions of, and the lien on and pledge of certain Pledged Revenues to, 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 Obligations 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 Chair of the Issuer and countersigned with the manual or facsimile signature of the Secretary of the Issuer, and has caused the official seal of the Issuer to be duly impressed, or placed in facsimile, on this Bond.

Secretary, Board of Regents of
Texas Tech University

Chair, Board of Regents of
Texas Tech University

(BOARD SEAL)

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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

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FORM OF ASSIGNMENT:

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned registered owner of this Bond, or duly authorized representative or attorney thereof, hereby assigns this Bond to

/ _____ /

(Assignee's Social Security or Taxpayer Identification Number)

(print or typewrite Assignee's name and address, including zip code)

and hereby irrevocably constitutes and appoints

attorney to transfer the registration of this Bond on the Paying Agent/Registrar's Registration Books with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

NOTICE: This signature must be guaranteed by a member of the New York Stock Exchange or a commercial bank or trust company.

NOTICE: This signature must correspond with the name of the Registered Owner appearing on the face of this Bond.

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**[FORM OF REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS TO ACCOMPANY
THE BONDS UPON INITIAL DELIVERY]**

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)

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ADOPTED 11/08/96

**FOURTH SUPPLEMENTAL RESOLUTION TO THE MASTER RESOLUTION
AUTHORIZING THE ISSUANCE, SALE, AND DELIVERY OF BOARD OF REGENTS OF
TEXAS TECH UNIVERSITY REVENUE FINANCING SYSTEM BONDS, FOURTH
SERIES (TAXABLE 1996) AND APPROVING AND AUTHORIZING INSTRUMENTS AND
PROCEDURES RELATING THERETO**

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**FOURTH SUPPLEMENTAL RESOLUTION TO THE MASTER RESOLUTION
 AUTHORIZING THE ISSUANCE, SALE, AND DELIVERY OF BOARD OF
 REGENTS OF TEXAS TECH UNIVERSITY REVENUE FINANCING SYSTEM
 BONDS, FOURTH SERIES (TAXABLE 1996), AND APPROVING AND
 AUTHORIZING INSTRUMENTS AND PROCEDURES RELATING THERETO**

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FOURTH SUPPLEMENTAL RESOLUTION TO THE MASTER RESOLUTION AUTHORIZING THE ISSUANCE, SALE, AND DELIVERY OF BOARD OF REGENTS OF TEXAS TECH UNIVERSITY REVENUE FINANCING SYSTEM BONDS, FOURTH SERIES (TAXABLE 1996) AND APPROVING AND AUTHORIZING INSTRUMENTS AND PROCEDURES RELATING THERETO

WHEREAS, on October 21, 1993, the Board of Regents of Texas Tech University (the "Board"), acting separately and independently for and on behalf of Texas Tech University ("TTU") and separately and independently for and on behalf of Texas Tech University Health Sciences Center (the "Health Sciences Center"), adopted the "MASTER RESOLUTION ESTABLISHING THE REVENUE FINANCING SYSTEM UNDER THE AUTHORITY AND RESPONSIBILITY OF THE BOARD OF REGENTS OF TEXAS TECH UNIVERSITY"; and

WHEREAS, concurrently with the adoption of this resolution, the Board adopted the "RESOLUTION AMENDING MASTER RESOLUTION ESTABLISHING THE REVENUE FINANCING SYSTEM UNDER THE AUTHORITY AND RESPONSIBILITY OF THE BOARD OF REGENTS OF TEXAS TECH UNIVERSITY" (which resolution, together with the resolution adopted October 21, 1993, is 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 TTU and, to the extent permitted by law (including specifically Section 55.17(e), Texas Education Code), the Health Sciences Center, and pledges the Pledged Revenues to the payment of Parity Obligations to be outstanding under the Master Resolution; and

WHEREAS, the Board heretofore has adopted a "RESOLUTION AUTHORIZING THE ISSUANCE, SALE, AND DELIVERY OF BOARD OF REGENTS OF TEXAS TECH UNIVERSITY REVENUE FINANCING SYSTEM REFUNDING BONDS, FIRST SERIES (1993) AND APPROVING AND AUTHORIZING INSTRUMENTS AND PROCEDURES RELATING THERETO" (defined as the "First Supplement") and pursuant to the First Supplement to the Master Resolution issued its "*BOARD OF REGENTS OF TEXAS TECH UNIVERSITY REVENUE FINANCING SYSTEM REFUNDING BONDS, FIRST SERIES (1993)*" in the aggregate principal amount of \$46,420,000 as Parity Obligations under the terms of the Master Resolution; and

WHEREAS, the Board heretofore has adopted a "RESOLUTION AUTHORIZING THE ISSUANCE, SALE, AND DELIVERY OF BOARD OF REGENTS OF TEXAS TECH UNIVERSITY REVENUE FINANCING SYSTEM BONDS, SECOND SERIES (1995) AND

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APPROVING AND AUTHORIZING INSTRUMENTS AND PROCEDURES RELATING THERETO" (defined as the "Second Supplement") and pursuant to the Second Supplement to the Master Resolution issued its **"BOARD OF REGENTS OF TEXAS TECH UNIVERSITY REVENUE FINANCING SYSTEM BONDS, SECOND SERIES (1995)"** in the aggregate principal amount of \$25,000,000 as Parity Obligations under the terms of the Master Resolution; and

WHEREAS, the Board reserved the right under the terms of the Master Resolution to issue obligations on a parity with the outstanding Parity Obligations; and

WHEREAS, the bonds authorized to be issued by this Fourth Supplement (the "Bonds") are to be issued and delivered pursuant to Chapter 55, Texas Education Code, Vernon's Ann. Tex. Civ. St. Article 717q, and other applicable laws; and

WHEREAS, the bonds hereinafter authorized are being issued concurrently with other bonds of the Board (herein defined as the "Concurrent Bonds") which constitute Parity Obligations.

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

Section 1. **DEFINITIONS.** In addition to the definitions set forth in the preamble of this Fourth Supplement, the terms used in this Fourth 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 Fourth Supplement attached hereto and made a part hereof.

Section 2. **AMOUNT, PURPOSE, AND DESIGNATION OF THE BONDS.** The **"BOARD OF REGENTS OF TEXAS TECH UNIVERSITY REVENUE FINANCING SYSTEM BONDS, FOURTH SERIES (TAXABLE 1996)"**, are hereby authorized to be issued and delivered in the aggregate principal amount not to exceed \$10,000,000 **FOR THE PURPOSE OF ACQUIRING, PURCHASING, CONSTRUCTING, IMPROVING, RENOVATING, ENLARGING OR EQUIPPING PROPERTY, BUILDINGS, STRUCTURES, FACILITIES, ROADS, OR RELATED INFRASTRUCTURE AT TTU AND THE HEALTH SCIENCES CENTER, AND PAYING THE COSTS RELATED THERETO.**

Section 3. **DATE, DENOMINATIONS, NUMBERS, MATURITIES AND TERMS OF BONDS.** (a) **Terms of Bonds.** Initially there shall be issued, sold, and delivered hereunder fully registered bonds, without interest coupons, numbered consecutively from R-1 upward, 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 (an "Authorized Denomination"), maturing not later than February 15, 2022, serially or otherwise on the dates, in the years and in the principal amounts, respectively, and dated, all as set forth in the Bond Purchase Contract relating to the Bonds.

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(b) *Underwriters.* Smith Barney Inc. and Artemis Capital Group are hereby designated the co-senior managing underwriters for the Bonds, and the Pricing Committee is hereby authorized, on behalf of the Board, to negotiate with the co-senior managing underwriters acting on their behalf and on behalf of the other investment banking firms named in the Bond Purchase Contract (such firms, together with the co-senior managing underwriters, are hereafter collectively referred to as the "Underwriters") to assure that the Bonds are sold on the most advantageous terms to the Board.

(c) *Bond Purchase Contract.* As authorized by Vernon's Ann. Tex. Civ. St. Article 717q, as amended, the Pricing Committee is hereby authorized, appointed, and designated to act on behalf of the Issuer in the selling and delivering the Bonds and carrying out the other procedures specified in this Fourth Supplement, including determining and fixing the date of the Bonds, any additional designation or title by which the Bonds shall be known, the price at which the Bonds will be sold, the years in which the Bonds will mature, the principal amount to mature in each of such years, and the aggregate principal amount of the Bonds, the rate of interest to be borne by each such maturity, the interest payment periods, the dates, price, and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the Issuer, as well as any mandatory sinking fund redemption provisions, and all other matters relating to the issuance, sale, and delivery of the Bonds, all of which shall be specified in the Bond Purchase Contract relating to the Bonds. Upon the approval of a Bond Purchase Contract by the Pricing Committee, the Chancellor or the Deputy Chancellor, acting for and on behalf of the Board, is authorized to enter into with the Underwriters and carry out a Bond Purchase Contract for the Bonds, at such price and subject to such terms as are set forth therein. The Bond Purchase Contract shall be substantially in the form and substance approved by the Pricing Committee, provided that the price to be paid for the Bonds shall not be less than 95% of the aggregate principal amount thereof, and none of the Bonds shall bear interest at a rate greater than 10% per annum. It is further provided, however, that, notwithstanding the foregoing provisions, the Bonds shall not be delivered unless (i) prior to the execution of the Bond Purchase Contract, the approval of the issuance of the Bonds by the Texas Bond Review Board has been received and (ii) prior to their delivery, the Bonds 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 Ann. Tex. Civ. St. Article 717q, as amended.

(d) *In General.* The Bonds (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, (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 Fourth Supplement and as determined by the Board Representative as provided herein, with such changes and additions as are required to meet the terms of the Bond Purchase Contract with respect to the Bonds.

Section 4. INTEREST. The 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 Bond Purchase Contract to their respective dates of maturity at the rates set forth in the Bond Purchase Contract.

Section 5. REGISTRATION, TRANSFER, AND EXCHANGE; AUTHENTICATION; BOOK-ENTRY ONLY SYSTEM. (a) *Paying Agent/Registrar.* Bank One, Texas, NA, is hereby appointed the Paying Agent/Registrar for the bonds. The Board 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 submitted to the Board at the meeting at which this Fourth Supplement is adopted.

(b) *Registration Books.* The Issuer shall keep or cause to be kept at the corporate trust office of the Paying Agent/Registrar in Dallas, Texas (the "Designated Trust Office") books or records for the registration of the transfer, exchange, and replacement of the Bonds (the "Registration Books"), and the Issuer hereby appoints the Paying Agent/Registrar as its 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 Issuer and Paying Agent/Registrar 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 Issuer shall have the right to inspect the Registration Books at the Designated Trust Office of the Paying Agent/Registrar during regular business hours, 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 Fourth Supplement, whether or not such Bond shall be overdue, and, to the extent permitted by law, the Issuer 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 Paying Agent/Registrar shall further act as the paying agent for paying the principal of, premium, if any, and interest on the Bonds, all as provided in this Fourth Supplement. The Paying Agent/Registrar shall keep proper records of all payments made by the Issuer and the Paying Agent/Registrar with respect to the Bonds.

(e) *Authentication.* The Bonds initially issued and delivered pursuant to this Fourth Supplement shall be authenticated by the Paying Agent/Registrar by execution of the Paying Agent/Registrar'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 Fourth

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Supplement the Paying Agent/Registrar shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE (the "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 Fourth Supplement, to the extent of the unpaid or unredeemed principal amount thereof, may, upon surrender of such Bond at the Designated 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 Fourth Supplement, in any Authorized Denomination (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 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 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 shall bear a letter and/or number to distinguish it from each other Bond. 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 Fourth Supplement shall constitute one of the Bonds for all purposes of this Fourth 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 Fourth Supplement there shall be printed an Authentication Certificate, in the form set forth in Exhibit B to this Fourth Supplement. An authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Bond, date and manually sign the Authentication Certificate, and, except as provided in (c) above, no such Bond shall be deemed to be issued or outstanding unless the Authentication 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 Issuer 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 Board Representative. Pursuant to Vernon's Ann. Tex. Civ. St. Art. 717k-6, and particularly Section 6 thereof, 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 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 Fourth Supplement. The Issuer 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 (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following interest payment date, or, (ii) with respect to any Bond or portion thereof called for redemption prior to maturity, within 45 days prior to its redemption date. 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 Issuer covenants with the registered owners of the Bonds that at all times while the Bonds are outstanding the Issuer 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 Fourth Supplement, and that the Paying Agent/Registrar will be one entity. The Issuer 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 Issuer 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 Fourth 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 Issuer. Upon any change in the Paying Agent/Registrar, the Issuer 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 Fourth Supplement, and a certified copy of this Fourth Supplement shall be delivered to each Paying Agent/Registrar.

(h) *Book-Entry Only System.* The Bonds issued in exchange for the Bonds initially issued and delivered to the Underwriters 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. A Board Representative may, to the extent necessary, execute a "DTC Letter of Representations" in connection with utilizing the DTC Book-Entry Only System.

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With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the Board and 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 and 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 Fourth Supplement to the contrary but to the extent permitted by law, the Board and 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 Fourth 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 Fourth 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 Fourth 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 Fourth 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 or the Paying Agent/Registrar determines that DTC is incapable of discharging its responsibilities described herein and in the representation letter of the Board to DTC (as described in Section 20 of this Fourth Supplement) 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 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 to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds 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 Bonds shall designate, in accordance with the provisions of this Fourth Supplement.

(j) **Payments to Cede & Co.** Notwithstanding any other provision of this Fourth 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) **Notice of Redemption.** In addition to the method of providing a notice of redemption set forth in the FORM OF BONDS, the Paying Agent/Registrar shall give notice of redemption of Bonds by mail, first-class postage prepaid at least thirty (30) days prior to a redemption date to each registered securities depository and to any national information service that disseminates redemption 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.

Each Notice of Redemption, whether required in the FORM OF BONDS or in this Section, shall contain a description of the Bonds to be redeemed including the complete name of the Bonds, the Series, the date of issue, the interest rate, the maturity date, the CUSIP number, a reference to the certificate numbers and the amounts called of each certificate, the publication and mailing date for the notice, the date of redemption, the redemption price, the name of the Paying Agent/Registrar and the address at which the Bonds may be redeemed, including a contact person and telephone number.

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.

(l) **Reportable Payments.** To the extent required by the Code and the Regulations, it shall be the duty of the Paying Agent/Registrar, on behalf of the Board, to report to the owners of the Bonds and the Internal Revenue Service (i) the amount of "reportable payments", if any, subject to backup withholding during each year and the amount of tax withheld, if any, with respect to payments of the Bonds and (ii) the amount of interest or amount treated as interest on the Bonds and required to be included in gross income of the owner thereof.

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Section 6. FORM OF BONDS. The forms of the Bonds, including the form of the Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas, with respect to the Bonds initially issued and delivered to the Underwriters pursuant to this Fourth 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 Fourth Supplement and the Bond Purchase Contract.

Section 7. ESTABLISHMENT OF FINANCING SYSTEM AND ISSUANCE OF PARITY OBLIGATIONS. By adoption of the Master Resolution the Board has established the Revenue Financing System for the purpose of providing a financing structure for revenue supported indebtedness of TTU and the Health Sciences Center. The Master Resolution is intended to establish a master plan under which revenue supported debt of the Financing System can be incurred. This Fourth Supplement provides for the authorization, issuance, sale, delivery, form, characteristics, provisions of payment and redemption, and security of the Bonds which are the Fourth series of Parity Obligations issued under the terms of the Master Resolution. 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 Obligations under the Master Resolution. As required by Section 5(a) of the Master Resolution, the Board hereby determines, in connection with the issuance of the Bonds, that it will have sufficient funds, 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. Furthermore, the Board hereby determines that TTU possesses the financial capability to satisfy its Direct Obligation in respect to the payment of the Annual Debt Service Requirements on the Bonds.

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 Fourth 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. 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 the Bonds as provided in the Bond Purchase Contract, 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

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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 Issuer 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 Issuer 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 Issuer 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 Issuer 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 Fourth Supplement equally and proportionately with any and all other Bonds duly issued under this Fourth Supplement.

(e) *Authority for Issuing Replacement Bonds.* In accordance with Section 6 of Vernon's Ann. Tex. Civ. St. Art. 717k-6, this Section shall constitute authority for the issuance of any such replacement bond without the necessity of further action by the Issuer 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 Fourth Supplement for Bonds issued in exchange and replacement for other Bonds.

Section 11. AMENDMENT OF SUPPLEMENT. (a) *Amendments Without Consent.* This Fourth 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 Obligations, solely for any one or more of the following purposes:

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(i) To add to the covenants and agreements of the Board contained in this Fourth 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 Fourth Supplement;

(ii) To cure any ambiguity or inconsistency, or to cure or correct any defective provisions contained in this Fourth Supplement, upon receipt by the Board of an opinion of Bond Counsel, that the same is needed for such purpose, and will more clearly express the intent of this Fourth 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;

(iv) To make any changes or amendments requested by any bond rating agency then rating or requested to rate Parity Obligations, 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 Parity Obligations;

(v) To make such changes, modifications or amendments as may be necessary or desirable, which shall not adversely affect the interests of the owners of the Outstanding Parity Obligations, in order, to the extent permitted by law, to facilitate the economic and practical utilization of Credit Agreements with respect to the Parity Obligations; or

(vi) To 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 Outstanding Parity Obligations.

Notice of any such amendment may be published by the Board in the manner described in subsection (c) of this Section; provided, however, that the publication of such notice shall not constitute a condition precedent to the adoption of such amendatory resolution and the failure to publish such notice shall not adversely affect the implementation of such amendment as adopted pursuant to such amendatory resolution.

(b) *Amendments With Consent.* Subject to the other provisions of this Fourth Supplement, the owners of Outstanding Bonds aggregating a majority 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 Fourth 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 Fourth Supplement or in the Bonds so as to:

(1) Make any change in the maturity of the Outstanding Bonds;

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- (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 Fourth 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 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 a majority 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 Fourth Supplement pursuant to the provisions of this Section, this Fourth 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 Fourth 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 Registrar and the Board,

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but such revocation shall not be effective if the owners of a majority 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 Registrar therefor. The Registrar may conclusively assume that such ownership continues until written notice to the contrary is served upon the Registrar.

Section 12. COVENANTS REGARDING TAX-EXEMPTION. The Board does not intend to issue the Bonds in a manner such that the Bonds would constitute obligations described in section 103(a) of the Code or the Regulations promulgated with respect to said section.

Section 13. FOURTH 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 Fourth 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 Fourth Supplement by the Board and the covenants and agreements set forth in this Fourth 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 Fourth 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 Fourth 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 FOURTH SUPPLEMENT. With the exception of the rights or benefits herein expressly conferred, nothing expressed or contained herein or implied from the provisions of this Fourth Supplement or the Bonds is intended or should be construed to confer upon or give to any person other than the Board, the

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Holders, and the Paying Agent/Registrar, any legal or equitable right, remedy, or claim under or by reason of or in respect to this Fourth Supplement or any covenant, condition, stipulation, promise, agreement, or provision herein contained. This Fourth 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, and the Paying Agent/Registrar as herein and therein provided.

Section 17. CUSTODY, APPROVAL, BOND COUNSEL'S OPINION, CUSIP NUMBERS, PREAMBLE AND INSURANCE. The Board Representative is hereby authorized to have control of the Bonds issued hereunder and all necessary records and proceedings pertaining to the Bonds pending their delivery and approval by the Attorney General of the State of Texas of the proceedings authorizing the Bonds in accordance with Vernon's Ann. Tex. Civ. St. Article 717q, as amended. The Board Representative is hereby authorized, to the extent deemed necessary or advisable thereby, in the discretion thereof, to request that the Attorney General approve the Bonds as permitted by Vernon's Ann. Tex. Civ. St. Article 717k-8, in which case the Board Representative also is authorized to request the Comptroller of Public Accounts register the Bonds, and to cause an appropriate legend reflecting such approval and registration to appear on the Bonds and the substitute Bonds. The approving legal opinion of the Issuer's Bond Counsel and the assigned CUSIP numbers may, at the option of the Issuer, 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 Fourth Supplement is hereby adopted and made a part of this Fourth 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 municipal bond insurance company issuing any such insurance.

Section 18. FURTHER PROCEDURES; OFFICIAL STATEMENT. Each Board 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 Issuer 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 Fourth Supplement, the Bonds, the sale and delivery of the Bonds and fixing all details in connection therewith, and to approve any Official Statement, or supplements thereto, in connection with the Bonds. The form of the Official Statement relating to the Bonds submitted to the Board at the meeting at which this Fourth Supplement is adopted is hereby approved. Each Board Representative is authorized to approve any supplement to the Official Statement incorporating the information contained in the Bond Purchase Contract and such additional information as deemed material consistent with the requirements of the Rule and to authorize the distribution of such final Official Statement to the Underwriters for their use in the sale of the Bonds to members of the general public. The use of such final Official Statement in the offer and sale of the Bonds is hereby approved. In case any officer whose signature shall appear on the Bonds shall cease to be such officer before the

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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.

Section 19. CONTINUING ONGOING DISCLOSURE. (a) *Annual Reports.* (i) The Board shall provide annually to each NRMSIR and any SID, within six months after the end of each fiscal year ending in or after 1996, financial information and operating data with respect to the Board of the general type included in the final Official Statement authorized by Section 18 of this Fourth Supplement, being the information described in Exhibit C hereto. Any financial statements so to be provided shall be prepared in accordance with the accounting principles described in Exhibit C hereto, or such other accounting principles as the Board may be required to employ from time to time pursuant to state law or regulation. If the Board commissions an audit of such statements and the audit is completed within the period during which they must be provided, a copy of such audit also shall be provided in accordance with the Rule. If any such audit of such financial statements, if one is commissioned by the Board, is not complete within such period, then the Board shall provide unaudited financial statements and audited financial statements for the applicable fiscal year to each NRMSIR and any SID, when and if the audit report on such statements become available.

(ii) If the Board changes its fiscal year, it 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.

(b) *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:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions or events affecting the tax-exempt status of the Bonds;
7. Modifications to rights of holders of the Bonds;

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8. Bond calls;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Bonds; and
11. 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 subsection (a) of this Section by the time required by such subsection.

(c) *Limitations, Disclaimers, and Amendments.* (i) The Board shall be obligated to observe and perform the covenants specified in this Section 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 notice of any deposit made in accordance with this Fourth Supplement or applicable law that causes the Bonds no longer to be Outstanding.

(ii) The provisions of this Section are for the sole benefit of the registered owners 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 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.

(iii) UNDER NO CIRCUMSTANCES SHALL THE BOARD BE LIABLE TO THE REGISTERED OWNER 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.

(iv) No default by the Board in observing or performing its obligations under this Section shall comprise a breach of or default under the Fourth Supplement for purposes of any other provision of this Fourth 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.

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(v) 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 Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the registered owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Fourth Supplement that authorizes such an amendment) of the Bonds then outstanding consent to such amendment or (b) a person that is unaffiliated with the Board (such as nationally recognized bond counsel) determined that such amendment will not materially impair the interest of the registered owners 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 subsection (a) of this Section an explanation, in narrative form, of the reason 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 agreement if the SEC amends or repeals the applicable provision 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 Bonds in the primary offering of the Bonds.

Section 20. REPEAL OF CONFLICTING RESOLUTIONS. All resolutions and all parts of any resolutions (other than the Master Resolution) which are in conflict or inconsistent with this Fourth Supplement are hereby repealed and shall be of no further force or effect to the extent of such conflict or inconsistency.

Section 21. 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 Fourth Supplement was adopted; that this Fourth 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 Fourth 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, Article 717q, V.A.T.C.S., as amended, and Chapter 55, Texas Education Code, as amended.

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

The term "*Board Representative*" shall mean the Chancellor of TTU and the Health Sciences Center, the Deputy Chancellor of TTU and the Health Sciences Center, the Vice President for Fiscal Affairs of TTU, the Vice President for Fiscal Affairs of the Health Sciences Center, or such other official of TTU or the Health Sciences Center appointed by the Chairman of the Board to carry out the functions of the Board specified herein.

The term "*Bond Purchase Contract*" shall mean the bond purchase agreement between the Board and the Underwriters pertaining to the purchase of the Fourth Series Bonds by the Underwriters.

The term "*Bonds*" shall mean the Fourth Series Bonds, and all substitute bonds exchanged therefor, and all other substitute and replacement bonds issued pursuant to this Fourth 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 Designated Trust Office of the Paying Agent/Registrar is located are authorized by law or executive order to close.

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

The term "*Concurrent Bonds*" shall mean the Third Series Bonds.

The term "*Designated Trust Office*" shall have the meaning ascribed to said term in Section 5(b) of this Fourth Supplement.

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

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to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

The term "*First Series Bonds*" shall mean the Board of Regents of Texas Tech University Revenue Financing System Refunding Bonds, First Series (1993) authorized by the First Supplement.

The term "*First Supplement*" shall mean the resolution adopted by the Board on October 21, 1993, authorizing the First Series Bonds.

The term "*Fourth Series Bonds*" shall mean the Board of Regents of Texas Tech University Revenue Financing System Bonds, Fourth Series (Taxable 1996) authorized by the Fourth Supplement.

The term "*Fourth Supplement*" shall mean the resolution adopted by the Board on November 8, 1996, authorizing the Fourth Series Bonds.

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

The term "*Master Resolution*" shall mean the Master Resolution Establishing The Revenue Financing System under the Authority and Responsibility of the Board of Regents of Texas Tech University, adopted by the Board on October 21, 1993, as amended by the Resolution Amending Master Resolution Establishing The Revenue Financing System under the Authority and Responsibility of the Board of Regents of Texas Tech University, adopted by the Board on November 8, 1996.

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 "*MSRB*" shall mean the Municipal Securities Rulemaking Board.

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 "*Parity Obligations*" shall mean, collectively, the First Series Bonds, the Second Series Bonds, the Fourth Series Bonds and the Concurrent Bonds.

The terms "*Paying Agent/Registrar*," "*Paying Agent*" or "*Registrar*" shall mean the agent appointed pursuant to Section 5 of this Fourth Supplement, or any successor to such agent.

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The term "*Pricing Committee*" shall mean the current members of the Board of Regents' finance committee (Regents Edward E. Whitacre, Jr., Elizabeth "Cissy" Ward and Alan B. White), the current Chancellor (John Montford) and the current Deputy Chancellor (Jim Crowson).

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

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 Fourth Supplement.

The term "*Regulations*" shall mean all applicable temporary, proposed and final regulations and procedures promulgated under the Code or promulgated under the Internal Revenue Code of 1954, to the extent applicable to the Code.

The term "*Rule*" shall mean SEC Rule 15c2-12, as amended from time to time.

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

The term "*Second Series Bonds*" shall mean the Bonds as authorized by the Second Supplement.

The term "*Second Supplement*" shall mean the Second Supplement adopted by the Board on February 10, 1995, authorizing the sale of the Second Series Bonds.

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 "*Third Series Bonds*" shall mean the Bonds as authorized by the Third Supplement.

The term "*Third Supplement*" shall mean the Third Supplement adopted by the Board on November 8, 1996, authorizing the sale of the Third Series Bonds.

The term "*Underwriters*" shall mean the investment banking firm or syndicate of investment banking firms which contract to purchase the Bonds in accordance with the terms and conditions of the Bond Purchase Contract.

All terms not herein defined shall have the meanings given to said terms by the Master Resolution or as otherwise defined in this Fourth Supplement.

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EXHIBIT B
FORM OF BONDS

UNITED STATES OF AMERICA
STATE OF TEXAS
BOARD OF REGENTS OF TEXAS TECH UNIVERSITY
REVENUE FINANCING SYSTEM BOND,
FOURTH SERIES (TAXABLE 1996)

NO. R-__

PRINCIPAL
AMOUNT
\$ _____

INTEREST
RATE

MATURITY
DATE

BOND
DATE

CUSIP

REGISTERED OWNER:

PRINCIPAL AMOUNT:

DOLLARS

ON THE MATURITY DATE specified above, the BOARD OF REGENTS OF TEXAS TECH UNIVERSITY (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 August 15, 1997, and semiannually on each February 15 and August 15 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 Bank One, Texas, NA, in Dallas, Texas (the "Designated Trust Office"), which is the "Paying Agent/Registrar" for this Bond. The payment of interest on this Bond shall be made by the Paying Agent/Registrar 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 business 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 Bonds 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 Designated Trust 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 (hereinafter defined).

THIS BOND is one of a series of bonds authorized in the aggregate principal amount of \$1,000,000 pursuant to a Fourth Supplemental Resolution to the Master Resolution adopted November 8, 1996, and pursuant to the Master Resolution referred therein (collectively, the "Bond Resolution") **FOR THE PURPOSE OF ACQUIRING, PURCHASING, CONSTRUCTING, IMPROVING, RENOVATING, ENLARGING OR EQUIPPING PROPERTY, BUILDINGS, STRUCTURES, FACILITIES, ROADS, OR RELATED INFRASTRUCTURE AT TTU AND THE HEALTH SCIENCES CENTER AND PAYING THE COSTS RELATED THERETO.**

ON FEBRUARY 15, 2006, or on any date thereafter, the Bonds of this series scheduled to mature on and after February 15, 2007 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 the par value thereof 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

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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 corporate trust 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

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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) 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 in the denomination of any integral multiple of \$5,000. 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 Obligations under the Master Resolution; and that the

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interest on and principal of this Bond, together with the other Bonds of this Series and the other outstanding Parity Obligations are equally and ratably secured by and payable from a lien on and pledge of the Pledged Revenues, subject only to the provisions of, and the lien on and pledge of certain Pledged Revenues to, 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 Obligations 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 Chair of the Issuer and countersigned with the manual or facsimile signature of the Secretary of the Issuer, and has caused the official seal of the Issuer to be duly impressed, or placed in facsimile, on this Bond.

Secretary, Board of Regents of
Texas Tech University

Chair, Board of Regents of
Texas Tech University

(BOARD SEAL)

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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

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FORM OF ASSIGNMENT:

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned registered owner of this Bond, or duly authorized representative or attorney thereof, hereby assigns this Bond to

(Assignee's Social Security or Taxpayer Identification Number)

(print or typewrite Assignee's name and address, including zip code)

and hereby irrevocably constitutes and appoints

attorney to transfer the registration of this Bond on the Paying Agent/Registrar's Registration Books with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

NOTICE: This signature must be guaranteed by a member of the New York Stock Exchange or a commercial bank or trust company.

NOTICE: This signature must correspond with the name of the Registered Owner appearing on the face of this Bond.

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**[FORM OF REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS TO ACCOMPANY
THE BONDS UPON INITIAL DELIVERY]**

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)

Underwriting Firm Selection

The following underwriting firms will assist Texas Tech University, its Bond Counsel and Financial Advisor in the issuance of proposed Revenue Financing System bonds:

Co-Senior Managers:

Smith Barney, Inc.
Artemis Capital Group

Co-Managers:

Estrada, Hinojosa & Co., Inc.
Goldman, Sachs & Company
Nations Banc Capital Markets, Inc.
Rauscher Pierce Refsnes, Inc.
Stephens Inc.
Southwest Securities, Inc.

DRAFT

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ADDENDUM

THE STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Addendum to an Energy Agreement executed February 25, 1988, is entered into by and between the City of Lubbock, a Texas home rule municipal corporation (hereinafter called "City") and Texas Tech University and Texas Tech University Health Sciences Center (both hereinafter called "University").

WITNESSETH:

WHEREAS, the City and the University did heretofore on the 25th day of February, 1988, enter into an Energy Agreement wherein City agreed to construct and operate an electrical and steam generation facility upon the campus of the University for generation of electricity and steam for sale to the University; and

WHEREAS, it is the desire of the City and the University to amend the terms of said Energy Agreement, including the Power Plant Construction Agreement, the Lease Agreement and the Utilities and Steam Purchase Agreement, all of which agreements were incorporated into the main agreement by reference, in accordance with the terms of this Addendum; NOW THEREFORE:

BE IT RESOLVED BY THE CITY AND THE UNIVERSITY AS FOLLOWS:

The parties hereto desire to amend certain portions of the Energy Agreement entered into by and between the City and the University on the 25th day of February, 1988, as is set out in detail hereafter.

POWER PLANT CONSTRUCTION AGREEMENT

Section IB on page A-2. This Section shall be amended by adding thereto the following language:

The City shall have the right to add an additional unit to this site and the University agrees to allow the City to any undeveloped area adjacent to the existing site to accommodate either an additional power and steam generation unit or an expanded power and steam generation facility. The University shall provide the required area within one (1) year of the City's notice that it intends to add a

unit or expand the existing plant. A map denoting the location available for such expansion shall be attached hereto as Exhibit A.

LEASE AGREEMENT

Section IIA on page B-2. This Section shall be amended to read as follows:

The term of this Lease Agreement shall be for a period of forty (40) years, unless earlier terminated or extended in accordance with the provisions of this Lease Agreement and/or the provisions of the Energy Agreement. This Lease Agreement may not be terminated so long as the University is receiving either steam or electricity from the cogeneration plant.

Section IIB on page B-2. This Section shall be amended to read as follows:

It is agreed by the parties hereto that the term of this Lease Agreement shall begin upon the 12th day of June, 1990.

Section IVE on page B-6. This Section shall be amended by adding thereto the following language:

The University also shall have the right to approve the plans of any proposed expansion of the cogeneration as to appearance. However, if the University requires the plan to be modified for aesthetic reasons, then the University hereby agrees to pay half of any additional cost of design and construction to make the requested changes by the University.

Section VI on page B-8. This Section shall be amended by adding thereto the following language.

In the event that the University shall require the City to relinquish the premises involuntarily for any reason other than breach of this contract prior to the end of the term of this Lease Agreement, the University will pay the City the market value of the cogeneration facilities and operation as determined by averaging the value assigned to such facilities and operation as determined by two appraisers, with each party having the right to appoint one appraiser at which time ownership of the facilities shall (1) transfer to the University or (2) the University shall pay the City the cost of removing the facilities from the University's premises.

UTILITIES AND STEAM PURCHASE AGREEMENT

Subsection IIIB1 on page C-5. This subsection shall be amended to read as follows:

The term of the electric service provisions of this Agreement shall be thirty (30) years unless earlier suspended in accordance with this Agreement. Such term shall begin upon the 12th day of ~~July~~ June, 1990, which was the date of first delivery of steam pursuant to this Agreement.

Subsection IIIB2 on page C-6. This subsection shall be amended to read as follows:

The term of the steam purchase provisions of this Agreement shall be for thirty (30) years unless earlier suspended in accordance with this Agreement. Such term shall begin upon the date of first delivery of steam pursuant to this Agreement.

Subsection IIIB3 on page C-6. This subsection shall be amended to read as follows:

Following expiration of the original term for electrical service and steam, the City and the University shall have the option to continue this Agreement for an unlimited number of five (5) year additional terms upon mutual agreement by the parties hereto expressed in writing prior to expiration of the original term or any extension thereof by the parties.

Subsection IIIB4 on page C-6. This subsection shall be deleted in its entirety and shall be of no further force and effect.

Subsection IIIC1 on page C-7. This subsection shall be amended to read as follows:

1. Electricity:

The price paid by Texas Tech for electricity, pursuant to this Agreement, shall be just and reasonable and shall be the lower of (1) the best electric rate which has been offered to customers in the University's rate class by the City, or (2) the lowest competitive rate that is otherwise available to the University for electric power delivered at the Lubbock campus. It is understood that such rate may change from time to time consistent with this agreement.

Section IIIG on page C-14. This Section shall be amended to read as follows:

Steam Availability:

The City agrees to supply steam at the steam quality and volume herein defined at the availability for each University fiscal year as set out in Exhibit "C-3", Steam Availability. If at the end of each fiscal year it is calculated that the

steam availability for the year was less than that defined for that year, as set out in Exhibit "C-3", then the University shall be credited the cost of generating steam to reach the required availability. The cost of this steam shall be calculated per the formula on Exhibit "C-3".

Beginning in the second year and each year thereafter, the number of days of actual availability over and above the scheduled availability will be set aside in a Reserve Days Account. Each year that actual availability is less than scheduled, due to mechanical or operational problems, days will be drawn from the Reserve Days Account as long as days are available. The City will exercise due diligence in accordance with the prevailing standards of the industry to ensure that all mechanical and operational problems are repaired as quickly as possible to prevent the unnecessary use of reserve account days.

Subsection IVA4 on page C-15. This subsection shall be amended to read as follows:

The failure of the City to offer the University the lower of (1) the best electric rate which has been offered to customers in the University's rate class by the City or (2) the lowest competitive rate that is otherwise available to the University delivered at the Lubbock campus.

THIS Addendum is executed by the parties hereto this ____ day of _____, 1996.

TEXAS TECH UNIVERSITY AND
TEXAS TECH HEALTH SCIENCES
CENTER:

CITY OF LUBBOCK:

By: _____

ALEX "TY" COOKE, MAYOR PRO
TEMPORE

ATTEST:

ATTEST:

Secretary

City Secretary

APPROVED AS TO CONTENT:

Robert Massengale, Director of Electric
Utilities

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APPROVED AS TO FORM:

Donald G. Vandiver, First Assistant City
Attorney

ddoon/Techcon3.doc
October 25, 1996

ADVERTISING AGREEMENT

This Advertising Agreement, hereinafter referred to as the "Agreement," made and entered into this _____ day of _____, 19____, by and between the CITY OF LUBBOCK, TEXAS, a home rule municipal corporation, hereinafter referred to as the "City," and TEXAS TECH UNIVERSITY, hereinafter called "University."

WITNESSETH:

WHEREAS, the City owns and operates the Lubbock Power and Light, hereinafter referred to as "LP&L"; and

WHEREAS, the University plans to construct a sports arena for the purpose of housing certain sports events; and

WHEREAS, the City deems it advantageous to itself and to the operation of LP&L to purchase certain advertising at the arena and other benefits under an Agreement containing mutually satisfactory conditions and covenants; and

WHEREAS, the University desires to sell advertising in its arena complex and provide certain other benefits: and

WHEREAS, the LP&L Board of the City of Lubbock has approved and recommends that the City enter into this Agreement with the University for the term hereinafter designated; and

WHEREAS, the City Council of the City of Lubbock accepts the recommendation of the LP&L Board and finds that execution of this Agreement will properly serve the public interest of the citizens of this City and will further the economic development of the City pursuant to the economic development laws of the state of Texas, including but not limited to V.T.C.A., Local Government Code, Section 380.001 *et seq.*; and

WHEREAS, this agreement will be consistent with the economic development programs of the City of Lubbock, Texas, as established in the City of Lubbock Economic Development Plan adopted by the City Council of the City of Lubbock on February 8, 1990.

NOW THEREFORE, in consideration of the mutual covenants, terms, conditions, privileges, obligations and agreements herein contained, the City and the University hereby mutually undertake, promise and agree, each for itself, and its successors and assigns, as follows:

ARTICLE I

TERM

- 1.1 This Agreement shall become effective upon execution by both parties hereto. The term of this Agreement shall be for thirty (30) years from the date of the opening of the sports arena. The City and University may mutually agree in writing to extend this Agreement for additional five-years terms, subject to all the other terms and conditions of this Agreement.

ARTICLE II

PRIVILEGES AND OBLIGATIONS

- 2.1 The University hereby grants to City the right to advertisement of electrical services in the sports arena. The University agrees to provide an area for the City to advertise electric services below any executive skybox occupied by the City and at the scorers's table for the advertisement of electrical services. This agreement shall not prohibit the University from selling advertising space at the scorer's table to other advertisers on a rotating basis, the parties having agreed that the City's advertising space shall be separate from any such rotating advertising space. The City shall be allowed to review the architect's plans for

the interior space of the arena upon completion of the plans, and shall receive special consideration to move the location of their scorer's table advertisement to a more favorable site subject to any agreements between the University and other advertisers prior to the City's request for relocation. During the remainder of this agreement, the City shall receive special consideration to move the location of its advertising upon the availability of more favorable sites, provided however, that the availability of such sites to the City shall be made subject to any agreements between the University and other advertisers prior to the City's request for relocation. The University shall be required to give City notice of availability of any new site or new availability of existing sites.

- 2.2 With the prior written consent of the University, which consent shall not be unreasonably withheld, the City may (1) assign its advertising space under this agreement to any advertiser ; to any successor by operation of law or otherwise; or (2) sublet its advertising space or any part thereof.
- 2.3 All advertisements shall be in good taste, professionally developed, and presented so as to be inoffensive to the general public and of such high caliber as to contribute to the establishment of the arena's facilities as prestigious locations for commercial advertising.
- 2.4 City shall pay all expenses associated with its advertising. City will maintain all visual audio and animated components of its display, and agrees to release the University and University personnel from liability for any loss or damage to property of City resulting from fire, theft or other occurrence while on display under the terms of this Agreement. City shall indemnify and hold harmless the University and University personnel from any liability for any loss or damage occasioned by City's displays and/or the actions of City, its employees or agents to the extent permitted by law. City shall also hold University

harmless for any copyright or patent infringement claims arising out of the display of advertising on University premises to the extent permitted by law.

- 2.5 University shall furnish the wall spaces and/or other areas in the condition required to accept the City's advertisements, and shall provide electrical current, if necessary, in reasonable amounts for the lighting of advertising material and the operation of displays. Without incurring any liability for property damage, University shall provide normal security surveillance and protection of the displays against vandalism or trespass and will report to City the discovery of any damage or unsightly appearance requiring immediate correction.
- 2.6 The University shall also provide the City with a midcourt corporate suite (Skybox) for ten (10) years at a rate of \$25,000 per year to be paid on September 1 of each calendar year after completion of the arena; ten (10) season passes for all University sports events in the arena each year for ten (10) years, and with priority parking passes for every two (2) seats in the corporate suite for ten (10) years. The City shall have a right of first refusal on such items for the remainder of the term of this Agreement. Such payments shall be made from current revenues available to the City. The tickets and parking passes shall be sold to the City at fair market value.
- 2.7 The University further agrees to assist the City as allowed by Texas law, at the City's option and at a time within the sole discretion of the City, in obtaining legislation favorable to resolving the City's obligations regarding the coliseum located on the campus of the University.
- 2.8 The City agrees to pay the University, as consideration for the above, the sum of four million dollars (\$4,000,000) from current revenues.

ARTICLE III

CANCELLATION

3.1 This Agreement shall be subject to cancellation by the City, should any one or more of the following events occur:

- a. The University does not build the proposed arena.
- b. The abandonment of the arena for longer than one hundred eighty (180) days; or
- c. The issuance by any court of competent jurisdiction of an injunction preventing or restraining the use of the Arena in such a manner as to substantially restrict the City, through no fault of its own, from exercising its rights or privileges under this Agreement and the remaining in force of such injunction for at least sixty (60) days; or
- c. The breach by the University of any of the material terms, covenants or conditions of this Agreement to be kept, performed and observed by the University, and the failure of the University to remedy such breach, within thirty (30) days of receipt of written notice from the City of the existence of such breach, or if more than thirty (30) days shall be required because of the nature of such breach, if University shall fail within said thirty (30) days period to commence and thereafter diligently proceed to cure such default; or

3.2 In the event any condition of default shall occur City, then, or at any time thereafter, while such breach is continuing, shall have the right, at its election, to terminate this Agreement by giving at least five (5) days written notice to the University, at which time City will then quit and surrender the advertising area to the University.

- 3.3 This Agreement shall be subject to cancellation by the University, if one or more of the following conditions of default by City occur:
- a. If City shall neglect or fail to perform or observe any of the terms, provisions, conditions or covenants herein contained and to be performed or observed by City and if such neglect or failure should continue for a period of thirty (30) days after receipt by City of written notice of such neglect or failure or, if more than thirty (30) days shall be required because of the nature of the default, if City shall fail within said thirty (30) day period to commence and thereafter diligently proceed to cure such default; or
 - b. If City shall fail to take possession of its advertising site; or
 - c. If City shall abandon all or any part of its advertising sites.
- 3.4 In the event of breach by the University or unilateral cancellation of this Agreement by the University, the University agrees to rebate a pro rata portion of the City's advertising payments. Calculation of the rebate will be effected using the Table attached hereto as Exhibit A, which table is made a part of this agreement for all intents and purposes. Any such rebate shall be paid out of current operating funds.
- 3.5 This Agreement may be terminated unilaterally by either party upon sixty (60) days written notice to the other party of the termination. However, such unilateral termination by the University shall be subject to repayment of the unused portion of the City's advertising payments to the City as provided in Section 3.4 above. Unilateral cancellation or breach by the City shall not require repayment of the unused portion of the advertising payments.

ARTICLE IV

AMENDMENT

- 4.1 This Agreement constitutes the entire Agreement between the parties. No amendment, modification or alteration of the terms, covenants and conditions contained in this Agreement shall be binding unless the same shall be in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

ARTICLE V

NOTICES

- 5.1 Notices required herein may be given by registered or certified or express mail by depositing the same in the United States Mail or by private courier in the continental United States, postage prepaid. Either party shall have the right, by giving written notice to the other, to change the address at which its notices are to be received. Until any such change is made, notices to City shall be delivered as follows:

Name	Director of Electric Utilities
	City of Lubbock
Address	1625 13th Street
	Lubbock, Texas 79402

Until any such change is made, notices to University shall be delivered as follows:

ARTICLE VI

MISCELLANEOUS PROVISIONS

- 6.1 Severability - If one or more clauses, sections or provisions of this Agreement shall be held to be unlawful, invalid or unenforceable, the parties hereto agree that the material rights of either party shall not be affected thereby.
- 6.2 Incorporation of Required Provisions - The parties incorporate herein by this reference all provisions lawfully required to be contained herein by any governmental body or agency.
- 6.3 Nonliability of Agents and Employees - No member, officer, agent or employee of the City or University shall be charged personally or held contractually liable by or to the other party under any of the terms or provisions of this Agreement or because of any breach thereof or because of its or their execution or attempted execution.
- 6.4 Successors and Assigns Bound - This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.
- 6.5 Force Majeure - Neither the City nor the University shall be deemed in violation of this Agreement if prevented from performing any of the obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortages of material, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, riots, rebellions, sabotage or any other circumstances for which the parties are not responsible or which are not within their control.
- 6.6 Rules, Regulations and Procedures - University reserves the right to issue such rules, regulations and procedures for activities and operations conducted at the Arena as deemed necessary to protect and preserve the safety, security and welfare of the Arena and all persons, property and facilities located thereon.
- 6.7 NCAA/Big 12 Rules and Regulations. This Agreement is made subject to the rules and regulations of the NCAA and the Big 12 applicable to such agreements. A copy of such

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rules and regulations is attached hereto as Exhibit B and made a part hereof for all intents and purposes.

ENTIRE AGREEMENT

The parties hereto understand and agree that this instrument contains the entire agreement between the parties hereto. The parties hereto further understand and agree that the other party and its agents have made no representations or promises with respect to this Agreement or the making or entry into this Agreement, except as in this Agreement expressly set forth, and that no claim or liability or cause for termination shall be asserted by either party against the other and such party shall not be liable by reason of, the making of any representations or promises not expressly stated in this Agreement, any other written or oral agreement with the other being expressly waived.

IN WITNESS WHEREOF, the parties have executed this Agreement, this _____ day of _____, 19____.

CITY OF LUBBOCK

TEXAS TECH UNIVERSITY:

BY: _____
JUDI BLAKEY, CHAIR, ELECTRIC UTILITY
BOARD

BY: _____

ATTEST:

ATTEST:

Secretary

Secretary

APPROVED AS TO CONTENT:

Robert Massengale, Managing Director

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of Electric Utilities

APPROVED AS TO FORM:

Anita E. Burgess, City Attorney

HW:dp/ISI-AGT.DOCAD#5 na.df4
October 21, 1996

CONTRACT OF SALE

THIS contract of sale is entered into this 1 day of ~~September~~^{October}, 1996, by and between TEXAS TECH UNIVERSITY, acting herein by and through its President, DONALD HARAGAN, (hereinafter called Seller), and PAUL DAVID GABEL and JAMES KENT GABEL, (hereinafter called Purchaser), on the following terms and conditions, to-wit:

I.

PROPERTY SOLD

Subject to the other terms and conditions hereof, Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller the following described real estate situated in the County of Castro, State of Texas, to-wit:

THE SURFACE ESTATE ONLY of all of Section 263, Block M-6, SK&K Survey, Castro County, Texas;

TOGETHER WITH all improvements thereon, including without limitation by enumeration, five irrigation wells complete with submersible pumps, underground irrigation flow line, permanent fencing, one 2-story residence and unattached garage, complete with domestic water well;

SUBJECT TO all visible and recorded easements which are legally valid; and further

SUBJECT TO any and all prior oil, gas and mineral reservations, if any, of record; and

The reservation of all of the oil, gas and minerals by Seller, as hereinafter provided;

(all of the above hereinafter called the Property).

II.

CONTINGENCY OF CONTRACT

It is understood and agreed that this is a contingent contract, based upon the approval by the Board of Regents of Seller of this contract of sale. Seller agrees to present this contract for approval to its Board of Regents at its next regularly scheduled meeting. In the event Seller is unable secure approval of its Board of Regents to this contract within 45 days from date of this contract, this contract shall become null and void and of no further force and effect, and the money placed in escrow as hereinafter provided shall be returned to Purchaser.

III.

CONSIDERATION

A. Total consideration -

The total consideration to be paid by Purchaser to Seller for sale of the Property shall be the sum of \$200.00 per acre for each and every acre as reflected in the title evidence to which Seller can convey good and merchantable title. Such total consideration, as finally calculated, shall be payable in cash by Purchaser to Seller upon date of delivery of the warranty deed performing this contract.

B. Escrow -

A copy of this contract, together with the sum of \$13,000.00 (Escrow Funds) furnished by Purchaser shall be placed in the Escrow and Trust Account of the law firm of BURKETT AND ROSS LAWYERS, 114 South Broadway, Dimmitt, Castro County, Texas 79027, (Escrow Agent) as escrow. If this contract is closed, the escrow funds shall be delivered by Escrow Agent to Seller as a portion of the cash consideration due to Seller at closing. If this contract is not closed, said escrow funds will be paid and delivered by Escrow Agent as otherwise provided in this agreement.

IV.

TITLE CONDITION

Seller covenants and warrants that the property will be conveyed by Seller to Purchaser by general warranty deed, with good and merchantable title, free and clear of any and all liens and indebtedness.

V.

EVIDENCE OF MERCHANTABILITY OF TITLE

Seller shall cause to be delivered to Purchaser on or before twenty days from date of this contract, a commitment for an owners policy of title insurance issued by Cowsert Abstract & Title Co., Dimmitt, Texas, in the amount of the purchase price, showing good and merchantable title in Seller to the Property (Title Commitment). Purchaser shall have a period of ten days from date of receipt of such Title Commitment to point out any non-permitted exceptions to the title. The following exceptions shall be considered permitted exceptions and not a non-permitted exception to the title:

1. The exception for ad valorem taxes for the year 1996, which are not yet due and payable.

2. Any discrepancies, conflicts, or shortages in areas or boundary lines, or any encroachments, protrusions, or overlapping of improvements (which exception will be removed if a survey satisfactory to the title company is furnished at the expense of Purchaser).

3. Any liens on the Property to be removed or satisfied at or prior to closing.

4. All visible and recorded easements.

5. The reservation of all oil, gas and other minerals.

Seller shall use its best efforts to cure any non-permitted exceptions to the title pointed out in writing by Purchaser. In the event Seller fails to cure any non-permitted exceptions to the title within a reasonable length of time, this contract, at the election of Purchaser, shall be null and void and of no further force and effect, and Purchaser's remedy shall be to declare this contract null and void and to demand return of the escrow funds. Seller does agree, however, to use all reasonable efforts to cure any non-permitted exceptions to the title. Contemporaneously with closing or within a reasonable length of time thereafter, an owners policy of title insurance in accordance with the terms of the Title Commitment shall be issued to Purchaser. The cost for the title insurance premium shall be at the expense of Seller.

VI.

TAXES

Seller covenants and warrants the payment of all taxes assessed against the Property for the year 1995 and all prior years and will furnish tax certificates showing payment in full of such taxes. Taxes for the year 1996 will be prorated between Seller and Purchaser as of the date of closing.

VII.

CONDITION OF PROPERTY

Purchaser acknowledges to Seller that Purchaser has inspected the Property and any and all improvements situated thereon and accepts the Property and improvements in the condition AS IS AND WITH ALL FAULTS.

Purchaser specifically acknowledges that no warranties or representations have been made by Seller or real estate agent as to:

1. The availability, quantity or quality of underground or surface water.
2. The existence or non-existence of asbestos, underground or above ground storage tanks, hazardous waste, or other toxic or hazardous materials of any kind, or any other environmental condition, or whether the Property is in compliance with applicable laws, rules, and regulations thereof.
3. The manner, construction, condition, and state of repair or lack of repair of any of the improvements on the Property.

PURCHASER HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY AND ALL ACTUAL OR POTENTIAL RIGHTS PURCHASER MIGHT HAVE REGARDING ANY FORM OF WARRANTY, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW REGARDING THE PHYSICAL CONDITION OF THE PROPERTY, THE FITNESS FOR A PARTICULAR PURPOSE RELATING TO THE PROPERTY, OR THE CONDITION OF THE IMPROVEMENTS SITUATED THEREON, IT BEING UNDERSTOOD THAT THIS WAIVER IS ABSOLUTE, COMPLETE, TOTAL, AND UNLIMITED IN ANY WAY.

VIII.

OIL, GAS AND OTHER MINERALS

It is understood and agreed that Seller will be conveying to Purchaser only a surface interest in and to the Property. Seller will retain in the warranty deed performing this contract all of the oil, gas and other minerals in, on or under the Property. For the sole purpose of avoiding any misunderstanding with respect to the reservation of oil, gas and other minerals, it is understood and agreed that oil, gas or other minerals shall not cover or include sand, gravel, caliche, underground or surface water.

IX.

POSSESSION

Possession of the Property will be given to Purchaser as follows:

1. Land planted to growing crops - Upon completion of the mechanical harvesting of each crop.

2. Balance of cultivated land - Upon approval of this contract of sale by the Board of Regents of Seller.

3. House and pasture land - Thirty days after date of closing of this contract of sale.

X.

RISK OF LOSS

All risk of loss to the Property and improvements situated thereon, however occurring, prior to the closing date shall be at the risk of Seller. In the event loss or damage does occur, Seller will either restore the Property or improvements to the condition existing as of the date of this contract or otherwise satisfy Purchaser, or this contract, at the election of Purchaser, shall be null and void and of no further force and effect, and the escrow funds shall be returned to Purchaser.

XI.

DEFAULT

A. By Purchaser -

In the event Purchaser shall fail to fully and timely perform any of their obligations hereunder and complete the purchase of the Property for any reason except for Seller's default or as otherwise provided in this agreement, Seller may:

1. Enforce an action for specific performance of this agreement, or
2. Request the Escrow Agent to pay the escrow funds as liquidated damages to Seller.

B. By Seller -

In the event Seller shall fail to fully and timely perform any of its obligations hereunder and complete the sale of the Property for any reason except for Purchaser's default or as otherwise provided in this agreement, including rejection of this contract by the Board of Regents of Seller, Purchaser may:

1. Enforce an action for specific performance of this agreement, or
2. Request the Escrow Agent to return the Escrow Funds to Purchaser.

XII.

REAL ESTATE COMMISSION

JIMMIE R. GEORGE REAL ESTATE CO., a licensed real estate agency, is the procuring cause of this contract (Real Estate Agent), and Seller and Purchaser hereby covenant and agree to pay Real Estate Agent a real estate commission on closing in cash totaling \$7,680.00. Said real estate commission shall be payable by Seller and Purchaser in the amounts set opposite their names below, to-wit:

SELLER	\$2,680.00
PURCHASER	\$5,000.00.

Real Estate Agent hereby advises Purchaser to require the furnishing of the title evidence as provided in Paragraph V above, and Purchaser hereby acknowledges receipt of such advice by execution of this contract.

XIII.

CLOSING

It is contemplated that this contract will be closed on or before December 1, 1996, or within three days after objections to title have been cured, whichever date is later, at the law offices of BURKETT AND ROSS, 114 South Broadway, Dimmitt, Castro County, Texas 79027.

XIV.

CLOSING EXPENSES

Closing expenses in connection with this sale shall be the responsibility of Seller and Purchaser as follows:

ITEM	SELLER	PURCHASER
Contract of sale	1/2	1/2
Owners policy of title insurance	all	
Curative expense to make title good and merchantable	all	
Survey if requested by Purchaser		all
Warranty deed	all	
Real estate commission	\$2,680.00	\$5,000.00
Closing	1/2	1/2.

Any other costs not otherwise provided for above or elsewhere in this agreement shall be prorated between Seller and Purchaser in

accordance with the usual and accepted custom of allocating costs between Seller and Purchaser.

XV.

MISCELLANEOUS

A. This contract shall be construed under and in accordance with the laws of the State of Texas and is performable under all of its terms in Castro County, Texas.

B. All terms and provisions of this agreement shall survive the closing.

C. This agreement is binding upon the parties hereto, their heirs, successors, and assigns.

DATED effective the day and year first above written.

TEXAS TECH UNIVERSITY

By: _____

Donald Haragan
President

SELLER

Paul David Gabel

James Kent Gabel

PURCHASER

PROPERTY DESCRIPTION

PAUL DAVID GABEL AND JAMES KENT GABEL OFFER TO PURCHASE

THE SURFACE ESTATE ONLY of all of Section 263, Block M-6, SK&K Survey, Castro County, Texas;

TOGETHER with all improvements thereon, including without limitation by enumeration, five underground irrigation wells complete with submersible pumps, underground irrigation flow line, permanent fencing, one two-story residence and unattached garage, complete with domestic water well;

SUBJECT TO all visible and recorded easements which are legally valid; and further

SUBJECT TO any and all prior oil, gas and mineral reservation, if any, of record; and

The reservation of all of the oil, gas and minerals by Texas Tech University.

TEXAS TECH UNIVERSITY BUDGET ADJUSTMENTS - (June 1, 1996 Through August 31, 1996)

NO.	ACTIVITY	SOURCE OF FUNDS			REMARKS
		OTHER	INCOME	EXPENSE	
BOARD APPROVAL:					
ES07650	TTU Band & Orchestra Camp		101,619	101,619	This revenue is primarily generated from fees charged for the TTU Band & Orchestra Camp. Additional revenue realized. Additional revenue realized. Utilization of Fund Balance.
ES07563	Course Fees		158,317	158,317	
ES06704	Communication Services		200,000	200,000	
ES06798	Guided Study	100,000		100,000	
Salary Increases of 10% or more		CURRENT SALARY	NEW SALARY	% INCREASE	
Per Annum:					
NONE					

Chancellor's Remarks

Thank you Mr. Chairman. Thank you for your attention and attendance. I think that there are a number of important items that have been addressed by way of preliminary comments. Let me do two things. I want to introduce our new dean of the Graduate School Dr. David Schmidly. I think that this becomes particularly important with the impressive challenge of establishing 100 new endowed fellowships for the graduate school. We recruited Dr. Schmidly from Texas A&M University at Galveston. The second announce is not a pleasant one. I would like to regretfully announce to the Board that we are losing Dr. Sam Curl, who has for years been the dean of our College of Agriculture and Natural Resources. He has taken an impressive position with one of our other Big 12 schools, Oklahoma State University. I will continuously remind him of the score. But, Sam we will miss you, and we congratulate you on your new impressive job at OSU. I just wanted to bring this to your attention by expressing sincere regards to Dr. Sam Curl.

In conclusion, Mr. Chairman and members of the Board, I thank you for your focus today on an important infusion of energy into our academic mission. I can not tell you how much excitement will be generated by 12 million endowment campaign for new scholarship for our students at TTU and a very important addition of 100 major fellowships to recruit and retain quality graduate students as well as undergraduate students. The infusion should bring about in the neighborhood of about 300 to 400 new scholarships. We will busily begin the endowment match, and I am confident and looking forward to having that in place by the first of the year. That addition coupled with the commitment the additional numbers of chairs you have approved for our HSC and Medical School leads us to a goal of having 20 endowed chairs at our Medical School by January 1st and we are well on our way. We had the spectacular announcement of the \$10 million of endowed chairs last Monday. That coupled with what you have done today will really give us a significant academic boost on this campus. I look forward to other exciting academic announcements. Thank you for your service and your energy.

TEXAS TECH UNIVERSITY
Lubbock, Texas

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Info. Item #1

**TEXAS TECH UNIVERSITY
Lubbock, Texas**

**For Information Only: Teaching Appointments
July 1, 1996 to September 30, 1996**

<u>Name, Rank, and/or Title</u>	<u>Department or Office</u>	<u>Appointment Period</u>
Berg, Jordan M. Assistant Professor	Mechanical Engineering	9/1/96 - 5/31/97
Butner, Bonita K. Assistant Professor	Education	9/1/96 - 5/31/97
Check, Edward F. Assistant Professor	Art	9/1/96 - 5/31/97
Deslippe, Richard J. Visiting Assistant Professor	Biological Sciences	9/1/96 - 5/31/97
Germany, Robin D. Assistant Professor	Art	9/1/96 - 5/31/97
Grace, Marsha Visiting Associate Professor	Education	9/1/96 - 5/31/97
Green, Joe L. Visiting Professor	Education	7/16/96 - 5/31/97
Hart, David W. Visiting Assistant Professor	Business Administration	9/1/96 - 5/31/97
Howard, Patricia A. Visiting Assistant Professor	Sociology, Anthropology, and Social Work	9/1/96 - 5/31/97

<u>Name, Rank, and/or Title</u>	<u>Department or Office</u>	<u>Appointment Period</u>
Kruse, Jamie L. Associate Professor	Economics and Geography	9/1/96 - 5/31/97
Kuhler, Kathleen M. Visiting Assistant Professor	Chemistry and Biochemistry	9/1/96 - 5/31/97
Levy, Dena B. Visiting Assistant Professor	Political Science	9/1/96 - 5/31/97
Lock, Robin H. Assistant Professor	Education	9/1/96 - 5/31/97
Lopez, Emmanuel A. Visiting Associate Professor	Music	9/16/96 - 5/31/97
Markle, Christopher J. Visiting Assistant Professor	Theatre and Dance	9/1/96 - 5/31/97
McGee, Brian R. Visiting Assistant Professor	Communication Studies	9/1/96 - 5/31/97
McGee, Deborah S. Assistant Professor	Communication Studies	9/1/96 - 5/31/97
Michael, Sean E. Visiting Assistant Professor	Landscape Architecture	9/1/96 - 5/31/97
O'Connell, Patrick Visiting Assistant Professor	Classical and Modern Languages and Literatures	9/1/96 - 1/15/97
Owers, David E. Visiting Professor	Architecture	9/1/96 - 10/11/96
Polisenska, Milada Visiting Assistant Professor	History	9/1/96 - 5/31/97

<u>Name, Rank, and/or Title</u>	<u>Department or Office</u>	<u>Appointment Period</u>
Rahnamamoghadam, Mashaalah Associate Professor	Economics and Geography	9/1/96 - 5/31/97
Russ, Randall R. Assistant Professor	Merchandising, Environmental Design, and Consumer Economics	9/1/96 - 5/31/97
Saatcioglu, Omer Visiting Professor	Business Administration	9/1/96 - 5/31/97
Schmidly, David J. Professor and Dean	Graduate School	9/1/96 - 8/31/97
Segall, Richard S. Visiting Assistant Professor	Business Administration	9/1/96 - 5/31/97
Temkin, Henryk Professor and Chairperson	Electrical Engineering	8/1/96 - 5/31/97
Walter, Susan M. Visiting Assistant Professor	Health, Physical Education, and Recreation	9/1/96 - 1/15/97
Wilkins, Judith L. Visiting Assistant Professor	Sociology, Anthropology, and Social Work	9/1/96 - 5/31/97
Young, Cheryl D. Visiting Assistant Professor	Political Science	9/1/96 - 5/31/97

Info. Item #2

**TEXAS TECH UNIVERSITY
Lubbock, Texas**

**For Information Only: Teaching Retirements,
Resignations and/or Terminations
July 1, 1996 to September 30, 1996**

<u>Name, Rank, and/or Title</u>	<u>Department or Office</u>	<u>Effective Date</u>
Austin, Larry M. Professor	Business Administration	8/31/96
Bacon, Thomas I. Associate Professor	Classical and Modern Languages and Literatures	7/31/96
Baker, Elizabeth A. Assistant Professor	Education	7/16/96
Baldwin, Dirk S. Visiting Assistant Professor	Business Administration	8/31/96
Brewer, Charles W. Associate Professor	English	8/31/96
Crider, John R. Associate Professor	English	8/31/96
Everett, Margaret C. Visiting Assistant Professor	Sociology, Anthropology, and Social Work	8/31/96
Farrell, Daniel T. Assistant Professor	Education	8/31/96
Fox, Siegrun F. Assistant Professor	Political Science	8/31/96

<u>Name, Rank, and/or Title</u>	<u>Department or Office</u>	<u>Effective Date</u>
Fukao, Makoto Visiting Associate Professor	Business Administration	8/31/96
Gruver, Bonita M. Assistant Professor	Health, Physical Education, and Recreation	8/31/96
Handa, Rumiko Assistant Professor	Architecture	8/31/96
Heichelheim, Hubert R. Associate Professor	Chemical Engineering	8/31/96
Korn, Helaine J. Assistant Professor	Business Administration	8/31/96
Launchbaugh, Karen L. Assistant Professor	Range, Wildlife, and Fish Management	8/31/96
Lindsey, Pamela F. Assistant Professor	Education	8/31/96
Maddock, Mary D. Assistant Professor	English	8/31/96
Miller, John D. Associate Professor	Mathematics	8/31/96
Mogan, Joseph J. Professor	English	8/31/96
Nunn, Carroll J. Assistant Professor	Mathematics	8/31/96
Owers, David E. Visiting Professor	Architecture	10/11/96

<u>Name, Rank, and/or Title</u>	<u>Department or Office</u>	<u>Effective Date</u>
Reed, Joel Assistant Professor	English	8/31/96
Ropo, Arja M. Visiting Professor	Business Administration	8/31/96
Sommerlad, Elizabeth W. Associate Professor	English	8/31/96
Sorensen, George W. Professor	Theatre and Dance	7/31/96
Talalayusky, Alexander Visiting Assistant Professor	Business Administration	8/31/96
Van Buskirk, Joseph Assistant Professor	Biological Sciences	8/31/96
Vaughan, Mary Ann Associate Professor	Music	7/15/96
Wray, Warren K. Professor and Chairperson	Civil Engineering	7/31/96
Zhang, Xiaoming Visiting Assistant Professor	History	8/31/96

BUDGET ADJUSTMENTS OF \$100,000 OR MORE FOR
SUPPLEMENTAL AWARDS OR RENEWALS OF RESEARCH
AND OTHER SPONSORED PROJECTS

Info. Item #1

JUNE 1, 1996 THROUGH AUGUST 31, 1996

Project Activity	Amount	Source of Funds
FSEOG Grant; Matching for 1817-46-3111	254,300	DOC ID #ES06577; Transfer from 1817-46-3111
Thermal and Water Stress and Economic Water Conservation in Crops	147,000 revised: 397,000	DOC ID #ES06404; US Dept. Of Agriculture Coop Agreement #58-6208-5-021; CFDA #10.001 Amend. 3
IPA Agreement - Randall D. Peters	104,035	DOC ID #ES06277; US Military Academy West Point; CFDA #27.011
High Resolution Microwave Diagnostic System	144,684	DOC ID #ES07600; US Air Force CFDA #12.630; Grant #F49620-96-1-0388
Tri-University Multidisciplinary, High Energy Microwave Device Consortium	805,134 revised: 1,999,921	DOC ID #ES06321; AFSOR/MURI; Contract #F49620-95-1-033
Program to Prepare Orientation and Mobility Specialists for Rural Areas	117,420	DOC ID #ES06564; Dept. of Education; Award #H029A30041-95; CFDA #84.029A
Personnel Preparation of Teachers of Students Who are Visually Handicapped	107,869	DOC ID #LB01951; Dept. of Education; #H029A30050; CFDA #84.029A
Upward Bound	173,023 revised: 346,046	DOC ID #LM04513; (revised revision: DOC ID #ES06540); Dept. of Education; #P047A50425; CFDA #84.047A
Performance and Reliability/Availability Models for the Analysis of Distributed Systems	137,732	DOC ID #ES06753; National Science Foundation; CFDA #47.070; Grant #CCR-9520226
Symmetry Induced Kinetic Isotope Effects	102,700	DOC ID #ES06377; National Science Foundation; CFDA #47.049; CHE-9521008
Head Start Technical Assistance Support Center - TX and NM	1,182,464	DOC ID #LM06019; Dept. Of Health and Human Services; Contract #105-93-1588; CFDA #93.00
Federal Work Study - Biweekly 96-97	904,572	DOC ID #ES06608; Federal Grants
Federal Work Study - Monthly 96-97	239,581	DOC ID #LM05285; Source of funds: 1326-46-3108
Pantex Environmental Restoration Master	265,407 revised: 601,306	DOC ID #LM04515; Dept. of Defense

BUDGET ADJUSTMENTS OF \$100,000 OR MORE FOR
SUPPLEMENTAL AWARDS OR RENEWALS OF RESEARCH
AND OTHER SPONSORED PROJECTS

JUNE 1, 1996 THROUGH AUGUST 31, 1996

Project Activity	Amount	Source of Funds
Evaluation of Experimental and Theoretical Possibilities	502,262 revised: 581,083	DOC ID #ES07054; Acct was originally set up incorrectly; this is a master acct with 6 sub accounts
Robotics, Automation & Tele-Operation Program for Safe Handling	353,288 revised: 934,371	DOC ID #LM05818; Texas Engineering Experiment Station; CFDA #81.000; Amend. #5;
Academic Intervention	134,686 revised: 231,333	DOC ID #ES06491; Source of Funds: 1350-44-9853
Project Management	270,745 revised: 1,834,841	DOC ID #ES06490; University of Texas at Austin UTA-95-0206; Amend. #6; CFDA #81.000
K-16 Planning Grant - ANRCP	130,585 revised: 264,372	DOC ID #ES07105; Sub account of 1350-44-9853
Program to Reduce Energy Use and Costs for Rural Health Care Facilities	189,164	DOC ID #ES06440; State Energy Conservation Office (SECO)
CLICK Project	155,773 revised: 420,214	DOC ID #LM05788; The CH Foundation
Undergraduate Biological Sciences Education Initiative	243,537 revised: 1,514,164	DOC ID #ES07662; Gifts & Grants
HHMI - Student Development	191,174 revised: 887,134	DOC ID #ES07660 (revised revision: DOC ID #LM06080); Source of Funds: 1471-44-7835
Hulen Trust Fund	543,727	DOC ID #LM06091; Gifts & Grants from Private Sources
Home Economics Curriculum Center 1997 Support	205,000	DOC ID #ES06607; From 1772-44-6252
Federal Supplemental Education Opportunity Grant 96-97	762,697	DOC ID #ES06574; Federal Grants & Contract
Federal Pell Grant 96-97	6,500,000	DOC ID #ES06575; Federal Grants & Contract
Business Administration Landscape Project - Matching	113,000	DOC ID #LM05124; Private Gifts & Grants

Texas Tech University
Report of Official Travel
Cumulative by Fiscal Quarter
Fiscal Year 1996

Info. Item #2

I. Summary and Comparison of Travel Costs by Expenditure Classification.

	This Year <u>Quarters I, II, III & IV</u>	Last Year <u>Quarters I, II, III & IV</u>
(a) Commercial Airfare	\$ 1,280,161.50	\$ 1,203,193.28
(b) Personal Auto Mileage	201,518.06	179,190.05
(c) Automobile Rental	239,483.46	201,991.88
(d) Per Diem (In-State)	516,672.25	388,978.40
(e) Meals and Lodging (Out-of-State)	830,351.10	711,912.07
(f) All other, including registration fees, charter aircraft, taxi, limousine fares, etc.	<u>644,613.64</u>	<u>565,991.76</u>
Sub-Total	<u>\$3,712,800.01</u>	<u>\$3,251,257.44</u>
(g) Intercollegiate Athletic Team/ Student Group Travel*	<u>1,307,569.12</u>	<u>1,566,229.52</u>
Totals	<u>\$5,020,369.13</u>	<u>\$4,817,486.96</u>

II. Percent of total travel cost incurred by purpose for Quarters I, II, III & IV of this fiscal year.

	<u>Percent of Total Travel Cost</u>			
	<u>In-State</u>	<u>Out-of- State</u>	<u>Out-of- Country</u>	<u>Total</u>
(a) To present an original research paper	.41	2.67	.54	3.62
(b) Required for research project	2.22	1.99	.86	5.07
(c) Attendance at professional meeting, workshop, conference, seminar, etc.	26.64	35.99	5.61	68.24
(d) To perform official business and duties	9.97	6.52	.77	17.26
(e) Multi-purpose meeting/paper	<u>1.10</u>	<u>3.35</u>	<u>1.36</u>	<u>5.81</u>
Totals	<u>40.34</u>	<u>50.52</u>	<u>9.14</u>	<u>100.00</u>

*Includes travel expenditures for the Copper Bowl in 1996 and the Cotton Bowl in 1995.

Texas Tech University
Report of Official Travel
Page 2

III. Cities traveled to and number of trips (7,773) for the purposes shown in Section II and for Quarters I, II, III & IV:

- (a) In-State : Dallas/Fort Worth (1,101); Austin (763); West Texas Area (853); Houston (411); San Antonio (293); Amarillo (288); El Paso (150); College Station (112); Midland/Odessa (98); Sierra Blanca (38); Others (745).
- (b) Out-of-State : Washington, D.C. (154); New Orleans (134); Albuquerque (132); Chicago (109); Atlanta (79); New York (71); St. Louis (71); Kansas City (62); Orlando (62); Denver (61); Phoenix (56); Boston (54); Nashville (53); Oklahoma City (53); San Diego (49); San Francisco (48); Santa Fe (38); Las Vegas (33); Tucson (33); Portland (32); Indianapolis (26); Los Angeles (25); Tulsa (25); Others (1,232).
- (c) Out-of-Country: Vancouver, Canada (19); Puebla, Mexico (15); Mexico City, Mexico (15); Oaxaca, Mexico (11); Banff, Canada (8); Toronto, Canada (8); London, England (6); Edmonton, Canada (5); Beijing, China (5); Ottawa, Canada (4); Guanajuato, Mexico (4); Monterrey, Mexico (4); Christ Church, New Zealand (4); Victoria, Canada (3); Taipei, China (3); Addis Ababa, Ethiopia (3); Paris, France (3); Puerto Vallarta, Mexico (3); Stuttgart, Germany (3); Moscow, Russia (3); Geneva, Switzerland (3); Zurich, Switzerland (3); Chilton, United Kingdom (3); Hanoi, Vietnam (3); Brisbane, Australia (2); Sydney, Australia (2); Sao Paulo, Brazil (2); Calgary, Canada (2); Shanghai, China (2); Frankfurt, Germany (2); Oberwölfach, Germany (2); Wilhelmshaven, Germany (2); Amritsar, India (2); Vicenza, Italy (2); Tokyo, Japan (2); Chihuahua, Mexico (2); San Luis Potosi, Mexico (2); Trondheim, Norway (2); El Verde, Puerto Rico (2); San Juan, Puerto Rico (2); Madrid, Spain (2); Valencia, Spain (2); Istanbul, Turkey (2); Stracholissia, Ukraine (2); Manchester, United Kingdom (2); Harare, Africa (1); Costa Rica, Argentina (1); Perth, Australia (1); Vienna, Austria (1); Brussels, Belgium (1); Gent, Belgium (1); Montreal, Canada (1); Santiago, Chile (1); Havana, Cuba (1); Birmingham, England (1); Marseille, France (1); Berlin, Germany (1); Bremen, Germany (1); Belize, Belize City, Honduras (1); Taipei, Taiwan, Hong Kong (1); Varanasi, Bangalore, India (1); Rehovot, Israel (1); Milan, Italy (1); Rome, Italy (1); Kingston, Jamaica (1); Kyoto, Japan (1); Musashino City, Japan (1); Cancun, Mexico (1); Cuernavaca, Mexico (1); Durango, Mexico (1); Morelos, Mexico (1); Amsterdam, Netherlands (1); Groningen, Netherlands (1); Leiden, Netherlands (1); Utrecht, Netherlands (1); Auckland, New Zealand (1); Honefoss, Norway (1); Asuncion, Paraguay (1); San Lorenzo, Paraguay (1); Manila, Philippines (1); Rio Piedras, Puerto Rico (1); Bucharest, Romania (1); St. Petersburg, Russia (1); Cadiz, Spain (1); Huelva, Spain (1); Seville, Spain (1); Stockholm, Sweden (1); Ankara, Turkey (1); Brighton, United Kingdom (1); Oxfordshire, United Kingdom (1); Cumana, Venezuela (1).

TEXAS TECH UNIVERSITY
 Summary of Revenues by Budget Category - Fiscal Year 1996
 August 31, 1996

Info. Item #3

	Current Budget	Historical Norm	Year-to-Date Actual	Actual to Historical Norm Over(Under)	Actual %	Historical %
EDUCATIONAL AND GENERAL						
General Revenue	\$ 85,275,962	\$ 85,275,962	\$ 84,611,087	\$ (664,875)	99.22%	100.00%
TASP Funds-Special Appropriation	158,396	158,396	158,396	0	100.00%	100.00%
Tuition, net	18,796,824	18,796,824	19,982,369	1,185,545 (1)	106.31%	100.00%
Fees	1,094,480	1,094,480	1,142,906	48,426	104.42%	100.00%
Sales and Services	66,073	66,073	81,797	15,724	123.80%	100.00%
Indirect Cost, net	1,998,987	1,998,987	2,662,535	663,548	133.19%	100.00%
Organized Activities	182,548	190,468	194,536	4,068	106.57%	104.34%
Extension Courses	702,725	702,725	705,808	3,083	100.44%	100.00%
Time Deposit Interest	1,083,675	1,083,675	2,886,635	1,802,960 (2)	266.37%	100.00%
Miscellaneous	102,312	102,312	123,696	21,384	120.90%	100.00%
HEAF	16,887,085	16,887,085	16,887,085	0	100.00%	100.00%
Graduate Tuition	3,395,936	3,395,936	3,367,372	(28,564)	99.16%	100.00%
Authorized Carryforwards	9,122,913	9,122,913	9,122,913	0	100.00%	100.00%
TOTAL EDUCATIONAL AND GENERAL	\$ 138,867,916	\$ 138,875,836	\$ 141,927,135	\$ 3,051,299	102.20%	100.01%
DESIGNATED FUNDS						
General Designated-Pledged	\$ 40,861,969	\$ 40,861,969	\$ 41,236,280	\$ 374,311	100.92%	100.00%
General Designated-Unpledged	31,990,137	31,990,137	32,933,699	943,562	102.95%	100.00%
Designated Service Departments	20,684,121	20,684,121	21,269,129	585,008	102.83%	100.00%
Authorized Carryforwards	13,936,328	18,015,765	18,015,765	0	129.27%	129.27%
TOTAL DESIGNATED FUNDS	\$ 107,472,555	\$ 111,551,992	\$ 113,454,873	\$ 1,902,881	105.57%	103.80%
AUXILIARY FUNDS						
Pledged Auxiliary Funds	\$ 50,615,328	\$ 50,615,328	\$ 50,274,014	\$ (341,314)	99.33%	100.00%
Authorized Carryforwards	2,759,373	3,007,021	3,007,021	0	108.97%	108.97%
TOTAL AUXILIARY FUNDS	\$ 53,374,701	\$ 53,622,349	\$ 53,281,035	\$ (341,314)	99.82%	100.46%
CURRENT RESTRICTED FUNDS						
CONTRACTS, GRANTS, AND GENERAL						
Federal Programs	\$ 10,619,100	\$ 10,619,100	\$ 11,398,506	\$ 779,406	107.34%	100.00%
State Programs	1,856,800	1,856,800	1,641,308	(215,492)	88.39%	100.00%
Private Programs	12,325,700	12,325,700	12,934,644	608,944	104.94%	100.00%
TOTAL CONTRACTS, GRANTS, AND GENERAL	\$ 24,801,600	\$ 24,801,600	\$ 25,974,458	\$ 1,172,858	104.73%	100.00%
STUDENT AID						
Federal Financial Aid	\$ 8,300,000	\$ 8,300,000	\$ 8,545,304	\$ 245,304	102.96%	100.00%
Scholarships and Fellowships	2,463,100	2,463,100	3,073,863	610,763	124.80%	100.00%
TOTAL STUDENT AID	\$ 10,763,100	\$ 10,763,100	\$ 11,619,167	\$ 856,067	107.95%	100.00%
TOTAL CURRENT RESTRICTED FUNDS	\$ 35,564,700	\$ 35,564,700	\$ 37,593,625	\$ 2,028,925	105.70%	100.00%
TOTAL REVENUES	\$ 335,279,872	\$ 339,614,877	\$ 346,256,668	\$ 6,641,791	103.27%	101.29%

TEXAS TECH UNIVERSITY
Summary of Expenditures by Budget Category - Fiscal Year 1996
August 31, 1996

	Current Budget	Historical Norm	Year-to-Date Actual	Actual to Historical Norm Over(Under)	Actual %	Historical %
EDUCATIONAL AND GENERAL						
General Administration	\$ 5,437,408	\$ 5,437,408	\$ 5,045,563	\$ (391,845)	92.79%	100.00%
General Institutional Expense	1,718,478	1,718,478	1,570,063	(148,415)	91.36%	100.00%
Staff Benefits	5,051,109	5,051,109	4,197,653	(853,456)	83.10%	100.00%
OASI	1,566,984	1,566,984	1,577,765	10,781	100.69%	100.00%
Faculty Salaries	50,910,660	50,910,660	50,721,177	(189,483)	99.63%	100.00%
Departmental Operating Expense	8,207,604	8,207,604	8,028,187	(179,417)	97.81%	100.00%
Instructional Administration	3,190,708	3,190,708	3,178,607	(12,101)	99.62%	100.00%
Library	2,770,288	2,770,288	2,769,383	(925)	99.97%	100.00%
Organized Research	2,155,973	2,155,973	1,451,780	(704,193)	67.34%	100.00%
Physical Plant	9,024,015	9,024,015	8,502,423	(521,592)	94.22%	100.00%
Purchased Utilities	10,180,539	10,180,539	9,333,739	(846,800)	91.68%	100.00%
Scholarships	190,848	190,848	189,315	(1,533)	99.20%	100.00%
Special Items	5,053,661	5,053,661	4,876,234	(177,427)	96.49%	100.00%
International Cultural Center	899,811	899,811	475,855	(423,956)	52.88%	100.00%
West Texas Legal Resource Center	3,136,907	3,136,907	3,135,902	(1,005)	99.97%	100.00%
Bond Retirement	4,384,902	4,384,902	4,114,653	(270,249)	93.84%	100.00%
Other	2,673,051	2,673,051	1,953,671	(719,380)	73.09%	100.00%
HEAF	18,158,635	18,158,635	18,009,857	(148,778)	99.18%	100.00%
Graduate Tuition	4,156,335	4,156,335	3,243,232	(913,103)	78.03%	100.00%
TOTAL EDUCATIONAL AND GENERAL	\$ 138,867,916	\$ 138,867,916	\$ 132,375,039	\$ (6,492,877)	95.32%	100.00%
DESIGNATED FUNDS						
General Designated-Pledged	\$ 51,837,985	\$ 51,837,985	\$ 52,431,439	\$ 593,454	101.14%	100.00%
General Designated-Unpledged	33,820,358	33,820,358	33,731,863	(88,495)	99.74%	100.00%
Designated Service Departments	21,814,212	21,814,212	21,518,547	(295,665)	98.64%	100.00%
TOTAL DESIGNATED FUNDS	\$ 107,472,555	\$ 107,472,555	\$ 107,681,849	\$ 209,294	100.19%	100.00%
AUXILIARY FUNDS						
Pledged Auxiliary Funds	\$ 53,374,701	\$ 53,374,701	\$ 53,305,749	\$ (68,952)	99.87%	100.00%
TOTAL AUXILIARY FUNDS	\$ 53,374,701	\$ 53,374,701	\$ 53,305,749	\$ (68,952)	99.87%	100.00%
CURRENT RESTRICTED FUNDS						
CONTRACTS, GRANTS, AND GENERAL						
Federal Programs	\$ 10,619,100	\$ 10,619,100	\$ 11,080,018	\$ 460,918	104.34%	100.00%
State Programs	1,856,800	1,856,800	1,577,335	(279,465)	84.95%	100.00%
Private Programs	12,325,700	12,325,700	13,100,782	775,082	106.29%	100.00%
TOTAL CONTRACTS, GRANTS, AND GENERAL	\$ 24,801,600	\$ 24,801,600	\$ 25,758,135	\$ 956,535	103.86%	100.00%
STUDENT AID						
Federal Financial Aid	\$ 8,300,000	\$ 8,300,000	\$ 8,780,424	\$ 480,424	105.79%	100.00%
Scholarships and Fellowships	2,463,100	2,463,100	2,584,470	121,370	104.93%	100.00%
TOTAL STUDENT AID	\$ 10,763,100	\$ 10,763,100	\$ 11,364,894	\$ 601,794	105.59%	100.00%
TOTAL CURRENT RESTRICTED FUNDS	\$ 35,564,700	\$ 35,564,700	\$ 37,123,029	\$ 1,558,329	104.38%	100.00%
TOTAL EXPENDITURES	\$ 335,279,872	\$ 335,279,872	\$ 330,485,666	\$ (4,794,206)	98.57%	100.00%
NET REVENUES OVER (UNDER)	\$ 0		\$ 15,771,002			

NOTE: SEE PAGE 3 OF 3 FOR MAJOR VARIANCE EXPLANATIONS.

TEXAS TECH UNIVERSITY
Explanation of Revenue and Expenditure Variances – Fiscal Year 1996
August 31, 1996

VARIANCES ARE DUE TO:

- (1) Increase in Semester Credit Hours and smaller mandatory transfers than anticipated.
- (2) Balances available for investment greater than originally budgeted.

**Report of Award of Contracts
to Minority-owned and Women-owned Business
for the Cost of Issuance of Bonds
and the Items to be Financed By Such Bonds**

Info. Item #4

Section 55.03 of Chapter 55, "Financing Permanent Improvement" of the Texas Education Code provides that an institution of higher education make a good faith effort to award at least 25 percent of the total cost of issuing bonds and 25 percent of the items to be financed from such bonds to minority-owned and women-owned businesses (HUBs). The statute further provides that a written report of the award of these contracts be filed with the governor and each house of the legislature by October 31 of each academic year.

During the academic year 1995 Texas Tech University and Texas Tech University Health Sciences Center issued bonds in the amount of \$25,000,000 entitled, "Board of Regents Texas Tech University Revenue Financing System Bonds, Series (1995)."

As of August 31, 1996, a total of \$9,272,730.52 of the bond proceeds had been spent on construction projects. Of that amount, \$478,716.00 or 5.15% of the total expenditures had been spent with minority businesses. Six (6) contracts have been awarded for a total of \$17,561,784. One (1) contract in the amount of \$492,000 was awarded to a HUB architect (Asian American male).

Texas Tech University
Board of Regents
Compliance With The Relationship Policy

Info. Item #5

November 8, 1996

<u>Employee</u>	<u>Administrative Supervisor</u>	<u>Relationship</u>
Franklin A. (Rick) Dykes Assistant Athletic Coach Athletics	William T. (Spike) Dykes Head Coach Athletics	Child
Cheryl Shubert Coordinator Student Activities University Center	Thomas Shubert Director University Center	Spouse
Craig G. White Teaching Assistant College of Business Administration	Gary E. White Professor/Director Accounting Programs College of Business Administration	Child

Info. Item #6

Board of Regents
Texas Tech University
November 8, 1996

Information Item

Statement of Pertinent Facts:

Board of Regent Policy 04.12 states that "use of Texas Tech University standardized division order forms will be required for all division orders." The Texas Legislature has adopted a standard division order to be used for oil and gas production within the State of Texas. The form is set out in full at Texas Natural Resources Code Section 91.402. This division order differs somewhat from the division order form that has been used by Texas Tech University. By statute, refusal to use the statutory division order form is grounds for the payor to refuse to pay the owner of a producing property. On September 18, 1996, the Development Office began using the statutory standardized division order.

Info. Item #3a

**AMENDMENT TO LICENSE AGREEMENT
DATED MARCH 25, 1991
AND
AGREEMENT FOR SOFTWARE SUPPORT, MAINTENANCE AND UPDATE SERVICE
DATED MARCH 25, 1991
BETWEEN
DATA RESEARCH ASSOCIATES, INC.
AND
TEXAS TECH UNIVERSITY**

THIS AMENDMENT, dated this 22nd day of July, 1996 by and between **DATA RESEARCH ASSOCIATES, INC.** ("Data Research"), a Missouri corporation, and **TEXAS TECH UNIVERSITY** ("Customer") is for the purpose of modifying that certain License Agreement between the parties dated the March 25, 1991 ("Agreement") and Agreement for Software Support, Maintenance and Update Service dated March 25, 1991 ("Support Agreement") to permit the transfer of Applications Software licenses to a different processor, in accordance with the provisions herein.

WHEREAS, Customer has purchased from Data Research, licenses for the Applications Software modules known as **MAR, CIR, PAC, ACQ, SER and MAR-HOLD** ("Licensed Software") for use on Customer's **VAX 6510/8650/780** processors, pursuant to the Agreement; and

WHEREAS, Customer desires to transfer the Licensed Software to Customer's **AlphaServer 2100** processor;

THEREFORE, in consideration of the covenants herein and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. Data Research hereby agrees to the transfer of Customer's Licensed Software licenses granted for use by Customer on Customer's **VAX 6510/8650/780** processors in the Agreement between the parties, to Customer's **AlphaServer 2100** processor, for use by Customer pursuant to the provisions of the Agreement and the provisions stated herein.
2. Customer and Data Research agree that the **AlphaServer 2100** shall be the only processor licensed to run the Licensed Software. Following transfer of the Licensed Software to Customer's **AlphaServer 2100** processor, Customer shall certify in writing to Data Research that all copies of the Licensed Software on the original system have been destroyed.
3. Customer agrees to pay a transfer processing fee in the amount of five hundred dollars (\$500.00) for this software license transfer.

Customer shall not be assessed additional license fees for the transfer of these software licenses, provided that Customer does not use the Licensed Software on more than **two hundred (200) Simultaneous Sessions**. In the event that Customer desires to use the Licensed Software on more than **two hundred (200) Simultaneous Sessions**, Customer shall provide written notice to Data Research of such intent. In such event, Data Research may charge Customer additional license fees.

Failure to comply with the restrictions of this paragraph shall be grounds for termination of the software licenses granted.

4. Customer agrees that Appendix A of the Support Agreement shall be amended to include the monthly maintenance fees stated in Appendix A herein, which shall apply in lieu of those being paid, beginning thirty (30) days following execution of this Agreement.
5. The license for the Report Generator product will be transferred to the new processor pursuant to separate agreements, in consideration of the fees stated in Appendix A herein.

6. The provisions of this Agreement may only be modified in writing, and is binding only if executed by the President of Data Research, and a representative of Customer authorized to execute legally binding agreements on Customer's behalf. In the event of a conflict between the terms of this Agreement, and the terms of any Purchase Order issued by Customer, the provisions of this Agreement shall control.

Except as hereinabove amended, the Agreement and the Support Agreement between the parties are unchanged, and remain in full force and effect.

TEXAS TECH UNIVERSITY

By: 

Title: Donald R. Haragan
Interim President *HR*

DATA RESEARCH ASSOCIATES, INC.

By: 

Michael J. Mellinger
President and CEO

Appendix A

Data Research Associates, Inc. Price Quotation

Prepared for:

Texas Tech

DRA Software

	Unit Price	Total Price	Maint/mo.
1 ea. MAR-200U Cataloging Software License Includes batch and realtime transfer of records from bibliographic utilities. Warranty code: DRS	45,200.00	45,200.00	452
1 ea. CIR-200U Circulation Software License. Includes Reserve Book Room module and Inventory Control. Warranty Code: DRS	40,200.00	40,200.00	402
1 ea. PAC-200U Public Access Software License. Includes capability to gateway to other databases as well as the Information and Referral module. Warranty Code: DRS	30,400.00	30,400.00	304
1 ea. ACQ-200U Acquisitions Software License. Warranty code: DRS	30,400.00	30,400.00	304
1 ea. SER-200U Serials Software License. Warranty code: DRS	30,400.00	30,400.00	304
1 ea. MAR-HOLD200U MARC Format for Holdings Data software. Includes initial creation of holdings records. Warranty code: DRS	20,100.00	20,100.00	201
1 ea. SFTWRE-ALLOW Allowance for software previously purchased from Data Research Associates.	-196,700.00	196,700.00-	0
1 ea. TRANS-FEE License transfer processing fee.	500.00	500.00	0
Subtotal for DRA		\$500.00	\$1,967

(continued on next page)

Third Party Software

1 ea. REP-GEN-200U Report Writer Software License.			
Warranty code: S90			
	29,000.00	29,000.00	363
1 ea. SFTWRE-ALLOW Allowance for software previously purchased from Data Research Associates.			
	-29,000.00	29,000.00-	0
1 ea. TRANS-FEE License transfer processing fee.			
	750.00	750.00	0
Subtotal for Third Party Software		\$750.00	\$363

TOTAL		\$1,250.00	\$2,330
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Total ports used:	0
Total disk in MB:	0
Total memory in KB:	0
Total terminal ports:	0

If this quotation is offered as part of a bid or proposal, the conditions shown in that proposal shall govern. Otherwise, unless shown on the face of this quotation or modified in writing, this quotation:

1. expires in sixty days from the date below.
2. is subject to DRA standard terms and conditions.
3. excludes any applicable federal, state, or local taxes.
4. is priced F.O.B. manufacturer's plant or warehouse.

Source file: DISK7:[QUOTE]TEXAS TECH_SWO.DAT;7
Prepared 21-MAY-1996 11:03:13.75

AGREEMENT

THIS AGREEMENT, made and entered into by and between Texas Tech University, Lubbock, Texas, hereinafter referred to as University and American State Bank, Lubbock, Texas, hereinafter referred to as Contractor.

WHEREAS, the Contractor is desirous of providing a Banking Facility on campus and the University is desirous of providing such facility for use by its faculty, staff and students:

NOW THEREFORE, in consideration of the premises and promises herein contained, the parties do hereby agree to the following:

1. BANKING SERVICES

The Contractor will provide the following services:

- (a) Student Loans
- (b) Standard Checking Accounts
- (c) Interest Checking Accounts
- (d) Money Market Accounts
- (e) Savings Accounts
- (f) Visa and MasterCard
- (g) ~~Preferred Plus Line of Credit~~ Liberty Line of Credit
- (h) Automatic Teller Machine and Cards (~~IMPACT~~) (Tillie)
- (i) Travelers Checks
- (j) Money Orders
- (k) Certificates of Deposit

Additional services may be provided in the future as they become available and upon being mutually agreed to by both parties.

2. OPERATIONS

The Contractor's operating hours shall be 8:30 A.M. to 5:00 P.M., Monday through Friday. All banking holidays will be observed, however, the Contractor may operate on the University's schedule if a variation is obtained.

The Contractor shall, at all times, comply with all Federal, State and Local regulations and be responsible for obtaining all licenses and permits and payment of all taxes respectively.

3. DESCRIPTION OF SPACE

The Banking Facility shall be located in the University Center in a space containing approximately 657 square feet. (See Attachment A)

4. **LEASE AMOUNT**

The annual lease amount shall be \$43,200.00, which will be paid \$3,600.00 monthly. Payments are due in advance on or before the 5th day of the month and are to be mailed to: Director, University Center, Texas Tech University, Box 42031, Lubbock, Texas 79409-2031.

5. **AUTOMATED TELLER MACHINES (ATM)**

The University reserves the right to lease space for the operations of ATM's. The Contractor may install and operate an ATM without the charge of a rental fee.

The specific location must be mutually agreed upon by the Contractor, University Center and Facility Planning and Construction Office.

6. **UTILITY SERVICE**

The University Center will provide sufficient electrical service and heating, ventilation and air conditioning (HVAC) through the existing systems to the Contractor at no cost. Any changes or upgrading of the HVAC system will be at the expense of the leasing institution. Telephone service will be specified and paid for by the Contractor.

7. **MAINTENANCE AND REPAIR**

All maintenance and repair of the area will be the responsibility of the Contractor with the exception of the structure (foundation, floors, walls, windows, ceiling and roof) and electrical delivery system (electrical panels, wiring, lighting instruments and receptacles). Should the Contractor elect to replace functioning lighting fixtures or expand or upgrade existing electrical service, this will be at their expense. The Contractor will provide reasonable access to the University Center staff for the purpose of making alterations and repairs to any components of the structure and electrical system as necessary. Reasonable access will also be granted to the telephone panel located in the 38 square feet closet and the electrical panel in the 27 square feet closet on Attachment C.

8. **IMPROVEMENTS**

Any improvements to the space by the Contractor prior to the time of occupancy, or thereafter, will be paid for by the Contractor. Plans for remodeling must have the approval of the University Center and the Facility Planning and Construction Office and are subject to all prevailing codes. Code information requests should be addressed to the Facility Planning and Construction Office. Subsequent improvements and alterations will be subject to the same procedures. All alterations, additions, and improvements, with the exception of removable fixtures, furniture, furnishings, appliances, and equipment, will become the property of the University without any obligation to pay therefor. Contractor may be required to restore the leased premises to the same condition that it was prior to the agreement at the University's option upon expiration of the contract.

9. **SIGNAGE**

Plans for proposed interior signage must be approved by the University Center and Facility Planning and Construction Office prior to erection. No exterior signage will be permitted.

10. **CUSTODIAL SERVICES**

The University Center will provide customary custodial services as part of this agreement. Contractor must provide the University Center staff reasonable access to the lease space, if they desire such services.

11. **PARKING**

Reserved parking spaces will be made available to all staff assigned to the University Center branch banking operation at the prevailing rate charged to Faculty and Staff. Armored services vehicles are allowed to park curbside adjacent to the building to transact their business. Guests visiting the facility will be issued guest passes at the entry stations and allowed to park in visitor's lots near the building.

12. **SECURITY OF PREMISES**

The University Center will provide best efforts to maintain the security of the building. Contractor shall be fully responsible for the security of all leased spaces, alarms and locks. A list of all individuals who have access to the space must be on file with the University Center and the Department of Police Services. The University may require that one set of keys allowing access to the space be in the custody of the Department of Police Services in case of emergencies. Keys to the exterior doors of the building will be issued to a limited number of individuals on the bank staff upon request. All necessary alarms and security devices will be installed at the expense of the Contractor.

13. **ASSIGNMENT & SUBLETTING**

The branch banking operations will not be transferrable or assignable except upon written approval of the University.

14. INSURANCE COVERAGE REQUIREMENTS

The Contractor will be required to furnish insurance certificates providing the following coverage:

<u>TYPE OF COVERAGE</u>		<u>LIMITS OF LIABILITY</u>	
1.	Worker's Compensation	Statutory	
2.	Employer's Liability	\$100,000 each occurrence	\$300,000 aggregate
3.	Comprehensive General Liability		
	a. Bodily Injury		\$500,000 each occurrence
	b. Property Damage	\$100,000 each occurrence	\$300,000 aggregate
4.	Comprehensive Automobile Liability		
	a. Bodily Injury	\$300,000 each person	\$500,000 each occurrence
	b. Property Damage	\$300,000 each occurrence	

All coverage must be provided on an occurrence basis, rather than claims made, and be provided through companies who have a minimal "Best's" rating of B+ with a financial size category of VI.

15. HOLD HARMLESS CLAUSE

The Contractor agrees to hold harmless and indemnify the University against any and all loss, cost (Including attorney's fees), charge, claim, demand, damage or expense of every nature or kind which may arise from the Contractor's operations and occupancy of the lease premises.

16. VENUE

This agreement shall be construed in accordance with the laws of the State of Texas.

17. CANCELLATION CLAUSE

The banking service agreement may be cancelled by either party upon ninety (90) days written notice.

18. **EXCLUSIVITY**

There shall be no other banking facilities operating on the campus with the exception of the Texas Tech Federal Credit Union, which is currently in operation.

19. **TERM OF AGREEMENT**

This agreement will become effective upon the signing of both parties for a term of three (3) years, beginning September 1, 1996, through August 31, 1999. Two extensions of two years each may be executed upon mutual agreement.

IN WITNESS THEREOF, the parties hereto have executed this contract at Lubbock, Texas, in duplicate, each of which shall be considered an original.

TEXAS TECH UNIVERSITY

By: _____

Donald Haragan, Interim President

Date: 6/10/96

AMERICAN STATE BANK

By: _____

Date: 6/19/96

REVIEWED FOR FISCAL IMPLICATIONS

By: _____

Jim Brunjes, Interim Vice President
For Fiscal Affairs

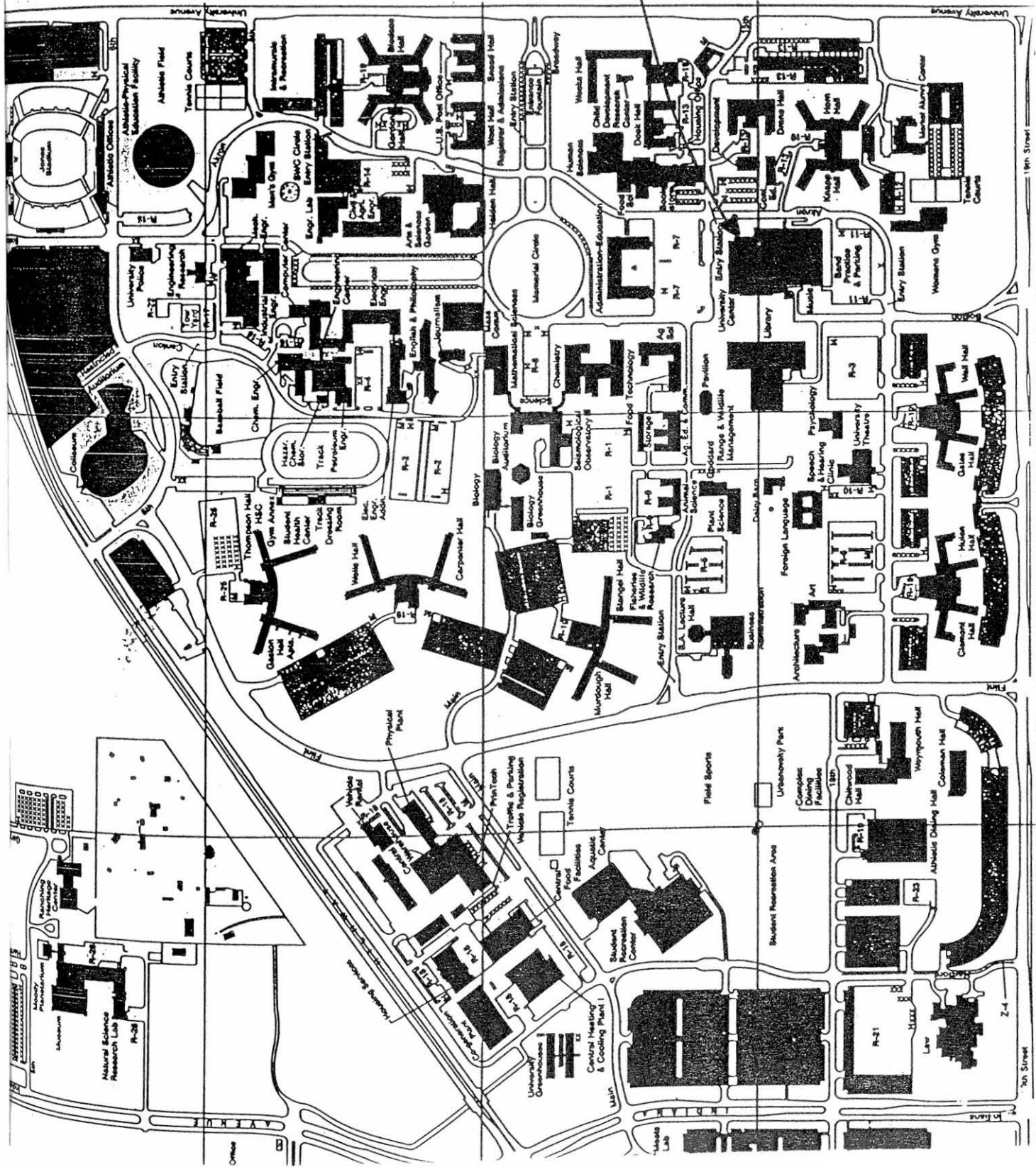
Date: 6/10/96

REVIEWED FOR FORM

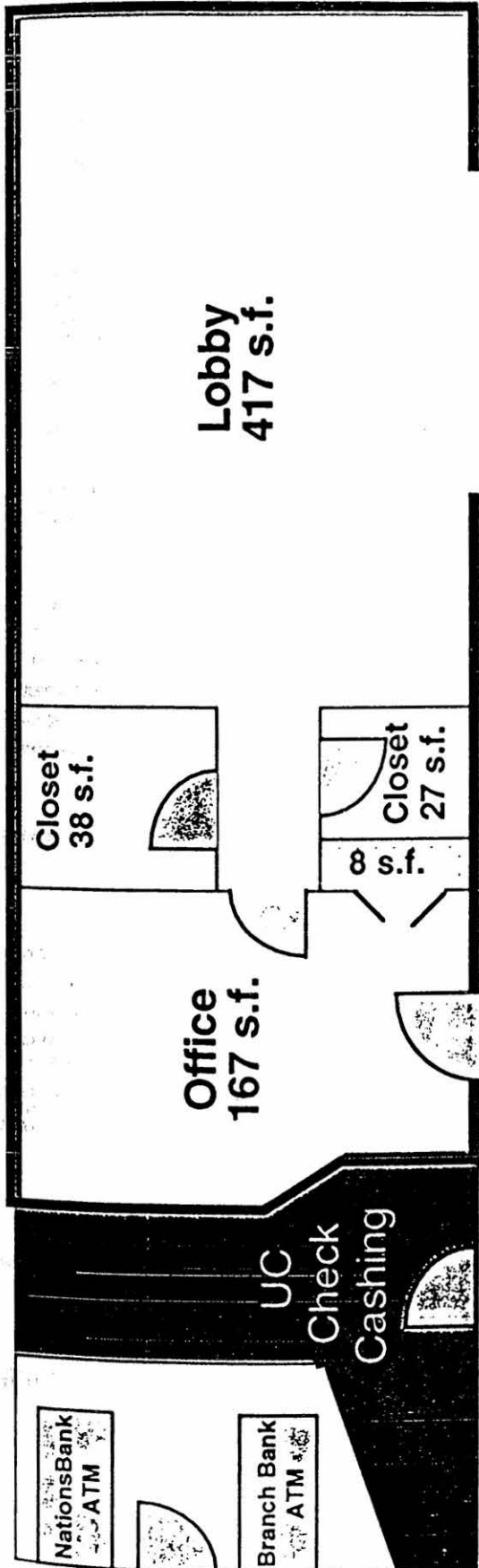
By: _____

Pat Campbell, Vice President and
General Counsel

Date: 6-10-96



Attachment C



University Center Texas Tech University

Branch Bank Plan NOT TO SCALE

ACORD CERTIFICATE OF INSURANCE

November 8, 1996

DATE (MM/DD/YY)

Item 9b pg. 28

6-18-96

PRODUCER

Alan Henry Insurance
P. O. Box 2399
Lubbock, Texas 79408-2399

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

COMPANY

A

Colonial American Casualty & Surety

COMPANY

B

Fidelity & Deposit Co. of Maryland

COMPANY

C

COMPANY

D

INSURED

American State Financial Corporation of Delaware
P. O. Box 1401
Lubbock, Texas 79401

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

PD TR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	GENERAL LIABILITY				GENERAL AGGREGATE \$ 2,000,000
A X	COMMERCIAL GENERAL LIABILITY				PRODUCTS-COMP/OP AGG \$ 2,000,000
	CLAIMS MADE X OCCUR	CPP 0007658 00	8-15-95	8-15-96	PERSONAL & ADV INJURY \$ 1,000,000
	OWNER'S & CONT PROT				EACH OCCURRENCE \$ 1,000,000
					FIRE DAMAGE (Any one fire) \$ 50,000
					MED EXP (Any one person) \$ 5,000
	AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT \$ 1,000,000
A X	ANY AUTO				BODILY INJURY (Per person) \$
	ALL OWNED AUTOS				
	SCHEDULED AUTOS				
	X HIRED AUTOS	BAP 6556572-4	8-15-95	8-15-96	BODILY INJURY (Per accident) \$
	X NON-OWNED AUTOS				PROPERTY DAMAGE \$
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
	ANY AUTO				OTHER THAN AUTO ONLY:
					EACH ACCIDENT \$
					AGGREGATE \$
	EXCESS LIABILITY				EACH OCCURRENCE \$
	UMBRELLA FORM				AGGREGATE \$
	OTHER THAN UMBRELLA FORM				\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				X STATUTORY LIMITS
B	THE PROPRIETOR/ PARTNERS/EXECUTIVE OFFICERS ARE:	X INCL WCP 0005866 02	8-15-95	8-15-96	EACH ACCIDENT \$ 500,000
	OTHER	EXCL			DISEASE - POLICY LIMIT \$ 500,000
					DISEASE - EACH EMPLOYEE \$ 500,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

CERTIFICATE HOLDER

Texas Tech University
Lubbock, Texas 79400

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Contract No. MU3037
Account Number: 0373-46-2400

AGREEMENT

made this 1st day of June, in the year of Nineteen Hundred Ninety Six

BETWEEN

Texas Tech University, Lubbock, Lubbock County, Texas, the Owner, acting herein by and through Donald R. Haragan, Interim President, and Chaparral Graphics Group, Inc., Lubbock, Texas, the Contractor.

The Owner and the Contractor agree as set forth below:

TERMS AND CONDITIONS

1. The Contract Documents consist of this Agreement, Publications Proposal and Quotation. These form the Contract and all are as fully a part of the Contract as if attached to this Agreement or repeated herein.
2. The Contractor shall furnish all materials and labor necessary to print *The University Daily* according to all terms, conditions, specifications and prices described in the proposal form prepared by Texas Tech University and completed by the Contractor all in accordance with the Contract Documents.
3. Owner will give Contractor notice of at least one month on all items on which Owner retains option to change.
4. The Work to be performed under this Contract will begin with the publication of the first issue for the Fall semester, 1996, and shall continue until completion of the publications for the Summer of 1998.
5. For the materials and labor necessary for production of the completed issues in accordance with the conditions and requirements set forth in this contract, the Owner will pay the Contractor according to the prices shown in the bid proposal.
6. No payment will be made for any charge not listed in the bid.
7. All billing shall be in exact accordance with the prices quoted in this proposal. For any additional expense or additional work not covered in the proposal, the Contractor will supply a written quotation upon request and no such work will be done until the Contractor has received written authorization for such work.
8. Contractor must have in plant adequate equipment and personnel to produce *The University Daily* in the time frame required. *The University Daily* is a broad sheet publication 6 columns by 21 inches with a current page width of 13 inches and published Monday through Friday during the long semesters. A tabloid, 5 columns by 13 inches with a current page width of 11 inches is published twice a week during the summer. Circulation is 14,000 during the long terms and 7,000 during the summer.

9. Working from camera-ready mechanicals produced in *The University Daily's* own composition facility, Contractor must shoot and strip page negatives, strip halftones, make plates and print and compile the newspaper, providing all materials to handle such operations, including newsprint.
10. If necessary, Contractor also must shoot--upon request and for an additional fee as indicated in the bid proposal--halftones, reverses, and enlargements and reductions. Contractor will process in minimum time required.
11. Using Contractor's transportation, Contractor must pick up camera-ready pages at a time agreeable to Contractor and the Director of Student Publications, and deliver the entire press run of the newspaper to the Journalism Building on the Texas Tech campus by 6:00 A.M. each day of publication.
12. Contractor must insert all advertising and editorial supplements for the additional fee indicated in the bid proposal, unless the Staff of *The University Daily* makes arrangements to handle task otherwise.
13. Contractor must have equipment capable of printing second, third and fourth colors for fees as indicated in the bid proposal.
14. Contractor must agree to follow production schedule established by *The University Daily* staff in consultation with the Contractor and accept same as merely a guideline, not a guarantee. Publishing schedule for the year will be provided by August 1 of each year.
15. Contractor agrees to supply all full-size and tabloid paste-up sheets, insertion orders, layout pasteup grids and forms necessary for publication of *The University Daily*.
16. Contractor must pay cost of running a corrected advertisement in all cases where an incorrect advertisement resulted from Contractor's error.
17. Workmanship and delivery must be of the highest quality and acceptable to the Editor, Production Manager and Director of Student Publications.
18. Insurance: All coverage must be provided on an occurrence basis, rather than claims made, and be provided through companies who have a minimal "Best's" rating of A with a financial size category of X. The company must also be authorized to do business in the State of Texas and be acceptable to the Director of Contracting and Risk Management. The Contractor shall not commence work under this Contract until he/she has obtained all the insurance required hereunder and certificates of such insurance have been filed with and reviewed by the Director of Contracting and Risk Management. Acceptance of the insurance certificates by the Director of Contracting and Risk Management shall not relieve or decrease the liability of the Contractor.

The Contractor shall provide and maintain, until the Work covered in the Contract is completed and accepted by the Owner, the minimum insurance coverage as follows:

TYPE OF COVERAGE	LIMITS OF LIABILITY
1. Worker's Compensation	Statutory
2. Employer's Liability	\$100,000/\$100,000/\$500,000

3. Comprehensive General Liability

a. Bodily Injury

\$500,000 each occurrence

b. Property Damage

\$100,000 each person

\$300,000 aggregate

4. Comprehensive Automobile Liability

a. Bodily Injury

\$300,000 each person

\$500,000 aggregate

b. Property Damage

\$300,000 each occurrence


19. It is understood and agreed between the parties that all provisions and requirements contained herein is of the essence of this contract, and substantial violation of any of such provisions or substantial failure to meet any of such requirements shall entitle the other party to terminate this contract without recourse by the party violating such provisions or failing to meet such requirements, unless said violation or failure is satisfactorily corrected within forty-eight (48) hours after the receipt of written notice of such violation or failure.

20. Contractor must accept the Owner's right to terminate or renegotiate the contract at the close of any semester or summer term because of any unexpected shortfall in revenue from student fees or advertising.

IN WITNESS WHEREOF, THE PARTIES HEREUNTO SET THEIR HANDS.

OWNER
TEXAS TECH UNIVERSITY

CONTRACTOR
CHAPARRAL GRAPHICS GROUP, INC.

By: 
Donald R. Haragan
Interim President


Bill Loper

Date: 8/19/96

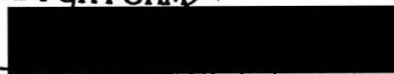
Date: 6/10/96

REVIEWED FOR FISCAL IMPLICATIONS


Jim Brunjes, Interim Vice President for Fiscal Affairs *SK*

Date: 6/10/96

REVIEWED FOR FORM


Pat Campbell, Vice President
and General Counsel

Date: 5-31-96

INVESTMENT MANAGEMENT AGREEMENT

THIS AGREEMENT (the "Agreement"), made on this 31st day of July, 1996, by and between Texas Tech University/Texas Tech University Health Sciences Center (the "Client"), as authorized by the Board of Regents of Texas Tech University/Texas Tech University Health Sciences Center, and Davis Hamilton Jackson & Associates (the "Manager").

WITNESSETH:

WHEREAS, the Client is the owner or custodian of, or otherwise has investment authority with respect to, the securities, cash and other property (such securities, cash and other property collectively herein referred to as the "Fund") held in the account or accounts described on the attached Exhibit "A" (the "Account"); and

WHEREAS, the Client desires to appoint the Manager as investment manager with respect to the Account (in such capacity, the Manager being referred to hereinafter as "Investment Manager"); and

WHEREAS, the Manager is a "registered investment adviser" under the Investment Advisers Act of 1940;

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

I. **APPOINTMENT.** The Manager is hereby appointed to serve as Investment Manager with respect to the Account. The Manager hereby accepts its appointment subject to the terms and conditions of this Agreement.

II. **DUTIES AND POWERS OF INVESTMENT MANAGER.**

A. **Duties**

1. Subject to any and all restrictions and/or guidelines contained in Exhibit "B" attached hereto and by this reference incorporated herein, and any additional restrictions and/or guidelines as may from time to time be communicated in writing by the Client, the Manager shall from time to time invest and reinvest the Fund in such ways and at such times as are determined by the Manager to be in the Client's best interests.

2. The Manager acknowledges that it will be acting as a fiduciary and that it will exercise its investment authority in accordance with generally accepted fiduciary standards, including the "prudent person" rule. The Client recognizes that there are certain risks involved in securities investing.

3. In the performance of its duties hereunder, the Manager shall act in accordance with the investment guidelines which the Client may, from time to time, have furnished to the Manager in writing subject only to such limitations as the Client may impose, or as may otherwise be imposed by law.

4. The Manager will provide the Client with such periodic reports as Client and Manager may mutually agree; provided however, that reports as to the status and investments in the Account shall be provided no less frequently than monthly. The Manager's representative(s) designated by the Manager for management of the Account shall conduct meetings, as defined in §(11) of Exhibit "B", with the Client as frequently as Client and Manager may mutually agree, provided that such meetings are conducted no less frequently than semi-annually.

B. Powers. The Client hereby appoints the Manager its agent and attorney-in-fact with respect to, and hereby confers, and the Manager hereby acknowledges, the following powers in the performance of its duties as Investment Manager under this Agreement:

1. To effect any purchase, sale, exchange, conversion, or liquidation of the assets in the Client's name;

2. To vote any stocks, bonds, or other securities; to give general or special proxies or powers of attorney with or without power of substitution; to exercise any conversion privileges, subscription rights or other options, and to make any payments incidental thereto; to oppose or to consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities, and to delegate discretionary powers, and to pay any assessments or charges in connection therewith, and generally to exercise any of the powers of an owner with respect to stocks, bonds, or other securities of the Fund; provided, that all such powers shall be exercised by the Manager in its sole and absolute discretion subject only to its general fiduciary obligations to the Client as set forth in Section II. A. (2) above;

3. To make, execute, acknowledge and deliver any and all documents that may be necessary to carry out the powers of the Manager, as Investment Manager;

4. To carry out the duties set forth in Section II. A. of this Agreement;

5. To direct the placement of brokerage orders with respect to assets comprising the Fund with such broker or brokers as the Manager shall select; and

6. Generally, to do all such acts and to execute and deliver all such instruments as in the judgment of the Manager may be necessary or desirable to carry out any powers or authority of the Manager under this Agreement, without advertisement and without order of court, and without having to post bond or make any returns or report of its doings to any court.

C. Investment Decisions. The Manager shall have full power to make and act upon all investment decisions with respect to the Fund, in its sole discretion, subject only to the terms of this Agreement, as amended from time to time.

D. Compensation.

1. The compensation of the Manager as Investment Manager shall be such as is set forth in the Manager's separate published fee schedule in effect from time to time, a current copy of which is attached hereto as Exhibit "C", except that no increase in fees shall be effective until 90 days after notice thereof to the Client. Unless otherwise provided in Exhibit "C", payment to the Manager shall be made quarterly, based on the Client's fiscal year, and the fee shall be due and payable within 15 days after the end of each quarterly fiscal period. Such compensation shall be paid to Manager at the address indicated below in this Agreement. If this Agreement commences at any time other than at the beginning of a quarterly fiscal period, the first quarterly fee shall be prorated to the end of such first quarterly fiscal period. At no time will the Manager be compensated on the basis of a share of capital gains or capital appreciation of the Fund except as based upon the total value of the Fund in accordance with the Manager's aforementioned fee schedule. If this Agreement is terminated all fees due to the Manager shall be prorated to the date of termination.

2. Notwithstanding the above, the rates at which fees are charged by the Manager to the Client for the term of this agreement will not exceed the most favorable rates then being charged to any other customer of the Manager for investment management accounts for portfolios of comparable size and consisting of comparable types of securities. Fees in excess of the amounts permitted by the preceding sentence collected during any period will be credited to the Client against fees due and owing for the next succeeding billing period(s).

III. TRANSACTION PROCEDURES. All transactions will be consummated by payment to, or delivery by, another party as Client designates in writing as having physical possession of the Fund (the "Custodian"), of all cash and/or securities due to or from the Account. It is and will be the responsibility of the Client to select the Custodian. The Client may make specific requests from the Manager for assistance in this process, but absent said requests, the Client will be the sole contact in the determination and selection of the Custodian. The Manager shall not act as custodian for the Account, but is hereby authorized to give instructions to the Custodian with respect to the consummation of transactions on behalf of the Client in the Account, and the Custodian is hereby authorized to act in response to instructions given by Manager, pursuant to the terms of this Agreement. Instructions of the Manager to Custodian shall be made in writing sent by first-class mail or, at the option of the Manager, orally and confirmed in writing as soon as practical thereafter, and the Manager shall instruct all brokers and dealers executing orders on behalf of the Account to forward to Client and the Custodian copies of all confirmations promptly after execution of transactions. The Manager

shall not be responsible for any loss incurred by reason of any act or omission of any broker or dealer or the Custodian; provided, however, that the Manager will make reasonable efforts to require that brokers and dealers selected by the Manager perform their obligations with respect to the Account.

IV. ALLOCATION OF BROKERAGE. Where the Manager places orders for the execution of portfolio transactions for the Account, the Manager may allocate such transactions to such brokers and dealers for execution on such markets, at such prices and at such commission rates as in the good faith judgment of the Manager will be in the best interest of the Account, taking into consideration in the selection of such brokers and dealers not only the available prices and rates of brokerage commissions, but also other relevant factors (such as, without limitation, execution capabilities and research and other services provided by such brokers or dealers which are expected to enhance the general portfolio management capabilities of the Manager) without having to demonstrate that such factors are of a direct benefit to the Account. Client may direct the Manager to utilize specific brokers or dealers. Client represents that such direction shall be for the exclusive purpose of providing benefits to participants and beneficiaries of the Account and shall not constitute, or cause the Account to be engaged in any violation of federal or state law with regard to "prohibited transactions" or "parties-in-interest".

V. SERVICES TO OTHER CLIENTS OF THE MANAGER. The Manager may perform investment advisory services for various clients other than the Client and for accounts other than the Account. The Manager may give advice and take action with respect to other clients that differs from advice given or action taken with respect to the Fund, so long as the Manager attempts in good faith reasonably to allocate investment opportunities to the Client and the Account over a period of time on a fair and equitable basis compared to investment opportunities extended to other clients. The Manager is not obligated to initiate the purchase or sale for the Client, or the Account, of any security that the Manager, its principals, affiliates or employees may purchase or sell for its or their own accounts or for the account of any other client, if in the reasonable opinion of the Manager, such transaction or investment appears unsuitable or undesirable for the Client or the Account. It is further understood that the Manager may have banking or other commercial relationships with companies whose securities are held in the Account.

VI. VALUATION. For the purposes of valuation on reports described in Section II. A. (4) and the calculation of compensation to the Manager in Section II. D. (1), the market value of the securities held shall be determined as of the close of business on the last day of each month as follows:

A. Fixed income securities shall be valued at a bid price obtained from a recognized bond pricing organization;

B. Listed securities shall be valued at the closing price on the primary exchange on which the stock is traded or at the closing "composite price" as listed in the edition of the Wall Street Journal containing the valuation date's prices;

C. Over-the-counter (OTC) stocks shall be valued at the last bid price;

D. If no bid price is available for the last business day of the month, the securities shall be valued as of the closest business days preceding the last business day of the month on which a bid price is available.

VII. CONFIDENTIAL RELATIONSHIP. Except as otherwise provided in this Section, all information and advice furnished by the Client or the Manager to the other, with respect to the Account, the Fund or other matters pertaining to this Agreement, shall be treated as confidential and shall not be disclosed to third parties except as required by law or as necessary to carry out responsibilities set forth in this Agreement.

VIII. AUTHORITY AND STATUS OF MANAGER AS INVESTMENT MANAGER. The Manager represents and warrants (i) that it is a registered investment adviser under the Investment Advisers Act of 1940, (ii) that it has full power and authority to enter into this Agreement, and (iii) that this Agreement has been duly authorized and when executed and delivered will be binding upon the Manager. The Manager acknowledges that as Investment Manager it is a fiduciary to the extent that it does not have investment discretion under this Agreement as a result of the restrictions, if any, contained in Exhibit "A".

IX. AUTHORITY OF THE CLIENT. The Client represents and warrants (i) that the Client has full power and authority to enter into this Agreement, and (ii) that this Agreement has been duly authorized and when executed and delivered will be binding upon the Client, the Account and the Fund.

X. DURATION OF AGREEMENT; ENTIRE AGREEMENT. This Agreement will remain in effect until terminated by either party hereto in accordance with Section XI hereof. This Agreement constitutes the entire agreement between the Manager and Client, and supersedes any prior agreements or understanding with respect to the subject matter hereof.

XI. TERMINATION; PROHIBITION AGAINST ASSIGNMENT.

A. A party to this Agreement may terminate this Agreement at any time upon notice by registered or certified mail to the other parties in accordance with Section XIII hereof, which notice shall be given at least thirty (30) days prior to the effective date of termination. Upon receiving or giving notice of termination, and (if termination occurs by notice from the Client) upon receipt by the Manager of all fees payable to the Manager pursuant to this Agreement which are accrued but unpaid as of the date of such termination, the Manager shall, if so directed by the Client, make a full accounting to the Client with respect to all assets managed by it since its appointment as Investment Manager. There shall be no penalty to either party for terminating this Agreement.

B. No assignment (as that term is defined in the Investment Advisers Act of 1940) of this Agreement shall be made by any party without prior written consent of the others.

XII. WAIVER OF BREACH. A waiver of a breach of any provisions of this Agreement shall not constitute a waiver of any subsequent breach of that provision or a breach of any other provision hereof. Failure of either party to enforce at any time or from time to time any provision of this Agreement shall not be construed as a waiver thereof.

XIII. NOTICES.

A. All notices, requests and demands after the date of this Agreement, and any other communications hereunder shall be deemed to have been duly given if in writing and if delivered or sent by certified or registered mail, return receipt requested, to the appropriate address indicated below or such other address as may be given in a notice sent to the other parties hereto in accordance with this Section XIII. Such communication shall be received on the date acknowledged to have been received in return receipt.

B. Client hereby acknowledges receipt of the Manager's Form ADV, Part II pursuant to Rule 204-3 under the Investment Advisers Act of 1940. The Manager annually shall deliver, or offer in writing to deliver, upon written request of the Client and without charge, Form ADV, Part II.

XIV. LIABILITY. The Manager shall be responsible only for managing the Account. The Manager shall have no responsibility whatsoever for the management of any other assets of the Client or for any administration of the Client's affairs and shall incur no liability for any loss or other damage which may result from the management of such other assets or the administration of such affairs.

XV. INDEMNIFICATION. Except for negligence, gross negligence or malfeasance, or violation of applicable law, neither the Manager nor any of its officers, directors or employees shall be liable hereunder for any action performed or omitted to be performed or for any errors of judgment in managing the Account. The federal and state securities laws impose liabilities under certain circumstances on persons who act in good faith; nothing in this Agreement shall constitute a waiver or limitation of any rights which the Client may have under applicable federal and state securities laws.

XVI. GOVERNING LAW. The validity, construction and operation of this Agreement shall be governed by the laws of the State of Texas, except where preempted by the provisions of federal law. The venue of any action brought pursuant to this Agreement shall be in Lubbock County, Texas.

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

CLIENT: Texas Tech University/Texas Tech University Health Sciences Center

By:

Dr. Donald R. Haragan

Title: Interim President, TTU/TTUHSC

By:

Title: Vice President for Fiscal Affairs, TTUHSC

By:

Title: Interim Vice President for Fiscal Affairs, TTU
Box 42016
Texas Tech University
Lubbock, Texas 79409-2016

(SEAL)

Davis Hamilton Jackson & Associates

By:

Title:

President

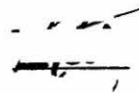
Two Houston Center
909 Fannin, Suite 550
Houston, Texas 77010

(SEAL)

EXHIBIT A
DESCRIPTION OF ACCOUNT

The Account, as referenced in the Agreement, shall be established by the Client through the transfer of wireable funds to the Custodian at a later date to be determined.

Initials



Date: 7-31-96

EXHIBIT B
TTU/TTUHSC BOARD OF REGENTS POLICY

The Board may from time to time, modify the restrictions and limitations upon the investment of the Fund by revising Texas Tech University Board of Regents Policy 05.06/Texas Tech University Health Sciences Center Board of Regents Policy 05.05. No such revisions shall be binding upon the Manager until written notice thereof has been sent to the Manager by the Client in the manner prescribed in Section XIII. A. of this Agreement, and acknowledged by the Manager. No other amendment hereto shall be effective unless executed in the same manner as this Agreement.

Initials

Date: 7-31-96

Exhibit B

05.06

Investment Policy Statement for Endowment and Other Institutional Funds

(1) Preface

This policy statement is issued by the Board of Regents of Texas Tech University (TTU) and Texas Tech University Health Sciences Center (HSC) for guidance in the investment of endowment and other institutional fund assets not currently invested in the Cash Investment Pool.

Endowment funds are funds given to TTU/HSC with a donor-imposed restriction that the corpus is not to be expended but is to be invested for the purpose of producing income. Endowment funds may also include term endowment (funds for which the donor stipulates that the principal may be expended after a stated period or upon the occurrence of a certain event) and funds functioning as endowments (quasi-endowments).

Endowment funds are a subset of institutional funds. Institutional funds include all funds held by TTU/HSC for which TTU/HSC has the sole right to determine their use. Specifically, this means any fund not controlled by the State, such as State appropriated or other Educational and General funds.

(2) Fiduciary Responsibility

The Board of Regents of Texas Tech University and Texas Tech University Health Sciences Center have a fiduciary responsibility to comply with the restrictions imposed by the donors of endowment funds. The Regents also have a legal responsibility to ensure that the management of endowment and other institutional funds is in compliance with Section 163.002 of the Property Code (the Uniform Management of Institutional Funds Act).

(3) Investment Philosophy - Management Procedures

No endowment or other institutional fund shall be considered for management under this Policy Statement unless it is under the sole control, with full discretion as to investment of principal and expenditure of spendable income, of the Board of Regents of Texas Tech University or Texas Tech University Health Sciences Center. Further, the Vice President for Institutional Advancement shall ensure that there are no donor-imposed restrictions preventing the use of the Consolidated Endowment Fund, including restrictions against both investment in equity securities or corporate debt, and expenditure of net realized appreciation of existing endowment funds. The donors of existing endowment funds shall be advised of changes to the investment philosophy and policy to be used in connection with endowment accounts. The beneficiaries (account managers) of endowments whose funds are currently invested in the Cash Investment Pool shall be advised by the Executive Vice President and Provost of the redeployment of such endowments into the Consolidated Endowment Fund. Future donors shall be advised of the investment policy at the times their gifts are made. Funds excluded from consideration from this Policy Statement will be invested in the Cash Investment Pool, as authorized by Board Policy 04.11 or, if instructed by the donor, will be managed and safeguarded in their original form.

The commingled endowment/institutional fund is to be known as the "Consolidated Endowment Fund" (CEF). The CEF shall be unitized and each new endowment gift added

to the fund shall receive units in the fund based upon the market value of the gift and the unit value of the fund at the latest month end preceding the date of receipt of the gift. The unit value of the CEF shall be determined at least monthly. Income determined under the Policy Statement's Spending Policy shall be calculated on a unit basis for distribution purposes.

The Consolidated Endowment Fund may invest in such securities and investments as permitted by Section 163.002 of the Property Code (Uniform Management of Institutional Funds Act). The CEF may be further limited to such eligible investments as adopted by the Board of Regents (see section (9), "Asset Allocation", below).

In addition, the CEF may retain, with the approval of the Board of Regents, those professional services deemed appropriate for the management and investment of the CEF. All investment managers employed shall be registered under the Investment Act of 1940 and provide the most recent advisor registration form (ADV) filed with the SEC.

(4) Standard of Conduct

In the administration and management of the Consolidated Endowment Fund, the Board of Regents and institutional personnel shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time to the action or decision. The Board of Regents and institutional personnel shall consider both the long-term and short-term needs of Texas Tech University and Texas Tech University Health Sciences Center in carrying out their educational purposes, their present and anticipated financial requirements, the expected return on their endowment investments, price level trends and general economic conditions.

(5) Endowment Investment Committee

The Endowment Investment Committee shall be appointed by the Board Chair.

(6) Financial Goal

The financial goal for management of endowment funds is to preserve the real (i.e. inflation-adjusted) purchasing power of the endowment principal and income after accounting for endowment spending, inflation and costs of investment management. Performance of the endowment funds against this objective is to be measured over rolling periods of at least 10 years, which should encompass several market cycles.

(7) Investment Objectives

The primary investment objective for the endowment is to earn, over the long-term, an average annual "real" total return, net of investment management costs, of 5.0 percent. This objective shall be measured over rolling 10-year periods.

It is also an objective that the endowment fund outperform each of the capital markets in which assets are invested, measured over trailing five years or complete market cycles, whichever period is longer.

Managers of equities are expected to produce a cumulative annualized total return, net of management costs, that at least equal the S&P 500.

Managers of fixed income securities are expected to produce a cumulative annualized total return, net of management costs, that at least equals the Shearson Lehman Government/Corporate Bond Index.

Total return is defined as the sum of earned interest and dividends, realized and unrealized gains or losses, less all investment management costs.

Real total return is defined as the total return adjusted for inflation as measured by the Consumer Price Index.

(8) Spending Policy

Texas Tech University and Texas Tech University Health Sciences Center recognize the need for spendable income by the beneficiaries of the endowment funds under their custodianship. The following spending policy reflects an objective to distribute as much total return as is consistent with overall investment objectives defined herein while protecting the real value of the endowment principal.

The following definitions are used:

Total return is defined as the sum of total interest and dividends and realized and unrealized gains, less all investment management costs.

Net current yield is defined as the sum of total interest and dividends earned, less all investment management costs.

Spendable income is defined as that portion of total return (less the net unrealized appreciation of endowment assets) allocated for spending as discussed below.

The distribution of spendable income to each unit of the Consolidated Endowment Fund shall not exceed 6 percent nor be less than 4 percent of the average market value of a unit of the CEF for the preceding 12 quarters. The target annual distribution rate shall be 4.5 percent of the average unit market value. Distribution shall be made quarterly, as soon as practicable, after the last calendar day of November, February, May and August. The distribution amount shall be recalculated based on a 12 quarter rolling average. The target annual distribution rate will be phased in as follows:

FY 1995-1996	Payout 4% of last quarters Average Market Value
FY 1996-1997	Payout 4% of last 4 quarters Average Market Value
FY 1997-beyond	Payout of 4.5% of last 8 quarters Average Market Value

The target annual distribution rate shall be reviewed annually by the Endowment Investment Committee with any recommended changes submitted to the Board of Regents for approval.

If in any given fiscal year the total return, excluding net unrealized appreciation, shall be less than the target annual distribution, the actual distribution shall be limited to the net current yield, not to exceed 4.5 percent. To minimize the potential effect of year-to-year fluctuations of annual distribution rates, the use of a revenue stabilization reserve may be utilized.

(9) Asset Allocation

To achieve the goal and objectives of the Consolidated Endowment Fund, the fund's assets may be invested into two categories: an equity component and a fixed-income component. The CEF shall be diversified both by asset class and, within asset classes, by economic sector, industry and market capitalization (size). The purpose of diversification is to limit the specific risk associated with any single security or class of securities.

The equity component shall include readily marketable, domestic and international common stocks. It may also include convertible and preferred stocks. Established, equity mutual funds may also be considered in the equity component. The investment purpose for equity securities is to provide high real total rates of return and to provide both long-term capital appreciation and growth in current income that exceed the rate of inflation. The equity component shall not exceed 70% of the total market value of the Consolidated Endowment Fund, nor be less than 30% of the CEF's total market value.

The fixed-income component shall include marketable domestic and international government/government agency and corporate obligations that meet or exceed a credit rating of "A" from Standard & Poor's and/or an "A" rating from Moody's. The use of established bond mutual funds may also be considered. The investment purpose for fixed-income securities is to provide a hedge against deflation or stock market downturns, to provide a high level of current income, to provide a stable source of revenue and to provide diversification of endowment assets. The fixed-income component shall not exceed 70% of the CEF's total market value nor be less than 30%.

(A) Equity Manager's Guidelines

Equity managers are authorized to invest only in domestic and international equity securities listed on an established exchange. Not more than 5.0% of the equity stock of any one corporation may be owned by the CEF. No more than 5.0% of the CEF's equity component may be invested in any one equity security. No more than 25.0% of the CEF's equity component may be invested in any one industry segment.

More restrictive guidelines may be established by the Endowment Investment Committee with each individual outside equity investment manager.

(B) Fixed-Income Managers Guidelines

With the exception of obligations of the U.S. Government or its agencies, no purchase shall be made that will cause any one issuer's security to exceed 5% of the market value of the CEF's fixed-income component. Money market instruments may be used in the fixed-income component. Managers are prohibited from speculating in fixed income or interest rate futures or options. The fixed-income component shall not include investments in foreign bonds. No tax-exempt issues may be held in the fixed-income component.

(C) Exclusions And Prohibited Activities

In addition to the limitations discussed above, the following activities will not be authorized by the Board of Regents:

- Purchase of unregistered or restricted stock
- Investment in private placements
- Placement of short or long financial index future, forwards and options positions
- Purchase of nondollar-denominated transactions, currency futures, options, and forward transactions
- Selling securities short, buying securities on margin, borrowing money, hypothecating or pledging CEF assets or buying or selling uncovered options, commodities or currencies
- Entering into any securities lending program or conditional sales contract

(10) Investment Managers

The Consolidated Endowment Funds will be managed primarily by external investment management organizations. Each manager will be provided with a copy of this Policy Statement. Investment managers will be delegated with the discretion to manage the assigned assets to best achieve the goal and objectives of the CEF. In addition, the manager will be informed of the expected spending payouts necessary for distribution to endowment recipients and the comparative benchmarks that will be used to evaluate performance.

The selection of investment managers shall be proposed by the Endowment Investment Committee and approved by the Board of Regents of TTU and HSC. The Endowment Investment Committee shall use a competitive sealed proposal process to select those investment managers that best demonstrate the necessary competence and qualifications.

(11) Communications and Reporting

The investment managers are responsible for frequent and open communication with the Endowment Investment Committee on all significant matters pertaining to the investment policies and the management of the CEF's assets. These reporting responsibilities include:

- Communication of major changes in the investment manager's investment outlook, strategy and portfolio structure.
- Communication of significant changes in the ownership, organizational structure, financial condition or personnel staffing.
- Communicating, on a monthly basis, of all investment activities during the preceding month. Providing valuation reports of the month end portfolio holdings.
- Communicating, on a quarterly basis, the performance of investment manager's activities.
- Meeting with the Endowment Investment Committee, at least semi-annually, to discuss the manager's performance, investment outlook, investment strategy and portfolio rebalancing strategies.

The Endowment Investment Committee shall, at the beginning of each fiscal year, present to the Board of Regents a report of the Consolidated Endowment Fund's investment activities for the preceding year together with a summary of each investment manager's performance.

EXHIBIT C
COMPENSATION

In accordance with Section II. D., the fee to be paid to the Manager shall be computed as follows:

<u>Account Size</u>	<u>Percentage Fee</u>
On the First \$25 mil.	0.50%
Thereafter	0.25%

Minimum fee of \$20,000.

The fee provided above is the annual fee charged by the Manager for investment management services. Fees shall be billed quarterly at the beginning of each fiscal quarter. All fees payable under this Section shall be paid in arrears and shall be computed upon the value of the total assets covered by this Agreement based on the average of the month-end values of the prior three (3) months. The quarterly fee is calculated by applying the annual rate above to the average market value of the assets and then taking one-quarter of the total as the quarterly fee. The fee payable to the Manager may be revised from time to time but no increase in fees shall be effective until 90 days after notice to the Client.

Initials

[REDACTED]
[REDACTED]
[REDACTED]

Date: 7-31-96

TRADING AUTHORIZATION

Gentlemen:

The undersigned hereby appoints and authorizes Davis Hamilton Jackson & Associates as agent and attorney-in-fact to buy, sell and trade in stocks, bonds and any other securities and/or contracts relating to the same in accordance with your terms and conditions for the undersigned's account and risk and in the undersigned's name or number on your books. The undersigned hereby ratifies and confirms any and all transactions with you heretofore or hereafter made by said agent for the undersigned's account, and the undersigned agrees to indemnify and hold you harmless, in so far as Texas law allows, from and to pay you promptly on demand any and all amounts owing to you by reason of transactions authorized by said agent.


In all such purchases, sales or trades, you are authorized to follow the instructions of Davis Hamilton Jackson & Associates in every respect concerning the undersigned's account with you; and it is authorized to act for the undersigned and in the undersigned's behalf in the same manner and with the same force and effect as the undersigned might or could do with respect to such things necessary or incidental to the furtherance or conduct of such purchase, sales or trades. You are authorized to combine odd lot buy or sell orders for the account of the undersigned into a round lot with other accounts. Davis Hamilton Jackson & Associates is not authorized to withdraw from the undersigned's account any funds, securities, or other property.


This authorization and indemnity is a continuing one and shall remain in full force and effect until revoked by the undersigned by a written notice addressed to you and delivered to your office at the address designated above, but such revocation shall not affect any liability resulting from any transaction initiated prior to such revocation.


This trading authorization is personal to you the undersigned and nonassignable by either of us.

Very truly yours,

Texas Tech University/Texas Tech University Health Sciences Center

By 
Donald R. Haragan, Interim President



Elmo Cavin, Vice President for Fiscal Affairs, TTUHSC


Jim Brunjes, Interim Vice President for Fiscal Affairs, TTU *JK*

Address: P.O. Box 42016
Lubbock, TX 79409-2016

Appointment as agent and attorney in fact accepted and signature(s) of customer(s) guaranteed
this 7th day of August, 1996.

Davis Hamilton Jackson & Associates

By 
("Manager")

INVESTMENT MANAGEMENT AGREEMENT

THIS AGREEMENT (the "Agreement"), made on this 31 day of July, 1996, by and between Texas Tech University/Texas Tech University Health Sciences Center, (the "Client"), as authorized by the Board of Regents of Texas Tech University/Texas Tech University Health Sciences Center, and INVESTCO Capital Management, Inc. (the "Manager").

WITNESSETH:

WHEREAS, the Client is the owner or custodian of, or otherwise has investment authority with respect to, the securities, cash and other property (such securities, cash and other property collectively herein referred to as the "Fund") held in the account or accounts described on the attached Exhibit "A" (the "Account"); and

WHEREAS, the Client desires to appoint the Manager as investment manager with respect to the Account (in such capacity, the Manager being referred to hereinafter as "Investment Manager"); and

WHEREAS, the Manager is a "registered investment adviser" under the Investment Advisers Act of 1940;

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

I. **APPOINTMENT.** The Manager is hereby appointed to serve as Investment Manager with respect to the Account. The Manager hereby accepts its appointment subject to the terms and conditions of this Agreement.

II. **DUTIES AND POWERS OF INVESTMENT MANAGER.**

A. **Duties**

1. Subject to any and all restrictions and/or guidelines contained in Exhibit "B" attached hereto and by this reference incorporated herein, and any additional restrictions and/or guidelines as may from time to time be communicated in writing by the Client, the Manager shall from time to time invest and reinvest the Fund in such ways and at such times as are determined by the Manager to be in the Client's best interests.

2. The Manager acknowledges that it will be acting as a fiduciary and that it will exercise its investment authority in accordance with generally accepted fiduciary standards, including the "prudent person" rule. The Client recognizes that there are certain risks involved in securities investing.

3. In the performance of its duties hereunder, the Manager shall act in accordance with the investment guidelines which the Client may, from time to time, have furnished to the Manager in writing subject only to such limitations as the Client may impose, or as may otherwise be imposed by law.

4. The Manager will provide Client with such periodic reports as Client and Manager may mutually agree; provided however, that reports as to the status and investments in the Account shall be provided no less frequently than monthly. The Manager's representative(s) designated by the Manager for management of the Account shall conduct meetings, as defined in §(11) of Exhibit "B", with the Client as frequently as Client and Manager may mutually agree, provided that such meetings are conducted no less frequently than semi-annually.

B. Powers. The Client hereby appoints the Manager its agent and attorney-in-fact with respect to, and hereby confers, and the Manager hereby acknowledges, the following powers in the performance of its duties as Investment Manager under this Agreement:

1. To effect any purchase, sale, exchange, conversion, or liquidation of the assets in the Client's name;

2. To vote any stocks, bonds, or other securities; to give general or special proxies or powers of attorney with or without power of substitution; to exercise any conversion privileges, subscription rights or other options, and to make any payments incidental thereto; to oppose or to consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities, and to delegate discretionary powers, and to pay any assessments or charges in connection therewith, and generally to exercise any of the powers of an owner with respect to stocks, bonds, or other securities of the Fund; provided, that all such powers shall be exercised by the Manager in its sole and absolute discretion subject only to its general fiduciary obligations to the Client as set forth in Section II. A. (2) above;

3. To make, execute, acknowledge and deliver any and all documents that may be necessary to carry out the powers of the Manager, as Investment Manager;

4. To carry out the duties set forth in Section II. A. of this Agreement;

5. To direct the placement of brokerage orders with respect to assets comprising the Fund with such broker or brokers as the Manager shall select; and

6. Generally, to do all such acts and to execute and deliver all such instruments as in the judgment of the Manager may be necessary or desirable to carry out any powers or authority of the Manager under this Agreement, without advertisement and without order of court, and without having to post bond or make any returns or report of its doings to any court.

C. Investment Decisions. The Manager shall have full power to make and act upon all investment decisions with respect to the Fund, in its sole discretion, subject only to the terms of this Agreement, as amended from time to time.

D. Compensation. The compensation of the Manager as Investment Manager shall be such as is set forth in the Manager's separate published fee schedule in effect from time to time, a current copy of which is attached hereto as Exhibit "C", except that no increase in fees shall be effective until 90 days after notice thereof to the Client. Unless otherwise provided in Exhibit "C", payment to the Manager shall be made quarterly, based on the Client's fiscal year, and the fee shall be due and payable within 15 days after the end of each quarterly fiscal period. Such compensation shall be paid to Manager at the address indicated below in this Agreement. If this Agreement commences at any time other than at the beginning of a quarterly fiscal period, the first quarterly fee shall be prorated to the end of such first quarterly fiscal period. At no time will the Manager be compensated on the basis of a share of capital gains or capital appreciation of the Fund except as based upon the total value of the Fund in accordance with the Manager's aforementioned fee schedule. If this Agreement is terminated all fees due to the Manager shall be prorated to the date of termination.

III. TRANSACTION PROCEDURES. All transactions will be consummated by payment to, or delivery by, another party as Client designates in writing as having physical possession of the Fund (the "Custodian"), of all cash and/or securities due to or from the Account. It is and will be the responsibility of the Client to select the Custodian. The Client may make specific requests from the Manager for assistance in this process, but absent said requests, the Client will be the sole contact in the determination and selection of the Custodian. The Manager shall not act as custodian for the Account, but is hereby authorized to give instructions to the Custodian with respect to the consummation of transactions on behalf of the Client in the Account, and the Custodian is hereby authorized to act in response to instructions given by Manager, pursuant to the terms of this Agreement. Instructions of the Manager to Custodian shall be made in writing sent by first-class mail or, at the option of the Manager, orally and confirmed in writing as soon as practical thereafter, and the Manager shall instruct all brokers and dealers executing orders on behalf of the Account to forward to Client and the Custodian copies of all confirmations promptly after execution of transactions. The Manager shall not be responsible for any loss incurred by reason of any act or omission of any broker or dealer or the Custodian; provided, however, that the Manager will make reasonable efforts to require that brokers and dealers selected by the Manager perform their obligations with respect to the Account.

IV. ALLOCATION OF BROKERAGE. Where the Manager places orders for the execution of portfolio transactions for the Account, the Manager may allocate such transactions to such brokers and dealers for execution on such markets, at such prices and at such commission rates as in the good faith judgment of the Manager will be in the best interest of the Account, taking into consideration in the selection of such brokers and dealers not only the available prices and rates of brokerage commissions, but also other relevant factors (such as, without limitation, execution capabilities and research and other services provided by such brokers or dealers which

are expected to enhance the general portfolio management capabilities of the Manager) without having to demonstrate that such factors are of a direct benefit to the Account. Client may direct the Manager to utilize specific brokers or dealers. Client represents that such direction shall be for the exclusive purpose of providing benefits to participants and beneficiaries of the Account and shall not constitute, or cause the Account to be engaged in any violation of federal or state law with regard to "prohibited transactions" or "parties-in-interest".

V. SERVICES TO OTHER CLIENTS OF THE MANAGER. The Manager may perform investment advisory services for various clients other than the Client and for accounts other than the Account. The Manager may give advice and take action with respect to other clients that differs from advice given or action taken with respect to the Fund, so long as the Manager attempts in good faith reasonably to allocate investment opportunities to the Client and the Account over a period of time on a fair and equitable basis compared to investment opportunities extended to other clients. The Manager is not obligated to initiate the purchase or sale for the Client, or the Account, of any security that the Manager, its principals, affiliates or employees may purchase or sell for its or their own accounts or for the account of any other client, if in the reasonable opinion of the Manager, such transaction or investment appears unsuitable or undesirable for the Client or the Account.

VI. VALUATION. For the purposes of valuation on reports described in Section II. A. (4) and the calculation of compensation to the Manager in Section II. D., the market value of the securities held shall be determined as of the close of business on the last day of each month as follows:

A. Fixed income securities shall be valued at a bid price obtained from a recognized bond pricing organization;

B. Listed securities shall be valued at the closing price on the primary exchange on which the stock is traded or at the closing "composite price" as listed in the edition of the Wall Street Journal containing the valuation date's prices;

C. Over-the-counter (OTC) stocks shall be valued at the last bid price;

D. If no bid price is available for the last business day of the month, the securities shall be valued as of the closest business days preceding the last business day of the month on which a bid price is available.

VII. CONFIDENTIAL RELATIONSHIP. Except as otherwise provided in this Section, all information and advice furnished by the Client or the Manager to the other, with respect to the Account, the Fund or other matters pertaining to this Agreement, shall be treated as confidential and shall not be disclosed to third parties except as required by law or as necessary to carry out responsibilities set forth in this Agreement.

VIII. AUTHORITY AND STATUS OF MANAGER AS INVESTMENT

MANAGER. The Manager represents and warrants (i) that it is a registered investment adviser under the Investment Advisers Act of 1940, (ii) that it has full power and authority to enter into this Agreement, and (iii) that this Agreement has been duly authorized and when executed and delivered will be binding upon the Manager. The Manager acknowledges that as Investment Manager it is a fiduciary to the extent that it does not have investment discretion under this Agreement as a result of the restrictions, if any, contained in Exhibit "B".

IX. AUTHORITY OF THE CLIENT. The Client represents and warrants (i) that the Client has full power and authority to enter into this Agreement, and (ii) that this Agreement has been duly authorized and when executed and delivered will be binding upon the Client, the Account and the Fund.

X. DURATION OF AGREEMENT; ENTIRE AGREEMENT. This Agreement will remain in effect until terminated by either party hereto in accordance with Section XI hereof. This Agreement constitutes the entire agreement between the Manager and Client, and supersedes any prior agreements or understanding with respect to the subject matter hereof.

XI. TERMINATION; PROHIBITION AGAINST ASSIGNMENT.

A. A party to this Agreement may terminate this Agreement at any time upon notice by registered or certified mail to the other parties in accordance with Section XIII hereof, which notice shall be given at least thirty (30) days prior to the effective date of termination. Upon receiving or giving notice of termination, and (if termination occurs by notice from the Client) upon receipt by the Manager of all fees payable to the Manager pursuant to this Agreement which are accrued but unpaid as of the date of such termination, the Manager shall, if so directed by the Client, make a full accounting to the Client with respect to all assets managed by it since its appointment as Investment Manager. There shall be no penalty to either party for terminating this Agreement.

B. No assignment (as that term is defined in the Investment Advisers Act of 1940) of this Agreement shall be made by any party without prior written consent of the others.

XII. WAIVER OF BREACH. A waiver of a breach of any provisions of this Agreement shall not constitute a waiver of any subsequent breach of that provision or a breach of any other provision hereof. Failure of either party to enforce at any time or from time to time any provision of this Agreement shall not be construed as a waiver thereof.

XIII. NOTICES.

A. All notices, requests and demands after the date of this Agreement, and any other communications hereunder shall be deemed to have been duly given if in writing and if delivered or sent by certified or registered mail, return receipt requested, to the appropriate

address indicated below or such other address as may be given in a notice sent to the other parties hereto in accordance with this Section XIII. Such communication shall be effectively received on the date acknowledged to have been received in return receipt.

B. Client hereby acknowledges receipt of the Manager's Form ADV, Part II pursuant to Rule 204-3 under the Investment Advisers Act of 1940. The Manager annually shall deliver, or offer in writing to deliver, upon written request of the Client and without charge, Form ADV, Part II.

XIV. LIABILITY. The Manager shall be responsible only for managing the Account. The Manager shall have no responsibility whatsoever for the management of any other assets of the Client or for any administration of the Client's affairs and shall incur no liability for any loss or other damage which may result from the management of such other assets or the administration of such affairs.

XV. INDEMNIFICATION. Except for breach of any duty imposed on the Manager pursuant to this Agreement, gross negligence or malfeasance, or violation of applicable law, neither the Manager nor any of its officers, directors or employees shall be liable hereunder for any action performed or omitted to be performed or for any errors of judgment in managing the Account. The federal and state securities laws impose liabilities under certain circumstances on persons who act in good faith; nothing in this Agreement shall constitute a waiver or limitation of any rights which the Client may have under applicable federal and state securities laws.

XVI. GOVERNING LAW. The validity, construction and operation of this Agreement shall be governed by the laws of the State of Texas, except where preempted by the provisions of federal law. The venue of any action brought pursuant to this Agreement shall be in Lubbock County, Texas.

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

CLIENT: Texas Tech University/Texas Tech University Health Sciences Center

By: [REDACTED]

Dr. Donald R. Haragan

Title: Interim President, TTU/TTUHSC

By: [REDACTED]

Mr. Elmo Cavin

Title: Vice President for Fiscal Affairs, TTUHSC

By: [REDACTED]

Mr. Jim Bruges

Title: Interim Vice President for Fiscal Affairs, TTU

Box 42016

Texas Tech University

Lubbock, Texas 79409-2016

(SEAL)

INVESCO Capital Management, Inc.

By: [REDACTED]

Title: [REDACTED]

1315 Peachtree Street, N. E.

Atlanta, Georgia 30309

(SEAL)

EXHIBIT A
DESCRIPTION OF ACCOUNT

The Account, as referenced in the Agreement, shall be established by the Client through the transfer of wireable funds to the Custodian at a later date to be determined.

Initials

Date: 7/23/96

EXHIBIT B
TTU/TTUHSC BOARD OF REGENTS POLICY

The Board may from time to time, modify the restrictions and limitations upon the investment of the Fund by revising Texas Tech University Board of Regents Policy 05.06/Texas Tech University Health Sciences Center Board of Regents Policy 05.05. No such revisions shall be binding upon the Manager until written notice thereof has been to sent to the Manager by the Client in the manner prescribed in Section XIII. A. of this Agreement, and acknowledged by the Manager. No other amendment hereto shall be effective unless executed in the same manner as this Agreement.

Initials









Date: 7/23/96

Exhibit B

05.06

Investment Policy Statement for Endowment and Other Institutional Funds

(1) Preface

This policy statement is issued by the Board of Regents of Texas Tech University (TTU) and Texas Tech University Health Sciences Center (HSC) for guidance in the investment of endowment and other institutional fund assets not currently invested in the Cash Investment Pool.

Endowment funds are funds given to TTU/HSC with a donor-imposed restriction that the corpus is not to be expended but is to be invested for the purpose of producing income. Endowment funds may also include term endowment (funds for which the donor stipulates that the principal may be expended after a stated period or upon the occurrence of a certain event) and funds functioning as endowments (quasi-endowments).

Endowment funds are a subset of institutional funds. Institutional funds include all funds held by TTU/HSC for which TTU/HSC has the sole right to determine their use. Specifically, this means any fund not controlled by the State, such as State appropriated or other Educational and General funds.

(2) Fiduciary Responsibility

The Board of Regents of Texas Tech University and Texas Tech University Health Sciences Center have a fiduciary responsibility to comply with the restrictions imposed by the donors of endowment funds. The Regents also have a legal responsibility to ensure that the management of endowment and other institutional funds is in compliance with Section 163.002 of the Property Code (the Uniform Management of Institutional Funds Act).

(3) Investment Philosophy - Management Procedures

No endowment or other institutional fund shall be considered for management under this Policy Statement unless it is under the sole control, with full discretion as to investment of principal and expenditure of spendable income, of the Board of Regents of Texas Tech University or Texas Tech University Health Sciences Center. Further, the Vice President for Institutional Advancement shall ensure that there are no donor-imposed restrictions preventing the use of the Consolidated Endowment Fund, including restrictions against both investment in equity securities or corporate debt, and expenditure of net realized appreciation of existing endowment funds. The donors of existing endowment funds shall be advised of changes to the investment philosophy and policy to be used in connection with endowment accounts. The beneficiaries (account managers) of endowments whose funds are currently invested in the Cash Investment Pool shall be advised by the Executive Vice President and Provost of the redeployment of such endowments into the Consolidated Endowment Fund. Future donors shall be advised of the investment policy at the times their gifts are made. Funds excluded from consideration from this Policy Statement will be invested in the Cash Investment Pool, as authorized by Board Policy 04.11 or, if instructed by the donor, will be managed and safeguarded in their original form.

The commingled endowment/institutional fund is to be known as the "Consolidated Endowment Fund" (CEF). The CEF shall be unitized and each new endowment gift added

to the fund shall receive units in the fund based upon the market value of the gift and the unit value of the fund at the latest month end preceding the date of receipt of the gift. The unit value of the CEF shall be determined at least monthly. Income determined under the Policy Statement's Spending Policy shall be calculated on a unit basis for distribution purposes.

The Consolidated Endowment Fund may invest in such securities and investments as permitted by Section 163.002 of the Property Code (Uniform Management of Institutional Funds Act). The CEF may be further limited to such eligible investments as adopted by the Board of Regents (see section (9), "Asset Allocation", below).

In addition, the CEF may retain, with the approval of the Board of Regents, those professional services deemed appropriate for the management and investment of the CEF. All investment managers employed shall be registered under the Investment Act of 1940 and provide the most recent advisor registration form (ADV) filed with the SEC.

(4) Standard of Conduct

In the administration and management of the Consolidated Endowment Fund, the Board of Regents and institutional personnel shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time to the action or decision. The Board of Regents and institutional personnel shall consider both the long-term and short-term needs of Texas Tech University and Texas Tech University Health Sciences Center in carrying out their educational purposes, their present and anticipated financial requirements, the expected return on their endowment investments, price level trends and general economic conditions.

(5) Endowment Investment Committee

The Endowment Investment Committee shall be appointed by the Board Chair.

(6) Financial Goal

The financial goal for management of endowment funds is to preserve the real (i.e. inflation-adjusted) purchasing power of the endowment principal and income after accounting for endowment spending, inflation and costs of investment management. Performance of the endowment funds against this objective is to be measured over rolling periods of at least 10 years, which should encompass several market cycles.

(7) Investment Objectives

The primary investment objective for the endowment is to earn, over the long-term, an average annual "real" total return, net of investment management costs, of 5.0 percent. This objective shall be measured over rolling 10-year periods.

It is also an objective that the endowment fund outperform each of the capital markets in which assets are invested, measured over trailing five years or complete market cycles, whichever period is longer.

Managers of equities are expected to produce a cumulative annualized total return, net of management costs, that at least equal the S&P 500.

Managers of fixed income securities are expected to produce a cumulative annualized total return, net of management costs, that at least equals the Shearson Lehman Government/Corporate Bond Index.

Total return is defined as the sum of earned interest and dividends, realized and unrealized gains or losses, less all investment management costs.

Real total return is defined as the total return adjusted for inflation as measured by the Consumer Price Index.

(8) Spending Policy

Texas Tech University and Texas Tech University Health Sciences Center recognize the need for spendable income by the beneficiaries of the endowment funds under their custodianship. The following spending policy reflects an objective to distribute as much total return as is consistent with overall investment objectives defined herein while protecting the real value of the endowment principal.

The following definitions are used:

Total return is defined as the sum of total interest and dividends and realized and unrealized gains, less all investment management costs.

Net current yield is defined as the sum of total interest and dividends earned, less all investment management costs.

Spendable income is defined as that portion of total return (less the net unrealized appreciation of endowment assets) allocated for spending as discussed below.

The distribution of spendable income to each unit of the Consolidated Endowment Fund shall not exceed 6 percent nor be less than 4 percent of the average market value of a unit of the CEF for the preceding 12 quarters. The target annual distribution rate shall be 4.5 percent of the average unit market value. Distribution shall be made quarterly, as soon as practicable, after the last calendar day of November, February, May and August. The distribution amount shall be recalculated based on a 12 quarter rolling average. The target annual distribution rate will be phased in as follows:

FY 1995-1996	Payout 4% of last quarters Average Market Value
FY 1996-1997	Payout 4% of last 4 quarters Average Market Value
FY 1997-beyond	Payout of 4.5% of last 8 quarters Average Market Value

The target annual distribution rate shall be reviewed annually by the Endowment Investment Committee with any recommended changes submitted to the Board of Regents for approval.

If in any given fiscal year the total return, excluding net unrealized appreciation, shall be less than the target annual distribution, the actual distribution shall be limited to the net current yield, not to exceed 4.5 percent. To minimize the potential effect of year-to-year fluctuations of annual distribution rates, the use of a revenue stabilization reserve may be utilized.

(9) Asset Allocation

To achieve the goal and objectives of the Consolidated Endowment Fund, the fund's assets may be invested into two categories: an equity component and a fixed-income component. The CEF shall be diversified both by asset class and, within asset classes, by economic sector, industry and market capitalization (size). The purpose of diversification is to limit the specific risk associated with any single security or class of securities.

The equity component shall include readily marketable, domestic and international common stocks. It may also include convertible and preferred stocks. Established, equity mutual funds may also be considered in the equity component. The investment purpose for equity securities is to provide high real total rates of return and to provide both long-term capital appreciation and growth in current income that exceed the rate of inflation. The equity component shall not exceed 70% of the total market value of the Consolidated Endowment Fund, nor be less than 30% of the CEF's total market value.

The fixed-income component shall include marketable domestic and international government/government agency and corporate obligations that meet or exceed a credit rating of "A" from Standard & Poor's and/or an "A" rating from Moody's. The use of established bond mutual funds may also be considered. The investment purpose for fixed-income securities is to provide a hedge against deflation or stock market downturns, to provide a high level of current income, to provide a stable source of revenue and to provide diversification of endowment assets. The fixed-income component shall not exceed 70% of the CEF's total market value nor be less than 30%.

(A) Equity Manager's Guidelines

Equity managers are authorized to invest only in domestic and international equity securities listed on an established exchange. Not more than 5.0% of the equity stock of any one corporation may be owned by the CEF. No more than 5.0% of the CEF's equity component may be invested in any one equity security. No more than 25.0% of the CEF's equity component may be invested in any one industry segment.

More restrictive guidelines may be established by the Endowment Investment Committee with each individual outside equity investment manager.

(B) Fixed-Income Managers Guidelines

With the exception of obligations of the U.S. Government or its agencies, no purchase shall be made that will cause any one issuer's security to exceed 5% of the market value of the CEF's fixed-income component. Money market instruments may be used in the fixed-income component. Managers are prohibited from speculating in fixed income or interest rate futures or options. The fixed-income component shall not include investments in foreign bonds. No tax-exempt issues may be held in the fixed-income component.

(C) Exclusions And Prohibited Activities

In addition to the limitations discussed above, the following activities will not be authorized by the Board of Regents:

- Purchase of unregistered or restricted stock
- Investment in private placements
- Placement of short or long financial index future, forwards and options positions
- Purchase of nondollar-denominated transactions, currency futures, options, and forward transactions
- Selling securities short, buying securities on margin, borrowing money, hypothecating or pledging CEF assets or buying or selling uncovered options, commodities or currencies
- Entering into any securities lending program or conditional sales contract

(10) Investment Managers

The Consolidated Endowment Funds will be managed primarily by external investment management organizations. Each manager will be provided with a copy of this Policy Statement. Investment managers will be delegated with the discretion to manage the assigned assets to best achieve the goal and objectives of the CEF. In addition, the manager will be informed of the expected spending payouts necessary for distribution to endowment recipients and the comparative benchmarks that will be used to evaluate performance.

The selection of investment managers shall be proposed by the Endowment Investment Committee and approved by the Board of Regents of TTU and HSC. The Endowment Investment Committee shall use a competitive sealed proposal process to select those investment managers that best demonstrate the necessary competence and qualifications.

(11) Communications and Reporting

The investment managers are responsible for frequent and open communication with the Endowment Investment Committee on all significant matters pertaining to the investment policies and the management of the CEF's assets. These reporting responsibilities include:

- Communication of major changes in the investment manager's investment outlook, strategy and portfolio structure.
- Communication of significant changes in the ownership, organizational structure, financial condition or personnel staffing.
- Communicating, on a monthly basis, of all investment activities during the preceding month. Providing valuation reports of the month end portfolio holdings.
- Communicating, on a quarterly basis, the performance of investment manager's activities.
- Meeting with the Endowment Investment Committee, at least semi-annually, to discuss the manager's performance, investment outlook, investment strategy and portfolio rebalancing strategies.

The Endowment Investment Committee shall, at the beginning of each fiscal year, present to the Board of Regents a report of the Consolidated Endowment Fund's investment activities for the preceding year together with a summary of each investment manager's performance.

EXHIBIT C COMPENSATION

In accordance with Section II. D., the fee to be paid to the Manager shall be computed as follows:

<u>Account Size</u>	<u>Percentage Fee</u>
< \$10 mil.	0.65%
\$10 - \$20 mil.	0.40%
> \$20 mil.	0.25%

The fee provided above is the annual fee charged by the Manager for investment management services. Fees are based on the market value of the assets under management at the end of each fiscal quarter and are charged in arrears. The quarterly fee is calculated by applying the annual rate above to the total market value of the assets and then taking one-quarter of the total as the quarterly fee. The fee payable to the Manager may be revised from time to time but no increase in fees shall be effective until 90 days after notice to the Client.

Initials

Date: 7/23/96

TRADING AUTHORIZATION

Gentlemen:

The undersigned hereby appoints and authorizes INVESCO Capital Management, Inc. as agent and attorney-in-fact to buy, sell and trade in stocks, bonds and any other securities and/or contracts relating to the same in accordance with your terms and conditions for the undersigned's account and risk and in the undersigned's name or number on your books. The undersigned hereby ratifies and confirms any and all transactions with you heretofore or hereafter made by said agent for the undersigned's account, and the undersigned agrees to indemnify and hold you harmless, in so far as Texas law allows, from and to pay you promptly on demand any and all amounts owing to you by reason of transactions authorized by said agent.

In all such purchases, sales or trades, you are authorized to follow the instructions of INVESCO Capital Management, Inc., in every respect concerning the undersigned's account with you; and it is authorized to act for the undersigned and in the undersigned's behalf in the same manner and with the same force and effect as the undersigned might or could do with respect to such things necessary or incidental to the furtherance or conduct of such purchase, sales or trades. You are authorized to combine odd lot buy or sell orders for the account of the undersigned into a round lot with other accounts. INVESCO Capital Management, Inc., is not authorized to withdraw from the undersigned's account any funds, securities, or other property.

This authorization and indemnity is a continuing one and shall remain in full force and effect until revoked by the undersigned by a written notice addressed to you and delivered to your office at the address designated above, but such revocation shall not affect any liability resulting from any transaction initiated prior to such revocation.


This trading authorization is personal to you the undersigned and nonassignable by either of us.


Very truly yours,

Texas Tech University/Texas Tech University Health Sciences Center

By


Donald R. Haragan, Interim President


Elmo Cavin, Vice President for Fiscal Affairs, TTUHSC

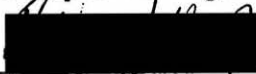

Jim Brunjes, Interim Vice President for Fiscal Affairs, TTU

Address: P.O. Box 42016
Lubbock, TX 79409-2016

Appointment as agent and attorney in fact accepted and signature(s) of customer(s) guaranteed
this 31 day of July, 1996.

INVESCO Capital Management, Inc.

By


("Manager")

Info. Item #8e

ARCHITECTURAL SERVICES

Contract No. 96-1445
Account Number: 0225-42-1587
Dept Proj Number 96-08

AGREEMENT

made this the 31st day of April in the year Nineteen Hundred Ninety Six.

BETWEEN

Texas Tech University, Lubbock, Lubbock County, Texas, the Owner, acting by and through Donald R. Haragan, Interim President, and Parkhill, Smith & Cooper, Inc., Lubbock, Texas.

A. SCOPE OF THE WORK

Provide professional services to prepare plans and specifications, assist in receiving bids and provide the administration of construction contracts for the following project:

Engineering & Technology Lab Renovation - FP & C #96-08

Please refer to Texas Tech University Operating Policy Nos. 76.35 and 76.36 for additional guidance.

B. BASIC SERVICES

The Architect shall provide professional services as follows:

1. Consult with the Owner to ascertain the requirements of the project and confirm such requirements to the Owner.
2. Prepare Schematic Design Studies consisting of drawings and other documents illustrating the scale and the relationship of project components for approval of the Owner and submit to the Owner a Statement of Probable Construction Cost.
3. When applicable for the purpose of preparing grant applications, furnish sufficient detail and information to satisfy the requirements of federal, state, county, and private funding agencies.
4. Prepare from the approved Schematic Design Studies, for approval by the Owner, the Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the entire project as to materials, structure, mechanical and electrical systems and such other essentials as may be appropriate and submit to the Owner a further Statement of Probable Construction Cost. Use of the Texas Tech University Facility Design Manuals Volume I, II, etc., are required to maintain

quality and safety standards for the institution and should be used as a reference guide.

5. Prepare from the approved Design Development Documents, for approval by Owner, Working Drawings and Specifications and determine what patent licenses are needed and obtain same.

Advise the Owner of any adjustments to the previous Statement of Probable Construction Cost caused by changes in the scope of the work or by general market conditions.

6. Following the Owner's approval of the Construction Documents and of the latest Statement of Probable Construction Cost, assist the Owner in obtaining bids or negotiated proposals, and in awarding construction contracts. Individual and unusual circumstances may vary and can be taken in account by the Owner.

If the project should exceed the approved funding, the Architect shall redesign the project to within the stated construction budget, reproduce plans and specifications as necessary to re-bid the project at no additional cost to the Owner.

7. Provide general administration of the Construction Contract and be the Owner's representative during construction and warranty period. Review contract submittal data and advise and consult with the Owner concerning same. Issue the Owner's instructions to the Contractor. Architect will authorize additional work for the Contractor only upon written approval by the University.

The Architect shall make weekly site visits and submit a written field report to the Owner to maintain familiarity with the progress and quality of the work and to determine, in general, if the work is proceeding in accordance with contract documents.

8. Based on observations at the site and on the Contractor's applications for payment, determine the amount owed to the Contractor and approve Certificates for Payment in these amounts, subject to the conditions of the Contract Documents.
9. Furnish copies of Schematic Design Studies, Design Development drawings and Contract Documents in quantities as required by the Owner.
10. Furnish two (2) complete sets of "As Built" Working Drawings reproduced, and one (1) set of reproducible four (4) mil photographic process black line Mylar film prints showing significant changes made during construction process.

Additionally, provide as many 3.5" Micro Floppydisks as necessary to record the "As Built" Working Drawings in the most current version of AutoCad. Levels and colors for the different building components should match the University CAD Standards'. Note that only AutoCad files will be accepted. Raster files, DXF, or any other conversion files will not be acceptable."

11. Provide design compliance with Americans with Disabilities Act, Public Law 101-336, July 26, 1990, in addition to any and all federal or state government handicapped or Civil Rights Act (1991) requirements.
12. Architect must provide proof of liability - omissions insurance for the duration of the project.

C. THE OWNER'S RESPONSIBILITIES

1. The Owner may furnish such structural, mechanical, electrical, chemical, and other laboratory tests, inspections and reports as he may deem necessary. A complete survey of the site and utilities serving it, soil analysis and a program of the work, outlining in detail the space requirements and their general relationship will be provided as required by the project.
2. The Owner may furnish such legal, accounting, and insurance counseling services as he may deem necessary for the project and auditing services as he may require to ascertain how or for what purposes the Contractor has used the monies paid him under the Construction Contract.
3. When continuous field supervision of construction is deemed necessary by the Owner, in addition to the Architect's basic services, the Owner shall bear the cost of such supervisory personnel. This personnel must be mutually acceptable to the Owner and Architect.
4. The Owner will pay the cost of reproducing copies of all required "As Built" documents.

D. CONSTRUCTION COST AND ALTERNATE DEFINITIONS

CONSTRUCTION COST

Construction Cost based upon all work designed or specified with the authorization and approval of the Owner shall be determined as follows, with precedence in the order listed.

1. For completed construction, the total cost to the Owner of such work.

Architectural Services - Percent

Page 4

2. When project or any part thereof is not constructed, the least of the following shall govern: (1) lowest bona fide bid received from the qualified bidder for any or all of such work, (2) the latest detailed cost estimated, or (3) the Architect's latest statement of probable cost.
3. For work for which bids are not received, (1) the latest Detailed Cost Estimate or (2) the Architect's latest Statement of Probable Construction Cost.

ALTERNATES

1. Alternates prepared by the Architect which exceed the project budget and which are not specifically requested by the Owner and which are not constructed, shall not be included in the construction cost for purposes of computing the Architect's fee.
2. Alternates which are specifically requested and approved by the Owner and not constructed shall be included in the construction cost for the purpose of computing the Architect's compensation, excluding Construction Phase services.

E. COMPENSATION AND PAYMENT

The Owner agrees to pay the Architect as compensation for the basic services 8 % of the authorized and approved construction cost, as such term "Construction Cost and Alternates" is defined in Paragraph D above.

1. Payments for basic services may be made monthly in proportion to the service actually performed, but not to exceed the percentages specified at the completion of each phase of work as follows:

Schematic Design Phase	15%
Design Development Phase	20%
Construction Documents Phase	40%
Bidding or Negotiation Phase	5%
Construction Phase	20%

F. ADDITIONAL SERVICES

Services not included under the Basic Service article of this agreement shall be considered additional services.

Architectural Services - Percent

Page 5

Such additional services and related expenses shall be as mutually agreed upon in writing by the Owner and Architect prior to the beginning of any work. Compensation for additional services shall be as follows:

1. Direct Personnel Expense

Reimbursement for direct personnel expense of those principals, associates, and employees of the firm who are assigned to and are productively engaged on the project providing such services as research, designing, preparing drawings and writing specifications.

Direct personnel expense shall be based on an amount of 1.5 times the actual cost of salaries normally paid, including mandatory and customary benefits such as statutory employee benefits, insurance, holidays, vacations, pensions and similar benefits. The owner agrees to pay the Architect as compensation for additional services, an amount to be negotiated at the time additional services are proposed.

2. Reimbursable Expenses

Architect shall be reimbursed for his direct cost of such expenses as reproduction, postage, out-of-state travel and communications directly related to such agreed additional services.

3. The cost of preparing change orders due to the Architect's error or omission shall be the responsibility of the Architect.

G. CONSULTANTS

It is contemplated that during the process of the work to be performed under this agreement, both parties may wish to retain consultants at their own expense. It is specifically understood and agreed that any consultant retained by the Architect shall be at the Architect's expense; however, the Owner reserves the right to approve such consultants and the conditions of their employment. The Architect's consultants shall provide complete support of the Architect's Basic Services including site visitations during Project Administration and checking show drawings.

It is further understood that the Owner may retain consultants and that the expense for the same shall be borne by the Owner.

H. CONTINUING SERVICES

Following completion of any phase of the work, the Owner may elect to continue, delay, abandon or revise the work. The payment for services accordingly will be as mutually agreed.

I. NONDISCRIMINATION IN EMPLOYMENT

There shall be no discrimination against any employee or applicant for employment because of race, religion, color, national origin, age, handicap or sex.

J. ACCOUNTING RECORDS

Records of the Architect's direct personnel expenses and records of accounts of reimbursable expenses for which reimbursement is requested shall be kept on a generally recognized accounting basis and shall be available to the Owner. Said records shall be preserved for a period of three years after final payment.

K. TERMINATION OF AGREEMENT

This Agreement may be terminated by either party on thirty (30) days written notice to the other party for failure or refusal to perform in accordance with the terms and conditions of this agreement. Such termination shall be made by the Owner, giving written notice directed as follows:

Parkhill, Smith & Cooper, Inc.

4010 Avenue R

Lubbock, TX 79412

likewise, termination by the Architect shall be accomplished by directing written notice to:

Theresa Drewell, AIA - Director

Facilities Planning and Construction

Texas Tech University - Box 42014

Lubbock, TX 79409-2014

In the event of termination, the Architect shall be paid his compensation for services performed to termination date based upon completion of services performed to termination date, and based upon completion of work through any phase under the fee basis as applicable, or on a direct personnel expense basis as mutually agreed.

Copies of drawings, specifications or any other materials to date of termination will be furnished to the Owner on date of termination.

L. OWNERSHIP OF DOCUMENTS

Original Drawings and Specifications as instruments of service are, and shall remain, the property of the Architect whether the project for which they are made is executed or not. The Owner shall be permitted to retain copies, including reproducible copies, of Drawings and Specifications for information and reference in connection with the Owner's use and occupancy of the project.

M. SUCCESSORS AND ASSIGNS

The Owner hereby binds itself, its successors, assigns, and legal representatives to the Architect in respect to all stipulations, terms, and covenants of this Agreement; and likewise, the Architect hereby binds himself, his successors assigns, and legal representatives to the Owner, in respect to all stipulations, terms, and covenants of this Agreement.

N. ASSIGNMENT

Neither the Owner nor the Architect shall assign, sublet or in any manner transfer it or their respective interest in this Agreement to any other person, individual, firm, corporation or other interest without prior written consent of the other respective party.

O. EXTENT OF AGREEMENT

This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and the Architect.

P. APPLICABLE LAW

This Agreement shall be considered to be performed in Lubbock County, Texas.

Q. DESIGNATION OF REPRESENTATIVE

Owner hereby designates the President of Texas Tech University or the person designated as acting President in his absence, as its duly authorized and designated representative to act for and on behalf of Owner.

This designation shall remain in full force and effect until and unless Architect is otherwise notified in writing by Owner and directed to Architect at the address above set forth.

Architectural Services - Percent

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Venue shall be in Lubbock County, Texas.

IN WITNESS WHEREOF, the parties have hereunto set their hands.

OWNER

TEXAS TECH UNIVERSITY

By: 

Donald R. Haragan
Interim President

Date: 6/10/96

ARCHITECT

PARKHILL, SMITH & COOPER, INC.

By: 

Date: 6/27/96

REVIEWED FOR FISCAL IMPLICATIONS

By: 

for Jim Brunjes, Interim Vice
President for Fiscal Affairs

Date: 6/5/96

REVIEWED FOR FORM

By: 

Pat Campbell, Vice President
And General Counsel

Date: 6-10-96

4:AE%.MST
REV 10/17/94

GAS TRANSPORTATION AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into this 26th day of ^{August}~~July~~, 1996 by and between Texas Tech University, hereinafter referred to as "Shipper", and Power-Tex Joint Venture, hereinafter referred to as "Transporter." Transporter is a joint venture made and entered into on July 2, 1984, as amended, which is currently managed by LG&E Natural Plains Energy Services Inc.

WITNESSETH:

WHEREAS, Transporter owns a natural gas transmission system in Hockley and Lubbock counties, Texas; and

WHEREAS, Shipper desires Transporter to provide transportation service on its system to Shipper under the terms and conditions set forth herein; and

WHEREAS, Transporter has the capability and is willing to provide such transportation service;

NOW, THEREFORE, in consideration of the premises and of the mutual promises and agreements herein contained, Shipper and Transporter agree as follows:

ARTICLE I **DEFINITIONS**

The following words and terms, wherever and whenever used or appearing in this Agreement, shall have the following meanings:

1.1 "Day" shall mean the period of twenty-four (24) consecutive hours commencing at 12:00 p.m. on one calendar day and ending at 12:00 p.m. on the following day.

1.2 "Billing Month" shall mean the period commencing on the first Day of a calendar month and ending on the first Day of the following calendar month.

1.3 "British Thermal Unit" ("Btu" or "BTU") shall mean the amount of heat required to raise the temperature of one pound of water from fifty-nine degrees Fahrenheit (59 F) to sixty degrees Fahrenheit (60 F).

1.4 "Receipt Point(s)" shall mean the point or points located on Exhibit "A" hereto, as may be amended from time to time by mutual agreement of the parties.

1.5 "Delivery Point(s)" shall mean the point or points listed in Exhibit "A" hereto, as may be amended from time to time by mutual agreement of the parties.

1.6 "Heating Value" shall mean the number of British Thermal Units (BTU) produced by combustion, at constant pressure, of the amount of the gas which would occupy a volume of one (1) cubic foot at a temperature of sixty degrees Fahrenheit (60°F) if saturated with water vapor and at the pressure base of fourteen and seventy-three hundredths pounds per square inch absolute (14.73 psia) adjusted for actual water vapor content. So long as the water vapor content is below six (6) pounds per million cubic feet that the gas shall be assumed to be dry.

1.7 "Contract Year" shall mean each period of twelve (12) consecutive months beginning on the effective date of this Agreement, and on each anniversary date thereof.

1.8 "MMBtu" shall mean one million BTU's.

ARTICLE II

TERM

2.1 This Agreement shall become effective September 1, 1996 and shall continue in full force and effect until August 31, 1997, and from Contract Year to Contract Year thereafter until terminated by either party by providing written notice to the other party at least ninety (90) days prior to such termination.

ARTICLE III
TRANSPORTATION QUANTITY, PRESSURE & BALANCING

3.1 Transporter agrees to receive at the Receipt Point and transport to the Delivery Point, on a firm basis, Shipper's full requirements for gas transportation service up to a maximum daily quantity (MDQ) of 5,000 MMBtu per day. Shipper agrees to transport Shipper's full requirements through Transporter's pipeline system.

3.2 Shipper shall deliver gas to Transporter at sufficient pressure to enter Transporter's pipeline system.

3.3 The parties intend that daily deliveries to Shipper at the Delivery Point(s) will equal, on a heating value basis, daily receipts by Transporter from Shipper at the Receipt Point(s). However, due to variations in operating conditions, which may be beyond the control of either party, daily and monthly deliveries by Transporter may be greater or less than the corresponding receipts of gas by Transporter for transportation hereunder. Any such excess or deficiency will be adjusted or corrected with actual gas volumes as soon as operating conditions reasonably permit. The parties agree to exercise due diligence in adjusting and/or correcting any such excesses or deficiencies no later than the end of the month in which they occur.

3.4 The obligation to adjust discrepancies between the quantity of gas received by Transporter at the Receipt Point(s) and the quantity delivered at the Delivery Point(s) shall survive the termination of this agreement until any discrepancies are corrected.

ARTICLE IV
UPSTREAM TRANSPORTATION

Shipper shall make, or cause to be made, all necessary arrangements with other pipelines or parties at or upstream of the Receipt Point(s) in order to effectuate Transporter's receipt of gas.

ARTICLE V

MEASUREMENT FACILITIES

5.1 Transporter shall install, maintain and operate, at Transporter's sole expense, any equipment necessary to control and accurately measure the flow of gas. All facilities used shall conform to industry and A.G.A. standards for use and maintenance. Upon request, Transporter shall promptly provide Shipper with information regarding the actual quantities of gas delivered at the Delivery Point(s), including, but not limited to, daily supply nominations and actual deliveries to Shipper's facilities.

5.2 The installation, operation and maintenance of measurement facilities shall be the responsibility of Transporter. Shipper shall have access to all measurement equipment at reasonable hours, but all maintenance and operation shall be done by Transporter.

5.3 Shipper shall have the right to install, maintain and operate check measuring equipment in and connected to Transporter's facilities, provided that such check measuring equipment shall not interfere with the operation of Transporter's system, including Transporter's measuring facilities. Shipper shall indemnify and hold Transporter harmless from all liability arising from the installation, maintenance and operation and removal of such check measuring equipment. Transporter shall have access to such check measuring equipment at reasonable hours but the operation and maintenance of such check measuring equipment shall be done by Shipper.

5.4 Each party shall have the right to be present at the time of any installing, cleaning, changing, repairing, inspecting, testing, calibrating, or adjusting done in connection with the other party's measuring equipment installed hereunder. All records from such measuring equipment shall remain the property of their owner, but upon request, each party shall submit to the other party its records and charts, together with calculations therefrom, for inspection and verification, subject to return within thirty (30) days after receipt thereof.

5.5 In the event that Transporter's measuring facilities are out of service or determined to be registering inaccurately, the quantity of gas transported hereunder during such period shall be determined by using the following alternatives in the following order of preference:

- a) By using Shipper's measuring facilities or other check measuring facilities that both parties agree are accurately measuring; or
- b) By recalculating if the quantity or percentage of error is ascertainable by calibration, test, or mathematical calculation; or
- c) By relating the quantity of delivery to deliveries during periods under similar conditions when the billing meter was deemed to have been registering accurately.

5.6 The accuracy of each party's measuring equipment shall be verified at reasonable intervals, and, if requested, in the presence of the other party, but such verification shall not be required more frequently than once during a thirty day period. In the event that either party requests a special test of the other party's measuring equipment, the parties shall cooperate to secure a prompt verification of the accuracy of such equipment. The party requesting a special test shall bear the expense of such test if the results indicate that the measuring equipment is found to be measuring within two percent (2%) of accurate.

5.7 If Transporter's measuring equipment is found to be measuring inaccurately within a two percent (2%) error tolerance range in the individual meters affected, previous records shall be considered accurate, but such equipment shall be adjusted at once to function accurately. If Transporter's measuring equipment is found to be measuring inaccurately outside the two percent (2%) error tolerance at a recording corresponding to the average hourly rate of flow through the individual meter(s) affected for the period since the last preceding test, then any such previous registration, integration or recordings of such meter(s) shall be corrected to zero error for any part of the period since the last test during which such error is known to have existed or as otherwise agreed by both parties. In the event that the parties can not agree on the appropriate time period for the error, then any necessary correction shall apply to one half (1/2) of the time since the last test, which one half (1/2) shall not exceed a period of three (3) months.

5.8 Each party shall retain measurement records for a period of three years.

ARTICLE VI **MEASUREMENT**

6.1 Computation and/or integration of and heating value shall be in accordance with AGA measurement standards and consistent with the specifications of Northern Natural Gas Company's FERC Gas Tariff, Fifth Revised Volume No. 1.

6.2 The delivery unit of gas deliveries hereunder shall be one (1) MMBtu.

6.3 If meter or meters requiring flowing gas temperature determination are used, the temperature of the gas being measured shall be determined by the use of a recording or integrating temperature device or devices installed as to properly record or integrate into the computations the temperature or the effect of the temperature of the gas flowing through the meters. The arithmetical average of the temperature recorded during periods of gas flow only shall be used when computing gas volumes.

6.4 If meters requiring the determination of the specific gravity are used, the specific gravity of the gas delivered hereunder shall be determined by the use of an accumulative gas sampling method or spot test method. The specific gravity shall be determined monthly or as much more often as found necessary in practice. The specific gravity and BTU content determined by any specific test shall be made effective for the month in which the sample was accumulated.

a) The gross real heating value of the gas shall be determined each month or at other mutually agreeable intervals by Transporter or Transporter's designees by taking samples at the delivery point(s); said samples may be run on a calorimeter or the gross real heating value may be computed from chromatographic analysis of such samples. The result shall be applied to gas deliveries for the day when the sample is taken and for all following days until a new sample is taken. The gross real heating value so determined shall be

corrected from the conditions of testing to the actual water vapor content of the gas as delivered at a temperature base of sixty (60) degrees Fahrenheit and a pressure of 14.73 psia. If actual water vapor content is determined to be six pounds of water vapor per million cubic feet or less, it shall be deemed to be dry.

ARTICLE VII

QUALITY

7.1 Gas delivered by Shipper to Transporter hereunder shall conform to quality specifications set forth in Northern Natural Gas Company's FERC Gas Tariff, Fifth Revised Volume No. 1.

7.2 In the event that gas tendered for delivery hereunder is not of merchantable quality or does not meet the quality specifications of this Agreement then in effect, Transporter at its option may at any time: (a) refuse to accept any or all such gas; or, (b) accept such gas, notify Shipper as soon as practical thereafter of such acceptance, and charge a reasonable additional fee for Transporter's acceptance and treatment of such sub-quality gas. Transporter shall further have the right and option to process Shipper's gas without payment or charge to Shipper. Shipper shall indemnify Transporter against any and all damages, losses, costs and expenses resulting from or arising out of the delivery of such sub-quality gas. Acceptance of any or all gas that fails to conform to the quality specifications of this Agreement shall not be deemed a waiver of Shipper's obligations hereunder with respect to such nonconforming gas or with respect to any future deliveries of sub-quality gas.

ARTICLE VIII

RATES AND CHARGES

8.1 Beginning with the effective date, Shipper agrees to pay a transportation fee of \$.15 per MMBtu for each MMBtu delivered at the point(s) of delivery.

8.2 Any taxes required to be paid by Transporter in connection with construction or ownership of each pipeline system shall be the sole responsibility of Transporter. Shipper will pay Transporter, in addition to its transportation charge, any tax assessed or occasioned by the transportation or services rendered in connection with this Agreement when such tax is levied pursuant to authority granted to the taxing agency or authority after the effective date of this Agreement; however, if Transporter is refunded in whole or in part, any tax payment for which Transporter was reimbursed by Shipper, the refund amount shall be paid by Transporter to Shipper.

ARTICLE IX

BILLING

9.1 On or before the 15th day of each Month, Transporter shall render a statement to Shipper of the amount due Transporter for the quantity of gas transported hereunder in the immediately preceding Month and payment therefore shall be within fifteen (15) days of receipt. Billing shall be subject to correction for errors therein for a period of two years after rendition of same. Should Shipper fail to pay the full amount due to Transporter when the same is due, interest thereon shall accrue at the prime rate charged by the Chase Manhattan Bank of New York plus two percent (2%), compounded monthly, or the maximum rate permitted by law, whichever is lesser, from the date when such payment is due until the same is paid. Both parties shall have the right at any and all reasonable times, to examine the books and records of the other party to the extent necessary to verify the accuracy of any statement, charge, computation or demand made under or pursuant to this Agreement for a period of two (2) years.

9.2 This agreement may be terminated by Shipper upon 30 days' prior written notice in the event Shipper fails to receive sufficient state appropriations or funds from other sources and such lack of funds makes it impossible for Shipper to make payments required under this agreement. In the event this agreement is so terminated, the University will remain liable for all amounts due hereunder.

ARTICLE X **REGULATION**

10.1 This Agreement shall be subject to all applicable orders, directives, rules and regulations of any governmental body having jurisdiction hereunder.

10.2 Each party represents and warrants to the other that all gas which it delivers or causes to be delivered hereunder, will not be or have been commingled in any manner with other gas which is or may be sold, consumed, transported, or otherwise utilized in interstate commerce in a manner which would subject such gas, either party hereto, or any facilities utilized hereunder, to the jurisdiction of the Federal Energy Regulatory Commission or any successor regulatory body under the Natural Gas Act of 1938, as amended.

ARTICLE XI **FORCE MAJEURE**

11.1 In the event of either party hereto being rendered unable, wholly or in part, by force majeure to carry out its obligations under this Agreement, other than to make payments for the transportation charges as provided herein, it is agreed that on such party's giving notice and full particulars of such force majeure in writing to the other party as soon as practicable after the occurrence of the cause relied on, then the obligations of the party giving such notice, so far as they are affected by force majeure, shall be suspended during the continuance of any inability so caused but for no longer, and such cause shall as far as possible be remedied with all reasonable dispatch.

11.2 The term "force majeure" as employed herein shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, storms, floods, washouts, arrests and restraints of governments and people, civil disturbances, explosions, breakage, freezing, or accidents to machinery or lines of pipe, the necessity of making repairs to or alterations of machinery or lines of pipe, freezing of wells or sources of supply gas, and any other causes, whether of the kind herein

enumerated or otherwise, not within the control of the party claiming suspension and which by the exercise of due diligence such party is unable to prevent or overcome; such term shall likewise include (a) those instances where either Transporter or Shipper is required to obtain servitudes, right-of-way grants, permits, or licenses to enable such party to fulfill its obligation hereunder, and inability of such party to acquire, or the delays on the part of such party in acquiring at reasonable cost and after the exercise of reasonable diligence, such servitudes, right-of-way grants, permits or licenses, and (b) in those instances where Transporter or Shipper is required to furnish materials and supplies for the purpose of constructing or maintaining facilities or is required to secure permits or permissions from any governmental agency to enable such party to fulfill its obligations hereunder, and inability to acquire or the delays on the part of such party in acquiring, at reasonable costs and after the exercise of reasonable diligence, such materials and supplies, permits and permissions.

11.3 It is understood and agreed that the settlement of strikes or lockouts shall be entirely within the discretion of the party having difficulty, and that the above requirements that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes or lockouts by acceding to the demands of opposing party when such course is inadvisable in the discretion of the party having the difficulty.

ARTICLE XII

NON-WAIVER OF FUTURE DEFAULT

12.1 No waiver by either party hereto of any one or more defaults by the other in the performance of any provisions of this Agreement shall operate or be construed as a waiver of any future default or defaults, whether of a like or a different character.

ARTICLE XIII

DEFAULTS

13.1 It is agreed that if either party shall fail to perform any of the covenants and

obligations imposed upon it under and by virtue of this Agreement, then the parties shall proceed as follows: The party not in default shall cause a written notice to be served on the party in default stating specifically the defaults; whereupon, the party in default shall have thirty (30) days after the service of the aforesaid notice in which to remedy or remove the cause or causes stated in the notice of default and if within the said period of thirty days the party in default does so remedy or remove said cause or causes of default, then such notice shall be withdrawn and this Agreement shall continue in full force and effect. In case the party in default does not so remedy or remove the cause of default, either party shall have the right to bring an action before any court or other governmental authority having jurisdiction with respect to such default

ARTICLE XIV **INDEMNIFICATION AND RESPONSIBILITY**

14.1 Shipper hereby warrants title or rights as agent to all gas which it directs Transporter to transport under this Agreement and that such gas is free from all liens and adverse claims and further, Shipper agrees to indemnify Transporter against all suits, actions, debts, accounts, damages, costs, losses and expenses arising from or out of any adverse legal claim of any and all persons to or against the title to said gas.

14.2 Nothing in this agreement shall be construed as a waiver of the sovereign immunity of the State of Texas. Any release, indemnity or hold harmless contained in this agreement is limited to the extent allowed by the laws of the State of Texas including, without limitation, the provisions of the Texas Tort Claims Act. Any release, indemnification or hold harmless beyond the extent allowed by law is void.

14.3 Each of the parties hereto assumes full responsibility and liability in the maintenance and operation of its respective properties and agrees to indemnify and save harmless the other party from all liability and expense on account of any and all damages, claim or actions, including injury to and death of persons arising from any act or accident in connection with the

installations, presence, maintenance and operation of the property and equipment of the indemnifying party.

14.4 Shipper shall be deemed to be in exclusive control and possession of the gas prior to receipt by Transporter at the Receipt Point(s) and after the delivery of gas by Transporter at the Delivery Point(s); otherwise, Transporter shall be deemed to be in exclusive control and possession of the gas.

ARTICLE XV **RIGHT TO LIQUIDS**

15.1 Shipper agrees that it shall not, without the prior written consent of Transporter, remove any liquids or liquefiabiles from the natural gas transported hereunder.

ARTICLE XVI **SUCCESSORS**

16.1 The terms and provisions hereof shall extend to and be binding upon the parties hereto, their successors, legal representatives and assigns. No assignment or transfer by either party of the rights and obligations hereunder shall be made without the prior written approval of the other party. Such approval shall not unreasonably be withheld. Notwithstanding the foregoing, nothing herein shall prohibit either party from pledging or mortgaging its rights hereunder as security for its indebtedness.

ARTICLE XVII **APPLICABLE LAW**

17.1 This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to principles or conflicts of law.

ARTICLE XVIII
NOTICES

18.1 All notices and other communications provided for in this Agreement shall be in writing and shall be deemed delivered when mailed or telecopied to the address or telecopy number of the parties as follows:

Transporter: STATEMENTS/INVOICES/ACCOUNTING/PAYMENTS

Power-Tex Pipeline Company
c/o LG&E Natural Plains Energy Services, Inc.
P.O. Box 911760
Dallas, TX 75391-1760

GENERAL CORRESPONDENCE

Power-Tex Pipeline Company
c/o LG&E Natural Plains Energy Services, Inc.
P.O. Box 569550
Dallas, TX 75391-9550

Attn: Contract Administration
Telephone No.: (214) 640-6800
Telecopier No.: (214) 640-6980

Shipper: STATEMENTS/INVOICES

Texas Tech University Physical Plant
P.O. Box 43142
Lubbock, TX 79409-3142

Attn: Financial Services
Telephone No.: 806-742-3818
Telecopier No.: 806-742-3881

General Correspondence:

Physical Plant
Box 43142
Lubbock, Texas 79409-3142
Attn: Jay Buffington
Telephone 806-742-3808
Telecopier 806-742-0624


ARTICLE XIX
MISCELLANEOUS

19.1 This Agreement supersedes all prior agreements or understandings between the parties, written or oral, contains the entire agreement of the parties with regard to the subject matter hereof and can only be amended or otherwise modified by written instrument executed by the party to be charged with the effect thereof.

IN WITNESS WHEREOF, the parties have executed the Agreement in duplicate the day and year first above written.

SHIPPER

TEXAS TECH UNIVERSITY

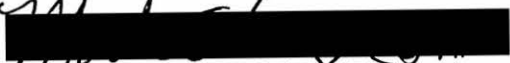

By: Donald R. Haragan
Title: Interim President

Date: 8/26/96

TRANSPORTER


POWER-TEX JOINT VENTURE

By LG&E Natural Plains Energy
Services, Inc. as manager of
Power-Tex Joint Venture


By: Mark Stanger *RBN*
Title: Vice President, Facilities


Date: 8/26/96

REVIEWED FOR FISCAL IMPLICATIONS


Jim Brunjes, Interim Vice President
for Fiscal Affairs *JB*

Date: 8/23/95

REVIEWED FOR FORM


Pat Campbell, Vice President and
General Counsel

Date: 8-23-96

Exhibit "A"
To That Certain
GAS TRANSPORTATION AGREEMENT
Between
POWER-TEX JOINT VENTURE
and
TEXAS TECH UNIVERSITY
Dated
July 2, 1996
and effective September 1, 1996

RECEIPT POINT(S)

The point of interconnect between the facilities of Power-Tex and Northern Natural Gas Company ("Northern") known to Northern as the Adobe-Hockley Delivery Point on Northern's KV line, # POI 36-383.

DELIVERY POINT(S)

Any of five currently existing points of interconnection between facilities owned by Power-Tex and facilities owned by Texas Tech University, currently known as: TTU RHC, meter serial # WT 902352; TTU Museum, meter serial # S28760; TTU Int. Cultural Center, no meter serial #; TTU CHACP #1, meter serial # 936074; TTU CHACP #2, meter serial # 936073; and TTU Campus, meter serial # 934307.

SPONSORSHIP AGREEMENT

This agreement (the "Agreement") is made by and among Southwest Coca-Cola Bottling Company, Inc., a Texas corporation (the "Bottler"), The Coca-Cola Company, a Delaware corporation (the "Company") (Bottler and Company are sometimes jointly referred to herein as "Sponsor"), and the Texas Tech University, an institution of higher education organized under the laws of Texas located in Lubbock, Texas (the "University"). The parties are entering into this exclusive sponsorship agreement because the University wishes to grant to Sponsor, and Sponsor wishes to obtain, the exclusive rights (i) to offer Beverages for sale or sampling on the Campus (as defined herein), (ii) to market and associate Beverages with the University and to promote their consumption and sale generally and on the Campus, and (iii) to offer Bottler's vended snacks and food. It is the intent of the parties to extend the Term (as defined herein) of the Existing Agreements (as defined herein) to the expiration date of this Agreement. In consideration of the mutual promises contained herein, the parties agree to the following terms regarding their exclusive sponsorship agreement.

1. Term.

This Agreement takes effect on September 1, 1996 (the "Effective Date") and expires on August 31, 2006, unless (i) mutually extended under the terms hereof or by written agreement of the parties or (ii) sooner terminated as provided herein (the "Term").

2. Definitions.

All defined terms used in this Agreement and not otherwise defined shall have the meanings set forth on Exhibit 2.

3. Beverage and Snack Availability Rights.

3.1 Subject to the Permitted Exceptions set forth in Section 5 hereof, University agrees that all Beverages sold, distributed, or sampled at all locations on the Campus where refreshments are sold, distributed, or sampled (that is, distributed at no cost) will be Products and that all vended snacks and other vended food items shall be Snacks. University agrees that it shall, and shall cause its concessionaires to, purchase its complete requirements of Products and Snacks for the Campus from Company or Bottler, as the case may be. Sponsor and University agree that Sponsor and University shall determine the Beverage mix that shall be available at each refreshment location. Subject to the Permitted Exceptions set forth in Section 5, no Competitive Products shall be made available, advertised, or promoted on Campus.

3.2 University shall use its reasonable efforts to maximize the sale and distribution of Products including Bottler's current practice of hawking Products in stands in Approved Cups or twenty-ounce bottles at all sporting events and during all events when any items of any make or description are hawked on the Campus. In the event

that University chooses a concessionaire other than Bottler, University agrees that such concessionaire shall hawk products as described above. Company's current standard trademark cup is attached as **Exhibit 3.2**.

- 3.3 Sponsor acknowledges that restaurants operate on the Campus and serve Products in cups bearing the trademark of the restaurant. University shall ensure than any new restaurants on the Campus shall serve Products in Approved Cups.
- 3.4 Subject to the Permitted Exceptions set forth in Section 5 hereof, all Beverages sold, dispensed, served, distributed for free (sampled), advertised or promoted anywhere, anytime on the Campus and in connection with the University and the Teams shall be Products.
- 3.5 University agrees to purchase Products according to the pricing schedules set forth in **Exhibit 3.5**.

4. Marketing Rights.

- 4.1 University grants to Sponsor the following exclusive promotional rights, to:
 - 4.1.1 Market and promote Beverages in connection with the University, the Campus, and the Teams, including the right to recognition of its sponsorship on panels, as further described on **Exhibit 4**.
 - 4.1.2 Market and promote Beverages in connection with the University, the Campus, and the Teams including the use, subject to Section 4.5, or the University Marks on a royalty-free basis. University acknowledges and agrees that such promotional activities may be conducted in conjunction with Sponsor's customers; as such, Sponsor shall have the right to incorporate its customers' marks, logos and/or branded products with the University Marks on any advertising, point-of-sale, packaging, or premium items or materials. University hereby grants Sponsor a license to use the University Marks on a royalty-free basis for the purposes of promoting Products as provided herein.
 - 4.1.3 Refer to Sponsor in any of Sponsor's marketing materials as a "sponsor" of the Campus, the University, and/or the Teams, and refer to any brand of Products in any of Sponsor's marketing materials as the "official" or "exclusive" soft drink, sports drink, tea, water, juice, or juice drink of the Campus, University or the Teams.
 - 4.1.4 Offer Products without charge to attendees and guests on the Campus, with University's prior approval, which shall not be unreasonably withheld.
 - 4.1.5 Undertake Beverage promotions at or in connection with the Campus and/or

the Teams, including offering Products in promotional packaging bearing the University's Mark's on a royalty-free basis.

- 4.1.6 Create and market for retail sale, either at Company's retail stores or through its catalogue, merchandise in incorporating the University Marks and trademarks of Products. Company, or its licensee, shall pay a royalty on each item of merchandise consistent with industry standards for sales of such merchandise.
- 4.1.7 Sample and survey individuals on the Campus with the University's prior approval as to time, location, and the process of such activities.
- 4.2 University grants to Sponsor the following exclusive merchandising rights:
 - 4.2.1 University agrees that all Beverages served, sold, sampled, advertised, or dispensed on the Campus in disposable vessels (including Beverages sold, served, sampled, advertised, or made available in locker rooms and players' benches) shall be served in Approved Cups.
 - 4.2.2 Materials promoting the Products at the point-of-sale on the Campus, which shall include translites and pictorials on dispensing equipment depicting Approved Cups and Product, shall be clearly visible to the purchasing public and shall be displayed in a manner and location acceptable to Sponsor.
 - 4.2.3 Product trademarks shall be prominently displayed on each menu board on the Campus.
- 4.3 University shall provide Sponsor with tickets as set forth on **Exhibit 4**.
- 4.4 University shall provide Sponsor with other marketing rights set forth on **Exhibit 4**, all of which shall be exclusive with respect to Beverages.
- 4.5 University shall have the right to pre-approve (i) the concept for any promotional activity undertaken hereunder and (ii) any artwork or other items created by Sponsor for use in promotional activities or otherwise in accordance with the terms of this Agreement and that incorporate any of the University Marks. Provided, however, that if University fails to respond to any submission within a period of ten (10) working days subsequent to the actual receipt by University of such submission, then such submission shall be deemed approved by University. University agrees that its approval hereunder shall not be unreasonably withheld.
- 4.6 University agrees that it shall not, directly or indirectly, (nor shall University permit anyone to whom University has granted promotional, advertising or other rights) maintain any agreement or relationship pursuant to which any Competitive Products

are associated in any manner with University, the Campus, or the Teams in any fashion that creates or tends to create the impression of a relationship or connection between the University, the Campus or the Teams and any Competitive Product. For further specificity, and not by way of limitation, University agrees that no permanent or temporary advertising, signage, or trademark visibility for Competitive Products will be displayed or permitted anywhere on the Campus. Nothing contained herein shall prevent on-Campus consumption of Competitive Products purchased outside the Campus.

Notwithstanding anything herein to the contrary: University shall have the right to allow temporary signage, sponsorship recognition, sponsor acknowledgment and/or trademark display for Competitive Products at the Facilities during up to two (2) "Special Performances" (as hereinafter defined) per Agreement Year; provided, however, that (I) Sponsor's sponsorship rights shall not be otherwise affected during such Special Performances and its sponsorship recognition panels shall not be covered, and (ii) no Competitive Products may be sold, served, sampled, or otherwise made available to attendees or any Team during any such Special Performance. As used herein, the term "Special Performance" shall mean and be limited to a one-time event which is sponsored by a manufacturer, licensee or distributor of a Competitive Product and for which the sponsor or promoter represents to University that such rights for a Competitive Product are mandated in the agreement between such sponsor and the artist(s) performing in such event. University shall provide Sponsor with no less than thirty (30) days prior written notice, or if impracticable, as much notice as practicable, that it intends to have a Special Performance on the Campus.

5. Permitted Exceptions.

- 5.1 University shall have the right to make available for sale on the Campus (I) instant/freshly brewed coffee, (ii) instant/freshly brewed tea and (iii) hot chocolate.
- 5.2 The Town and Country Food Store in the Wiggins Complex and the Tech Bookstore shall have the right to make Competitive Products available.

In the event that the University allows other Town and Country Food Stores to operate on the Campus, Sponsor and University shall mutually agree on the right of each such convenience store to make Competitive Products available.

- 5.3 The parties agree that during the Term, the availability of Dr Pepper brand products may be reduced or eliminated in order to increase the availability of Company Products. Sponsor agrees to review the current business status and develop strategic marketing and growth initiatives with the University on a semi-annual basis.
- 5.4 The University shall have the right to make juice or juice-containing Competitive Products available through juice dispensers in the Housing and Dining Services

facilities. Nothing contained herein shall be deemed to allow any availability for bottled or canned juice or juice-containing Competitive Products on the Campus. Further, this provision shall not be deemed to allow advertising or promotional rights for such dispensed juice or juice-containing Competitive Products except that trademarks for such Competitive Products may be displayed on the dispensing equipment for such Competitive Products.

University agrees to provide equal space for Company's juice or juice-containing Products available through juice dispensers in the Housing and Dining Services facilities for a six (6) month period. After the six (6) month period, University agrees to make Company's Products exclusively available if sales of Company's Products are equal to or greater than the Competitive Product.

6. Consideration.

- 6.1 For the rights described herein, Bottler agrees to pay University One Million Three Hundred Thousand Dollars (\$1,300,000) for the entire Term for discretionary marketing funds ("Discretionary Marketing Funds"). Such Discretionary Marketing Funds shall be paid by Bottler in monthly installments of Ten Thousand Eight Hundred Thirty Three Dollars and Thirty Three Cents (\$10,833.33). Sponsor and University shall mutually agree upon the uses of the Discretionary Marketing Funds, which may be used towards, but not limited to, the expansion of the debit card system, construction and expansion of the Financial Aid Resource Center, construction of a special events arena ("Arena"), as a subsidy for the University Center vending, or as a subsidy for fountain food service marketing.
- 6.2 For the rights described herein, Bottler agrees to pay University Three Hundred Thousand Dollars (\$300,000) over the entire Term of scholarship support ("Scholarship Support"). The payments shall be paid in annual installments of Thirty Thousand Dollars (\$30,000). Bottler understands that University plans to allocate the Scholarship Support each year as follows: Twenty Five Thousand Dollars (\$25,000) for Presidential Scholarships, Two Thousand Five Hundred Dollars (\$2,500) for the Texas Tech Foundation, One Thousand Five Hundred Dollars (\$1,500) for Marketing Department Scholarships, and One Thousand Dollars (\$1,000) for the President's Council.
- 6.3 For the rights described herein, Bottler agrees to pay University Two Million Dollars (\$2,000,000) in two installments: the first installment of one million shall be made on September 1, 1996 and the second installment of one million shall be made on the first anniversary of the Effective Date of this Agreement (the "University Sponsorship Support"). The University Sponsorship Support shall be earned by University evenly throughout the entire Term. Sponsor and University shall mutually agree upon the uses of the University Sponsorship Support, which may be used towards, but not limited to, the construction of the Arena, capital improvements program, or

endowment and scholarships. In the event University builds the Arena during the Term, Sponsor shall be entitled to the exclusive marketing and promotional rights set forth on **Exhibit 4** of this Agreement.

- 6.4 For the rights described herein, Bottler agrees to pay University Ninety Thousand Dollars (\$90,000) for discretionary athletics support ("Discretionary Athletic Support") on September 1, 2001. The Discretionary Athletic Support shall be earned evenly throughout the entire Term. Sponsor and University shall mutually agree upon the uses of the Discretionary Athletic Support, which may be used towards: the hardware and software of a remote outlet ticketing program, capital improvements, purchase or upgrade of scoreboards, purchase or upgrade or public address systems, or special marketing projects.
- 6.5 In addition to the payments Bottler is paying to the University pursuant to the Existing Agreements, Bottler agrees to provide a maximum of Ten Thousand Dollars (\$10,000) during each Agreement Year for marketing activation activities that may include donation of Products, promotions, and event sponsorships.
- 6.6 Bottler may, consistent with prior practices, produce a coaches' show, which has a value to the University of approximately Eight Thousand Five Hundred Dollars (\$8,500) during each Agreement Year.
- 6.7 Bottler agrees to provide, install, and service debit cards at locations mutually agreed upon with University on the terms set forth in **Exhibit 6.7**.

Equipment and Service.

- 7.1 Company shall provide post-mix equipment (and related equipment) and service pursuant to the terms of Company's separate agreement(s) with University's concessionaire(s), as amended or renewed from time-to time during the Term. If University (i) selects a concessionaire that does not have an agreement with the Company or (ii) elects to self-operate the food and beverage operations on the Campus, Company and University shall mutually agree upon the terms under which equipment and service will be provided by Company to University. Bottler shall provide vending equipment and service sufficient to meet University's reasonable needs. The basic understanding among the parties is that the Company and Bottler will provide University with reasonable free equipment and service during the Term as set forth in Section 7.2.
- 7.2 During the Term, Company and Bottler will loan to University all soft drink dispensing equipment ("**Equipment**") which is reasonably required in Company's and Bottler's discretion to dispense Products at the University.

University agrees (i) it will execute documents evidencing Company's and Bottler's

ownership of their respective Equipment, (ii) upon request of Company and Bottler, University will execute Company's Fountain Equipment Lease Agreement ("FELA") and Bottler's Equipment Placement Agreement ("BEPA"), however, if any of the terms of the FELA or BEPA are in conflict with the terms of this Agreement, this Agreement will control, (iii) the Equipment may not be removed from the University without Company's or Bottler's respective written consent, (iv) University will not encumber the Equipment in any manner or permit any attachment thereto except as authorized by Company or Bottler for their respective equipment, and (v) University will be responsible to Company and Bottler for any loss or damage to the Equipment, reasonable wear and tear excepted.

Bottler will provide University with free service twenty-four hours a day, seven days a week, to the Equipment. Bottler shall not be obligated to provide service hereunder during periods in which it is prevented from doing so due to strikes, civil disturbances, unavailability of parts or other causes beyond the control of Bottler. Bottler shall not be liable for damages of any kind arising out of delays in rendering service.

8. Remedies for Loss of Rights.

8.1 In addition to any other legal or equitable remedy, University shall have the right to terminate this Agreement upon forty-five (45) days' written notice to Company and Bottler at any time if:

8.1.1 Either Company or Bottler fails to make any payment due under this Agreement, and if such default continues uncured for the forty-five day period referenced in Section 8.1; or

8.1.2 Sponsor breaches any material term or condition of this Agreement, and if such breach continues uncured for the forty-five day period referenced in Section 8.1; or

8.2 In addition to any other legal or equitable remedy, Sponsor shall have the right to terminate this Agreement upon forty-five (45) days' written notice to University at any time if:

8.2.1 University breaches any material term or condition of this Agreement, and if such breach continues uncured for the forty-five day period referenced in Section 8.2; or

8.2.2 University's right to convey the promotional and product availability rights contained in this Agreement expire or are revoked; or

8.2.3 Any material component of the Facilities is closed for a period of more than

one hundred twenty (120) days.

- 8.3 Upon termination of this Agreement for any reason, University will refund any prepaid Sponsorship Fees pro rated to the date of termination or, if earlier, the date of any default hereunder by University.
- 8.4 If any material component of the Campus is closed for more than thirty (30) consecutive days, but less than ninety (90) consecutive days, Sponsor may extend the Term for a corresponding period, whether or not such closure is due to a cause beyond the reasonable control of University.
- 8.5 If (i) any of the rights granted to Sponsor herein are materially restricted or limited during the Term (including, without limitation, as a result of Ambush Marketing), (ii) any material component of the Campus is closed for a period of more than ninety (90) consecutive days, or (iii) a Team fails to play all of its scheduled home games on the Campus for a period of more than thirty (30) consecutive days during its scheduled season (whether or not such failure to play is due to a cause beyond the reasonable control of University including a strike or other work stoppage), then in addition to any other remedies available to Sponsor, Sponsor may elect, at its option, to adjust the Sponsorship Fees to be paid to University for the then remaining portion of the Term (and University shall pay to Sponsor a pro rata refund of any prepaid amounts) to reflect the diminution of the value of rights granted hereunder to Sponsor. In the event Sponsor elects to exercise its right to such adjustment and refund, University may, at its option, within ten (10) days following receipt of notice of any adjustment, notify Sponsor of its disagreement with the amount of the adjustment. The parties shall then attempt in good faith to resolve the disagreement over such adjustment. If the parties cannot, after good faith negotiations, resolve the matter, Sponsor may exercise the right of termination described in Section 8.2 above.
- 8.6 The parties acknowledge that the rights granted to Sponsor herein are special, unique and extraordinary, and are of peculiar value, the loss of which cannot be fully compensated by damages in an action at law or any application of other remedies described herein. As a result, University acknowledges and agrees that, in addition to any other available remedies, in the event of a material limitation of any of Sponsor's right hereunder, Sponsor shall be entitled to seek and obtain equitable relief, including an injunction requiring University to comply fully with its obligations under this Agreement, insofar as Texas law allows.
- 8.7 University recognizes that Sponsor has paid valuable consideration to ensure an exclusive associational relationship with University, the Teams, the University Marks, and the Campus with respect to Beverages and that any dilution or diminution of such exclusivity seriously impairs Sponsor's valuable rights. Accordingly, subject to the Permitted Exceptions, University will promptly oppose Ambush Marketing and take all reasonable steps to stop Ambush Marketing and to protect the exclusive

associational rights granted to Sponsor by University in this Agreement. In the event any such Ambush Marketing occurs during the Term, each party shall notify the other parties of such activity immediately upon learning thereof.

9. Confidentiality.

Subject to the provision of applicable law, University agrees that the amount of Sponsorship Fees provided to University by Sponsor under this Agreement will be kept confidential by University, its agents, employees and representatives and will not be disclosed in any manner whatsoever, in whole or in part, by University or its agents, employees or representatives without the prior written consent of Sponsor. The foregoing obligation regarding confidentiality shall remain in effect for a period of three years after the expiration of this Agreement.

10. Representations, Warranties and Covenants.

10.1 University represents, warrants and covenants to Sponsor as follows:

10.1.1 University has full power and authority to enter into this Agreement and to grant and convey to Sponsor the rights set forth herein.

10.1.2 All necessary approvals for the execution, delivery and performance of this Agreement by University have been obtained, and this Agreement has been duly executed and delivered by University and constitutes the legal and binding obligation of University enforceable in accordance with its terms.

10.1.3 University has the exclusive right to license the University Marks including all necessary authority from the University.

10.1.4 University has not entered into, and during the Term of this Agreement, will not enter into (a) any other agreements (including agreements with any other sponsors of the Campus and/or any Team) which would prevent it from fully complying with the provisions of this Agreement or (b) any agreement granting Beverage availability and merchandising or promotional and/or advertising rights that are inconsistent with the rights granted to Sponsor pursuant to this Agreement, including any agreements with concessionaires or third party food service operators, vending companies and/or other entities which sell or distribute Beverages (including agreements with other sponsors of the Campus and/or any Team). University further covenants that it will require compliance with the relevant provisions of this Agreement by third party food service operators, vending companies, concessionaires, and/or other entities which sell or distribute Beverages on the Campus.

10.2 Each of Company and Bottler hereby represents, warrants and covenants as follows:

- 10.2.1 Company or Bottler, as the case may be, has full power and authority to enter into and perform this Agreement.
- 10.2.2 All necessary approvals for the execution, delivery and performance of this Agreement by Company or Bottler, as the case may be, have been obtained, and this Agreement has been duly executed and delivered by Company or Bottler, as the case may be and constitutes the legal and binding obligation of Company or Bottler, as the case may be, enforceable in accordance with its terms.
- 10.2.3 Neither Company nor Bottler, as the case may be, has entered into and during the Term of this Agreement, will enter into, any other agreements which would prevent it from fully complying with the provisions of this Agreement.

11. Existing Agreements.

The Existing Agreements are incorporated by reference. If any of the terms of the Existing Agreements are in conflict with the terms of this Agreement, this Agreement will control. The expiration dates and the scope of the beverage definition of the Existing Agreements are hereby conformed with the Term and Beverage definitions in this Agreement. Sponsor shall retain any right of first negotiation, but relinquishes the right to exercise any options, in the Existing Agreements. Copies of the Existing Agreements are attached in Exhibit 11. As used herein in this Section 11, the term, "Existing Agreements" shall mean (I) that agreement entered into between Bottler and University on August 19, 1991, numbered MU838 as amended on May 3, 1995 and numbered MU838/1; (ii) that Lease Agreement entered into between Bottler and University on July 5, 1995, numbered MU2616, and (iii) that letter agreement regarding the Powerade sponsorship dated January 3, 1996, entered into between Bottler and University.

12. Construction of this Agreement.

- 12.1 **This Agreement shall be governed by and construed in accordance with the laws of the State of Texas without regard to principles of conflicts of law.**
- 12.2 The captions used in this Agreement are for convenience only and shall not affect in any way the meaning or interpretation of the provisions set forth herein.
- 12.3 This Agreement, including the Exhibits, which are an integral part of this Agreement and are expressly incorporated herein by this reference, and the Company's "Partnership in Education" proposal dated April 12, 1996, shall constitute the final, complete and exclusive written expression of the intentions of the parties hereto and shall supersede all previous communications, representation, agreements, promises or statements, either oral or written, by or between any party. In the event of a conflict between the provisions of this Agreement and the Exhibits and the

"Partnership in Education" proposal, the provisions of the Agreement and the Exhibits shall control. Except as expressly stated in Section 11, this provision shall not be read to invalidate or amend any other written agreements between Sponsor and/or any Affiliate of Sponsor and University and/or any Affiliate of University. This Agreement, and each of its terms and condition, may be amended, modified, or waived only in writing signed by each of the parties hereto. Any such modifications, waivers, or amendments shall not require additional consideration to be effective.

13. Miscellaneous.

13.1 Each party agrees to maintain sufficient insurance to adequately protect the respective interest of the parties hereto. The stipulated limits of coverage, as mutually agreed among the parties, shall not be construed as a limitation of any potential liability to any of the parties, and failure to request evidence of this insurance shall in no way be construed as a waiver of each party's obligation to provide the agreed insurance coverage.

13.2 Any notice or other communication hereunder shall be in writing, shall be sent via registered or certified mail, overnight courier, or confirmed facsimile transmission and shall be deemed given when deposited, postage prepaid, in the United States mail, addressed as set forth below, or to such other address as either of the parties shall advise the others in writing:

If to Bottler: Southwest Coca-Cola Bottling Company, Inc.
P.O. Box 1048
6134 Ash Drive
Lubbock, Texas 79404
Attention: Ronnie W. Hill Facsimile: (806) 745-7117

If to Company: The Coca-Cola Company
One Coca-Cola Plaza
Atlanta, Georgia 30313
Attention: Vice President, Presence Marketing
Facsimile: (404) 676-3639

with a copy to: General Counsel
Facsimile: (404) 676-6209

If to University: Texas Tech University
15th and Akron
124 Administration Building
Lubbock, Texas 79409
Attention: Jim Brunjes
Facsimile: (806) 742-2138

- 13.3 This Agreement or any part hereof shall not be assigned or otherwise transferred by any party without the prior written consent of the other parties.
- 13.4 The parties are acting as independent contractors and independent employers. Nothing herein contained shall create or be construed as creating a partnership, joint venture or agency relationship between the parties and no party shall have the authority to bind the other in any respect.
- 13.5 No party shall obtain, by this Agreement, any right, title, or interest in the trademarks of the parties, nor, except as provided herein, shall this Agreement give any party the right to use, refer to, or incorporate in marketing or other materials the name, logos, trademarks, or copyrights of the other parties.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed.

THE COCA-COLA COMPANY

[Redacted Signature]

By: Melody C. Justice *per*
Title: Vice President,
Presence Marketing,
Marketing Division

Date:

TEXAS TECH UNIVERSITY

[Redacted Signature]

By: Donald Haragan
Title: Interim President
Date:

**SOUTHWEST COCA-COLA
BOTTLING COMPANY, INC.**

[Redacted Signature]

By: Ronnie W. Hill
Title: Executive Vice President,
General Manager

Date:

EXHIBIT 2

GLOSSARY OF DEFINED TERMS

"Affiliate" means, as to any entity, any other entity which is controlled by, controls, or is under common control with such entity. The term "control" (including the terms "controlled," "controlled by" and "under common control with") shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity.

"Agreement Year" means each twelve-month period beginning with the first day of the Term.

"Ambush Marketing" means an attempt by a third party, without Sponsor's consent, to associate Competitive Products with the Facilities, the University, the University Marks, or any Team, or to suggest that Competitive Products are endorsed by or associated with University, the Campus, the University Marks, and/or any Team by referring directly or indirectly to University, the Campus, or the University Marks, and/or the Teams.

"Approved Cups" means disposable cups the design of which is approved by Company from time-to-time as its standard trademark cups and/or vessels and/or other (disposable and non-disposable) containers approved by Company from time-to-time, all of which shall prominently bear the trademark(s) of Coca-Cola and/or other Products on one hundred percent (100%) of the cup surface. Company's current standard trademark cup is attached hereto as **Exhibit 3.2**.

"Beverage" or "Beverages" means all non-alcoholic beverages, including hot, cold or frozen, carbonated or non-carbonated or naturally or artificially flavored drinks except milk, flavored milk, beer, tap water, or unbranded juice squeezed fresh on the premises. For the sake of specificity, "Beverages" includes, but is not limited to, carbonated soft drinks, frozen beverages, mixers, packaged water, fruit and/or vegetable juices, fruit and vegetable flavored drinks, ready-to-drink chocolate based drinks, ready-to-drink tea and coffee products, sports drinks, and all beverage bases from which these can be prepared (such as syrups, powders, crystals or concentrates).

"Bona Fide Offer" means a proposed agreement concerning rights and obligations similar to those contained herein, which agreement, if executed by University and the third party, would be legally binding.

"Campus" means all facilities operated by or in connection with the University during the Term. References to Campus include all buildings and grounds associated with the University in Lubbock including, without limitation, branded or unbranded food service outlets, vending locations, press boxes, and all athletic facilities (including players' benches and locker rooms).

"Competitive Products" means any and all Beverages other than Products.

"Products" means Beverage products marketed under trademarks or brand names owned by or licensed for use to Company.

"Snacks" means all snacks and food that are distributed from Bottler's vending machines.

"Team" or "Team(s)" means all intercollegiate athletic teams associated with the University.

"University Marks" means the University's name, Team's name, colors and uniforms, and emblems, and all trade names, trademarks, service marks, designs, logo, mascots, characters, identifications, symbols and other proprietary designs that are in existence on the Effective Date or which will be created during the Term and which are owned, licensed or otherwise controlled by the University.

EXHIBIT 3.2
APPROVED CUP GRAPHIC



EXHIBIT 3.5 A

FOUNTAIN PRICING

Bottler agrees to sell post-mix to University's Dining and Food services at a price equal to thirty-one percent of the Company's published national account prices for Coca-Cola classic. This price includes CO2.

For example, if Company's current published national account price is \$6.47 per gallon, University's Dining and Food services price will be \$2.00 per gallon.

EXHIBIT 3.5 B

BOTTLE/CAN PRICING*

Bottler agrees to provide the following outlets operated by the University at the following prices:

12 ounce Cans	\$6.00	24/Case
16 ounce Non-Carbonated Beverage	12.50	24/Case
20 ounce Bottles	10.35	24/Case
1-Liter Bottles	6.60	12/Case
Evian .5-Liter	14.25	24/Case
Evian 1-Liter	14.25	12/Case
Red Rock Water 20 ounce	8.60	24/Case
Red Rock Water 1-Liter	7.85	12/Case
Powerade 20 ounce	12.35	24/Case

* Prices will remain fixed during Agreement Year one. In Agreement Years two through ten, prices may increase/decrease. Sponsor shall provide University with documentation to justify any price adjustments. A price increase will not exceed five percent (5%) per year unless agreed to by the parties.

EXHIBIT 3.5 C

VENDING PRICES AND COMMISSION

Bottler agrees to pay to University the following commissions:

VENDING ITEM	VENDING PRICE	COMMISSION*
12 ounce can drinks	.55	37%
20 ounce bottle non-juice drinks	.75	37%
coffee	.35/.75	27%
snacks	.40/.75	20%
sandwiches	1.00/2.00	10%
non-carbonated juice	.75	10%
milk	.50	10%

*Bottler individually guarantees that University will receive a minimum of Four Hundred Eighty Seven Thousand Dollars (\$487,000) in commissions each Agreement year, which shall be paid in monthly installments of Forty Thousand Five Hundred Eighty Three Dollars and Thirty Three Cents (\$40,583.33). At the end of each month, Bottler will aggregate the actual payments made to the University during such month pursuant to the commission structure set forth above. If the aggregate of such payments is less than the monthly guarantee set forth above, Bottler shall pay the University the difference within forty-five (45) days of the end of said month.

EXHIBIT 4

1 Sponsorship Recognition Panels.

- 1.1 Sponsor shall have the right to at least twenty-five percent (25%) of all panels available on the proposed new arena ("Arena"), including, but not limited to scoreboards, scorer's table, and chairbacks. University shall ensure that this percentage is maintained at no additional cost to Sponsor. Sponsor shall also have the first right to negotiate for any new panels or other forms of sponsor recognition and/or advertising added on the Campus during the Term.
- 1.2 Without the express written consent of Sponsor, Sponsor's signage on the Campus shall not be altered or obscured in any way or draped at any time or for any reason by any person or entity, including any Broadcaster. Without the express written consent of Sponsor in its sole discretion, University shall not permit Sponsor's signage on the Campus to be electronically altered deleted or covered by any person or entity, including any Broadcaster, during any photographing of the Campus or during the broadcast of any event held on the Campus (including, without limitation, Team games).
- 1.4 University shall maintain all scoreboards, signs and other advertising for Products in good order and repair.
- 1.5 All lighted signs and panels advertising or promoting Products (including lighted concession advertising) shall be fully illuminated at all events on the Campus for which any signs are illuminated.
- 1.6 Sponsor shall have the right of access to its permanent signage at all reasonable times for the purpose of replacement or removal of the same or to modify, change or alter the promotional messages appearing thereon at Sponsor's cost and discretion.

2. Tickets.

During the Term, University agrees to provide Sponsor with the following types and quantities of tickets at the Arena:

Twenty four (24) preferred seating season tickets;

One (1) prime skybox and all of the tickets for the seats in the skybox; and

Four (4) season parking passes.

3. Scoreboard Advertising.

University shall provide Sponsor, at no additional cost, ten (10) thirty second (:30) messages on the video replay board during each event held in the Arena and six (6) public address announcements. The University agrees that such advertising time and announcements shall be on an equal rotation with University's other sponsors.

4. Print Advertising.

University shall provide Sponsor, at no additional cost:

Two page full color advertisement in the center of all programs held at the Arena.

Approved renditions of Company's trademarks displayed on the reverse side of all admission tickets for events on the Campus, which shall be the only trademarks on the reverse side of the admission tickets to the Arena.

EXHIBIT 6.7

DEBIT CARD SYSTEM

Bottler shall provide a debit card system in anticipation of a return on investment within twenty four (24) months of installation on the system. Bottler estimates that each debit card reader will cost Eight Hundred Dollars (\$800) and that the following increased volume over the previous twelve (12) months will be needed at each debit card reader location to pay for the debit card reader: four hundred six (406) cases of canned Beverages; or two hundred twenty nine (229) cases of bottled Beverages; or Seven Thousand Seven Hundred Dollars (\$7,700) of Snacks.

In the event that the dollar volume increase in total of all debit card readers is less than their cost, University agrees that its Housing and Dining Services unit shall reimburse Bottler the difference between the cost and the bottler's profit from the increased volume.

EXHIBIT 11
EXISTING AGREEMENTS

Contract No. MU838

STATE OF TEXAS I

COUNTY OF LUBBOCK I

KNOWN ALL MEN BY THESE PRESENTS:

THIS AGREEMENT made this 19th day of August, 1991, by and between Texas Tech University, hereinafter referred to as the "university" and Southwest Coca Cola Bottling Company, Inc., hereinafter referred to as the "vendor".

WHEREAS, the university, being the owner of the stadium, known as Jones Stadium, R.P. Fuller Track and Dan Law Field, located on the campus of said university is desirous of having concessions, such as food and drinks, available for sale in said stadiums, and

WHEREAS, the vendor is desirous of providing concessions in Jones Stadium, consisting of soft drinks and food and other approved concessions.

NOW THEREFORE, in consideration of the premises and promises herein contained, the parties agree that:

1. This Agreement shall become effective September 1, 1991, and shall expire August 31, 2001.
2. The vendor agrees to pay to the university a commission of 44% of gross sales after sales tax for concessions sold at Jones Stadium.
3. The vendor agrees to pay to the university a guarantee of \$32,500 per game for each regular season home football game in lieu of the 44% commission stated above should the guarantee be in excess of the computed commission amount.
4. The vendor agrees to pay the university a commission of 40% of gross sales, after sales tax, for concessions sold at Dan Law Field and R.P. Fuller Track unless the university "in its sole discretion chooses" to operate the concessions in the manner described in 5.j. below.
5. The vendor will provide the following as additional consideration:
 - a. Cash payment of \$150,000 payable August 1, 1991, to fund construction of Jones Stadium gift shop.
 - b. Cash payment of \$30,000 payable September 1, 1991, to fund construction of a permanent concession facility at Dan Law Field.
 - c. Ten (10) annual payments of \$100,000 per year for the term of the contract on September 1 of each year beginning September 1, 1991. (Total \$1,000,000)

- d. Participate as corporate sponsor of one home football game per year for the term of the contract at the same terms and conditions charged other corporate sponsors, providing the fee for such sponsorship does not escalate more than 10% in any one year. (Total estimated at \$250,000)
- e. Purchase of athletic program package for center spreads in all programs including football, basketball and baseball programs each year for the term of the Agreement, provided cost of such center spreads does not escalate more than 10% in any one year. (Total estimated cost of \$100,000)
- f. \$4,000 annual payment to underwrite cheerleader expenses for each year of the Agreement. (Total cost of \$40,000)
- g. Purchase of basketball ticket backs advertising for each year of the Agreement at a cost of \$10,000 per year for the first 5 years and \$12,500 per year for the second 5 years. (Total cost of \$112,500)
- h. Provide at no charge, soft drink products served in Jones Stadium press box including all areas where drinks are currently served. (Including CO₂ equipment and cups)
- i. Continue providing for the printing of Texas Tech football schedule on Coca-Cola Classic can each year of Agreement, so long as vendor's contractual circumstances or governmental regulation do not preclude use of custom can panel.
- j. Should university so desire, the vendor will furnish products, equipment and supplies to the university for the operation of baseball and track concessions at lesser of wholesale cost or 25% of sales less taxes. The remaining 75% will be the profit of the university. In the event the university does not exercise this option yearly, said concessions shall be operated in the same manner as the Jones Stadium concession operation.
- k. Lighted signage shall be furnished, installed and maintained by the vendor and shall be at least 4' x 8'. A sign shall be at both ends of Jones Stadium or dual locations at either end. The university agrees that there shall be no alteration of vendor's signage without vendor's consent in writing, that no advertising or structures shall be permitted to obstruct the view of vendor's signage and that no one, including the media, shall be permitted to drape or otherwise obscure any advertising message of vendor at any time for any reason.
- l. The vendor will provide signage and menu boards at the concession stands in Jones Stadium with the approval of the university. Such approval will not be unreasonably withheld.
- m. The vendor may install two (2) painted signs at Dan Law Field, subject to the approval of the university, for the term of the Agreement and subject to the same conditions as described in 5.k. above.

- n. Fifty season tickets, as determined by the university, to football games in seating areas normally reserved for option or season ticket sales each year for the term of the Agreement.
 - o. The vendor shall have exclusive promotional and signage rights for all events at Jones Stadium, Dan Law Field and R.P. Fuller Track. (This exclusivity shall be limited to carbonated soft drinks.) For purposes of this Agreement, exclusive promotional and signage rights for events held at Jones Stadium, Dan Law Field and R.P. Fuller Track shall apply to those carbonated soft drink products, or trademarks of vendor's choosing and shall include but not be limited to exclusivity among products and trademarks sold, dispensed or otherwise made available, or in any way advertised, displayed, represented or promoted at or in connection with any event at Jones Stadium, Dan Law Field and R.P. Fuller Track by any method or through any medium under control of the university (including without limitation print, broadcast, direct mail, coupons, programs, handbills, displays, sponsorship, signage, hospitality areas, and trademarks on cups or otherwise displayed on player's benches, sidelines, pressbox and locker rooms).
 - p. To the extent controlled by the university and in accordance with the City of Lubbock contractual obligation the vendor shall have promotional exclusivity for carbonated drinks at Texas Tech athletic events held at City of Lubbock facilities.
6. The vendor shall keep confidential all information concerning the business of the university, its financial affairs, its relations with its students and its employees, as well as any other information which may be specifically classified as confidential by the university. Any disclosure must have the express written permission of the university.
- All information shall be kept confidential, by the university, insofar as the Open Records Act of the State of Texas allows.
7. The vendor must certify that it is an Equal Opportunity/Affirmative Action Employer and must provide workers compensation insurance for its employees.
8. The vendor will indemnify and hold harmless the university against any and all damages or claims, including attorney's fees, which shall arise from the negligence of the vendor, its agents or employees in the performance of this Agreement. In addition, the vendor agrees to furnish a current insurance certificate to Contracting and Risk Management showing coverage for the following with Texas Tech University shown as a named insured:

TYPES OF COVERAGE

LIMITS OF LIABILITY

- | | |
|--------------------------|-------------------------------|
| 1. Worker's Compensation | Statutory |
| 2. Employer's Liability | \$100,000/\$100,000/\$500,000 |

3. Comprehensive General Liability

- | | | |
|--------------------|------------------------------|-----------------------------|
| a. Bodily Injury | | \$500,00
each occurrence |
| b. Property Damage | \$100,000
each occurrence | \$300,000
aggregate |

(The vendor must include Product's Liability coverage)

4. Comprehensive Automobile Liability

- | | | |
|--------------------|--------------------------|------------------------------|
| a. Bodily Injury | \$300,000
each person | \$500,000
each occurrence |
| b. Property Damage | | \$300,000
each occurrence |

9. The university will promptly notify the vendor in writing of any claims made against it arising out of a breach of said warranty, and such claim shall be handled by the vendor. In the event of a suit on a claim, the university shall promptly forward to the vendor every summons or other process. The vendor shall have the right to defend, adjust or settle any such claims. No expense shall be incurred and no settlement shall be attempted without the vendor's written consent.
10. The vendor must be the prime contractor and may not assign, subcontract, transfer or otherwise dispose of this Agreement or its rights, title or interest without written consent from the university. Should subcontracting be accepted by the university the vendor must assume sole responsibility for all work tasks associated with the project.
11. Settlement shall be made on a monthly basis. The vendor agrees to submit monthly sworn statements to the university showing proper accounting details reflecting the sales activity of this Agreement. These reports and payment will be submitted within ten (10) days after the end of the month. The vendor shall render such reports in a manner acceptable to the auditing check which they may desire of the operation university and shall further permit the university to make any reasonable auditing check which they may desire of the operation.
12. Should written notice be required by any of the provisions of the Agreement between the university and the vendor, the notice shall be given by the vendor to the Director of Contracting and Risk Management, Texas Tech University, P.O. Box 41101, Lubbock, Texas 79409-1101. Said notices will be given to the Executive Vice President, Southwest Coca-Cola Bottling Company, Inc., 6134 Ash Drive, Lubbock, Texas 79404.
13. The vendor must provide the services listed below for these operational areas:
- a. Concession Stands (provided by the university).
 - b. Individual vendor sales of concessions.

- c. Any equipment required within the concession stands.

Services shall include:

- a. Satisfactory sales and service to customers.
- b. Staffing of operation to provide satisfactory service.
- c. Appropriate supervision and training of vendor's staff.
- d. Compliance with all applicable Health and Safety laws, codes, or procedures.

The university may at any time, by written order, make changes within the general scope of the Agreement. If such changes cause an increase or decrease in the income distribution or performance of any part of the work under the Agreement, a mutually satisfactory adjustment shall be made in the income distribution, and the Agreement will be modified in writing accordingly. Any claims by the vendor for adjustment under this Agreement must be asserted within 15 days from the date of receipt by the vendor of the notification of change. The university shall be responsible for issuance of this written order.

- 14.
 - a. The vendor will have the right to use the existing concession stands in Jones Stadium, in their present condition. Any refurbishing as well as future maintenance shall be the responsibility of the vendor. Any modification of the stands by the vendor must have prior approval of the university.
 - b. The vendor shall be responsible for maintaining all plumbing (sewer and water) and electrical within the confines of the concession stands. The vendor shall be responsible for the removal of any blockage in the plumbing line from within the concession stands to the point of discharge into a larger line.
 - c. The university shall provide power to each concession stand, however, if additional power (i.e., 220 volts) is needed for warmers, ovens, etc., mutual Agreement between the vendor and the university will be required with regard to installation costs.
 - d. The university shall be responsible for providing all water and electrical lines running to the concession stands.
 - e. The cost of electrical and water consumption shall be the responsibility of the university.
 - f. Janitorial clean-up services outside the confines of the concession stands shall be the responsibility of the university.
 - g. The vendor warrants that all soft drinks and food supplied shall conform in all respects to all city, state and federal laws relating to the adulteration of food and drink, and in all respects shall be suitable for human consumption. The vendor will indemnify the university for any or all damages suffered by it for breach by

vendor of any warranty. Vendor shall also meet all other city, state and federal health requirements.

The vendor will assume responsibility for proper use and care of all university property and equipment which is provided, in the various concession operations.

15. If either party is in default under any terms of this Agreement, the party in default shall have thirty (30) days after receipt of written notice of said default to cure the default and the failure to cure the default within thirty (30) days shall give the other party the right to cancel this Agreement immediately.

Upon termination of the Agreement, prior to the end of the term of the Agreement, the vendor shall remove any of its equipment in place on the campus of the university and will pay for the restoration of the property to its original condition. Any property remaining on the campus of the university after the expiration of forty-five (45) days after the termination date will become the property of the university.


16. The university shall have access and the right to examine any of the vendor's directly pertinent books, documents, papers, or other records involving transactions related to this Agreement.
17. The vendor shall execute a performance bond issued by a surety company, authorized to do business in this state, in the amount of \$5,000, payable to the university, and conditioned on the faithful performance of the obligations, agreements and covenants of this Agreement.
18. Upon termination of this agreement for any cause whatsoever, vendor shall have the right to remove any equipment, property, goods or effects which may have been installed or used by the vendor on the premises, but shall not have the right to remove any improvements which are permanently installed. Written statements describing equipment installed by and belonging to the vendor shall be filed with the university or at university's request.
19. The vendor undertakes and agrees that the university shall not be held liable for any salaries of any employees of the vendor, nor for any expenses incurred by the vendor, nor by any debt contracted by the vendor. Nothing in this contract shall be construed as creating a partnership between the university and the vendor, or as constituting the vendor an agent of the university, or as giving the vendor authority to bind the university in any manner.
20. The vendor must provide a current financial statement prepared by a certified public accountant at the time of contracting with the university.
21. This Agreement is not transferable or assignable except upon written approval of the university.
22. Venue shall be in Lubbock, Lubbock County, Texas.


23. If any provisions of this Agreement is ruled unlawful or unenforceable by a court having jurisdiction over the parties of the subject matter, such provision shall be severable from the other provisions of this Agreement and all remaining provisions shall be fully enforceable.

IN WITNESS WHEREOF, the duly authorized officers of the parties hereto have executed this Agreement at Lubbock, Texas, in triplicate, each of which shall be considered an original.


TEXAS TECH UNIVERSITY

SOUTHWEST COCA-COLA BOTTLING CO., INC.


By: 
Robert W. Lawless, President
Date: 9/3/91

By: 
Date: 9-26-91

REVIEWED FOR FISCAL IMPLICATIONS

By: 
Don E. Cosby, Vice President
for Fiscal Affairs
Date: 9-3-91

REVIEWED FOR FORM

By: 
Pat Campbell, Vice President
and General Counsel
Date: 9-5-91

Contract No. MU838/1

AMENDMENT NO. 1 TO CONTRACT NO. MU838

CONCESSIONS

Southwest Coca-Cola Bottling Co., Inc. and Texas Tech University

The Agreement between Southwest Coca-Cola Bottling Co., Inc., Lubbock, Texas and Texas Tech University, Lubbock, Texas, dated September 3, 1991, is amended as follows:

PARAGRAPH NO. 5 IS AMENDED AS FOLLOWS:

The following is added to Paragraph No. 5.j.:

Southwest Coca-Cola Bottling Co., Inc. will waive the physical operation of concessions during the Texas-Louisiana Professional Baseball League season, as long as available products are purchased from Southwest Coca-Cola Bottling Co., Inc.

Southwest Coca-Cola Bottling Co., Inc. will maintain the exclusive rights to promotions, signage and distribution of all carbonated and non-carbonated beverages.

All other provisions of the Agreement will remain as written and all parties do hereby ratify and confirm such terms, stipulations and conditions therein set forth.

IN WITNESS WHEREOF, the parties hereto have executed this amendment in duplicate, each of which shall be considered an original by their duly appointed officers, this the 25th day of April, 1995.

TEXAS TECH UNIVERSITY

By: [REDACTED]
Robert W. Lawless, President

Date: 5/3/95

SOUTHWEST COCA-COLA BOTTLING CO., INC.

By: [REDACTED]

Date: 5/5/95

REVIEWED FOR FISCAL IMPLICATIONS

By: [REDACTED]
Don E. Cosby, Vice President
for Fiscal Affairs

REVIEWED FOR FORM

By: [REDACTED]
Pat Campbell, Vice President
and General Counsel

LEASE

This Lease Agreement is entered into this 5 day of July,
1995, by and between Texas Tech University ("Lessor") and _____
Southwest Coca-Cola Bottling Co. ("Lessee").

Lessor agrees to lease its skyboxes, which are currently under construction, located at Dan Law Baseball Field on the campus of Texas Tech University. Lessee desires to lease one (1) sky box with eight seats as set forth below.

1. TERM. The initial term shall commence on the execution date of this Lease and continue through the Texas Tech baseball seasons of 1995, 1996, 1997 and 1998.

At the end of this initial term, an additional 2-year option to renew shall be granted upon mutual agreement. Such option will be for the Texas Tech baseball seasons of 1999 and 2000.

2. PAYMENT. Lessee agrees to pay \$3,000 per season for the first four years for a total of \$12,000. The first payment is due and payable on the execution date of this Lease and shall be delivered to the Texas Tech Athletics Department, P. O. Box 43021, Lubbock, Texas 79409-3021. Thereafter, the payment is due on February 1st of each year included in this lease.

If the parties exercise the option to renew for an additional two years, the payment shall be \$3,000, which

will cover the entire additional term and be payable by February 1, 1999.

Upon Lessee's option, a lump sum payment of \$11,500.00 may be made on the execution date of this lease which will cover the first four year term. The option/payment of \$3,000 for an additional two years will continue to apply.

3. Lessee will receive eight Texas Tech baseball season tickets for each Texas Tech baseball season included in this agreement. Lessee will not receive free tickets for post-season events but will retain use of skybox for such events, if any.
4. One (1) free parking space will be provided to Lessee for regular Texas Tech University season games.
5. Subject to approval by the Texas-Louisiana Professional Baseball League, Lessee will be granted first-option to lease the same skybox for the Texas-Louisiana Professional Baseball league seasons at prices to be determined by such league and under terms and conditions established by such league.
6. Lessee shall not sub-lease or assign any of its rights under this lease without prior written approval from Lessor.

7. Any alterations, decorations or modifications to the skyboxes or to the surrounding exterior area must have Lessor's prior approval in writing. At Lessor's expense, a sign identifying each Lessee will be placed so as to identify Lessee's skybox, as long as such placement does not conflict with existing agreements. These signs will be displayed during the Texas Tech University baseball season but may be made available during the Texas Louisiana Professional Baseball season.
8. Lessee and Lessee's guests agree to indemnify and hold Lessor harmless from any and all liability associated with Lessee's use of premises.
9. Access to skyboxes will be granted on game days at the same time the general public is admitted unless special arrangements have been made in advance.
10. No alcoholic beverages can be consumed or served on Lessor's premises.
11. Lessee agrees to be responsible for any damage to the skybox which occurs as a result of Lessee's use, normal wear and tear excepted.
12. DEFAULT. An event of default shall exist if Lessee fails to comply with any provision of this lease. In the event

of default, this lease shall be immediately terminated and there will be no refunds of monies previously paid.

13. Following the initial term and additional two-year option period, Lessee shall have a first right to renew lease for such skybox under terms and conditions established solely by the Lessor.
14. All modifications to this Agreement must be evidenced in writing by both parties.
15. Any rules/regulations that are applicable to other Texas Tech Athletic facilities shall apply, i.e., prohibition against smoking except in designated areas.

LESSOR: TEXAS TECH UNIVERSITY

BY: [REDACTED]

Steve R. Pruitt

TITLE: Associate Vice President
for Business Affairs
and Comptroller

DATE: 9-14-95

LESSEE: Southwest Bell Building Co. Inc

BY: [REDACTED]

TITLE: Executive Vice-President Gen. M

DATE: 7-5-95

Southwest Coca-Cola Bottling Company, Inc.

January 3, 1996

Bob Bockrath
Texas Tech University
P.O. Box 43021
Lubbock, Texas 79409-3021

Dear Bob:

This letter formally confirms our Powerade sponsorship funding agreement that started September 1, 1994 and runs through August 31, 2001. Per our discussion, we agree to roll this agreement into the Texas Tech Athletics Concession Contract (MU838), September 1, 1991 to August 31, 2001.

Below is a list of the agreed upon terms and requirements:

Southwest Coca-Cola Bottling Company, Inc. agrees to the following:

1. Pay Texas Tech University \$175,000 to be paid annually (\$25,000 per year for 7 years).
2. To furnish product, cups, squeeze bottles, and coolers for all athletic teams at an estimated value of \$70,000 (\$10,000 per year for 7 years).

Texas Tech Athletics Department agrees to the following:

1. Official sports drink designation (Powerade the Official Sports Drink of Texas Tech Athletics).
2. Usage of University logos in Powerade identified advertising, marketing and point-of-sale.
3. On field/court Powerade identified presence to include: product, cups, coolers, squeeze bottles, and signage.
4. Provide one full page four color ad annually in each football program.
5. Provide one full page four color ad annually in the men's and women's basketball programs.
6. Provide one full page black and white ad annually in the baseball program.
7. Provide four public announcement mentions annually at each football, baseball, and men's and women's basketball games.
8. Provide two messages each game on the football and baseball scoreboards.

Would you please acknowledge and sign a copy of this letter for our files? Please see the attached checks for payments of the 94/95 and 95/96 athletic seasons. We certainly enjoy the partnership we have with Texas Tech University. If you have any questions, do not hesitate to call.

Sincerely,

[Redacted Signature]

Ronnie W. Hill
Executive Vice President and
General Manager

[Redacted Signature]

Texas Tech Athletics Department

1-3-96
Date

CHECK NO- 573137
 INV-DATE 9/12/95
 INVOICE-NO POWERAGE
 CHECK TOTAL
 DISC-AMT 25,000.00
 GROSS-AMT 25,000.00
 PRIOR-PAYMENTS 25,000.00
 25,000.00

Southwest Coca-Cola Bottling Co., Inc. • Lubbock, Texas



SOUTHWEST COCA-COLA BOTTLING CO., INC.

LUBBOCK, TEXAS 79404-5104
 Affirmative Action / Equal Opportunity Employer
 V O U T C H E R C O P Y

DATE	CHECK NO.	AMOUNT
9/12/95	573137	25,000.00

VOID IF NOT CASHED WITHIN 90 DAYS

PAY TO THE ORDER OF TWENTY-FIVE THOUSAND AND NO/100 DOLLARS

TEXAS TECH UNIV

MUST BE COUNTERSIGNED IN EXCESS OF \$500.00
 FIFTY-TWO

BY _____
 Signature, 011AULLE

BY _____
 Countersignature

AMARILLO NATIONAL BANK • AMARILLO, TEXAS

573137 25,000.00

CHECK NO- 491366
INV-DATE INVOICE-NO
3/29/94 POWERADE
CHECK TOTAL

GROSS-AMT
25,000.00
25,000.00

DISC-AMT

PRIDB-PAYMENTS AMOUNT-PAID
25,000.00
25,000.00

Handwritten:
Voucher
5

Southwest Coca-Cola Bottling Co., Inc. • Lubbock, Texas



SOUTHWEST COCA-COLA BOTTLING CO., INC.

6134 ASH DRIVE
LUBBOCK, TEXAS 79404-5151
Affirmative Action / Equal Opportunity Employer

V O U C H E R C O P Y

DATE	CHECK NO	AMOUNT
8/30/94	471865	\$25,000.00

VOID IF NOT CASHED WITHIN 90 DAYS

PAY TWENTY-FIVE THOUSAND, AND NO/100 DOLLARS-----

TO THE ORDER OF
TEXAS TECH UNIV

MUST BE COUNTERSIGNED IN EXCESS OF \$500.00

NON-NEGOTIABLE

BY _____
Signature

BY _____
Countersignature

AMARILLO NATIONAL BANK • AMARILLO, TEXAS

⑆1⑆91872⑆ ⑆1⑆1300958⑆ ⑆00 000 6⑆

OFFICE OF DEVELOPMENT

Gifts and Grants as of August 31, 1996
and
Gifts and Grants as of August 31, 1995

Info. Item #7

	Fiscal Year 1996	Fiscal Year 1995
Texas Tech University		
September 30	\$ 363,144.43	\$ 93,967.78
October 31	359,677.13	1,218,286.48
November 30	384,962.17	182,988.02
December 31	907,331.25	588,148.97
January 31	974,608.76	446,886.84
February 29	1,042,646.94	359,141.66
March 31	611,459.46	376,590.35
April 30	964,311.81	211,760.76
May 31	530,738.54	198,557.86
June 30	239,404.86	426,521.07
July 31	214,233.91	318,761.72
August 31	1,978,173.91	1,029,832.97
Total University	\$ 8,570,692.45	\$ 5,451,444.48
Texas Tech University Foundation		
September 30	\$ 95,912.48	\$ 139,321.63
October 31	244,520.92	199,987.46
November 30	115,604.77	185,342.93
December 31	1,600,266.34	1,823,135.97
January 31	308,221.96	194,624.45
February 29	522,352.91	306,161.94
March 31	82,836.63	136,577.67
April 30	144,051.59	181,249.67
May 31	168,497.32	153,394.34
June 30	196,875.66	174,029.77
July 31	552,191.88	509,274.19
August 31	146,489.59	729,910.82
Total Foundation	\$ 4,177,822.05	\$ 4,733,010.84
GRAND TOTAL	\$12,748,515.22	\$10,184,455.32

OFFICE OF DEVELOPMENT

Gifts and Grants as of August 31, 1996
and
Gifts and Grants as of August 31, 1995

	Fiscal Year 1996	Fiscal Year 1995
Texas Tech University		
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June 30	196,875.66	174,029.77
July 31	552,191.88	509,274.19
August 31	146,489.59	729,910.82
Total Foundation	\$ 4,177,822.05	\$ 4,733,010.84
Texas Tech University Health Sciences Center		
September 30	\$ 66,005.40	\$ 48,119.69
October 31	37,798.83	67,193.12
November 30	35,690.00	63,744.32
December 31	134,340.00	232,541.66
January 31	94,315.26	52,062.00
February 29	68,886.93	106,390.12
March 31	3,256.36	24,437.03
April 30	334,363.36	124,257.83
May 31	110,962.39	56,550.85
June 30	88,985.71	98,209.13
July 31	124,588.03	142,166.31
August 31	10,513,985.74	2,777,708.83
Total Health Sciences Center	\$ 11,613,178.01	\$ 3,793,380.89

Texas Tech Medical Foundation

September 30	\$ 197,431.16	\$ 6,492.50
October 31	13,897.50	57.50
November 30	63,186.89	5,432.50
December 31	127,569.16	782,205.28
January 31	12,782.23	3,112.50
February 29	35,859.99	155,435.00
March 31	11,765.00	30,489.82
April 30	948,326.52	19,380.38
May 31	42,175.00	11,614.16
June 30	16,277.50	67,839.99
July 31	304,187.17	14,474.11
August 31	186,649.55	374,615.50
Total Medical Foundation	<u>\$ 1,960,107.67</u>	<u>\$ 1,471,149.24</u>

GRAND TOTALS

<u>\$ 26,321,800.97</u>	<u>\$ 15,448,985.45</u>
-------------------------	-------------------------

CONSTRUCTION SERVICES

Contract No. 96-1467
Account Number 0225-42-1582

AGREEMENT

THIS AGREEMENT, made this **26th** day of August, in the year Nineteen Hundred Ninety Six.

BY AND BETWEEN

Texas Tech University, Lubbock, Lubbock County, Texas, the Owner, acting herein by and through Donald R. Haragan, Interim President, and Construction Services, Amarillo, Texas, the Contractor.

The Owner and the Contractor agree as set forth below:

ARTICLE 1

THE WORK

The Contractor shall perform all the Work required by the Contract Documents for

East Research Center Building Roof Replacement-Base Bid Including Alternate #1

ARTICLE 2

CONTRACT SUM

The Owner shall pay the Contractor for the performance of the Work as provided in the Conditions of the Contract, in current funds, the Contract Sum of

Five Hundred Seventy Five Thousand Five Hundred and no/100's Dollars
(Written Amount)

\$575,500.00
(Figures)

The above bid price is divided into \$ 358,000.00 dollars for Materials (to be incorporated into the Work) and \$ 217,500.00 dollars for Labor (including any materials not incorporated into the Work, such as formwork and rentals used in the process of installation). This separation of the contract price into Materials and Labor is required in order for the successful bidder to be able to purchase free of state sales tax the materials to be incorporated into the Work.

ARTICLE 3

TIME OF COMMENCEMENT AND COMPLETION

The Work to be performed under this Contract shall be commenced on or after a date to be specified in a written "Notice to Proceed" from the Owner and completed within no later than June 1, 1997.

The time in the contract for the completion of the work is an essential element of the contract, and it is mutually agreed that the Owner will suffer financial damages in an amount not now possible to ascertain if this work is not completed on schedule, and in view of these facts, it is agreed that the Owner will withhold from the Contractor, as liquidated damages and not as a penalty, the sum of \$ 1,000.00 per day for each calendar day that the work remain uncompleted beyond the date specified in the Notice to Proceed, or as extended by change order by the Owner.

ARTICLE 4

PROGRESS PAYMENTS

Based upon Applications for Payment submitted by the Contractor, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided in the conditions of the Contract as follows:

Once each calendar month, the Owner shall make a progress payment to the Contractor on the basis of a duly certified and approved estimate of the Work performed during the preceding calendar month under this Contract; but to insure the proper performance of this Contract, the Owner shall retain five percent (5%) of the amount of each estimate until final completion and acceptance of all Work covered by this Contract: Provided that the Owner, at any time after fifty percent (50%) of the Work has been completed, finds that satisfactory progress is being made, may make any of the remaining progress payments in full; and, provided further, that upon completion and acceptance of each separate building, public work or other division of the Contract on which the price is stated separately in the Contract, payment may be made in full, including retained percentages thereon less authorized deductions. It shall be the Owner's option that upon "substantial completion" of the entire Work, he may increase the total payments to ninety-five percent (95%) of the Contract price provided satisfactory evidence is furnished that all payrolls, material bills and other indebtedness connected with the Work have been paid.

In addition, and in connection with any progress payment, if the Owner requests same, he shall be furnished manifest proof of any Subcontractors' actual fiscal account as related to the actual Subcontract value; and such account shall be in a form as requested by the Owner.

Final payment, constituting the entire unpaid balance of the Contract Sum, shall be paid by the Owner to the Contractor thirty (30) days after Substantial Completion of the Work unless otherwise stipulated in the Certificate of Substantial Completion, provided the Work has then been completed, the Contract fully performed and a final Certificate for Payment has been issued by the Contractor and approved by the Architect.

ARTICLE 5

THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other conditions), Drawings, Specifications, all Addenda issued prior to execution of this Agreement and all Modifications issued subsequent thereto. These form the Contract, and all are as fully a part of the Contract as if attached to this Agreement or repeated herein.

The Owner reserves the right to do work and to award other contracts in connection with other portions of the project.

ARTICLE 6

PAYMENT AND PERFORMANCE BONDS

It is hereby agreed that a Performance Bond and a Payment Bond, each of 100% of the contract sum, are included herein and made a part of this contract.

ARTICLE 7

OWNER'S REPRESENTATIVE

The Owner hereby designates the President of Texas Tech University or the person designated as acting President in his absence, as its duly authorized and designated representative as that term is used and appears in this Agreement to act for and on behalf of Owner. This designation shall remain in full force and effect until and unless Contractor is otherwise notified in writing by Owner and directed to Contractor at his address.

Venue shall be in Lubbock County, Texas.

IN WITNESS WHEREOF, the parties have hereunto set their hands.

OWNER

TEXAS TECH UNIVERSITY

CONTRACTOR

CONSTRUCTION SERVICES

By: 

Donald R. Haragan
Interim President


Date: 9/6/96

By: 

JEFF McMENAMY
GENERAL MANAGER


Date: 9/16/96

REVIEWED FOR FISCAL IMPLICATIONS


Jim Brunjes, Interim Vice President *JP*
for Fiscal Affairs

Date: 9/5/95

REVIEWED FOR FORM


Pat Campbell, Vice President
and General Counsel

Date: 9-4-96

4:04

Info. Item #1b

Contract No. MU3050

THIS AGREEMENT is made between **TEXAS TECH UNIVERSITY**, hereinafter referred to as the University and **KWIK-WASH LAUNDRIES, L.P.**, hereinafter referred to as the Contractor:

In consideration of the mutual covenants contained in this Agreement, the University and the Contractor agree to the following:

A. SCOPE OF AGREEMENT

The Contractor shall manage and operate a coin-operated laundry service in the University's residence halls which are listed below:

Doak, Horn, Knapp, Sneed, Bledsoe, Gordon, Wall, Gates, Hulen, Clement, Gaston, Stangel, Murdough, Chitwood, Weymouth and Coleman.

B. OBJECTIVES

The Contractor will:

1. Furnish all management, labor, supplies and equipment necessary for coin-operated laundry services. Initial equipment requirements are included as Attachment A.
2. Complete installation of all new equipment within 30 days after the execution of this Agreement.
3. Provide maintenance and repair service seven days a week, and shall respond to all service requests within 48 hours after notification. If the equipment cannot be returned to full service within 48 hours after notification, the Contractor shall replace it with comparable equipment until the original equipment is returned to service or permanently replaced.
4. Provide a local service technician whose name and address will be furnished to the University.
5. Provide petty cash funds, not to exceed \$10 per hall office, unless otherwise mutually agreed, in various locations on campus. These petty cash funds are to facilitate refund of lost monies, due to malfunctioning machines.
6. Provide quality service in a professional manner, as determined solely by the University administration. Failure to provide the required service will result in notice being given to the Contractor, via Certified Mail, at the home office

address, 4240 Bronze Way, Dallas, Texas 75237. If the deficiency is not corrected within 30 calendar days, unless otherwise agreed to by both parties, the University shall have the right to terminate this Agreement.

C. EQUIPMENT

The equipment shall be new, at the time of initial installation, and shall be reviewed and approved by a representative of the University prior to installation. The equipment shall be new Speed Queen electronic display control top loading washers, Model EA-2820T and Speed Queen front loading single, Model EE-2807T and stacked dryers, Model EE-5807. All equipment shall be the variable setting type and must match and be the same color when located side by side. All equipment will be coin-operated/debit card ready and equipped with the Money Master Information auditing system, to record total cycles and slide insertions.

The washers shall be metered for a time cycle of approximately 30 minutes with a minimum load capacity of 14 pounds, at a cost of \$.75. The dryers will be metered for a time cycle of approximately 45 minutes, at a cost of \$.50.

Ownership of all coin-operated laundry equipment shall remain with the Contractor.

D. DEBIT CARD COMPATIBILITY

The Contractor agrees to furnish the necessary equipment to allow use of the University's debit card system for activation of laundry equipment. The Contractor will be responsible for purchasing, installing and maintaining the interface devices. The University will be responsible for the purchase, installation and operation of the software, hardware and data lines in laundry rooms. No card readers will be installed in the laundry rooms in Horn and Knapp residence halls until such time as the University makes the decision to expand further.

E. FINANCIAL RESPONSIBILITIES

The Contractor shall maintain complete and accurate records of vending transactions for each machine and shall maintain such records for a period of five years after the termination of the Agreement. The University reserves the right to inspect or audit the Contractor's books during the term of this Agreement and for five years thereafter.

The Contractor shall pay the University a commission of 66%, of the monthly gross receipts, by the 15th of the following month and shall include a statement of all revenues by location, as well as by each washer and dryer. The University will pay the Contractor 34% for all sales recorded through the debit card system. Statements and payments shall be mailed to the attention of Dr. James P. Burkhalter, Director of Housing and Dining Services, Texas Tech University, Box 41141, Lubbock, Texas 79409-1141. Debit card payments due Contractor shall be mailed to the attention of Mr. Charles Summers, Sale Administration Director, Kwik-Wash, 4240 Bronze Way, Dallas, Texas 75237.

A one time payment of \$40,000.00 shall be made to the University upon acceptance of this agreement by all parties.

F. UTILITIES

The University shall furnish gas, water, sewage drains and electricity at each location. The Contractor shall be responsible for the cost of connections from the receptacle to the equipment.

The University shall not be liable for any loss or damage which may result from the interruptions or failure of any utility service.

G. VENTILATION

The Contractor shall assure maximum venting and drying for each dryer. Venting may be to the outside or into the existing building ventilation system, as determined by mutual agreement. Changes in existing ventilation systems will be the responsibility of the University. The Contractor shall furnish design assistance to the University at no additional cost.

H. SECURITY

The Contractor is responsible for control of all keys and/or access cards issued to its representative, by the University, and the security of the laundry areas when used by the Contractor's representatives. The Contractor shall report, immediately, to the University all facts relating to the loss, damage, or break-ins of its equipment. The University shall designate the person to receive these reports. This person will also be responsible for key issuance and the periodic review of key control. The University will be responsible for the cost of re-keying and replacing its lock cylinders, as determined by the University. The Contractor shall be responsible for replacement of lost keys and the cost of re-keying and replacement of lock cylinders as a result of the Contractors negligence and/or loss of keys.

I. DAMAGE REIMBURSEMENT

The Contractor will be responsible for reimbursing customers for damage to their clothing due to equipment malfunction.

J. CONTRACTOR AND UNIVERSITY RELATIONSHIP

The Contractor shall, at all times, be an independent contractor and none of the provisions of this Agreement shall, in any way, establish an employee/employer relationship. The Contractor agrees to indemnify and hold harmless the University and its employees and agents with respect to withholding, social security, unemployment

compensation and all other taxes or amounts of any kind relating to the Contractor's employees. The Contractor shall, in no way, make any commitment which shall bind the University or to otherwise act on behalf of the University except as the University may expressly authorize in writing.

K. CLEAN EQUIPMENT/JANITORIAL SERVICE

The Contractor shall, at all times, keep the machines clean and neat and shall be responsible for cleaning the vents and fans on a regular schedule acceptable to the University.

The Contractor shall be responsible for meeting all State, Federal and University rules and regulations with regard to cleanliness and sanitary practices for laundry equipment operated for the public consumer. The University reserves the right to make periodic inspections of all equipment to ensure compliance, at any time.

The Contractor shall provide waste receptacles. Janitorial services for each laundry room will be provided by the University.

L. SIGNS

The Contractor shall provide a sign in each location with the following information:

1. Contractor's name
2. Operating instructions
3. Instructions for reporting broken machines

Additionally, each machine shall have a decal, label or other device, in prominent view, which gives the cost for operating the equipment.

M. INDEMNIFICATION

The Contractor agrees to indemnify and hold harmless the University against any and all damages or claims of every nature, including attorney's fees which may arise from the execution and performance of this Agreement.

N. INSURANCE REQUIREMENTS

All required coverages must be provided on an occurrence basis and be provided through companies who have a minimal "Best's" rating of A with a financial size category of X.

TYPE OF COVERAGE

LIMITS OF LIABILITY

- | | | |
|----|--|--------------------------------------|
| 1. | Comprehensive General Liability
providing operations and contractual
coverage | \$1,000,000
Combined Single Limit |
| 2. | Comprehensive Automobile Liability
including hired and non-owned vehicles | \$1,000,000
Combined Single Limit |
| 3. | A Fidelity Bond covering all employees of the Contractor. | |
| 4. | Worker's Compensation: The Contractor does not carry Worker's Compensation insurance and agrees to indemnify and hold harmless Texas Tech University from any and all claims, including attorney's fees for injuries, long-term disability or death of any of its employees, which occurs as a result of providing the requirements of this Agreement. | |

Texas Tech University, its officers, agents and employees shall be named as additional insureds on each policy. Certificates of insurance, for the above policies, shall be furnished to the Contracting Office prior to the commencement of services provided under this Agreement. Renewal notices or certificates shall be furnished to the University at least 30 days prior to the expiration of coverage.

O. OTHER

1. The Contractor shall, at all times, comply with all applicable government regulations related to the employment, compensation, and payment of personnel.
2. Personnel of the Contractor shall observe all regulations of the University.
3. The Contractor shall provide uniforms for all employees showing the Contractor's name and the name of the employee.
4. This Agreement is not transferable or assignable except upon written approval of the University.
5. Venue shall be in Lubbock, Lubbock County, Texas.
6. The Contractor must provide to the University, at the time of contracting, a financial statement prepared by a certified public accountant.


7. The Contractor must provide, to the University, annual payment statements based on sales reports prepared by a certified public accountant who is licensed in the State.
8. The Contractor shall furnish a performance bond payable to the University, in the amount of \$130,000. Such bond shall guarantee the faithful performance of the obligations, agreements and covenants of this Agreement.
9. The University reserves the right to close or open additional residence facilities based upon occupancy or anticipated occupancy.
10. The University reserves the right to request additional equipment based upon customer demand and need.

P. TERM OF AGREEMENT

The term of this Agreement shall be for five years, commencing on August 1, 1996, with the option to renew for two one-year terms subject to approval of both the University and the Contractor.

In witness whereof, the duly authorized officers of the parties hereto have executed this Agreement on the 10th day of June, at Lubbock, Texas, in duplicate, each of which shall be considered an original.

TEXAS TECH UNIVERSITY

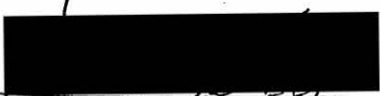
By: 
Donald Haragan
Interim President

Date: 6/10/96

REVIEWED FOR FISCAL IMPLICATIONS

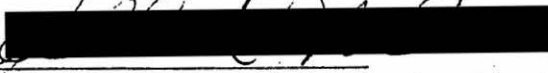
By: 
for Jim Brunjes, Interim Vice President
for Fiscal Affairs

REVIEWED FOR FORM

By: 
Pat Campbell, Vice President
and General Counsel

31139

KWIK-WASH LAUNDRIES, L.P.
BY GENERAL PARTNER, KWL, INC.

By: 
Arthur E. Miller, Sr. Vice President

Date: 7-3-96

Date: 5/31/96

Date: 6-18-96

ATTACHMENT A

Listing of Required Laundry Equipment

	<u>WASHERS</u>	<u>SINGLE DRYERS</u>	<u>STACKED DRYERS</u>
Bledsoe Hall	6	7	0
Chitwood Hall	12	1	7
Clement Hall	8	4	3
Coleman Hall	9	6	3
Doak Hall	4	1	2
Gaston Hall	6	0	4
Gates Hall	8	4	2
Gordon Hall	6	0	4
Horn Hall	7	4	3
Hulen Hall	8	4	2
Knapp Hall	6	4	1
Murdough Hall	6	4	2
Sneed Hall	14	9	3
Stangel Hall	10	5	3
Wall Hall	8	4	2
Weymouth Hall	9	6	3
TOTAL	127	63	44

KWIK WASH LAUNDRIES, L.P.
STATEMENT OF REJECTION OF TEXAS WORKERS'
COMPENSATION ACT
AND INDEMNIFICATION AGREEMENT

WHEREAS, Kwik Wash Laundries, L.P., a Texas Limited Partnership (hereinafter "Kwik Wash"), as Lessee, and Texas Tech University, as Lessor, have heretofore entered into a certain agreement (hereinafter the "Lease") dated June 10, 1996 _____; and

WHEREAS, said Lease covers the laundry facilities in the Texas Tech University, Located Lubbock, Texas as more fully described in said Lease; and

WHEREAS, Kwik Wash has rejected the Texas Workers' Compensation Act and has voluntarily established its own benefit plan for injured employees. Kwik Wash has obtained excess indemnity insurance for losses in excess of \$150,000 under its benefit plan;

Now therefore, for good and valuable consideration, the receipt and sufficiency of which Kwik Wash hereby acknowledges, Kwik Wash whereby indemnifies Lessor from any and all claims or causes of action by Kwik Wash's employees arising out of Kwik Wash's employees performing any service on the demised premises of the Lease, except such claims or causes of action that arise by reason of any negligence on the part of Lessor, or its representatives, employees or agents.

KWIK WASH LAUNDRIES, L.P.
BY GENERAL PARTNER, KWL, INC.

By: _____

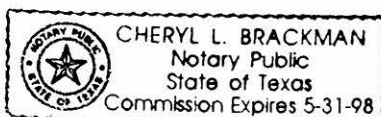
Arthur E. Miller, Sr. Vice President

State of Texas)

County of Dallas)

Subscribed and sworn to before me the undersigned authority on this 3rd day of July, 1996.

Notary Public, State of Texas



Info. Item #1c

ARCHITECTURAL SERVICES

Contract No. 96-1445
Account Number: 0225-42-1587
Dept Proj Number 96-08

AGREEMENT

made this the 31st day of April in the year Nineteen Hundred Ninety Six.

BETWEEN

Texas Tech University, Lubbock, Lubbock County, Texas, the Owner, acting by and through Donald R. Haragan, Interim President, and Parkhill, Smith & Cooper, Inc., Lubbock, Texas.

A. SCOPE OF THE WORK

Provide professional services to prepare plans and specifications, assist in receiving bids and provide the administration of construction contracts for the following project:

Engineering & Technology Lab Renovation - FP & C #96-08

Please refer to Texas Tech University Operating Policy Nos. 76.35 and 76.36 for additional guidance.

B. BASIC SERVICES

The Architect shall provide professional services as follows:

1. Consult with the Owner to ascertain the requirements of the project and confirm such requirements to the Owner.
2. Prepare Schematic Design Studies consisting of drawings and other documents illustrating the scale and the relationship of project components for approval of the Owner and submit to the Owner a Statement of Probable Construction Cost.
3. When applicable for the purpose of preparing grant applications, furnish sufficient detail and information to satisfy the requirements of federal, state, county, and private funding agencies.
4. Prepare from the approved Schematic Design Studies, for approval by the Owner, the Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the entire project as to materials, structure, mechanical and electrical systems and such other essentials as may be appropriate and submit to the Owner a further Statement of Probable Construction Cost. Use of the Texas Tech University Facility Design Manuals Volume I, II, etc., are required to maintain

quality and safety standards for the institution and should be used as a reference guide.

5. Prepare from the approved Design Development Documents, for approval by Owner, Working Drawings and Specifications and determine what patent licenses are needed and obtain same.

Advise the Owner of any adjustments to the previous Statement of Probable Construction Cost caused by changes in the scope of the work or by general market conditions.

6. Following the Owner's approval of the Construction Documents and of the latest Statement of Probable Construction Cost, assist the Owner in obtaining bids or negotiated proposals, and in awarding construction contracts. Individual and unusual circumstances may vary and can be taken in account by the Owner.

If the project should exceed the approved funding, the Architect shall redesign the project to within the stated construction budget, reproduce plans and specifications as necessary to re-bid the project at no additional cost to the Owner.

7. Provide general administration of the Construction Contract and be the Owner's representative during construction and warranty period. Review contract submittal data and advise and consult with the Owner concerning same. Issue the Owner's instructions to the Contractor. Architect will authorize additional work for the Contractor only upon written approval by the University.

The Architect shall make weekly site visits and submit a written field report to the Owner to maintain familiarity with the progress and quality of the work and to determine, in general, if the work is proceeding in accordance with contract documents.

8. Based on observations at the site and on the Contractor's applications for payment, determine the amount owed to the Contractor and approve Certificates for Payment in these amounts, subject to the conditions of the Contract Documents.
9. Furnish copies of Schematic Design Studies, Design Development drawings and Contract Documents in quantities as required by the Owner.
10. Furnish two (2) complete sets of "As Built" Working Drawings reproduced, and one (1) set of reproducible four (4) mil photographic process black line Mylar film prints showing significant changes made during construction process.

Additionally, provide as many 3.5" Micro Floppydisks as necessary to record the "As Built" Working Drawings in the most current version of AutoCad. Levels and colors for the different building components should match the University CAD Standards'. Note that only AutoCad files will be accepted. Raster files, DXF, or any other conversion files will not be acceptable."

11. Provide design compliance with Americans with Disabilities Act, Public Law 101-336, July 26, 1990, in addition to any and all federal or state government handicapped or Civil Rights Act (1991) requirements.
12. Architect must provide proof of liability - omissions insurance for the duration of the project.

C. THE OWNER'S RESPONSIBILITIES

1. The Owner may furnish such structural, mechanical, electrical, chemical, and other laboratory tests, inspections and reports as he may deem necessary. A complete survey of the site and utilities serving it, soil analysis and a program of the work, outlining in detail the space requirements and their general relationship will be provided as required by the project.
2. The Owner may furnish such legal, accounting, and insurance counseling services as he may deem necessary for the project and auditing services as he may require to ascertain how or for what purposes the Contractor has used the monies paid him under the Construction Contract.
3. When continuous field supervision of construction is deemed necessary by the Owner, in addition to the Architect's basic services, the Owner shall bear the cost of such supervisory personnel. This personnel must be mutually acceptable to the Owner and Architect.
4. The Owner will pay the cost of reproducing copies of all required "As Built" documents.

D. CONSTRUCTION COST AND ALTERNATE DEFINITIONS

CONSTRUCTION COST

Construction Cost based upon all work designed or specified with the authorization and approval of the Owner shall be determined as follows, with precedence in the order listed.

1. For completed construction, the total cost to the Owner of such work.

Architectural Services - Percent

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2. When project or any part thereof is not constructed, the least of the following shall govern: (1) lowest bona fide bid received from the qualified bidder for any or all of such work, (2) the latest detailed cost estimated, or (3) the Architect's latest statement of probable cost.
3. For work for which bids are not received, (1) the latest Detailed Cost Estimate or (2) the Architect's latest Statement of Probable Construction Cost.

ALTERNATES

1. Alternates prepared by the Architect which exceed the project budget and which are not specifically requested by the Owner and which are not constructed, shall not be included in the construction cost for purposes of computing the Architect's fee.
2. Alternates which are specifically requested and approved by the Owner and not constructed shall be included in the construction cost for the purpose of computing the Architect's compensation, excluding Construction Phase services.

E. COMPENSATION AND PAYMENT

The Owner agrees to pay the Architect as compensation for the basic services 8 % of the authorized and approved construction cost, as such term "Construction Cost and Alternates" is defined in Paragraph D above.

1. Payments for basic services may be made monthly in proportion to the service actually performed, but not to exceed the percentages specified at the completion of each phase of work as follows:

Schematic Design Phase	15%
Design Development Phase	20%
Construction Documents Phase	40%
Bidding or Negotiation Phase	5%
Construction Phase	20%

F. ADDITIONAL SERVICES

Services not included under the Basic Service article of this agreement shall be considered additional services.

Architectural Services - Percent

Page 5

Such additional services and related expenses shall be as mutually agreed upon in writing by the Owner and Architect prior to the beginning of any work. Compensation for additional services shall be as follows:

1. Direct Personnel Expense

Reimbursement for direct personnel expense of those principals, associates, and employees of the firm who are assigned to and are productively engaged on the project providing such services as research, designing, preparing drawings and writing specifications.

Direct personnel expense shall be based on an amount of 1.5 times the actual cost of salaries normally paid, including mandatory and customary benefits such as statutory employee benefits, insurance, holidays, vacations, pensions and similar benefits. The owner agrees to pay the Architect as compensation for additional services, an amount to be negotiated at the time additional services are proposed.

2. Reimbursable Expenses

Architect shall be reimbursed for his direct cost of such expenses as reproduction, postage, out-of-state travel and communications directly related to such agreed additional services.

3. The cost of preparing change orders due to the Architect's error or omission shall be the responsibility of the Architect.

G. CONSULTANTS

It is contemplated that during the process of the work to be performed under this agreement, both parties may wish to retain consultants at their own expense. It is specifically understood and agreed that any consultant retained by the Architect shall be at the Architect's expense; however, the Owner reserves the right to approve such consultants and the conditions of their employment. The Architect's consultants shall provide complete support of the Architect's Basic Services including site visitations during Project Administration and checking show drawings.

It is further understood that the Owner may retain consultants and that the expense for the same shall be borne by the Owner.

H. CONTINUING SERVICES

Following completion of any phase of the work, the Owner may elect to continue, delay, abandon or revise the work. The payment for services accordingly will be as mutually agreed.

I. NONDISCRIMINATION IN EMPLOYMENT

There shall be no discrimination against any employee or applicant for employment because of race, religion, color, national origin, age, handicap or sex.

J. ACCOUNTING RECORDS

Records of the Architect's direct personnel expenses and records of accounts of reimbursable expenses for which reimbursement is requested shall be kept on a generally recognized accounting basis and shall be available to the Owner. Said records shall be preserved for a period of three years after final payment.

K. TERMINATION OF AGREEMENT

This Agreement may be terminated by either party on thirty (30) days written notice to the other party for failure or refusal to perform in accordance with the terms and conditions of this agreement. Such termination shall be made by the Owner, giving written notice directed as follows:

Parkhill, Smith & Cooper, Inc.

4010 Avenue B

Lubbock, TX 79412

likewise, termination by the Architect shall be accomplished by directing written notice to:

Theresa Drewell, AIA - Director

Facilities Planning and Construction

Texas Tech University - Box 42014

Lubbock, TX 79409-2014

In the event of termination, the Architect shall be paid his compensation for services performed to termination date based upon completion of services performed to termination date, and based upon completion of work through any phase under the fee basis as applicable, or on a direct personnel expense basis as mutually agreed.

Copies of drawings, specifications or any other materials to date of termination will be furnished to the Owner on date of termination.

L. OWNERSHIP OF DOCUMENTS

Original Drawings and Specifications as instruments of service are, and shall remain, the property of the Architect whether the project for which they are made is executed or not. The Owner shall be permitted to retain copies, including reproducible copies, of Drawings and Specifications for information and reference in connection with the Owner's use and occupancy of the project.

M. SUCCESSORS AND ASSIGNS

The Owner hereby binds itself, its successors, assigns, and legal representatives to the Architect in respect to all stipulations, terms, and covenants of this Agreement; and likewise, the Architect hereby binds himself, his successors assigns, and legal representatives to the Owner, in respect to all stipulations, terms, and covenants of this Agreement.

N. ASSIGNMENT

Neither the Owner nor the Architect shall assign, sublet or in any manner transfer it or their respective interest in this Agreement to any other person, individual, firm, corporation or other interest without prior written consent of the other respective party.

O. EXTENT OF AGREEMENT

This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and the Architect.

P. APPLICABLE LAW

This Agreement shall be considered to be performed in Lubbock County, Texas.

Q. DESIGNATION OF REPRESENTATIVE

Owner hereby designates the President of Texas Tech University or the person designated as acting President in his absence, as its duly authorized and designated representative to act for and on behalf of Owner.

This designation shall remain in full force and effect until and unless Architect is otherwise notified in writing by Owner and directed to Architect at the address above set forth.

Architectural Services - Percent


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Venue shall be in Lubbock County, Texas.

IN WITNESS WHEREOF, the parties have hereunto set their hands.

OWNER
TEXAS TECH UNIVERSITY

ARCHITECT
PARKHILL, SMITH & COOPER, INC.

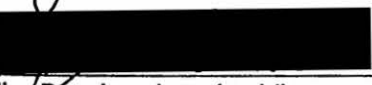
By: 
Donald R. Haragan
Interim President

By: 

Date: 6/10/96


Date: 6/27/96

REVIEWED FOR FISCAL IMPLICATIONS

By: 
for Jim Brunjes, Interim Vice
President for Fiscal Affairs

Date: 6/5/96

REVIEWED FOR FORM

By: 
Pat Campbell, Vice President
And General Counsel

Date: 6-10-96

4:AE%.MST
REV 10/17/94

ARCHITECTURAL SERVICES AGREEMENT

Contract No. 96-1463
Account Number: 3702-42-1589
FP&C Number: 96-30

AGREEMENT

made as of the 15th day of July in the year Nineteen Hundred Ninety Six.

BETWEEN

Texas Tech University, Lubbock, Lubbock County, Texas, the Owner, acting herein by and through, Dr. Donald R. Haragan, Interim President, and Lotti Krishan Architects Incorporated.

FOR THE FOLLOWING PROJECT:

NEW RESIDENCE HALLS
for
Texas Tech University

ARTICLE 1 ARCHITECTURAL SERVICES

- 1.1 The Owner and the Architect, for the considerations hereinafter named, agree as follows:
- 1.2 The Architect agrees to perform professional services for the above named project in accordance and as hereinafter set forth in Articles 2 and 3.
- 1.3 The Owner agrees to pay the Architect for such services as hereinafter defined, including other payments and reimbursements as hereinafter provided, the said fee being hereinafter called the "Basic Rate."
- 1.4 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and the Architect.
- 1.5 Nothing contained in this Agreement shall create a contractual relationship between a third party and either the Owner or the Architect.
- 1.6 Please refer to Texas Tech University Operating Policy Nos. 76.35 and 76.36 for additional guidance.

ARTICLE 2 SCOPE OF ARCHITECT'S BASIC SERVICES

- 2.1 The Architect's Basic Services shall consist of the phases described as follows and shall include where applicable, but not limited to, architectural, structural, mechanical and electrical engineering services. The Architect shall obtain written approval from the Owner before proceeding with each phase. Specific Basic Services applicable to all phases include the following:
 - 2.1.1 The Architect shall prepare and distribute to the Owner meeting minutes of all meetings, field reports, and telephone logs documenting conversations concerning project scope. The Architect and his Consultants shall attend project review meetings for each phase of the project unless otherwise directed by the Owner.
 - 2.1.2 The Architect shall prepare a monthly payment request form, furnished by the Owner, for all billings. The Architect shall include a list of tasks accomplished and the status of work with regard to the project schedule as stated herein.

- 2.1.3 It is understood that the project designed hereunder shall be efficient, economical, reliable, and all proven quality material, and must harmonize architecturally with the buildings upon the University campus and those buildings to be under construction concurrently. In order to accomplish such purpose, the Architect shall cooperate mutually with the Owner and with other Architects/Engineers who might be employed by the Owner.
- 2.1.4 All Architectural and Engineering services performed by the Architect shall be supervised by a Professional Architect and Professional Engineer respectively, who is currently registered in the State of Texas. All project drawings and specifications shall bear the seal of the Professional Architect and or Engineer.
- 2.1.5 If the staff of the Architect does not regularly embrace qualified Architects or Engineers, for all phases of the work, the Architect shall select and employ competent Architects or Engineers, subject to the approval of the Owner. A list of these Architects/Engineers will be furnished in writing to the Owner.
- 2.1.6 Estimates of construction costs provided by the Architect under this Agreement will represent the Architect's use of the most appropriate methods and accurate data available, and the Architect's best judgement as a design professional familiar with the construction industry. Neither the Architect, nor the Owner, has control over the cost of labor, material, or equipment, or over the Bidder's method of determining competitive bid prices. Therefore, while the Architect cannot guarantee that the estimate of construction cost will not vary from actual bids, the Architect recognizes the Owner's interest in receiving dependable estimates of construction costs and will endeavor to provide the Owner with timely estimates based on current information and free from mathematical error.
- 2.1.7 **ARCHITECT'S LIABILITY AND INSURANCE REQUIREMENTS**
 - 2.1.7.1 Liability: The Architect agrees to defend, indemnify, and hold harmless the Owner, its officers, agents, and employees from and against all losses and expenses (including costs and attorney's fees) resulting from any injury (including death) to any person, or damages to property of others caused by negligent acts, errors or omissions of the Architect, its employees or agents in performance of the work under this Agreement.
 - 2.1.7.2 Insurance: The Architect shall provide and maintain, during the life of the Agreement, insurance acceptable to the Owner which will afford protection and coverage in accordance with the requirements set forth below.
 - 2.1.7.3 Commercial General Liability Converge comparable to Comprehensive General Liability coverage to protect the Architect and any Sub-Architect performing work covered by this Agreement from claims for damages for personal injury, bodily injury (including wrongful death), and from claims for property damage which may arise from the operation under the Agreement. The coverage will provide protection for all operations by the Architect or any Sub-Architect or by anyone directly or indirectly employed by either of them.
 - 2.1.7.4 Comprehensive Automobile Liability coverage to include coverage for all Owned, Hired, and Non-Owned vehicles. The coverage is to include for protection of the Architect and Sub-Architect or by anyone directly or indirectly employed by either of them. The minimum limit of coverage to be provided is \$500,000 combined single limit for bodily injury and property damage, per occurrence and aggregate.
 - 2.1.7.5 Professional Liability Insurance will be provided by the Architect, and his Sub-Architect(s) to cover any claims, including but not limited to errors and omissions, which may arise from the work performed by the Architect, Sub-Architect(s), or anyone directly or indirectly employed by them. The coverage provided will be not less than \$1,000,000.
 - 2.1.7.6 Worker's Compensation Insurance Coverage A: Worker's Compensation Insurance for all the Architect's employees at the site of the project, and in case any work is sublet, the Architect shall require any Sub-Architect similarly to provide Worker's Compensation Insurance for all of the latter's employees, unless such employees are covered by the protection afforded by the Architect. This coverage shall comply in all respects with the requirement of the Statutes of the State of Texas. Coverage B: Employer's Liability, in a limit no less than \$300,000.
 - 2.1.7.7 All insurance shall be procured through agencies and be written by insurance companies which are acceptable to and approved by the Owner, e.g., all coverages should be placed with Insurance Carriers that are licensed to do business in the State of Texas as an admitted Carrier and all coverages placed are subject to the Owner's

approval as to form and content, as well as Carrier. All required coverages shall be obtained and paid for by the Architect.

- 2.1.7.8 The Architect shall furnish the Owner with certificates, policies, or binders which indicate the Architect and/or the Owner and other Architects (where required) are covered by the required insurance showing type, amount, class of operations covered, effective dates and dates of expiration of policies prior to the Owner issuing a Notice to Proceed. All certificates, policies, or binders shall contain the statement: "The insurance covered by this certificate will not be canceled or altered except after ten (10) day's written notice has been received by the Office of Facilities Planning & Construction of Texas Tech University." Also, all certificates, policies or binders shall be provided to the Owner fourteen (14) days prior to commencement of work to be performed.
- 2.1.7.9 Upon receipt of any notice of cancellation or alterations, the Architect shall, within ten (10) days, procure other policies of insurance similar in all respects to the policy or policies about to be canceled or altered; and if the Architect fails to provide, procure and deliver acceptable policies of insurance or satisfactory certificates or other evidence thereof, the Owner may obtain such insurance at the cost and expense of the Architect without notice to the Architect.
- 2.1.7.10 It is understood and agreed that the insurance required by the provisions of this article is required in the public interest and that the Owner does not assume any liability for acts of the Architect, any Sub-Architect or their employees in the performance of the Agreement.

2.1.8 The Architect understands that time is of the essence and agrees to perform services under this Agreement in a manner that will not cause undue delay in progress and completion of the project.

2.2 PRE-DESIGN/ANALYSIS PHASE

- 2.2.1 The Architect shall confer with the Owner as to establish the preliminary budget for the Work based on programming and scheduling studies.
- 2.2.2 The Architect shall consult with the Owner to establish initial approximate gross facility areas, space requirements, and approximate assignable area.
- 2.2.3 The Architect shall prepare space schematics or flow diagrams consisting of diagrammatic studies and pertinent descriptive text.
- 2.2.4 The Architect, if applicable, shall research, assemble, review and supplement information provided by the Owner for Projects involving alternations and additions to existing facilities or determine new space usage in conjunction with a new building program
- 2.2.5 The Architect along with the Owner shall establish site-related limitations and requirements for the Project.
- 2.2.6 The Architect shall provide preliminary site analysis, and prepare comparative evaluations of conceptual site development designs, based on the following:
- i. Land Utilization
 - ii. Structure placement
 - iii. Facilities development and phasing (if required)
 - iv. Circulation, services, and parking
 - v. Utility systems
 - vi. Surface and subsurface conditions
 - vii. Landscape concepts

2.3 SCHEMATIC DESIGN PHASE

- 2.3.1 The Architect shall consult with the Owner to ascertain the requirements of the project and shall confirm such requirements to the Owner.
- 2.3.2 The Architect shall provide a preliminary evaluation of the program and the project budget requirements each in terms of the other.

- 2.3.3 The Architect shall review with the Owner alternative approaches to design and construction of the project.
- 2.3.4 The Architect shall provide energy consumption information for the project in the form of Btu/sq.ft./year when required.
- 2.3.5 Based on the mutually agreed upon program, design concept, schedule, and project budget requirements, the Architect shall prepare, for review and approval by the Owner, Schematic Design Documents consisting of drawings and other documents illustrating the scale and relationship of project components. The Architect shall provide six (6) sets to the Owner. Additional sets requested by the Owner will be a reimbursable expense.
- 2.3.6 The Architect shall provide Schematic Design Documents for the Board of Regents Meeting. The presentation shall include a color drawings and/or perspective of the project exterior and a Schematic Design Report consisting of site plans, floor plans, elevations, project cost estimate, and outline specifications of all architectural, structural, electrical and mechanical systems, materials, and such other essentials as may be appropriate. The report shall include a comparison tabulation of gross and assignable floor areas, as designated, as and as stated in the Owner's program.
- 2.3.7 The Architect shall submit to the Owner, a quantitative estimate of Construction Cost based on the schematic design documents listing items costs for building systems and components. This estimate should take into account the expected construction start date and duration.
- 2.3.8 Use of the Texas The University Facility Design Manuals Volume I, II, etc., are required to maintain quality and safety standards for the institution and should be used as a reference guide.
- 2.3.9 Provide design compliance with Americans with Disabilities Act, Public Law 101-336, July 26, 1990, in addition to any and all federal or state government handicapped or Civil Rights Act (1991) requirements.
- 2.4 **DESIGN DEVELOPMENT PHASE**
- 2.4.1 Based on the approved Schematic Design Documents and any adjustments authorized by the Owner in the Program, schedule or project budget, the Architect shall prepare, for review and approval by the Owner, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the entire project as to architectural, structural, mechanical and electrical systems, materials, and such other elements as may be appropriate. Ten (10) sets of the Design Development Documents will be provided to the Owner for his review. Additional sets requested by the Owner will be a reimbursable expense.
- 2.4.2 The Architect shall submit to the Owner a detailed quantitative estimate of construction Cost based on design development documents listing line item costs of building systems and components. This estimate should take into account the expected construction start date and duration.
- 2.4.3 A general meeting between the Architect, Sub-Architects, the user group and the Owner will be held to review the Project at this phase, before authorization is given to proceed to the next phase.
- 2.5 **CONTRACT DOCUMENTS PHASE**
- 2.5.1 Based on the approved Design Development Documents and any further adjustments in the scope, schedule, or quality of the project, or in the project budget authorized by the Owner, the Architect shall prepare, for review and approval by the Owner, Construction Documents consisting of drawings and specifications (Division 1 through 16) setting forth in detail the requirements for construction of the project. Ten (10) sets of the Contract Documents will be provided to the Owner for his review. Additional sets requested by the Owner will be a reimbursable expense.
- 2.5.2 The Architect shall to the best of his knowledge, information and belief comply with all applicable codes, standards and the Owner's design guidelines in the preparation of project drawings and specifications, unless otherwise authorized by the Owner. The Architect shall certify such action by including a signed certification statement on the cover page of the drawings.
- 2.5.3 The Architect shall prepare documents to include additive alternate bids requested by the Owner to keep the project within the "Total Construction Amount Available". Compensation for such alternates shall be included

as part of the Basic Rate.

- 2.5.4 The Architect shall assist the Owner in the preparation of the necessary bidding information, bidding forms, the conditions of the contract, and the form of Agreement between the Owner and the Contractor.
- 2.5.5 The Architect shall submit to the Owner a detailed quantitative estimate of construction cost based on Construction Documents prior to the Owner's final review and approval of the Documents for bidding. The estimate shall reflect current market conditions. The Architect shall make no provision for a bidding contingency in the construction estimate.
- 2.5.6 A general meeting between the Architect, Sub-Architects, the user group and the Owner will be held to review the Project at this phase, before authorization is given to proceed to the next phase.
- 2.5.7 The Architect shall prepare a final tabulation of net, net assignable and gross square fee for all building areas and include it as part of the Construction Documents.

2.6 BIDDING OR NEGOTIATION PHASE

- 2.6.1 The Architect, following the Owner's approval of the Contract Documents and the latest detailed estimate of Construction Cost, shall assist the Owner in the reproduction and distribution of the Contract Documents and in obtaining bids. Reproduction and distribution costs incurred by the Architect will be a reimbursable expense in accordance with paragraph 9.7.1. The Architect shall, as part of the Basic Rate, attend the prebid meeting, if scheduled, bid opening, participation in negotiations, and documentation of decisions for multiple contracts or phased Work. The Architect shall advise the Owner of any adjustments to the previous estimate of construction cost prior to the bid opening.
- 2.6.2 The Architect shall provide addenda services consisting of preparation and distribution of addenda as may be required during bidding or negotiations and including supplementary Drawings, Specifications, instructions, document interpretation, and notice(s) of changes in the bidding schedule and procedure which will be incorporated in the contract for construction.
- 2.6.3 Architect shall maintain a complete register of all persons having received Contract Documents including those issued by the Owner and plan rooms. The register shall contain the Bidder's name, address (street & mailing), telephone number, fax number, and indication of HUB/MBE/WBE certification with the State of Texas.
- 2.6.4 The bid review process shall include but not be limited to the Architect providing the Owner with a written analysis and explanation of the bidding results as follows:
 - i. Analysis of the bid spread in terms of percent (%) above or below both the average bid and the latest estimated cost of construction
 - ii. Best determination possible of factors affecting variations in the bids.
 - iii. Re-evaluation of the estimated cost for construction and verification of the reasons for variations.

2.7 CONTRACT ADMINISTRATION PHASE

- 2.7.1 The Contract Administration Phase will commence with the award of the construction contract(s), and will terminate upon final acceptance of the project by the Owner.
- 2.7.2 The Architect shall, as directed by the Owner, revise original drawings and specifications issued during the bidding phase to incorporate addenda items. These revised drawings and specifications will be reissued for the construction phase. Reproduction and distribution costs incurred by the Architect, for drawings and specifications revised under this requirement, will be a reimbursable expense in accordance with Paragraph 9.7.1.
- 2.7.3 The Architect shall perform the duties set forth in the Texas Tech University / Texas Tech University Health Sciences Center "Uniform General Conditions and Supplementary General Conditions" of the specifications for the project, which will be incorporated in the contract for construction.
- 2.7.4 The Architect shall advise and consult with the Owner, and all instructions to the Contractor shall be issued through the Owner's Representative. The Architect shall have authority to act on behalf of the Owner to the

extent provided in the General Conditions of the specifications for the project unless otherwise modified in writing.

- 2.7.5 The Architect and his representatives shall at all times have access to the site of the project. The Architect and his representatives shall complete and return a field report form, provided by the Owner, for each site visit. The Architect and his representatives shall, as part of the Basic Rate, visit the site for the preconstruction conference, preside over monthly progress meetings, provide minutes from such progress meetings, the preparation of the punch list(s), and final inspection(s).
- 2.7.6 The Architect and his Sub-Architect(s) or their representatives shall visit the site as appropriate to the progress of the work, to become generally familiar with the progress and quality of the work and to determine in general if the project is proceeding in accordance with the Contract Documents. The visits will be included as part of the Basic Rate. On the basis of on-site observations, the Architect and his Sub-Architects shall to the best of their knowledge, information and belief, protect the Owner against defects and deficiencies in the work of the Contractor.
- 2.7.7 The Architect and his Sub-Architects shall also visit the project site as requested by the Owner to provide technical assistance in resolving construction related problems. Such visits shall be subject to additional compensation in accordance with paragraph 3.3, except for visits related to the Architect's design errors and omissions, for clarification requested by the Contractor, and visits that coincide with scheduled visits required in Paragraph 2.7.5 and 2.7.6.
- 2.7.8 Based on such observations at the site, and on the Contractor's application for payment, the Architect shall review the Contractor's application for payment based on the amount of completion estimated by the Contractor. This review does not constitute a representation that the Architect certifies that exactly this amount of work has been completed by the Contractor or that he has made any examination to ascertain how and for what purpose the Contractor has used the monies paid on account of the certificate for payment.
- 2.7.9 The Architect shall not have control or charge of, and shall not be responsible for actual construction means, methods, techniques, sequences, procedure, or for safety precautions and programs in connection with the work, or for the acts or omissions of the Contractor, Subcontractors or any persons performing any of the work.
- 2.7.10 The Architect shall be the interpreter of the requirements of the Contract Documents. The Architect shall provide interpretations of the Contract Documents within seventy-two (72) hours, excluding weekends and holidays, of a request for interpretation. The Architect shall advise the Owner on all claims of the Contractor relating to the execution and progress of the project and on all other matters or questions related thereto.
- 2.7.11 The Architect shall inform the Owner in writing, for appropriate action by the Owner, of work which in the opinion of the Architect does not conform to the Contract Documents. The Architect shall advise the Owner if, in his professional opinion, the Contractor is not exercising proper performance of the Contract. The Architect shall have the authority to require special inspection or testing of any work in accordance with the provisions of the project Contract Documents, whether or not such work be fabricated, installed or completed.
- 2.7.12 The Architect shall review and approve (or take other appropriate action in respect to) shop drawings, product data, samples and other submittals required by the Contract Documents, only for conformance with the design concept of the project and for compliance with the information given in the project Contract Documents. The Owner and Owner's representatives after review and approval shall return said reviewed items to the Architect. The goal of the Architect and the Owner and his representatives is to return said reviewed items to the Contractor within fourteen (14) consecutive calendar days of receipt thereof.
- 2.7.12.1 Substitutes: As part of the Basic Rate, the Architect and his Sub-Architects shall evaluate and determine the acceptability of substitute materials and equipment proposed by the Contractor, except as stipulated in Article 5 of the "Uniform General Conditions and Supplementary General Conditions".
- 2.7.12.2 The Architect shall maintain a complete master file of submittals.
- 2.7.13 The Architect shall prepare and estimate Change Orders (items not a part of the original scope of the Project)

which shall be considered as part of the Contract Documents, when approved by the Owner. The method and amount of additional compensation, if applicable, shall be agreed upon in writing, by the Owner, prior to preparing Change Order Documents.

- 2.7.14 The Architect shall prepare change orders due to design errors and omissions at no cost to the Owner.
 - 2.7.15 The Architect will reimburse the Owner for the non-value added cost of change orders due to design errors and omissions when the cumulative total of non-value added cost of all such change orders exceeds 0.1% of the total construction cost or \$1,000, whichever is greater. The non-value added cost of each change order will be determined by the additional cost to the Owner less the value added to the project. Value is added to the project if specifying the correct work in the original construction contract would have resulted in a greater contract amount.
 - 2.7.16 The Owner will consider the Architect's failure to follow documented Owner instructions, requirements and/or problems from the specified work a design error or omission.
 - 2.7.17 The Architect shall assist the Owner in conducting observations to determine the date of final completion. The Architect shall receive and forward to the Owner written guarantees and related documents assembled by the Contractor. The Architect shall issue written certification to the Owner that the project has been completed in general accordance with the project Contract Documents and applicable codes, to the best of his knowledge, information and belief and establish the date of final completion.
- 2.9 POST-CONTRACT PHASE**
- 2.9.1 The Architect shall provide assistance in the Owner's use and occupancy of the Project.
 - 2.9.2 The Architect shall furnish the Owner one (1) set of Record Drawings on reproducible photographic (archival quality) 4 mil black line mylar, and two (2) sets of blueprints, within twenty-one (21) days of receipt of the marked-up blueprints drawings from the Contractor. These drawings shall indicate as-built conditions at final completion of the project based upon information supplied by the Contractor, and shall be of sufficient quality to facilitate photographic reproduction. In addition to the above drawings, an electronic copy in AutoCAD Release 12 and 13 format, complying with the *University Layering Standards* shall be furnished of any drawings produced by a Computer Aided Design system. Note that only AutoCAD files will be accepted. Raster files, DXF, or any other conversion files will not be acceptable. The Owner will retain five percent (5%) of the Architect's total fee until Record Drawings, as specified, are received. By incorporating information supplied by the Contractor into the Record Drawings, the Architect does not assume responsibility for the accuracy of the Contractor-supplied information.
 - 2.9.3 During the General Guarantee period of the Construction Contract(s), the Architect shall work with the Owner to secure correction of any defects that become apparent. Services provided by the Architect during this period shall be provided at no cost to the Owner if said services are necessary to correct defects in the Work resulting from errors or omissions in the design prepared by the Architect. However, if such services are provided to correct defects resulting from defective material or poor workmanship provided by the Contractor, shall be considered Additional Services and the Architect compensated accordingly, provided such services have been previously authorized in writing by the Owner.
 - 2.9.4 The Architect shall provide an inspection(s) prior to expiration of the warranty period(s) to ascertain adequacy of performance of materials, systems and equipment.

ARTICLE 3 ADDITIONAL SERVICES

- 3.1 The following services are not covered under Scope of Architect's Basic Services, paragraph 2.1 through 2.9.4. If any of the following services are requested by the Owner in writing, additional compensation will be allowed as hereinafter provided.
- 3.2 If changes in project scope are directed by the Owner following the approval of Design Development or Contract Documents, which are not necessary to bring the cost of the Project within the "Total Construction Amount Available", the Architect may be entitled to additional compensation. This compensation will be agreed upon by the Owner and the Architect, and this contract will be amended, in writing, to reflect that agreement, prior

- to the Architect making such revisions.
- 3.3 Additional site visits by the Architect and his Sub-Architects, as described in paragraph 2.7.7. Compensation for such visits shall not exceed \$50.00/person/hour and will not be allowed for visits not requested, or approved in advance, by the Owner.
- 3.4 Architect's services required during the guarantee period of Construction Contract(s) in accordance with paragraph 2.7.17. The method and amount of compensation shall be agreed upon in writing prior to providing services.
- 3.5 When not provided by the Owner, the Architect's services may be required to analyze the Owner's needs, and program the project requirements. The method and amount of compensation shall be agreed upon in writing prior to providing services.
- 3.6 The following list of services are considered to be Additional Services that could be requested by the Owner. The method and compensation shall be agreed upon in writing prior to providing services.
- i. Model Construction
 - ii. Still Photography
 - iii. Life Cycle Cost Analysis
 - iv. Value Analysis
 - v. Computer Generated Fly-by Video
 - vi. Perspective view(s) in color
 - vii. Demolition Services for demolition of existing building(s)
- 3.7 The Architect shall make all requests for compensation for additional services performed through the Contract Document Phase before advertisement of the project for bids. All requests for additional compensation will be made in writing to the Owner.

ARTICLE 4 THE OWNER'S RESPONSIBILITIES

- 4.1 The Owner shall designate a representative authorized to act on the Owner's behalf with respect to the project. The Owner or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's Services.
- 4.2 The Owner will provide full information regarding its requirements for the project.
- 4.3 The Owner will allocate a fixed limit for construction cost hereinafter defined.
- 4.4 The Owner and/or his representative(s) will examine documents submitted by the Architect and will render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of the Architect's work.
- 4.5 The Owner will furnish, or direct the Architect to secure, as a reimbursable expense, a certified land survey of the site, giving, as applicable, grades and lines of street, alleys, pavements, and adjoining property; right-of-way, restrictions, easements, encroachments, deed restrictions, boundaries, and contours of the site; locations, dimensions, and complete data pertaining to existing buildings, other site improvements, and landscape plantings; location and full information concerning available service and utility lines (above and below ground), both public and private. Cost for the survey shall require prior approval by the Owner.
- 4.6 The Owner will furnish existing certified soils reports including test borings, test pits, and soil bearing values which will assist in determining subsoil conditions.
- 4.7 The Owner will furnish tests for hazardous materials and other laboratory and environmental test, inspections and reports required by law or the Contract Documents.
- 4.8 If the Owner observes or otherwise becomes aware of any fault or defect in the project or non-conformance with the Contract Documents, he will give prompt written notice thereof to the Architect.

- 4.9 The Owner will furnish information required of him as expeditiously as necessary for the orderly progress of the work.
- 4.10 When continuous field supervision of the construction is deemed necessary by the Owner, in addition to the Architect's Basic Services, the Owner's Representative, will provide on-site field observation during the construction phase.
- 4.11 The Owner will furnish all legal, accounting, and insurance counseling services as may be necessary at any time for the project, including such auditing services as the Owner may require to verify the Contractor's applications for payment or to ascertain how or for what purposes the Contractor uses the monies paid by or on behalf of the Owner.
- 4.12 The Owner will pay the cost of reproducing copies of all required "Record Drawing" documents.

ARTICLE 5 CONSTRUCTION COST

- 5.1 The construction cost for the project shall not exceed the "Total Construction Amount Available" as identified during the Pre-Design Phase for the project, unless otherwise authorized, in writing, by the Owner.
- 5.2 Construction cost for the purpose of determining Architect's compensation as herein defined will include the sum total of the construction contract(s) awarded to the General Contractor or other Prime Contractors if the work is divided into appropriate classes. In no event shall the construction cost include professional fees, Owner's supervision, reimbursable expenses, legal expenses, advertising, movable equipment for the project, cost of land, items furnished by the Owner, when no service is provided by the Architect, or any other expense for which the Owner is responsible. Construction cost will be determined as follows with precedence in the order listed:
 - 5.2.1 For completed construction, the total contract awarded for all such work, not including changes to the work which required no services by the Architect.
 - 5.2.2 For work not constructed, the lowest responsible and responsive bid received from a qualified bidder for any or all such work;
 - 5.2.3 For work for which bids are not received, the latest detailed cost estimate approved by the Owner.
- 5.3 Materials and fixed equipment specified by the Architect and furnished by the Owner shall be included in the construction cost as the lesser of cost or current market value.
- 5.4 If the Bidding or Negotiation Phase has not commenced within six (6) months after the Architect submits the Construction Documents to the Owner, the project budget or fixed limit of construction cost will be adjusted to reflect the change in the general level of prices in the construction industry between the date of submission of the Construction Documents to the Owner and the date on which proposals are sought.
- 5.5 The Architect may propose alternate bids to adjust the construction cost to the fixed limit, but the Owner reserves the right to reject any alternate proposals, materials, built-in equipment, component systems, or types of construction at any phase of the work which would, in the Owner's opinion, reduce the efficiency or durability of the project to an extent which could not be condoned.
- 5.6 If the lowest responsible and responsive bid, or estimate of construction cost exceeds the "Total Construction Amount Available" established as a condition of this Agreement, the Owner will at its option (1) give written approval of an increase in the "Total Construction Amount Available", (2) authorize rebidding of the project within a reasonable time, (3) cooperate in revising the project scope as required to reduce the estimated cost. In the case of (2) and (3), if the overage is in excess of 10%, the Architect, without additional compensation, shall modify the drawings and specifications or perform other services as necessary to bring the construction cost within the "Total Construction Amount Available."

5.7 ALTERNATES

- 5.7.1 The Architect shall include only those bid alternates approved by the Owner. All alternates shall be additive

alternates to the base bid.

- 5.7.2 For additive alternates required by the Owner, excluding those required to keep costs with the "Total Construction Amount Available", the Architect's compensation will be determined as defined in paragraph 5.2.
- 5.8 No compensation will be allowed the Architect for alternates which are not required and not accepted by the Owner.

ARTICLE 6 OWNERSHIP OF DOCUMENTS

- 6.1 The Drawings, Specifications and other documents prepared by the Architect for this Project are instruments of the Architect's service for use solely with respect to the Project and, unless otherwise provided, the Architect shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including copyright.
- 6.1.2 The Owner shall be permitted to retain copies, including reproducible copies, of the Project Drawings, Specifications and other documents for information and reference in connection with the Owner's use and occupancy of the Project. The Project Drawings, Specifications or other documents shall not be used by the Owner or others on other projects, for additions to this Project or for completion of this Project by others, unless the Architect is adjudged to be in default under this Agreement, except by agreement in writing and with appropriate compensation to the Architect.
- 6.1.3 Submission or distribution of documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the Architect's reserved rights.

ARTICLE 7 ADMINISTRATIVE REVIEW

- 7.1 Disputes between the Architect and the Owner can be submitted in writing to administrative review as provided in this article. All requests for administrative review shall be routed through the TTU/TTUHSC Director of Facilities Planning and Construction, Box 42014, Lubbock, Texas 79409-2014.
- 7.1.1 Upon written request from the Architect, the Director of Facilities Planning and Construction will convene a meeting between the Project Coordinator and the Architect. After reviewing the facts presented, the Director of Facilities Planning and Construction will issue a written opinion to the Architect and Project Coordinator regarding the disputes.
- 7.1.2 If the Architect is not in agreement with the opinion of the Director of Facilities Planning and Construction, the Owner's Contracting Officer or designee will convene a meeting with the Director of Facilities Planning and Construction and the Architect. After reviewing the facts, the Owner's Contracting Officer or designee will issue a written opinion to the Architect and Director of Facilities Planning and Construction regarding the disputes. This written opinion will conclude the Administrative Review process.

ARTICLE 8 TERMINATION OF AGREEMENT

- 8.1 This Agreement may be terminated by either party on thirty (30) days written notice to the other party for failure or refusal to perform in accordance with the terms and conditions of this Agreement.
- 8.2 Upon receipt of such notice, unless the notice directs otherwise, all services and work, the placing of all orders, or the entering into contracts for supplies, assistance, facilities, and materials in connection with the performance of this Agreement shall discontinue, and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this Agreement.
- 8.3 Should the Agreement be terminated due to the fault of the Architect, no further payments on the fee account will thereafter be made except for services previously authorized and performed which are of value to the Owner. Should the Agreement be terminated due to no fault of the Architect, the Architect will be paid promptly any unpaid fees and reimbursables for work actually authorized and performed under the Agreement.
- 8.4 Copies of drawings, specifications or any other materials to date of termination will be furnished to the Owner as of date of termination.

8.5 The notice required under paragraph 8.1 will be delivered, served, or mailed to the respective party's last known address by registered mail, and in case the notice is so mailed, it shall be deemed delivered within forty-eight (48) hours after the same is post marked.

8.5.1 Such termination made by the Owner, shall give written notice directed as follows:

Lotti Krishan Architects Incorporated
114 E. 5th Street, Suite 100
Tulsa, Oklahoma 74103
Phone No.: 918/592-0622
Fax No.: 918/592-0645

likewise, termination by the Architect shall be accomplished by directing written notice to:

Theresa Bartos Drewell, AIA
Facilities Planning and Construction
Texas Tech University
Box 42014
Lubbock, Texas 79409-2014
Phone No.: 806/742-2116
Fax No.: 806/742-2241

ARTICLE 9 PAYMENTS TO THE ARCHITECT

9.1 The Owner agrees to pay the Architect as compensation for the Basic Services 6 % of the authorized and approved "Total Construction Amount Available". The Basic Rate herein provided shall cover the compensation for all Basic Services to be rendered hereunder and expenses of whatsoever nature, except reimbursables in accordance with paragraphs 9.7.1 through 9.7.4, incurred by the Architect or his representatives or Sub-Architects while in the discharge of any duties connected with the project, or where specific provision is otherwise made in this Agreement.

9.2 Payments will be paid in proportion to the services performed. Payments toward the Basic Rate will be made monthly and at the completion of each phase. The payments will not exceed the specified lump sum or percentages of the Basic Rate for the completion of each phase as set for below:

Analysis of the Existing Carpenter/Wells	\$ 22,250.00
Pre-Design / Analysis Phase	5%
Schematic Design Phase	10%
Design Development	20%
Contract Documents	40%
Bidding or Negotiation Phase	5%
Contract Administration Phase	15%
Post-Contract Phase	5%
Total	100%

9.2.1 Payments made to the Architect, based on salary expended will be subject to the following definitions and requirements.

9.2.1.1 Direct Personnel Expense: Direct personnel expenses are defined as the direct salaries of the Architect's personnel engaged on the project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employment benefits: insurance, sick leave, holiday, vacations, pensions, and similar contributions and benefits.

9.2.1.2 Rate Schedule: The Architect shall classify the personnel engaged on the project in the Architect's Rates Schedule for Billing, with their direct personnel expense and apply multiplier 2.1 for billing rates.

9.2.2 Payments for approved reimbursable expenses or other approved extra compensation over and above the

applied Basic Rate will be made promptly upon presentation, to the Owner, of the Architect's statement of services rendered.

- 9.3 If the project is abandoned in whole or in part, the Architect will be paid for services performed prior to receipt of written notice from the Owner of such abandonment. Payments will not, however, be made for any phase of the work which has not been authorized in writing by the Owner.
- 9.4 Should work which has been abandoned in whole or in part be ultimately resumed, the Owner shall be allowed full credit for any amounts previously paid if the project is substantially the same and a reasonable credit for any studies previously made which would facilitate the performance of services in a major re-design of the project.
- 9.5 If the Design Development phase, Construction Document Phase, Bidding Phase or Construction Phase, respectively, has not commenced within six (6) months after the Architect submits the previous phase documents to the Owner, the project budget or fixed limit of Construction Cost will be adjusted to reflect the change in the general level of prices in the construction industry between the date of submission of the previous phase documents to the Owner and the date on which the next phase is begun. If the Architect's fee (Basic Rate) is on a percentage basis, the appropriate Architect phase payment will be based upon the project budget applicable at the time of design of the respective phase.
- 9.6 **EXAMINATION OF RECORDS**
- 9.6.1 The Owner, and any parties it deems necessary, shall have access to and the right to examine any accounting records of the Architect involving transactions and work related to this Agreement until the expiration of five (5) years after final payment hereunder.
- 9.7 **REIMBURSABLE EXPENSES**
- 9.7.1 Reimbursable expenses are in addition to the professional fee determined by the Basic Rate. They will include items covered in Paragraphs 4.4 and 4.5 if not furnished by the Owner. The furnishing and distribution of all copies of the bidding documents will be a reimbursable expense at the Architect's direct cost without Architect's overhead and profit.
- 9.7.2 If authorized in advance by the Owner, direct expense of special Architects for other than normal services furnished by the Architect will be reimbursable expenses.
- 9.7.3 If authorized in advance by the Owner, the production and/or reproduction of presentation models, mock-ups, perspectives and reports for the Owner's use are reimbursable direct expenses unless required by paragraph 2.3.7. However, study models, mock-ups, and perspective sketches are considered as necessary to the Architect's design process and are included in Basic Services.
- 9.7.4 Telephone calls, mileage and/or other travel costs (meals and lodging), associated with Owner authorized out-of-town trips will be considered a reimbursable expense without Architect's overhead and profit under this Agreement.
- 9.7.5 Mileage of Architects and Sub-Architects within the Project area, unauthorized out-of-town travel, local and long distance communication, facsimile services, photocopying services and expenses of a similar nature will not be considered reimbursable expenses.
- 9.7.6 Overnight deliveries, reproduction of final Drawings and Specifications, postage and handling of the Contract Documents, reproduction of "Record Drawings" or other similar project related expenditures will be reimbursable expenses without Architect's overhead and profit.

ARTICLE 10 MISCELLANEOUS PROVISIONS

- 10.1 **APPLICABLE LAW:** This Agreement shall be considered to be performed in Lubbock, Lubbock County, Texas. This Agreement shall be governed by the laws of the State of Texas. All applicable provisions required by law shall be deemed to be incorporated herein.

10.2 STATUTES OF REPOSE OR LIMITATIONS

- 10.2.1 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of repose or limitations shall commence to run not later than either the Date of Substantial Completion for acts or failures occurring prior to Substantial Completion, or the date of issuance of the final Certificate for Payment for acts or failures to act occurring after Substantial Completion.

10.3 CONFLICT OF INTEREST

- 10.3.1 The Architect will not hire any officer or employee of the Owner to perform any service covered by this Agreement. If the work is to be performed, in connection with a federal contract or grant, the Architect will not hire any employee of the United States government to perform any service covered by this Agreement.
- 10.3.2 The Architect affirms that to the best of his knowledge there exists no actual or potential conflict between the Architect's family, business or financial interests and his services under this Agreement, and in the event of change in either his private interests or service under this Agreement, he will raise with the Owner any questions regarding possible conflict of interest which may arise as a result of such change.
- 10.3.3 The Architect herein is an independent contractor and shall not act as an agent for the University, nor shall the Architect be deemed to be an employee of the University for any purpose whatsoever. The Architect shall not enter into any agreement or incur any obligations on the University's behalf or commit the University in any manner.

10.4 NONDISCRIMINATION / EQUAL OPPORTUNITY

- 10.4.1 The University serves from time to time as a contractor for the United States government. Accordingly, the provider of goods and/or services shall comply with federal laws, rules and regulations applicable to subcontractors of government contracts including those relating to equal employment contracts including those relating to equal employment opportunity and affirmative action in the employment of minorities (Executive Order 11246), women (Executive Order 11375), persons with disabilities (29 USC 706) and certain veterans (38 USC 4212 formerly [2012]) contracting with business concerns with small disadvantaged business concerns (Publication L. 95-507). Contract clauses required by the Government in such circumstances are incorporated herein by reference.

10.5 PATENTS

- 10.5.1 The Architect shall hold and save harmless the Owner and its officers agents, servants and employees, from liability of any nature or kind, including cost and expense, for or on account of infringement or use of any patented or otherwise protected invention, process, or article in the performance of this Agreement, including its use by the Owner.
- 10.5.2 Whenever any invention or discovery is made or conceived by the Architect in the course of or in connection with the Agreement, the Architect shall furnish the Owner with complete information with respect thereto and the Owner will have the sole power to determine whether or where a patent application will be filed and to determine the disposition of title to and all rights under any application or patent that may result. The Architect shall, at the Owner's expense and the Owner's request, execute all documents and do all things necessary or proper with respect to such patent application.

10.6 COPYRIGHT

- 10.6.1 The Owner will have the sole power to determine whether or not a copyright application will be filed for any published report or other document which results from the work performed under this Agreement. The Architect shall, at the Owner's expense and at the Owner's request, execute all documents and do all things necessary or proper with respect to such copyright application.

10.7 HAZARDOUS MATERIALS

- 10.7.1 Unless otherwise provided in the Agreement, the Architect and his Sub-Architect's shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials or toxic substances in any form at the Project site. If the Architect is required to perform services related to hazardous materials, the Owner agrees to indemnify and hold harmless the Architect, the Sub-Architects and their agents and employees from and against any and all claims, damages, losses and expenses, including but

not limited to attorney's fees, arising out of or resulting from performance of services by the Architect, Sub-Architects or their agents or employees related to such services, except where such liability arises from the sole negligence or willful misconduct of the person or entity seeking indemnification.

10.8 PUBLICITY

- 10.8.1** The Architect shall have the right to include representations of the design of the Project, including photographs of the exterior and interior, among the Architect's promotional and professional materials. The Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect on the construction sign and in the promotional materials for the Project.

ARTICLE 11 CONSULTANTS

- 11.1** It is contemplated that during the process of the work to be performed under this Agreement, both parties may wish to retain Consultants at their own expense. It is specifically understood and agreed that any Sub-Consultant retained by the Architect shall be at the Architect's expense; however, the Owner reserves the right to approve such Sub-Consultant and the conditions of their employment. The Architect's Sub-Consultants shall provide complete support of the Architect's Basic Services including site visitations during the Contract Administration Phase and checking of shop drawings and submittals.
- 11.2** It is further understood that the Owner may retain Consultants and that the expense for the same shall be borne by the Owner.

ARTICLE 12 ASSIGNMENT

- 12.1** It is understood that the services to be rendered by the Architect hereunder are personal in character and that this Agreement shall not be assigned by the Architect without the written approval of the Owner.

ARTICLE 13 DESIGNATION OF REPRESENTATIVE

- 13.1** Owner hereby designates the President of Texas Tech University / Texas Tech University Health Sciences Center or the person designated as acting President in his absence, as its duly authorized and designated representative to act for and on behalf of Owner.
- 13.2** This designation shall remain in full force and effect until and unless Architect is otherwise notified in writing by Owner in accordance with Article 8.
- 13.3** Venue shall be in Lubbock, Lubbock County, Texas.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed as of the day and year first above written.

OWNER
TEXAS TECH UNIVERSITY

BY: 
Dr. Donald R. Haragan, Interim President

DATE: 8/28/96


ARCHITECT
LOTTI KRISHAN ARCHITECTS INCORPORATED

BY: 
David Short, AIA

DATE: 19 August 1996

Reviewed for Fiscal Implications

BY: 
Jim Brunjes, Interim Vice President for Fiscal Affairs

DATE: 8/28/96 

Reviewed for Form

BY: 
Pat Campbell, Vice President & General Counsel

DATE: 8-28-96

CONSTRUCTION SERVICES

Contract No. 96-1454

Account Number 3709-42-1562

Account Number 0242-42-1593

AGREEMENT

THIS AGREEMENT, made this 17th day of July, in the year Nineteen Hundred Ninety Six.

BY AND BETWEEN

Texas Tech University, Lubbock, Lubbock County, Texas, the Owner, acting herein by and through Donald R. Haragan, Interim President, and Danny Klein Construction, Inc., Lubbock, Texas, the Contractor.

The Owner and the Contractor agree as set forth below:

ARTICLE 1

THE WORK

The Contractor shall perform all the Work required by the Contract Documents for

Chemistry Building - Chemical Storage Rooms
(FP & C 95-23)

CONTRACT SUM

The Owner shall pay the Contractor for the performance of the Work as provided in the Conditions of the Contract, in current funds, the Contract Sum of

One Hundred Fourteen Thousand Nine Hundred Ninety Five and no/100's Dollars
(Written Amount)

\$114,995.00
(Figures)

The above bid price is divided into \$68,197.00 dollars for Materials (to be incorporated into the Work) and \$46,798.00 dollars for Labor (including any materials not incorporated into the Work, such as formwork and rentals used in the process of installation). This separation of the contract price into Materials and Labor is required in order for the successful bidder to be able to purchase free of state sales tax the materials to be incorporated into the Work.

ARTICLE 3

TIME OF COMMENCEMENT AND COMPLETION

The Work to be performed under this Contract shall be commenced on or after a date to be specified in a written "Notice to Proceed" from the Owner and completed within 150 calendar days.

The time in the contract for the completion of the work is an essential element of the contract, and it is mutually agreed that the Owner will suffer financial damages in an amount not now possible to ascertain if this work is not completed on schedule, and in view of these facts, it is agreed that the Owner will withhold from the Contractor, as liquidated damages and not as a penalty, the sum of \$ 500.00 per day for each calendar day that the work remain uncompleted beyond the date specified in the Notice to Proceed, or as extended by change order by the Owner.

ARTICLE 4

PROGRESS PAYMENTS

Based upon Applications for Payment submitted by the Contractor, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided in the conditions of the Contract as follows:

Once each calendar month, the Owner shall make a progress payment to the Contractor on the basis of a duly certified and approved estimate of the Work performed during the preceding calendar month under this Contract; but to insure the proper performance of this Contract, the Owner shall retain five percent (5%) of the amount of each estimate until final completion and acceptance of all Work covered by this Contract: Provided that the Owner, at any time after fifty percent (50%) of the Work has been completed, finds that satisfactory progress is being made, may make any of the remaining progress payments in full; and, provided further, that upon completion and acceptance of each separate building, public work or other division of the Contract on which the price is stated separately in the Contract, payment may be made in full, including retained percentages thereon less authorized deductions. It shall be the Owner's option that upon "substantial completion" of the entire Work, he may increase the total payments to ninety-five percent (95%) of the Contract price provided satisfactory evidence is furnished that all payrolls, material bills and other indebtedness connected with the Work have been paid.

In addition, and in connection with any progress payment, if the Owner requests same, he shall be furnished manifest proof of any Subcontractors' actual fiscal account as related to the actual Subcontract value; and such account shall be in a form as requested by the Owner.

Final payment, constituting the entire unpaid balance of the Contract Sum, shall be paid by the Owner to the Contractor thirty (30) days after Substantial Completion of the Work unless otherwise stipulated in the Certificate of Substantial Completion, provided the Work has then been completed, the Contract fully performed and a final Certificate for Payment has been issued by the Contractor and approved by the Engineer.

ARTICLE 5

THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other conditions), Drawings, Specifications, all Addenda issued prior to execution of this Agreement and all Modifications issued subsequent thereto. These form the Contract, and all are as fully a part of the Contract as if attached to this Agreement or repeated herein.

The Owner reserves the right to do work and to award other contracts in connection with other portions of the project.

ARTICLE 6

PAYMENT AND PERFORMANCE BONDS

It is hereby agreed that a Performance Bond and a Payment Bond, each of 100% of the contract sum, are included herein and made a part of this contract.

ARTICLE 7

OWNER'S REPRESENTATIVE

The Owner hereby designates the President of Texas Tech University or the person designated as acting President in his absence, as its duly authorized and designated representative as that term is used and appears in this Agreement to act for and on behalf of Owner. This designation shall remain in full force and effect until and unless Contractor is otherwise notified in writing by Owner and directed to Contractor at his address.

Venue shall be in Lubbock County, Texas.

IN WITNESS WHEREOF, the parties have hereunto set their hands.

OWNER
TEXAS TECH UNIVERSITY

By: _____

Donald R. Haragan
Interim President

Date: 7/30/96

CONTRACTOR
DANNY KLEIN CONSTRUCTION, INC.

By: _____

Date: 8-21-96

REVIEWED FOR FISCAL IMPLICATIONS

Jim Brunjes, Interim Vice President
for Fiscal Affairs

Date: 7/25/96

REVIEWED FOR FORM

Pat Campbell, Vice President
and General Counsel

Date: 7-24-96

4:04

CONSTRUCTION SERVICES

Contract No. 96-1472
Account Number 3702-45-8348

AGREEMENT

THIS AGREEMENT, made this 4th day of September in the year Nineteen Hundred Ninety Six.

BY AND BETWEEN

Texas Tech University, Lubbock, Lubbock County, Texas, the Owner, acting herein by and through Donald R. Haragan, Interim President, and Greer Electric Company, Inc., Lubbock, Texas, the Contractor.

The Owner and the Contractor agree as set forth below:

ARTICLE 1

THE WORK

The Contractor shall perform all the Work required by the Contract Documents for

CHACP II - VFD Replacement - Base Bid and Alternate #1

ARTICLE 2

CONTRACT SUM

The Owner shall pay the Contractor for the performance of the Work as provided in the Conditions of the Contract, in current funds, the Contract Sum of

One Hundred Five Thousand Seven Hundred Five and no/100's Dollars
(Written Amount)

\$105,705.00
(Figures)

The above bid price is divided into \$ 84,020.00 dollars for Materials (to be incorporated into the Work) and \$ 21,685.00 dollars for Labor (including any materials not incorporated into the Work, such as formwork and rentals used in the process of installation). This separation of the contract price into Materials and Labor is required in order for the successful bidder to be able to purchase free of state sales tax the materials to be incorporated into the Work.

ARTICLE 3

TIME OF COMMENCEMENT AND COMPLETION

The Work to be performed under this Contract shall be commenced on or after a date to be specified in a written "Notice to Proceed" from the Owner and completed within 180 calendar days.

The time in the contract for the completion of the work is an essential element of the contract, and it is mutually agreed that the Owner will suffer financial damages in an amount not now possible to ascertain if this work is not completed on schedule, and in view of these facts, it is agreed that the Owner will withhold from the Contractor, as liquidated damages and not as a penalty, the sum of \$ 750.00 per day for each calendar day that the work remain uncompleted beyond the date specified in the Notice to Proceed, or as extended by change order by the Owner.

ARTICLE 4

PROGRESS PAYMENTS

Based upon Applications for Payment submitted by the Contractor, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided in the conditions of the Contract as follows:

Once each calendar month, the Owner shall make a progress payment to the Contractor on the basis of a duly certified and approved estimate of the Work performed during the preceding calendar month under this Contract; but to insure the proper performance of this Contract, the Owner shall retain five percent (5%) of the amount of each estimate until final completion and acceptance of all Work covered by this Contract: Provided that the Owner, at any time after fifty percent (50%) of the Work has been completed, finds that satisfactory progress is being made, may make any of the remaining progress payments in full; and, provided further, that upon completion and acceptance of each separate building, public work or other division of the Contract on which the price is stated separately in the Contract, payment may be made in full, including retained percentages thereon less authorized deductions. It shall be the Owner's option that upon "substantial completion" of the entire Work, he may increase the total payments to ninety-five percent (95%) of the Contract price provided satisfactory evidence is furnished that all payrolls, material bills and other indebtedness connected with the Work have been paid.

In addition, and in connection with any progress payment, if the Owner requests same, he shall be furnished manifest proof of any Subcontractors' actual fiscal account as related to the actual Subcontract value; and such account shall be in a form as requested by the Owner.

Final payment, constituting the entire unpaid balance of the Contract Sum, shall be paid by the Owner to the Contractor thirty (30) days after Substantial Completion of the Work unless otherwise stipulated in the Certificate of Substantial Completion, provided the Work has then been completed, the Contract fully performed and a final Certificate for Payment has been issued by the Contractor and approved by the Project Manager.

ARTICLE 5

THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other conditions), Drawings, Specifications, all Addenda issued prior to execution of this Agreement and all Modifications issued subsequent thereto. These form the Contract, and all are as fully a part of the Contract as if attached to this Agreement or repeated herein.

The Owner reserves the right to do work and to award other contracts in connection with other portions of the project.

ARTICLE 6

PAYMENT AND PERFORMANCE BONDS

It is hereby agreed that a Performance Bond and a Payment Bond, each of 100% of the contract sum, are included herein and made a part of this contract.

ARTICLE 7

OWNER'S REPRESENTATIVE

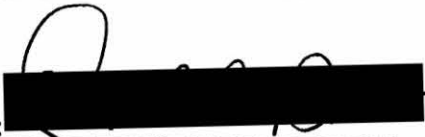
The Owner hereby designates the President of Texas Tech University or the person designated as acting President in his absence, as its duly authorized and designated representative as that term is used and appears in this Agreement to act for and on behalf of Owner. This designation shall remain in full force and effect until and unless Contractor is otherwise notified in writing by Owner and directed to Contractor at his address.

Venue shall be in Lubbock County, Texas.

IN WITNESS WHEREOF, the parties have hereunto set their hands.

OWNER
TEXAS TECH UNIVERSITY

CONTRACTOR
GREER ELECTRIC COMPANY, INC.


By: 
Donald R. Haragan
Interim President

Date: 9/17/96

By: 

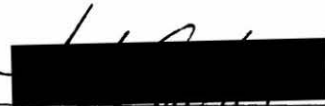
Date: 9/24/96

REVIEWED FOR FISCAL IMPLICATIONS


Jim Brunjes, Interim Vice President ^{SV}
for Fiscal Affairs

Date: 9/17/96

REVIEWED FOR FORM


Pat Campbell, Vice President
and General Counsel

Date: 9-16-96

4:04

Contract No. 96-1421/1

AMENDMENT NO. 1 TO CONTRACT NO. 96-1421

CONSTRUCTION SERVICES

Tommy Klein Construction And Texas Tech University

The Agreement between Tommy Klein Construction, Lubbock, Texas and Texas Tech University, Lubbock, Texas, dated March 27, 1996, is amended as follows:


CONTRACT SUM

...increase the contract by amount \$12,688.50,
making the total contract amount \$195,135.50.

All other provisions of the Agreement will remain as written and all parties do hereby ratify and confirm such terms, stipulations and conditions therein set forth.

IN WITNESS WHEREOF, the parties hereto have executed this amendment in triplicate, each of which shall be considered an original by their duly appointed officers, this the 23rd day of July, 1996.

TEXAS TECH UNIVERSITY

By: 
Donald R. Haragan, Interim President

Date: 8/1/96

TOMMY KLEIN CONSTRUCTION

By: 


Date: 8/7/96

REVIEWED FOR FISCAL IMPLICATIONS

By: 
Jim Brunjes, Interim Vice President
for Fiscal Affairs

Date: 7/31/96

REVIEWED FOR FORM

By: 
Pat Campbell, Vice President and
General Counsel

Date: 7-30-96

12. Commencement Program - December 14, 1996