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**Committee Meeting:** 11/12/2003  
 MCM Elegante Hotel  
**Board Meeting:** 11/13/2003  
 U. T. Permian Basin

*Cyndi Taylor Krier, Chairman*  
*H. Scott Caven, Jr.*  
*Judith L. Craven, M.D.*  
*Robert A. Estrada*  
*James Richard Huffines*

	<b>Committee Meeting</b>	<b>Board Meeting</b>	<b>Page</b>
<b>Convene</b>	<i>2:00 p.m.</i> <i>Chairman Krier</i>		
1. <b>U. T. System: Update on Academic Affairs issues and response to questions concerning tuition review process</b>	<i>2:05 p.m.</i> <b>Discussion</b> <i>Dr. Sullivan</i>	Not on Agenda	<b>30</b>
2. <b>U. T. Board of Regents: Amendment of the Regents' <u>Rules and Regulations</u> regarding solicitation [Part One, Chapter VI, Section 6, Subsection 6.6 and Subdivision 6.61, Subparagraph 6.61(r)]</b>	<i>2:10 p.m.</i> <b>Action</b> <i>Mr. Godfrey</i>	<b>Action</b>	<b>30</b>
3. <b>U. T. Board of Regents: Amendment of the Regents' <u>Rules and Regulations</u> regarding Special Use Facilities [Part One, Chapter VI, Section 6, Subsection 6.(10), Subparagraph 6.(10)3] and delegation of authority for U. T. Austin to execute use agreement for arena football games</b>	<i>2:15 p.m.</i> <b>Action</b> <i>Mr. Godfrey</i>	<b>Action</b>	<b>31</b>
4. <b>U. T. Board of Regents: Amendment to the Regents' <u>Rules and Regulations</u> regarding charter schools (Part One, Chapter I, Section 9, Subsection 9.5 and Part Two, Chapter I, Section 5)</b>	<i>2:20 p.m.</i> <b>Action</b> <i>Mr. Godfrey</i>	<b>Action</b>	<b>33</b>
5. <b>U. T. Arlington: Authorization to purchase real property located at 509 Summit Avenue, Arlington, Tarrant County, Texas; and parity debt</b>	<i>2:25 p.m.</i> <b>Action</b> <i>Dr. Sorber</i> <i>Mr. Jim Wilson</i>	<b>Action</b>	<b>34</b>
6. <b>U. T. Arlington: Authorization to purchase real property located at 515 Summit Avenue, Arlington, Tarrant County, Texas; and parity debt</b>	<i>2:28 p.m.</i> <b>Action</b> <i>Dr. Sorber</i> <i>Mr. Jim Wilson</i>	<b>Action</b>	<b>36</b>
7. <b>U. T. Arlington: University Center Fire and Life Safety Project - Amendment of FY 2004-2009 Capital Improvement Program and the FY 2004-2005 Capital Budget to include new project; authorize institutional management; appropriate funds and authorize expenditure; parity debt</b>	<i>2:31 p.m.</i> <b>Action</b> <i>Mr. Sanders</i>	<b>Action</b>	<b>37</b>

	<b>Committee Meeting</b>	<b>Board Meeting</b>	<b>Page</b>
8. <b>U. T. Austin: Authorization to lease approximately 45.783 acres of land in Austin, Travis County, Texas</b>	2:34 p.m. <b>Action</b> <i>Dr. Faulkner</i> <i>Mr. Jim Wilson</i>	<b>Action</b>	<b>38</b>
9. <b>U. T. Dallas: Approval of M.S. in Biotechnology</b>	2:37 p.m. <b>Action</b> <i>Dr. Sullivan</i>	<b>Action</b>	<b>41</b>
10. <b>U. T. Dallas: Campus Housing Phase IX - Amendment of FY 2004-2009 Capital Improvement Program and the FY 2004-2005 Capital Budget to include project</b>	2:40 p.m. <b>Action</b> <i>Mr. Sanders</i>	<b>Action</b>	<b>42</b>
11. <b>U. T. Dallas: Center for BrainHealth - Amendment of FY 2004-2009 Capital Improvement Program and the FY 2004-2005 Capital Budget to include project</b>	2:43 p.m. <b>Action</b> <i>Mr. Sanders</i>	<b>Action</b>	<b>43</b>
12. <b>U. T. Dallas: Natural Science and Engineering Research Building - Amendment of FY 2004-2009 Capital Improvement Program and the FY 2004-2005 Capital Budget to include project</b>	2:46 p.m. <b>Action</b> <i>Mr. Sanders</i>	<b>Action</b>	<b>43</b>
13. <b>U. T. San Antonio: Approval of Ph.D. in Counselor Education and Supervision</b>	2:49 p.m. <b>Action</b> <i>Dr. Sullivan</i>	<b>Action</b>	<b>45</b>
14. <b>U. T. San Antonio: East Campus Building Phase I - Amendment of FY 2004-2009 Capital Improvement Program and the FY 2004-2005 Capital Budget to include project</b>	2:52 p.m. <b>Action</b> <i>Mr. Sanders</i>	<b>Action</b>	<b>46</b>
15. <b>U. T. San Antonio: East Campus Thermal Energy Plant - Amendment of FY 2004-2009 Capital Improvement Program and the FY 2004-2005 Capital Budget to include project</b>	2:55 p.m. <b>Action</b> <i>Mr. Sanders</i>	<b>Action</b>	<b>47</b>
16. <b>U. T. San Antonio: North/South Connector Road - Amendment of FY 2004-2009 Capital Improvement Program and the FY 2004-2005 Capital Budget to include project</b>	2:58 p.m. <b>Action</b> <i>Mr. Sanders</i>	<b>Action</b>	<b>48</b>

**Adjourn**

1. **U. T. System: Update on Academic Affairs issues and response to questions concerning tuition review process**

### REPORT

Dr. Teresa A. Sullivan, Executive Vice Chancellor for Academic Affairs, will provide an update on recent increases in enrollment and on recent actions of the Texas Higher Education Coordinating Board. She will also respond to questions regarding the tuition review process.

2. **U. T. Board of Regents: Amendment of the Regents' Rules and Regulations regarding solicitation [Part One, Chapter VI, Section 6, Subsection 6.6 and Subdivision 6.61, Subparagraph 6.61(r)]**

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs, the Acting Executive Vice Chancellor for Health Affairs, the Interim Vice Chancellor for Business Affairs, and the Vice Chancellor and General Counsel that the Regents' Rules and Regulations, Part One, Chapter VI, Section 6, Subsection 6.6 and Subdivision 6.61, Subparagraph 6.61(r), concerning solicitation, be amended as set forth below in congressional style:

6.6 Solicitation

The term "solicitation" means the sale, lease, rental or offer for sale, lease, rental of any property, product, merchandise, publication, or service, whether for immediate or future delivery; an oral statement or the distribution or display of printed material, merchandise, or products that is designed to encourage the purchase, use, or rental of any property, product, merchandise, publication, or service; ~~the oral or written appeal or request to support or join an organization other than a registered student, faculty, or staff organization;~~ the receipt of or request for any gift or contribution; or the request to support or oppose or to vote for or against a candidate, issue, or proposition appearing on the ballot at any election held pursuant to State or federal law or local ordinances.

6.61

...

- (r) Subject to the component institution's reasonable and nondiscriminatory rules concerning the time, place, and manner of distribution, sale, or display of material, the distribution, sale, or display by a students' association or a registered student, faculty, or staff organization of printed material (including any newspaper, magazine, or other

publication, and any leaflet, flyer, or other informal matter, or any sign, banner or exhibit), or the distribution or display of such material, at no cost, by individual students, faculty, or staff, or oral statements by students, faculty, staff, or their associations or registered organizations. A Such a publication within this rule may contain paid advertising, but only if the publication is devoted to promoting the views of a not-for-profit organization or to other bona fide editorial content distinct from the advertising. Printed material and oral statements under this rule may also contain advertising for academic or administrative units of The University of Texas System or its component institutions, for registered student, faculty, or staff organizations, or for organizations that are not operated for profit. This rule does not authorize any form of advertising except as provided in the preceding two sentences. This rule does not authorize distribution, sale, or display of any publication operated for profit. An organization, or A-publication is operated for profit if any part of the net earnings of the publication, or of its operation or distribution, inures to the benefit of any private shareholder or individual.

### BACKGROUND INFORMATION

These proposed amendments to the Regents' Rules and Regulations are a further recommendation of U. T. Austin's Task Force on Assembly and Expression. The Task Force concluded that students, faculty, and staff should be entitled to publicize and urge support for off-campus, not-for-profit organizations. The amendments would delete such activities from the definition of prohibited "solicitation" and would revise Subparagraph 6.61(r) to recognize the authority to pursue such activities. Specifically, the revision recognizes that students, faculty, and staff may urge support for and distribute the literature of off-campus, not-for-profit entities with which they identify.

3. **U. T. Board of Regents: Amendment of the Regents' Rules and Regulations regarding Special Use Facilities [Part One, Chapter VI, Section 6, Subsection 6.(10), Subparagraph 6.(10)3] and delegation of authority for U. T. Austin to execute use agreement for arena football games**

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs, the Acting Executive Vice Chancellor for Health Affairs, the Interim Vice Chancellor for Business Affairs, and the Vice Chancellor and General Counsel

that the Regents' Rules and Regulations, Part One, Chapter VI, Section 6, Subsection 6.(10), Subparagraph 6.(10)3, concerning Special Use Facilities, be amended as set forth below in congressional style:

- 6.(10)3 As a lower priority, the rules and regulations may provide for reservation and use of Special Use Facilities by individuals, groups, associations, or corporations without the necessity of joint sponsorship by the U. T. System or component institution. Subject to all constitutional and statutory provisions relating to the use of State property or funds for religious or political purposes, Special Use Facilities may be made available for religious and political conferences or conventions. Rates must be charged for the use of the Special Use Facility that, at a minimum, ensure recovery of that part of the operating cost of the facility attributable directly or indirectly to such use. If the user charges those attending an event any admission or registration fee, or accepts donations from those in attendance, the component institution shall require the user to make a complete account of all funds collected and of the actual cost of the event. If the funds collected exceed the actual cost of the event, the user shall be required to remit such excess funds to the component institution as an additional charge for the use of the Special Use Facility provided however, the Board may permit exceptions to this requirement by the authorization of specific special use agreements via the Docket or Agenda.

It is further recommended that, as a permitted exception, President Faulkner or his designee be authorized to negotiate and enter into a use agreement with FesteCapital Sports Enterprises Ltd., for the use of the Frank C. Erwin, Jr. Special Events Center and the indoor practice facility for arena football.

### BACKGROUND INFORMATION

This proposed amendment to the Regents' Rules and Regulations would permit a component institution to enter into a special use agreement for a Special Use Facility with an entity that intends to use the Facility as the site of a "for-profit" activity subject to the Board's prior authorization.

U. T. Austin has been approached by the owners of a professional arena football team for the use of the Frank C. Erwin, Jr. Special Events Center for eight annual home games and the indoor practice facility for limited practice sessions, and this proposed revision of the Regents' Rules and Regulations is necessary to allow such use.

Background materials from U. T. Austin providing more detail about the proposed use is included on Pages 32.1 - 32.8.



OFFICE OF THE PRESIDENT  
THE UNIVERSITY OF TEXAS AT AUSTIN

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P.O. Box T • Austin, TX 78713-8920  
(512) 471-1232 • FAX (512) 471-8102

September 26, 2003

Dr. Teresa A. Sullivan  
Executive Vice Chancellor for Academic Affairs  
OHH 305  
(P4300)

RE: Arena Football

Dear Terry:

Enclosed is a proposal that has been tentatively agreed upon by The University of Texas at Austin and Mr. Greg Feste of Feste Capital who is heading up a group intending to purchase an Arena Football franchise for Austin. The Arena Football group wants to play its eight home games in the Frank Erwin Special Events Center beginning in the spring of 2004. (The regular football season for the team will be February through May.) The University asks that this proposed arrangement be considered by the Board of Regents at the regular November 2003 meeting. We ask that the Board of Regents authorize the University to negotiate and enter into a contract with the Arena Football group that is written in accordance with the basic principles set out in the enclosed proposal.

Under current *Regents' Rules*, external entities can use the Frank Erwin Center for their own activities under use agreements with the University. However, the policies provide that such entities cannot "make a profit" when using our facilities. In this case we propose to allow the Arena Football League to use the Frank Erwin Center since it is a unique facility and the only one in Austin in which the team could play. We believe that this is an important step that The University can take to assist the State and the Austin community in its economic development efforts.


The enclosed documents contain the primary points around which the contract will be centered. As a starting point, we advised Mr. Feste that we need to make at least the same amount of money had the eight prime dates been used by the Erwin Center for concerts or other regular Erwin Center programs. The enclosed proposal to which the Arena Football group has agreed provides for that amount plus the possibility of additional income through use fees, concessions, etc. The University policies regarding sponsorships will be followed (no alcoholic beverages, tobacco products, etc.), no UT logos will be used, and no Arena Football activities will displace academic activities regularly scheduled in the Erwin Center, such as high school and

Dr. Teresa A. Sullivan  
September 26, 2003  
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University graduations in May. In addition, the Arena Football group will pay the University for all out-of-pocket costs, and for any modifications required in the Erwin Center. The only such modification anticipated is a change-out of lower level end-zone telescopic seating. This seating change will not negatively impact regular Erwin Center programming.

Please let me know if additional information is needed. Thank you for your consideration of this request.

Sincerely,



Larry R. Faulkner  
President

LRF/dh

Enclosures

cc: Chancellor Mark G. Yudof, w/enclosures  
Vice President Patricia C. Ohlendorf  
Athletics Director D. DeLoss Dodds  
Associate Athletics Director D. Douglas Messer

**THE UNIVERSITY OF TEXAS AT AUSTIN**  
**MEN'S ATHLETICS DEPARTMENT**

P. O. Box 7399

471-5317

**MEMORANDUM**

September 24, 2003

TO: Patti Ohlendorf  
Vice President for Institutional Relations and Legal Affairs

FROM: DeLoss Dodds

SUBJ: Arena Football

*Recommend  
approval,  
P. Ohlendorf  
9/25/03*

In late July we were contacted by Greg Feste, Feste Capital advising us that he was representing a group of investors that were planning to acquire an Arena Football franchise and wanted to bring a team to Austin. He indicated that they would like to play their games in the Frank Erwin Center and that they would like to start a team that would be ready to play beginning in February, 2004. (Their regular playing season is February through May.)

Following that initial meeting many hours of work on their part and our part have resulted in their agreement to the terms of a proposal the University has developed (see attached). In all of our dialog with Mr. Feste we have stressed that there are several key issues that must be resolved to the University's satisfaction before an agreement can be finalized. We have specifically noted the following with him: (1) the playing field must fit in the Erwin Center without disruption to other uses of the Center, (2) any cost required to modify the arena in order to accommodate their playing field will be paid by Feste in advance, (3) their field and the set-up for their event must meet the egress standards required by the safety officials, (4) the use agreement will be contained in a contract prepared by the University, and (5) until all of these issues are resolved there is no official deal or relationship with the University for use of the Erwin Center.

At this time we have hired the Heery architects to help us address the many physical concerns listed above. Their work is underway. Mr. Feste has agreed to reimburse us for the cost of Heery's services.

With the reservations mentioned above, we request your assistance in moving forward with this agreement.

Attachment



# THE UNIVERSITY OF TEXAS AT AUSTIN

## ARENA FOOTBALL PROPOSAL

Draft #5 – September 22, 2003

1) **Ticketing:** All tickets will be sold by Texas Box Office (TBO) The base charge for TBO services in the first year will be 1.5% of Gross Sales. The Base Charge for years two through four will be set according to the following schedule - if the previous years total Gross Sales exceed \$3 million the charge will be 1%, if sales are between \$1.5 million and \$2, 999,999 then the charge will be 1.5%, if sales are less than \$1.5 million then the charge will be 2%. An additional charge of 2% will be applied to all sales made by credit card. TBO may charge a customer convenience fee and retain all proceeds from customer convenience fees. Convenience fees will be set by TBO and may be changed from time to time in TBO's sole discretion.

2) **Use Fee:** \$22,500 per game or 20% of Gross Ticket Sales per game whichever is greater. University will pay house costs (i.e. ticket sellers, ticket takers, ushers, security, etc.) from its share.

“Use Fee” includes the use of Burnt-Orange room, auxiliary rooms for locker rooms, officials, press, etc. on game days (to be determined by Team from the existing space available in the building).

Use Fees will be calculated on a per game basis and these fees will be either deducted from Gross Sales on the day of a game or paid by Team on the day of a game.

Team receives the following incentive based on the **number of tickets sold . . .**

5001-7500 tickets sold-\$1.50 per ticket rebate to Football Team.

7501-10,000 tickets sold-\$2.00 per ticket rebate to Football Team.

10,001-12,500 tickets sold-\$2.25 per ticket rebate to Football Team.

12,501-15,000 tickets sold-\$2.50 per ticket rebate to Football Team.

3) **Marketing-Advertising:** Publicity and media promotions must go through the University (Frank Erwin Center). All advertising and media promotions must be approved and placed by the University.

4) **Sponsorships and Advertising:** All Sponsorships, arena advertising, and arena signage must be sold and managed through HOST Communications. Host will charge 15% commission on all Sponsorships, arena advertising, and arena signage. The University will charge 15% user fee for all arena advertising,

sponsorships, and arena signage. The University does not permit sponsorships or advertising for alcoholic beverages, tobacco products, gambling services or venues, sexual services or adult entertainment, or firearms.

- 5) **Concessions Receipts:** All concession receipts shall belong to Sodexho and University.
- 6) **Set Up\Tear Down:** In addition to Use Fees, Football Team will pay University for all “in/out set-up/tear down” costs associated with the field and other equipment needed for their event (hourly per person). (Estimated cost \$3,500 to \$5,000 for “set up” and repeat cost for take down . . . totaling approximately \$7,000 - \$10,000 per game.)
- 7) **Arena Modifications:** Football Team to pay for all architectural/engineering reviews (estimated cost - \$20,000) and any permanent arena modification costs for arena to accommodate their event. Such changes will be under the exclusive management of the University. (Estimated cost of drilling holes in floor for side wall supports - \$20,000). Changes shall not be made unless agreed to by University and it is clear that the changes will not impact negatively University’s use of arena or any other programs in the arena.

It is estimated that the cost to change out the lower end zone arena telescoping bleacher system will run approximately \$560,000. Football Team will be responsible for providing University 100% of this amount of funding or more if costs prove to be higher prior to awarding a contract for the construction and installation of these systems and prior to any associated cost being incurred. .

- 8) **Offices and Storage:** Arena Football responsible to provide off-site storage and offices on non-game days off campus.
- 9) **Team Merchandise:** Team merchandise will be sold at all events through Sodexho Services-70/30 split after tax. - 70% to Football Team-30% to Sodexho..
- 10) **Practice facility:** If the University is given permission to allow an outside entity use of the bubble, the University will make bubble available for practice as follows:

Pre-Season Practice - \$7,500  
(Maximum of 15 days - max of 3 hrs per practice);

Regular Season Practice - \$40,000  
(Maximum of 80 days – max of 5 days/wk - max of 3 hrs per practice – Feb through May);

Post Season Practice - \$1,000 per day  
(Max of 3 hrs per practice)

Note: The schedule noted above is not final . . . based on estimated information.

The facility will be provided in its "as is" state. No remarking or change of the field will be permitted.

The grass fields are not included in this agreement and Team will refrain from any use of these areas.

The University's football team will have first choice on practice days and times. The two teams shall not be on or in these facilities (Denius Fields) at the same time.

All terms of this facility "Use" relationship shall comply with the rules and regulations of the University and the Board of Regents.

**11) Training/Medical Facilities and Weight Training Facilities:** The University's training/medical facilities and Weight Training facilities are not available to arena football team. Team will need to address these facility needs at some other site off campus.

**12) Parking:** Parking is provided on game days only. Team will be provided 24 parking spaces in South Service Drive. Some of these spaces may be used by television trucks to connect to building cable . . . number of spaces used by TV vehicles varies.

Parking is available to Team in Lot 108 (Lot South of Erwin Center) after providing space for Suite holders. Some system of identifying who is associated with team must be developed to control access to this lot.

University parking can not be sold by Team.

**13) Suites:** The University will maintain control of all suites and will retain all revenues derived from licensing use of suites for events held in Erwin Center. Suite ticket revenues will be included in Gross Ticket Sales of each event. If Football Team would like to lease or license a suite, team can make this known to University and University will provide information about suite availability, cost, benefits, and rules. Suites are not provided to anyone on a complimentary basis except as determined by University for University use. Also, suite lessees or licensees are not permitted to sublease or sublicense use of suites and suite tickets may not be resold by lessees or licensees.

**14) Open House:** Team may use Erwin Center facilities at no cost (no usage fee) to hold an "Open House" to the public in an effort to promote season ticket sales. Team will work with University in selection of suitable date for this event. University has final authority on date selected for this event. Team will pay out-of-pocket cost of personnel required to run the building, provide security, traffic

control, and other building services as needed, including field "set up and take down" if requested by Team.

- 15) **Term of Agreement:** Football Team will enter into an agreement with Erwin Center for a period of four years.
- 16) **Insurance:** Football Team will obtain a general liability policy naming University as additional insured in the amount of \$1,000,000 (or the amount required by University). Team will also provide proof of other insurance as needed to operate in State of Texas (i.e. Workmen's Comp, etc.). Financial limits may change. University will require Team to provide full indemnification.
- 17) **Use of Erwin Center on Game Day:** Team can begin using Erwin Center on game day at 6:00 AM and until two hours after game is over.
- 18) **Game Day Personnel:** Team will provide and arrange for game officials, PA Announcer, Official Game Stats personnel, Chain Crew, Clock Operators and any other personnel needed to run the game.
- 19) **Scoreboard, Video System, 360 Video, Marquee:** Special effects on any of these systems will require review and approval of University. Cost of producing special effects, instant replay, etc. will be billed to Team at the same cost charged to University by Video Systems provider.
- 20) **Ownership:** If Team ownership changes during the term of an agreement with the University (i.e. the Limited Partnership is bought by another business entity and/or Feste no longer involved), the University will have the exclusive right to terminate this agreement.
- (21) **Schedule:** Schedule of available dates to play may not be available until the end of September and will be set by University. May and June weekend dates may not be available due to Graduations (UT and Local Area High Schools) and Summer Basketball Camps. When University provides notice of the available dates Team may use, Team will have 30 days to decide which dates will be used and notify University accordingly.
- (22) **Payment for "Held" Dates:** University and Team will agree on eight playing dates yearly. Schedule of dates may include Friday dates, Saturday dates, and/or Sunday dates. If Team defaults and does not play on any one of the eight dates then Team will pay University an appearance fee equal to \$22,500 times eight appearances regardless of the number remaining on the contract. Contract may be terminated at University's discretion.
- (23) **Special Equipment:** Team will pay for any equipment needed by University to properly "set-up and take-down" field, sidewalls, goal post, netting, etc.

*He will require significantly more than \$1 million due to the nature of the activity.*  
JD  
9/25/03

- (24) **Team Name, Uniform Colors, Mascots, Other Identifying Marks:** Team will not use any names, uniform colors, mascots, or other identifying marks of University or simulate marks used or owned by University.
- (25) **Contacts With University Athletes:** All employees (full or part time), owners, contracted personnel, players, and volunteers of Team will abide by all Texas State laws that pertain to "Agents" conduct, all NCAA and Big 12 rules regarding contact with University athletes, and all Institutional rules regarding contact with University athletes. Violations of any of these rules, regulations, laws, and Institutional directions may cause termination of this agreement. Such termination will be the University's exclusive right if such rules are violated.

4. **U. T. Board of Regents: Amendment to the Regents' Rules and Regulations regarding charter schools (Part One, Chapter I, Section 9, Subsection 9.5 and Part Two, Chapter I, Section 5)**

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and the Vice Chancellor and General Counsel that the Regents' Rules and Regulations, Part One, Chapter I, Section 9, Subsection 9.5 and Part Two, Chapter I, Section 5, regarding charter school operations, be amended as set forth below in congressional style:

- a. Amend Part One, Chapter I, Section 9, Subsection 9.5 as follows:

Sec. 9. Delegation to Act on Behalf of the Board

...

9.5 Delegation of Authority Related to Charter School Operations

Authority delegated by the Board in these Rules and Regulations includes actions related to the oversight and operation of ~~a an open enrollment~~ charter school as authorized in Part Two, Chapter I, Section 5 of these Rules and Regulations.

- b. Amend Part Two, Chapter I, Section 5 as follows:

Sec. 5. Charter School Operations

Upon a finding by the Chancellor and the Executive Vice Chancellor for Academic Affairs that a proposed application ~~for a charter~~ to operate ~~a an open enrollment~~ charter school as authorized by Texas Education Code Chapter 12 meets requirements of State law and furthers the institutional mission, an institution may apply to the State Board of Education to operate a charter school. Charter school operations will adhere to all applicable provisions of State law including the Texas Public Information Act.

The oversight and supervision of the charter school is delegated to the institutional president, with a report to the Board each year, detailing activities and performance of the charter school.

~~A board or An advisory council~~ may shall be appointed by the president to advise him or her on operation of the charter school. The ~~board or advisory~~ council will comply with all provisions of the Texas Open Meetings Act applicable to the Board of Regents.

### BACKGROUND INFORMATION

These amendments to the Regents' Rules and Regulations are proposed to reflect the legislative change authorizing a university to apply for an open enrollment charter as well as a college or university charter. At the time these Regents' Rules were added, Section 12.101 of the Texas Education Code authorized a university to apply to the State Board of Education to operate an open enrollment charter school. The legislature has provided authorization for another class of charter schools (a college or university charter) in Texas Education Code Section 12.152.

The amendment to the Regents' Rules also authorizes a "board" to be appointed by the president to advise him or her regarding operations of the charter school.

5. **U. T. Arlington: Authorization to purchase real property located at 509 Summit Avenue, Arlington, Tarrant County, Texas; and parity debt**

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs, the Interim Vice Chancellor for Business Affairs, and President ad Interim Sorber that the U. T. Board of Regents:

- a. authorize the Executive Director of Real Estate to take all steps necessary to purchase the property located at 509 Summit Avenue, Arlington, Tarrant County, Texas, and to execute all documents related thereto; and
- b. make the "finding of fact" determinations required by Section 5 of the Master Resolution regarding the ability to repay debt prior to the issuance of additional Revenue Financing System parity debt. This resolution satisfies the official intent requirements set forth in Section 1.150-2 of the Code of Federal Regulations.

## BACKGROUND INFORMATION

U. T. Arlington wishes to acquire the Racquet Club Apartments property, which exists in a strategic location within the legislatively authorized acquisition zone for the U. T. Arlington campus and is needed to assemble a site on which to construct new student housing. The property is also designated for future acquisition in the campus master plan approved by the U. T. Board of Regents. The proposed purchase price is the appraised market value of \$1.45 million, and the proposed source of acquisition financing is Revenue Financing System Bond Proceeds to be repaid with net revenues from U. T. Arlington's housing operations. The terms and conditions are as reflected in the transaction summary below:

### **Transaction Summary**

Component:	U. T. Arlington
Type of Transaction:	Purchase
Property Name:	Racquet Club Apartments
Property Address:	509 Summit Avenue
Type of Property:	52-unit apartment complex
Year Built:	1958
Site:	56,088 square feet (1.29 acres)
Improvements:	39,422 gross square feet 38,749 rentable square feet
Parking:	66 spaces
Purchase Price:	\$1,450,000
Price Per Unit:	\$27,885
Price Per Rentable S.F.:	\$37.42
Appraised Value:	\$1,450,000 (Hanes Appraisal Company, James S. Hanes, MAI, July 2, 2003)



6. **U. T. Arlington: Authorization to purchase real property located at 515 Summit Avenue, Arlington, Tarrant County, Texas; and parity debt**

**RECOMMENDATION**

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs, the Interim Vice Chancellor for Business Affairs, and President ad Interim Sorber that the U. T. Board of Regents:

- a. authorize the Executive Director of Real Estate to take all steps necessary to purchase the property located at 515 Summit Avenue, Arlington, Tarrant County, Texas, and to execute all documents related thereto; and
- b. make the “finding of fact” determinations required by Section 5 of the Master Resolution regarding the ability to repay debt prior to the issuance of additional Revenue Financing System parity debt. This resolution satisfies the official intent requirements set forth in Section 1.150-2 of the Code of Federal Regulations.

**BACKGROUND INFORMATION**

U. T. Arlington wishes to acquire the Campus West Apartments property, which exists in a strategic location within the legislatively authorized acquisition zone for the U. T. Arlington campus and is needed to assemble a site on which to construct new student housing. The property is also designated for future acquisition in the campus master plan approved by the U. T. Board of Regents. The proposed purchase price is the appraised market value of \$1.4 million, and the proposed source of acquisition financing is Revenue Financing System Bond Proceeds to be repaid with net revenues from U. T. Arlington's housing operations. The terms and conditions are as reflected on the transaction summary below:

**Transaction Summary**

Component:	U. T. Arlington
Type of Transaction:	Purchase
Property Name:	Campus West Apartments
Property Address:	515 Summit Avenue
Type of Property:	50-unit apartment complex

Year Built: 1962

Site: 46,174 square feet (1.06 acres)

Improvements: 30,355 gross square feet  
29,907 rentable square feet

Parking: 66 spaces

Purchase Price: \$1,400,000

Price Per Unit: \$28,000

Price Per Rentable S.F.: \$46.81

Appraised Value: \$1,400,000 (Hanes Appraisal Company,  
James S. Hanes, MAI, August 27, 2003)

**7. U. T. Arlington: University Center Fire and Life Safety Project - Amendment of FY 2004-2009 Capital Improvement Program and the FY 2004-2005 Capital Budget to include new project; authorize institutional management; appropriate funds and authorize expenditure; parity debt**

**RECOMMENDATION**

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs, the Interim Vice Chancellor for Business Affairs, and President ad Interim Sorber that the U. T. Board of Regents approve the recommendations listed below for the U. T. Arlington University Center Fire and Life Safety Project:

**Architecturally or Historically Significant:**

Yes  No

**Project Delivery Method:**

Competitive Sealed Proposals

**Substantial Completion Date:**

June 2004

**Total Project Cost:**

<u>Source*</u>	<u>Current</u>	<u>Proposed</u>
RFS	-	\$1,170,000

**Debt Service:**

The debt will be repaid from U. T. Arlington's auxiliary enterprise income and fund balances. The \$1,170,000 will be funded by commercial paper notes and retired over five years. The annual debt service coverage on this project is expected to be at least 1.8 times.

**Recommendations:**

- a. amend the FY 2004-2009 Capital Improvement Program and the FY 2004-2005 Capital Budget to include the University Center Fire and Life Safety Project at U. T. Arlington at a preliminary project cost of \$1,170,000 with funding from Revenue Financing System Bond Proceeds;
- b. authorize U. T. Arlington to manage the total project budgets, appoint architects, approve facility programs, prepare final plans, and award contracts;
- c. appropriate funds and authorize expenditure of \$1,170,000 from Revenue Financing System Bond Proceeds; and
- d. make the “finding of fact” determinations required by Section 5 of the Master Resolution regarding the ability to repay debt prior to the issuance of additional Revenue Financing System parity debt.

**Project Description:**

U. T. Arlington prepared a campus-wide survey to determine general compliance with good fire protection and life safety practice. The University Center currently has an outdated fire alarm system throughout, along with a fire sprinkler system in approximately 60% of the building. The University Center Fire and Life Safety Project will update and replace the existing fire alarm and fire sprinkler systems and add to the existing fire suppression system in the University Center to ensure compliance as defined by the National Fire Protection Association (NFPA) 101, 2000 Edition.

Due to the coordination issues, this repair and rehabilitation project would best be managed by the U. T. Arlington Facilities Management personnel who have the experience and capability to manage all aspects of the work.

This off-cycle project has been approved by U. T. System staff and meets the criteria for inclusion in the Capital Improvement Program.

\*Funding Source = RFS (Revenue Financing System Bond Proceeds)

**8. U. T. Austin: Authorization to lease approximately 45.783 acres of land in Austin, Travis County, Texas**

**RECOMMENDATION**

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs, the Interim Vice Chancellor for Business Affairs, and President Faulkner that authorization be given for the U. T. System Real Estate Office, on behalf of U. T. Austin, to lease approximately 45.783 acres of land in Austin, Travis County, Texas, to the Simon Property Group, Inc., or affiliated business entity.

It is further recommended that the Interim Vice Chancellor for Business Affairs or the Executive Director of Real Estate be authorized to execute all documents, instruments and other agreements, and to take all further actions deemed necessary or advisable to carry out the purpose and intent of the foregoing recommendation.

#### BACKGROUND INFORMATION

On July 7, 2003, the U. T. Board of Regents reviewed ground lease proposals submitted by six development firms in response to a Request for Ground Lease Proposals issued on May 1, 2003, by the U. T. System Real Estate Office on behalf of U. T. Austin. The Board authorized negotiations with the Simon Property Group for the ground lease of approximately 45.8 acres of vacant land located immediately west of the main J. J. Pickle Research Campus in Austin, Texas.

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## 9. U. T. Dallas: Approval of M.S. in Biotechnology

### RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Jenifer that authorization be granted to establish a Master of Science in Biotechnology at U. T. Dallas; to submit the proposal to the Texas Higher Education Coordinating Board for review and appropriate action; and to authorize the Executive Vice Chancellor for Academic Affairs to certify on behalf of the Board of Regents that relevant Coordinating Board criteria for approval by the Commissioner of Higher Education have been met. In addition, the Coordinating Board will be asked to change the Table of Programs for U. T. Dallas to reflect authorization for the proposed degree program.

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

### BACKGROUND INFORMATION

#### Program Description

The primary educational objective of the proposed program is to provide a professional master's degree that links the technical skills of students and the needs of biotechnology companies in the Dallas/Fort Worth Metroplex. Because biotechnology companies need employees with a wide variety of disciplinary backgrounds, the program is designed to combine a rigorous 12 semester credit hour core of biology with 24 semester credit hours of electives from the fields of chemistry, computer science, mathematics, management, and political economy. The program will target students who have just completed their baccalaureate degrees and an important group of individuals who have entered career employment and who seek to enhance their skills, such as individuals who seek to use their chemistry, computer science, or management degrees in the new and growing area of biotechnology.

#### Program Quality

The proposed program will be administered by the School of Natural Sciences and Mathematics. The School currently offers master's and doctoral degrees in Chemistry, Mathematics, Molecular and Cell Biology, Physics, and Science Education. The same highly qualified faculty who teach and conduct research in these graduate degree programs will teach the core courses for the proposed program.

Program Cost

Estimated expenditures for the first five years of the proposed program are \$376,500. This includes \$160,000 for new faculty salaries, \$90,000 for program administration, \$90,000 for new graduate assistantships, \$12,500 for clerical staff, and \$24,000 for supplies and materials. U. T. Dallas will commit \$141,000 of existing resources in addition to \$409,416 in formula funding to finance the first five years of the program.

**10. U. T. Dallas: Campus Housing Phase IX - Amendment of FY 2004-2009 Capital Improvement Program and the FY 2004-2005 Capital Budget to include project**

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs, the Interim Vice Chancellor for Business Affairs, and President Jenifer that the U. T. Board of Regents amend the FY 2004-2009 Capital Improvement Program and the FY 2004-2005 Capital Budget to include the Campus Housing Phase IX project at U. T. Dallas.

**Architecturally or Historically Significant:**

(Note: Item is before the Board; see Item 10 on Page 71)

**Project Delivery Method:**

Competitive Sealed Proposals

**Substantial Completion Date:**

July 2005

**Total Project Cost:**

<u>Source*</u>	<u>Current</u>	<u>Proposed</u>
RFS	-	\$4,000,000

**Project Description:**

U. T. Dallas has requested that the Campus Housing Phase IX project begin because of the anticipated growth in enrollment and the heavy demand for housing. Current facilities are operating at close to 100% occupancy. The number of beds will increase by approximately 200 to be constructed in garden-style apartments.

This off-cycle project has been approved by U. T. System staff and meets the criteria for inclusion in the Capital Improvement Program.

\*Funding Source = RFS (Revenue Financing System Bond Proceeds)

**11. U. T. Dallas: Center for BrainHealth - Amendment of FY 2004-2009 Capital Improvement Program and the FY 2004-2005 Capital Budget to include project**

**RECOMMENDATION**

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs, the Interim Vice Chancellor for Business Affairs, and President Jenifer that the U. T. Board of Regents amend the FY 2004-2009 Capital Improvement Program and the FY 2004-2005 Capital Budget to include the Center for BrainHealth project at U. T. Dallas.

**Architecturally or Historically Significant:**

(Note: Item is before the Board; see Item 10 on Page 71)

**Project Delivery Method:**

Competitive Sealed Proposals

**Substantial Completion Date:**

October 2005

**Total Project Cost:**

<u>Source</u>	<u>Current</u>	<u>Proposed</u>
Gifts	–	\$5,000,000

**Project Description:**

U. T. Dallas has received a significant contribution to support the building or the acquisition of a facility to house the Center for BrainHealth. The Center, which conducts innovative research and provides clinical services for a variety of brain disorders including brain injury, Alzheimer's disease, and stroke, is an important initiative and has generated significant community support in addition to this pledge.

This off-cycle project has been approved by U. T. System staff and meets the criteria for inclusion in the Capital Improvement Program.

**12. U. T. Dallas: Natural Science and Engineering Research Building - Amendment of FY 2004-2009 Capital Improvement Program and the FY 2004-2005 Capital Budget to include project**

**RECOMMENDATION**

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs, the Interim Vice Chancellor for Business Affairs, and President Jenifer that the U. T. Board of Regents amend the FY 2004-2009 Capital Improvement Program and the FY 2004-2005 Capital Budget to include the Natural Science and Engineering Research Building project at U. T. Dallas.



**Architecturally or Historically Significant:**

(Note: Item is before the Board; see Item 10 on Page 71)

**Project Delivery Method:**

Construction Manager at Risk

**Substantial Completion Date:**

December 2006

**Total Project Cost:**

<u>Source*</u>	<u>Current</u>	<u>Proposed</u>
RFS	-	\$85,000,000

**Project Description:**

U. T. Dallas has requested a Natural Science and Engineering Research Building project with approximately 200,000 gross square feet for technology research and development. The departments of computer science, natural science, and the engineering program are being developed with a goal to establish top ranking for the institution.

U. T. Dallas has requested the project be financed on an interim basis with Revenue Financing System (RFS) Bond Proceeds pending a long-term financing of the project under an agreement among U. T. Dallas, the General Land Office (GLO) and the Governor's Office. The current plan provides that, once completed, the facility will be sold to the GLO, on behalf of the Permanent School Fund, under a ground lease arrangement with U. T. Dallas which would simultaneously lease the facility back from the GLO under a 40-year operating lease. Proceeds from the sale of the facility to the GLO would be used to retire the interim RFS financing.

The agreement calls for U. T. Dallas, with the assistance of the Governor's Office, to attempt to secure general revenue appropriations during each biennium to offset the operating lease payments for the 40-year lease term. The agreement provides that U. T. Dallas will seek 100% reimbursement of operating lease costs for the first 10 years, with the percentage declining to 0% by the 19th year of the lease. U. T. Dallas has agreed to generate income from external research contracts and other collaborative efforts to satisfy the lease obligations not covered through general revenue appropriations.

This off-cycle project has been approved by U. T. System staff and meets the criteria for inclusion in the Capital Improvement Program.

\*Funding Source = RFS (Revenue Financing System Bond Proceeds)

13. **U. T. San Antonio: Approval of Ph.D. in Counselor Education and Supervision**

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs and President Romo that authorization be granted to establish a Doctor of Philosophy in Counselor Education and Supervision at U. T. San Antonio and to submit the proposal to the Texas Higher Education Coordinating Board for review and appropriate action. In addition, the Coordinating Board will be asked to change the Table of Programs for U. T. San Antonio to reflect authorization for the proposed degree program.

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

BACKGROUND INFORMATION

Program Description

The proposed program is designed to prepare students to become effective counselor educators, scholarly researchers, clinical supervisors and counseling practitioners. In addition, the program will prepare students to effectively address the pressing needs of linguistically and culturally diverse populations in San Antonio and South Texas.

The program will require 58 semester credit hours of coursework beyond the master's plus a satisfactory dissertation based on original research in the area of Counselor Education and Supervision. Students will be able to specialize in one or more areas including: community counseling, school counseling, cultural diversity in counseling, and educational leadership. Expertise in these areas will enable graduates to serve as leaders in local school districts, make significant contributions to mental health research, and offer essential support to meet the growing mental health needs of San Antonio and South Texas.

Program Quality

Twelve tenured and tenure-track current faculty with expertise in Counselor Education and Supervision will form the core of the program. In addition, it is anticipated that two additional full-time faculty members will join the core team by the third year of the program.

The Counseling faculty and staff have recently moved to the newly constructed Durango Building at the U. T. San Antonio Downtown campus. An existing clinic in the building includes audiovisual equipment and will be used to provide students with supervised clinical experience.

Program Cost

Estimated expenditures for the first five years of the program total \$2,010,500. This includes \$747,500 for new faculty salaries; \$82,500 for new program administrative costs; \$546,000 for student fellowships; \$409,500 for new teaching assistantships; \$125,000 for new clerical staff; and \$100,000 for supplies, materials, and equipment.

U. T. San Antonio will commit \$1,405,024 of existing resources (\$981,000 reallocated from department funds and \$424,024 reallocated from other University funds) in addition to \$663,941 in formula funding to finance the first five years of the program.

**14. U. T. San Antonio: East Campus Building Phase I - Amendment of FY 2004-2009 Capital Improvement Program and the FY 2004-2005 Capital Budget to include project**

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs, the Interim Vice Chancellor for Business Affairs, and President Romo that the U. T. Board of Regents amend the FY 2004-2009 Capital Improvement Program and the FY 2004-2005 Capital Budget to include the East Campus Building Phase I project at U. T. San Antonio.

**Architecturally or Historically Significant:**

(Note: Item is before the Board; see Item 10 on Page 71)

**Project Delivery Method:**

Competitive Sealed Proposals

**Substantial Completion Date:**

November 2007

**Total Project Cost:**

<u>Source*</u>	<u>Current</u>	<u>Proposed</u>
RFS	-	\$72,000,000
Gifts		<u>\$ 3,000,000</u>
		\$75,000,000

**Project Description:**

Phase I of this project is a multiphase plan for developing U. T. San Antonio's East Campus Master Plan. The project would consist of a 150,000 gross square foot Research Building to include seminar rooms and conferencing facilities, research laboratories, faculty and staff offices, and student and faculty support facilities. This building would include sophisticated information technology features designed and installed for an information-intensive environment.

This off-cycle project has been approved by U. T. System staff and meets the criteria for inclusion in the Capital Improvement Program.

\*Funding Source = RFS (Revenue Financing System Bond Proceeds)

**15. U. T. San Antonio: East Campus Thermal Energy Plant - Amendment of FY 2004-2009 Capital Improvement Program and the FY 2004-2005 Capital Budget to include project**

RECOMMENDATION

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs, the Interim Vice Chancellor for Business Affairs, and President Romo that the U. T. Board of Regents amend the FY 2004-2009 Capital Improvement Program and the FY 2004-2005 Capital Budget to include the East Campus Thermal Energy Plant project at U. T. San Antonio.

**Architecturally or Historically Significant:**

(Note: Item is before the Board; see Item 10 on Page 71)

**Project Delivery Method:**

Competitive Sealed Proposals

**Substantial Completion Date:**

December 2006

**Total Project Cost:**

<u>Source*</u>	<u>Current</u>	<u>Proposed</u>
RFS	-	\$5,000,000

**Project Description:**

The increase of U. T. San Antonio enrollment and campus growth have made expansion necessary for the undeveloped east portion of the 1604 Campus. The Thermal Energy Plant will be built in conjunction with the East Campus Building Phase I project. This project will contain approximately 25,000 gross square feet to provide chilled water, hot water and steam to support new buildings planned for the East Campus development.

This off-cycle project has been approved by U. T. System staff and meets the criteria for inclusion in the Capital Improvement Program.

\*Funding Source = RFS (Revenue Financing System Bond Proceeds)

**16. U. T. San Antonio: North/South Connector Road - Amendment of FY 2004-2009 Capital Improvement Program and the FY 2004-2005 Capital Budget to include project**

**RECOMMENDATION**

The Chancellor concurs in the recommendation of the Executive Vice Chancellor for Academic Affairs, the Interim Vice Chancellor for Business Affairs, and President Romo that the U. T. Board of Regents amend the FY 2004-2009 Capital Improvement Program and the FY 2004-2005 Capital Budget to include the North/South Connector Road project at U. T. San Antonio.

**Architecturally or Historically Significant:**

Yes  No

**Project Delivery Method:**

Competitive Sealed Proposals

**Substantial Completion Date:**

June 2005

**Total Project Cost:**

<u>Source*</u>	<u>Current</u>	<u>Proposed</u>
RFS	-	\$8,000,000

**Project Description:**

The North/South Connector Road project will be constructed to link the north and south sides of the U. T. San Antonio campus by providing access from UTSA Boulevard from the south and Loop 1604 from the north. This project will also provide bridged pedestrian and vehicular connections from the existing 1604 Campus to the East Campus development.

This off-cycle project has been approved by U. T. System staff and meets the criteria for inclusion in the Capital Improvement Program.

\*Funding Source = RFS (Revenue Financing System Bond Proceeds)