MINUTES OF

Board of Regents

of

Stephen F. Austin State University

VOLUME NO. 46

July 21, 1979

Huxley Bay, Texas
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<td>Board of Regents</td>
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<td>held in Huxley Bay, Texas</td>
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The meeting was called to order by Homer Bryce, Chairman of the Board of Regents, at 9:00 a.m. July 21, 1979.

PRESENT:

Members:  Homer Bryce of Henderson
          Ernest Powers of Carthage
          James I. Perkins of Rusk
          Walter C. Todd of Dallas
          Mrs. Peggy Wright of Nacogdoches
          Joe Bob Golden of Jasper
          Mrs. George Cullum, Jr. of Dallas

Absent:   Robert E. Samuel, Jr. of Madisonville
          Glenn Justice of Dallas

PRESENT:  C. G. Haas, Secretary to the Board
          Dr. William R. Johnson, President of the University
          Dr. Janelle Ashley, Associate Vice President for Academic Affairs
          Dr. Baker Pattillo, Vice President for Student Affairs
          Robert Provan, Legal Counsel
Upon motion of Regent Todd, seconded by Regent Powers, with all members voting aye, it was ordered that the minutes of the meeting of April 19, 1979 and the meeting of June 2, 1979 be approved.

Upon motion of Regent Powers, seconded by Regent Wright, with all members voting aye, it was ordered that the following individuals be employed for the positions, dates, and salaries indicated:

1. Division of Applied Arts and Sciences

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2. Department of Mathematics and Statistics

Mr. Harold Bunch, Assistant Professor of Mathematics, at a salary rate of $1,459.17 for 50% time for Summer I. This assignment is partial replacement for Dr. Kenneth Price.

Dr. Julius Burkett, Assistant Professor of Mathematics, at a salary rate of $1,416.25 for 50% time for Summer I. This assignment is partial replacement for Dr. Kenneth Price.
Upon motion of Regent Wright, seconded by Regent Cullum, with all members voting aye, it was ordered that the following resignations be accepted:

1. Department of English and Philosophy
   
   Dr. James E. Magruder, Assistant Professor, for 50% time at a salary rate of $1,416.25 for Summer I. Course did not make.

2. Department of Geology
   
   Dr. Volker W. Gobel, Assistant Professor, for 100% time at a salary rate of $2,850.00 for Summer I. Dr. Gobel will do consulting work during the summer.

   Dr. Hershel Jones, Associate Professor, for 100% time at a salary rate of $3,176.00 for Summer I. Dr. Jones will do consulting work during the summer.

3. Department of History
   
   Dr. Jere L. Jackson, Associate Professor, for 100% time at a salary rate of $2,870.33 for Summer I. Dr. Jackson has been awarded an NEH grant for the summer.

4. Department of Mathematics and Statistics
   
   Dr. Kenneth H. Price, Associate Professor, for 100% time at a salary rate of $3,133.00 for Summer I only. Dr. Price has accepted employment elsewhere.

5. Department of Modern Languages
   
   Dr. William M. Davis, Assistant Professor, for 50% time at a salary rate of $1,333.33 for Summer I. Class did not make.

   Dr. Bonnie Todd, Assistant Professor, for 50% time at a salary rate of $1,351.83 for Summer I. Dr. Todd will participate in an NEH Seminar at Harvard this summer.

6. Department of Music
   
   Dr. Richard Coolidge, Professor, for 50% time at a salary rate of $1,888.34 for Summer I. Dr. Coolidge resigned his summer appointment for health reasons.
Upon motion of Regent Todd, seconded by Regent Wright, will all members voting aye, it was ordered that the following changes in status be approved:

1. Department of Communication

   Dr. Paul Potter, Assistant Professor, from a salary rate of $2,786.00 to a salary rate of $3,086.00 for Summer I, to compensate for supervising students on film project.

2. Department of English

   Dr. Leon J. Schultz, Assistant Professor, from a salary rate of $1,250.00 for 50% time to $2,500.00 for 100% time for Summer I. Dr. Schultz was needed to teach an additional section of English 132.

3. Department of Geology

   Mr. Martin Deuth, Instructor, from Summer II to Summer I to replace Dr. Hershel Jones, who has resigned from the Summer Session.

   Dr. Jerry W. Vincent, Associate Professor, from a salary rate of $3,220.00 for 100% time for Summer I to a salary rate of $4,830.00 for 100% time for Summer I and 50% for Summer II. This change is needed because of the resignation of Dr. Gobel from the Summer Session.

4. Department of Management and Marketing

   Dr. Dillard Tinsley, Associate Professor, from 50% time at a salary rate of $1,682.25 to 100% time at a salary rate of $3,364.50 for Summer I. The additional assignment is to accommodate the addition of a section of Management 463.

5. Department of Modern Languages.

   Mr. Manuel Mendoza, Assistant Professor, from 100% time at a salary rate of $2,789.50 to 50% time at a salary rate of $1,394.75 for Summer I. One of Mr. Mendoza's scheduled courses failed to make.

   Mr. Edwin Shake, Assistant Professor, from 50% time at a salary rate of $1,566.41 to 100% time at a salary rate of $3,132.82 for Summer I. Mr. Shake will teach for Dr. Todd who is on leave for the Summer Session.
6. Division of Nursing

Ms. Chandice Harris, Instructor, from 40% time at a salary rate of $1,083.00 to 90% time at a salary rate of $2,333.00 for Summer I. This change will facilitate faculty interests in summer development.

Ms. Valdyne Henderson, Instructor, from 100% time at a salary rate of $2,500 to 50% time at a salary rate of $1,250.00 for Summer I. This change will facilitate faculty interests in summer development.

79-92

Upon motion of Regent Cullum, seconded by Regent Todd, with all members voting aye, it was ordered that the following individuals be employed for the positions, dates, and salaries indicated:

1. School of Applied Arts and Sciences

Dr. James O. Standley, 36, Ph.D. (Texas A&M University), Dean of the School of Applied Arts and Sciences and Associate Professor of Criminal Justice, at a salary rate of $36,000 for twelve months, effective September 1, 1979.

2. Department of Art

Mr. Marcus B. Burke, 32, M.A. (New York Institute of Fine Arts), Instructor of Art at a salary rate of $13,000 for nine months, effective September 1, 1979.

3. Department of Computer Science

Dr. Craig A. Wood, 38, Ph.D. (Florida State University), Professor of Computer Science and Chairman of the Department of Computer Science at a salary rate of $31,750 for eleven months, effective September 1, 1979.

4. Department of English and Philosophy

Dr. Diane Corbin, 37, Ph.D. (University of Texas-Austin), Lecturer (75% time) in English, at a salary rate of $4,125, effective Fall Semester, 1979, only.

Ms. Annette Dawson, 40, M.S. (Stephen F. Austin State University), Lecturer (75% time) in English at a salary rate of $4,827.00, effective Fall Semester, 1979, only.

Mr. William D. Hearell, 27, M.A. (Stephen F. Austin State University), Assistant Instructor of English at a salary rate of $9,000 for nine months, effective September 1, 1979.
Ms. JoAnne C. Howard, 40, M.A. (St. Louis University), Lecturer (50% time) in English, at a salary rate of $2,750.00, effective Fall Semester, 1979, only.

Ms. Beth E. H. Medrano, 30, M.A. (University of Texas-Austin), Lecturer (50% time) in English at a salary rate of $2,750.00, effective Fall Semester, 1979, only.

Mr. Wilbert Love, Jr., 34, M.A. (Stephen F. Austin State University), Instructor in English at a salary rate of $12,875.00 for nine months, effective September 1, 1979.

5. Department of Geology

Dr. Harry P. Hoge, 43, Ph.D. (University of New Mexico), Professor of Geology and Chairman of the Department of Geology at a salary rate of $30,750 for eleven months, effective September 1, 1979.

6. Department of Management and Marketing

Dr. Mildred G. Pryor, 39, Ph.D. (University of Mississippi), Professor of Management and Chairman of the Department of Management and Marketing at a salary rate of $32,000 for eleven months, effective September 1, 1979.

7. Department of Mathematics and Statistics

Dr. Thomas A. Atchison, 42, Ph.D. (University of Texas), Professor of Mathematics and Chairman of the Department of Mathematics and Statistics at a salary rate of $32,750 for eleven months, effective September 1, 1979.

Ms. Kay Fromme, 29, M.S. (Stephen F. Austin State University), Instructor of Mathematics at a salary rate of $10,500 for nine months, effective September 1, 1979.

Ms. Jane Shepard, 43, M.S. (Stephen F. Austin State University), Instructor of Mathematics at a salary rate of $10,500.00 for nine months, effective September 1, 1979.

Mr. Donald L. Clark, 31, M.S. (Stephen F. Austin State University), Instructor of Mathematics at a salary rate of $10,500 for nine months, effective September 1, 1979.

Mr. David B. Holiday, 24, M.S. (Stephen F. Austin State University), Instructor of Mathematics at a salary rate of $10,500.00 for nine months, effective September 1, 1979.
8. Department of Secondary Education

Ms. Betty J. Harrison, 28, M.Ed. (Stephen F. Austin State University), Instructor in Secondary Education at a salary rate of $10,500 for nine months, effective September 1, 1979.

9. University Computer Center

Ms. Carol A. Chrisman, 23, B.S. (Stephen F. Austin State University), Programmer at a salary rate of $10,896.00 for twelve months, effective July 9, 1979.

10. Physical Plant

Ms. Jinnie Fleming, 45, Accounting Clerk III at a salary rate of $7,500 for twelve months, effective May 21, 1979.

11. Division of Student Affairs

Mr. Norman Stewart, 25, Assistant Food Supervisor II for University Center Cafeteria, at a salary rate of $9,528.00 for twelve months, effective July 1, 1979.

79-93

Upon motion of Regent Wright, seconded by Regent Powers, with all members voting aye, it was ordered that the following resignations be accepted:

1. Department of Agriculture

Mr. Charles Duckworth, Dairy Farm Manager-Operator, effective May 31, 1979.

2. Department of Art

Mr. Joe V. Brown, Graduate Intern in Art, effective May 31, 1979.
Mr. Brown completed his temporary appointment.

Mr. Harold J. Elias, Instructor of Art, effective May 31, 1979.
Mr. Elias completed his temporary appointment.

3. Department of Chemistry

Dr. Ronald H. Fleming, Assistant Professor of Chemistry, effective May 17, 1979. Dr. Fleming declined the terminal appointment which was offered him for the 1979-80 academic year.
4. Department of Communication

Dr. Paul E. Potter, Assistant Professor of Communication, effective July 14, 1979. Dr. Potter has accepted employment elsewhere.

5. Department of Computer Science

Dr. Camille Price, Assistant Professor of Computer Science, effective September 1, 1979. Dr. Price has accepted a Visiting Assistant Professorship at the University of Texas-Dallas.

6. Department of Elementary Education

Ms. Elizabeth Vaughan, Multi-Age Lead Teacher, Early Childhood Laboratory, effective August 24, 1979. Ms. Vaughan is resigning to seek employment elsewhere.

7. School of Forestry

Mr. Robert Zaiglin, Research Associate in Forestry, effective May 11, 1979. Mr. Zaiglin has accepted employment elsewhere.

8. Department of Geology

Dr. Nancy Alexander, Associate Professor of Geology, effective May 31, 1979. Dr. Alexander has accepted employment elsewhere.

9. Department of Management and Marketing

Dr. Danny R. Arnold, Assistant Professor of Management, effective August 31, 1979. Dr. Arnold has accepted employment elsewhere.

10. University Computer Center

Ms. Sarah Thomas, Programmer, effective June 15, 1979. Ms. Thomas has accepted employment elsewhere.

11. Physical Plant

Mr. Charles E. Burkhead, Administrative Services Supervisor, effective May 20, 1979. Mr. Burkhead accepted employment elsewhere.

Mr. Anibal Martinez, Custodial Supervisor, effective June 1, 1979. Mr. Martinez resigned to accept other employment.

12. Division of Student Affairs

Dr. Gordon Beasley, Vice President for Student Affairs, effective June 21, 1979. Dr. Beasley accepted a position at the University of Arkansas.
Ms. Evelyn M. Burkhead, Scheduling and Service Coordinator for University Center Administration, effective June 29, 1979. Ms. Burkhead is moving out of town.

Mr. J. W. Clifton, Manager for University Center Cafeteria, effective June 30, 1979. Mr. Clifton resigned for personal reasons.

Mr. Gary Rushing, Assistant Food Production Supervisor for University Center Cafeteria, effective June 1, 1979. Mr. Rushing has accepted employment elsewhere.

79-94
Upon motion of Regent Perkins, seconded by Regent Todd, with all members voting aye, it was ordered that the following requests for leave be granted:

1. Department of Health and Physical Education

   Mr. Andrew Huffty, Assistant Professor Men's Health and Physical Education, effective for the 1979-80 academic year. Mr. Huffty will enroll in an advanced graduate program.

2. Department of Mathematics and Statistics

   Dr. Kenneth H. Price, Associate Professor of Mathematics, effective for the 1979-80 academic year. Dr. Price will study at the University of Texas-Dallas.

79-95
Upon motion of Regent Todd, seconded by Regent Powers, with all members voting aye, it was ordered that the following promotions be approved:

1. Department of Modern Languages

   Dr. Vivian Gruber, Professor of Spanish, to Professor of Spanish and Chairman of the Department of Modern Languages at a salary rate of $31,750 for eleven months, effective September 1, 1979.

2. Division of Student Affairs

   Dr. Baker Pattillo, Dean of Student Services, to Vice President for Student Affairs at a salary rate of $36,000 for twelve months, effective July 10, 1979.

79-96
Upon motion of Regent Todd, seconded by Regent Cullum, with all members voting aye, it was ordered that the following changes in status be approved.
1. Physical Plant

Mr. J. C. Patton, from Foreman in the Custodial Department at a salary rate of $4.05 per hour to Custodial Supervisor at a salary rate of $10,000 for twelve months, effective June 21, 1979.

Mr. Jerry Leon Batson, from HVAC Foreman at a salary rate of $15,816.00 for twelve months to HVAC Foreman at a salary rate of $17,496.00 for twelve months.

2. Division of Student Affairs

Dr. Richard English, Physician, from a salary rate of $31,000 for 10-1/2 months to $35,428.00 for twelve months, effective June 4, 1979.

79-97
Upon motion of Regent Wright, seconded by Regent Cullum, with all members voting aye, it was ordered that the twelfth class day enrollment report and the last class day report be accepted as submitted under separate cover.

79-98
Upon motion of Regent Cullum, seconded by Regent Wright, with all members voting aye, it was ordered that the following Summer Session I (1979) underenrolled class be offered by reason of the justification given below:

Nursing 301 8 students
This is a prerequisite course which, if not taught at this time, will interfere with the students' planned graduation.

79-99
Upon motion of Regent Perkins, seconded by Regent Powers, with all members voting aye, it was ordered that the handbook entitled "Parking and Traffic Regulations, 1979-80" be approved as submitted under separate cover.

79-100
Upon motion of Regent Perkins, seconded by Regent Todd, with all members voting aye, it was ordered that the guidelines for the administration of tuition and scholarships provided from appropriated funds of the 66th Legislature be approved as follows:
(a) Scholarships are to be awarded annually to students who have been accepted for enrollment and who actually enroll in the term or terms for which the scholarship is awarded.

(b) The student must not be on probation or suspension during the term in which the scholarship is awarded. The student's scholastic performance will be reviewed each semester.

(c) The amount granted to each student will not exceed the full tuition fee as provided by law as tuition for that particular type of student.

(d) Students who receive this scholarship will have already been awarded any federal grant funds for which they are eligible. The combined amount of the scholarship and other funds awarded will not exceed seventy percent (70%) of the total cost of tuition, textbooks, course supplies, and student fees.

79-101
Upon motion of Regent Todd, seconded by Regent Cullum, with all members voting aye, it was ordered that the University be authorized to make application to the Coordinating Board for approval of a Bachelor of Science in Nursing (Generic Program) degree as submitted under separate cover.

79-102
Upon motion of Regent Todd, seconded by Regent Powers, with all members voting aye, it was ordered that the University's current funds FY80 budget of requirements totaling $31,370,669, as submitted under separate cover, be approved; that the following transfers between fund groups (included in detail within that budget) be approved; and that the University be authorized to comply with the statutes for granting longevity pay to non-academic employees within the funds available.

"TRANSFERS" included in FY80 budget:

1. Between Elements of Cost of the Appropriation Bill:
   (a) $100,733 into Organized Activities Relating to Instructional Departments
   (b) $68,819 out of General Institutional Expense
   (c) $31,914 out of General Administration

2. Between Non-Pledged and Pledged Properties Fund Groups:
   (a) $224,659 into Non-Pledged
   (b) $224,659 out of Pledged
79-103
Upon motion of Regent Powers, seconded by Regent Cullum, with all members voting aye, it was ordered that the Student Service Fee of $30.00 for the Fall or Spring Semester and the Student Health Fee of $15.00 for the Fall or Spring Semester be continued but consolidated under the authority of HB1389, 66th Legislature, Regular Session, effective for the Fall Semester, 1979, and assessed on the same basis as previously established concerning a student's enrollment as the determinate for the apportionment of each.

79-104
Upon motion of Regent Cullum, seconded by Regent Wright, with all members voting aye, it was ordered that the revised classified personnel pay plan be approved, effective September 1, 1979, as detailed hereafter.
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Upon motion of Regent Wright, seconded by Regent Cullum, with all members voting aye, it was ordered that the Bank Depository Agreements be renewed on the same terms for a period of one year (FY80) with the following banks:

Fredonia State Bank, Nacogdoches, Texas
Commercial National Bank, Nacogdoches, Texas
Stone Fort National Bank, Nacogdoches, Texas
First Bank and Trust, Lufkin, Texas
Lufkin National Bank, Lufkin, Texas

The depository banks will be permitted to change or add trustee banks to secure the deposits upon the approval of the University Vice President for Fiscal Affairs providing the trustee banks are chartered as national or state banks by the State of Texas and agree to provide securities to Stephen F. Austin State University according to the University's agreement with its depository banks.

Upon motion of Regent Todd, seconded by Regent Cullum, with all members voting aye, it was ordered that the following FY79 budget adjustments be approved:

1. Add $1,750 to Personnel Services Account for Consultant
2. Add $2,000 to Major Repairs & Rehabilitation (1950) for Central Stores Alterations
3. Add $1,250 to 1040 (English) to cover furnishings for writing laboratory

Source of Funds: Education and General

4. Add $12,700 to U. C. Administration O & M (5620) for unanticipated repairs and extra costs

Source of Funds: Pledged Property Surplus

5. Add $7,000 to 5180-6000 (Security) for added payroll costs
6. Add $3,500 to 5180-9300 to cover additional operating expenses

Source of Funds: Non-Pledged Property Surplus

Upon motion of Regent Todd, seconded by Regent Wright, with all members voting aye, it was ordered that any two of the following four persons be authorized to sign vouchers and checks on all the funds of the University for fiscal years 1980 and 1981:
Upon motion of Regent Perkins, seconded by Regent Todd, with all members voting aye, it was ordered that Dr. William R. Johnson, President of the University, be authorized to approve official travel within the state, or out of the state, for the period September 1, 1979 to August 31, 1980, and in the event of his extended absence, C. G. Haas, Vice President for Fiscal Affairs, be authorized to approve such travel.

Upon motion of Regent Perkins, seconded by Regent Todd, with all members voting aye, it was ordered that C. G. Haas, Secretary to the Board of Regents, be authorized to approve travel vouchers of members of the Board of Regents.

Upon motion of Regent Todd, seconded by Regent Powers, with all members voting aye, it was ordered that Change Order No. 2 (final) for $1,767.52, to be added to the Student Health Clinic facility construction contract with Pigg Construction Company, be approved and the Chairman of the Board be authorized to sign the Change Order.

Upon motion of Regent Perkins, seconded by Regent Powers, with all members voting aye, it was ordered that Change Order No. 2 (final) for $3,226.00 to be added to the Fine Arts Building Renovation Contract with Sumners, Inc., be approved and the Chairman of the Board be authorized to sign the Change Order.

Upon motion of Regent Cullum, seconded by Regent Todd, with all members voting aye, it was ordered that the contract with Love, Friberg & Associates, Inc., Fort Worth, Texas, for serving as an engineering consultant to the University, be approved and the Chairman of the Board be authorized to sign the contract.
AGREEMENT
BETWEEN OWNER
AND CONSULTING ENGINEER
FOR
ENGINEERING SERVICES

MADE AND ENTERED INTO by and between Stephen F. Austin State University, hereinafter called "Owner", and Love, Friberg & Associates, Inc., hereinafter called the "Engineer".

SECTION I
EMPLOYMENT OF ENGINEER

The Owner intends to develop a comprehensive energy program and policy which includes, but is not limited to, the following:

Preliminary Energy Audits
Energy Audits
Technical Assistance Studies
Operating and Maintenance Procedures
Energy Conservation Projects
Federal Energy Conservation Grant Applications
Federal Grant Reporting and Monitoring
Energy Master Plan

In consequence thereof, the Owner agrees to employ the Engineer and the Engineer agrees to perform professional engineering services in connection with the development of the comprehensive energy program and policy as stated in this Section, and for having rendered such services, the Owner agrees to pay to the Engineer compensation as stated in the Section to follow.

The energy conservation project is the only item in the program and policy which requires normal design engineering services as described in Section II. All other engineering services will be treated as Special Services as described in Section III. Energy conservation projects will be identified and the scope determined as a result of the technical assistance studies. As hereinafter used, "Project" refers to each resulting energy conservation project.

SECTION II
CHARACTER AND EXTENT OF BASIC SERVICES

The Engineer shall render the following professional Basic Services necessary for the development of the project:
A. PRELIMINARY PHASE

(1) Participate in preliminary conferences with Owner to establish the scope of the project and the requirements of the systems.

(2) Determine types of facilities best suited to meet the Owner's requirements.

(3) Prepare preliminary layouts as required to define space needs of the facilities.

(4) Prepare design criteria and outline specifications for the project.

(5) Counsel with the Owner on methods of construction as related to the project, costs and suitability to the site.

(6) Prepare preliminary cost estimate for the project. This will be a budget type estimate based on the Engineer's experience and records as opposed to an itemized material and labor estimate.

B. DESIGN PHASE

(1) Participate in design conferences with the Owner to plan and coordinate the project.

(2) Prepare calculations for previously established design requirements.

(3) Make recommendations as to changes in scope as may be required to stay within the Owner's budget.

(4) Prepare contract drawings in pencil on tracing paper in sufficient detail to define the construction work.

(5) Prepare technical specifications for the project typed on white bond paper.

(6) Update construction cost estimate prepared during Preliminary Phase. This will be a budget type estimate based on the Engineer's experience and records as opposed to an itemized material and labor estimate.

(7) Provide and issue plans and specifications to bidders.

(8) Prepare addenda as may be required during the bidding period and answer questions raised by bidders in the procurement of bids.
C. CONSTRUCTION PHASE

(1) Assist Owner in analyzing bids and preparing recommendations on all proposals relating to the project.

(2) Participate in preconstruction conferences and provide Owner with consultation and advice.

(3) Review samples, manufacturer's data, schedules laboratory, shop and mill tests of material and equipment and other data which the Contractor is required to submit, solely to determine conformance with design concept of the project and compliance with information given by the contract documents. Such review shall not relieve the Contractor from his responsibility for compliance with the contract documents.

(4) Answer questions regarding the plans and specifications. Preparations of additional plans for purposes other than clarification is not included in Basic Services. Preparation of change order documents required during construction is not included in Basic Services (See Special Services).

(5) Make recommendations regarding proposed changes to the work. Detailed investigative and survey work and/or plans and specifications required to implement pricing of proposed changes is considered to be a Special Service.

(6) Assist the Owner in reviewing amounts required in partial payment invoices.

(7) Make periodic site visits to observe the progress and quality of the executed work and to determine in general if the work is proceeding in accordance with the contract documents. In performing this service, the Engineer will not be required to make exhaustive or continuous on-site observations to check the quality or quantity of the work or material; he will not be responsible for techniques and sequence of construction or safety precautions incident thereto, and he will not be responsible or liable in any degree for the Contractor's failure to perform the construction work in accordance with the contract documents. During visits to the site, and on the basis of the Engineer's on-site observations as an experienced and qualified design professional he will keep the Owner informed of the extent of the progress of the work, and advise the Owner in writing of material and substantial defects and deficiencies in the work of the Contractor which are discovered by the Engineer or otherwise brought to the Engineer's attention in the course of construction.

(8) Make a final observation of the completed construction of the facilities. This specifically includes one observation of each system shown in the construction drawings and specifica-
tions and a report in writing to the Owner. Additionally, one review of each system is included on notification by the Contractor that the defects in the system have been corrected. Observance or guidance of detailed performance tests is considered to be a Special Service.

SECTION III
SPECIAL SERVICES

A. PREDICTABLE SPECIAL SERVICES

In addition to the Preliminary Phase, Design Phase and Construction Phase Basic Services, there are certain Predictable Special Services which vary in scope or requirement from one project to the next, but are usually common to a typical building design project. Following is a list of such Predictable Special Services.

(1) Technical observation of construction by a full-time resident project representative, and supporting staff as required.

(2) Preparing record drawings showing changes made during the construction process, based on data furnished by the Contractor.

(3) Travel and subsistence by the Engineer outside of Tarrant County, in connection with this project when authorized by the Owner, other than to the site.

(4) Special consultants to the Engineer and other disbursements if approved by the Owner.

(5) Extensive value engineering; or life cycle cost studies.

(6) Providing itemized material and labor detailed cost estimates.

(7) Observing or guiding detailed performance or proof tests of systems during construction or on completion of the project.

(8) Detailed investigative and survey work required to implement pricing of proposed changes; preparation of plans and/or specifications for construction contract change order documents.

(9) Preparation of operating and maintenance manuals or training in operating and maintenance procedures.

B. UNPREDICTABLE SPECIAL SERVICES

This category of Special Services includes items that may well be involved in any particular building design project, but which are not necessarily typical. Following is a list of such Unpredictable Special Services:
(1) Changes to drawings and specifications or extra expense incurred by reason of insolvency of the Contractor; readvertisement for bids, or changes to drawings and specifications which are made after a general preliminary plan, concept or scheme has been approved, and which may become necessary through no fault of the Engineer.

(2) Preparation of duplicate or alternate designs requested by the Owner for the purpose of obtaining alternate bids, except those required to keep the project within budget.

(3) Redesign required for reasons beyond the control of the Engineer.

(4) Evaluation and recommendations on Construction Contractor's claims.

(5) Assistance to the Owner as an expert witness in any litigation arising from the development or construction of the project.

(6) Providing prolonged contract administration and observation of construction should the construction contract time be exceeded by more than 25 percent through no fault of the Engineer.

(7) Preparation of documents for prepurchase of equipment, or multiple construction contracts.

C. ENERGY RELATED SPECIAL SERVICES

This category of Special Services includes items related to energy use and cost which may vary greatly from time to time and building to building. Following is a partial list of some of the Special Services:

(1) Assistance in Preliminary Energy Audits.

(2) Assistance in Energy Audits.

(3) Engineering Economic Studies for energy conservation measures (called technical assistance in the Federal Grants Program).

(4) Advise and train Owner personnel in energy conserving operating and maintenance practices.


(6) Assistance in Energy Conservation grant applications.

(7) Assistance in monitoring energy use and cost.
SECTION IV
EXCLUDED SERVICES

The following are beyond the scope of professional engineering services and are excluded from this agreement:

(1) Engineer shall not be required to furnish any legal, accounting, or insurance counseling service to the Owner.

SECTION V
OWNER'S RESPONSIBILITY

During the Preliminary Phase, the Owner will furnish the Engineer all needed site information, including boundary surveys, easement, topography, utilities, and lines and grades of existing streets, pavements and structures on the site.

At the completion of design, the Owner will designate any contractors to whom he wishes drawings and specifications to be supplied. The Engineer will provide required sets of drawings to the Owner and all contractors. During Preliminary and Design Phases the Engineer will furnish prints to the Owner for coordinating and checking.

Owner will furnish the Engineer necessary information from other consultants or information gathered by Owner personnel.

SECTION VI
THE ENGINEER'S COMPENSATION

For and in consideration of the services to be rendered by the Engineer, the Owner shall pay, and the Engineer shall receive the compensation hereinafter set forth, for the Preliminary, Design and Construction Phases of the Project and for Special Services not included in these phases.

All remittances by Owner of such compensation shall either be mailed or delivered to Engineer's office in Tarrant County, Texas.

A. BASIC SERVICES CHARGE

Compensation of Basic Services will be at a percentage rate of the construction cost to the Owner (see Definition of Terms - Section VII) of all work authorized by the Owner at one time and handled by the Engineer in accordance with this Agreement. The exact percentage to be mutually agreed after scope and estimated cost of project is known.
(1) Preliminary Phase

Payment for Services in the Preliminary Phase shall be 20 percent of Basic Services Charge of the work authorized by the Owner in this phase.

Partial payments shall be made monthly. Payments will be made in proportion to that part of the services which has been accomplished, as evidenced by monthly statements submitted by the Engineer to the Owner.

(2) Design Phase

During the preparation of the general working drawings and specifications, monthly payments shall be made to the Engineer aggregating at the completion thereof, a sum sufficient to increase the total payments to 80 percent of the Basic Services Charge of the work authorized by the Owner in this phase based on the Engineer's estimate of construction cost of the work.

In the event that proposals for construction of any work authorized in the Design Phase are received within 90 days after submission of completed contract drawings and specifications to the Owner by the Engineer, the Basic Services Charge for the Preliminary Phase and the Design Phase shall be adjusted to "construction cost" as reflected by the lowest acceptable proposal, or lowest bona fide bid if no contract is awarded. Where no proposal or bona fide bids are received, Engineer's estimates shall be the basis for final payment for these two phases. No reduction shall be made from the Basic Services Charge due to penalties or liquidated damages or other sums withheld from Contractor's payments.

(3) Construction Phase

During the Construction Phase monthly payments shall be made to the Engineer in proportion to services rendered until the aggregate of total payments for basic services equals the Basic Services Charge.

B. SPECIAL SERVICES CHARGES

Except as modified hereinafter, Engineer's charges for all Predictable, Unpredictable and Energy Related Special Services as previously described shall be at hourly rates of salary cost times a multiplier of 2.5 for personal services and shall be at invoice cost plus a 10 percent service charge for direct expense and subcontract expense. Salary cost of Engineer's principals shall be at the rate of $22.00 per hour.
Charges for assistance to the Owner as an expert witness in any litigation arising from the development or construction of the project shall be $440.00 per diem for each day, or part thereof, in which the Engineer's presence is required.

Charges for extra travel and subsistence for the Engineer when authorized by the Owner shall be cost of travel and living expenses plus a 10% service charge.

Payments to the Engineer for Special Services will be made monthly by the Owner on presentation of monthly statements by the Engineer for such services.

C. LATE PAYMENT CHARGES

In event payments are not promptly made, Engineer reserves the right as provided herein, at any time thereafter to treat the agreement as terminated by the Owner and recover compensation as provided by Section XII.

SECTION VII

DEFINITION OF TERMS

A. CONSTRUCTION COST

Construction cost is defined as the total cost to the Owner for the execution of the construction work. Excluded are charges or other cost for engineering and legal services, the cost of land, rights-of-way, legal and administrative expenses. Included are the direct cost to the Owner of all construction contracts including performance bonds, insurance and other general construction expenses which represent cost to Owner and value of work, items of construction, including labor, materials and equipment required for the completed work and the total value at site of project of all labor, materials and equipment purchased or furnished directly by the Owner.

B. SALARY COST

Salary cost is defined as the cost of salaries of principals, engineers, designers, draftsmen, stenographers, surveymen, clerks, laborers, etc., for time directly chargeable to the project, plus social security contributions, unemployment, excise and payroll taxes, employment compensation insurance, retirement benefits, medical and insurance benefits, sick leave, vacation, and holiday pay applicable thereto.

C. SUBCONTRACT EXPENSE

Subcontract expense is that incurred by the Engineer in employment of consultants in specialized fields and outside firms for services such as acoustical, etc.
D. DIRECT NONLABOR EXPENSE

Direct non-labor expense is that incurred by the Engineer for supplies, printing, transportation, equipment, travel, communications, subsistence and lodging away from home, and similar incidentals in connection with this assignment.

SECTION VIII

OWNERSHIP OF DOCUMENTS

Engineer's drawings and specifications, notes, and other data remain his property as instruments of service. Owner will be furnished and may retain the tracings in consideration of which it is mutually agreed that he will use them solely in connection with the work and shall not authorize their use on other work except by written consent of the Engineer. Reuse for extensions of the original project shall be at the Owner's sole risk and without liability or legal exposure to the Engineer. Reuse for new projects entitles the Engineer to further compensation at a rate to be mutually agreed upon.

SECTION IX

LIABILITY LIMITATION

Engineer shall have no liability to Owner or to others for acts or omissions of the Contractor or any other persons performing work on this project; for construction means, methods, techniques, sequences, or procedures; for safety precautions and programs in connection with the work; for Contractor's failure to carry out the work in accordance with drawings and specifications; or for any other reason beyond warranty of the use of reasonable skills in execution of the assignment covered by this agreement.

This agreement is made for the benefit of the Owner and Engineer only, and is not intended to benefit any others. Accordingly no third party shall have any claim against either the Owner or Engineer by virtue of this agreement.

SECTION X

RENEGOTIATION

Should there be a lapse of 12 months or more between completion of any phase of the work and commencement of the next succeeding phase, this agreement will be subject to renegotiation in respect to the remaining work to be completed.
SECTION XI
DELAYS AND ABANDONMENT

If this project is abandoned or indefinitely delayed, or if this agreement is terminated, the Engineer shall be paid for his services to date.

SECTION XII
BREACH OF CONTRACT

If payment is not made to the Engineer when due according to Section VI of this agreement and this agreement is placed in the hands of an attorney for collection of such payment, or if any suit or other judicial proceeding is instituted or had for the purpose of such collection or if it is collected through a probate or bankruptcy proceeding, the Owner shall pay an additional amount over and above the accrued payment or payments with interest thereon, if any, as reasonable attorney's fees.

SECTION XIII
TERMINATION

This agreement may be terminated by either party on seven days written notice should the other party fail substantially to perform in accordance with its terms through no fault of the other. On termination, the Owner will owe the Engineer for all compensation earned under this agreement to the date of termination.

SECTION XIV
ADDRESS OF NOTICES AND COMMUNICATIONS

All notices and communications under this agreement to be mailed or delivered to the Owner shall be to the following address:

Stephen F. Austin State University
Nacogdoches, Texas 75961
Attention: Vice President for Fiscal Affairs

All notices and communications under this agreement to be mailed or delivered to the Engineer shall be to the following address:

1414 Oil & Gas Building
Fort Worth, Texas 76102
SECTION XV
SUCCESSORS AND ASSIGNMENTS

Owner and Engineer each binds himself and his successors, executors, administrators and assigns to the other party of this agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this agreement. Except as above, neither the Owner nor the Engineer shall assign, sublet or transfer his interest in this agreement without the written consent of the other, and they further agree that this contract represents the entire agreement between them and cannot be changed, added to or modified in any way or manner except by an instrument in writing signed by the Owner and the Engineer.

EXECUTED IN TWO (2) counterparts (each of which is deemed an original) on behalf of Engineer and on behalf of Owner.

BOARD OF REGENTS
STEPHEN F. AUSTIN STATE UNIVERSITY

By: Homer Bryce
Title: Chairman of Board of Regents,
Stephen F. Austin State University
Date: July 21, 1979

LOVE, FRIBERG & ASSOCIATES, INC.
CONSULTING ENGINEER

By: Emil E. Friberg
Title: President
Date: July 21, 1979
Upon motion of Regent Perkins, seconded by Regent Todd, with all members voting aye, it was ordered that the contract with Love, Friberg & Associates, Inc., Fort Worth, Texas, for engineering planning of a storm sewer project, be approved and the Chairman of the Board be authorized to sign the contract.
AGREEMENT
BETWEEN OWNER
AND CONSULTING ENGINEER
FOR
ENGINEERING SERVICES

MADE AND ENTERED INTO by and between Stephen F. Austin State University, hereinafter called "Owner", and Love, Fritberg & Associates, Inc., hereinafter called the "Engineer".

SECTION I
EMPLOYMENT OF ENGINEER

The Owner intends to construct a storm water drainage system from an area immediately east of the outdoor swimming pool, to Griffith Blvd., to the University Center, and to the Music Building, hereinafter called the "Project". The total appropriated budget for the project is $447,000.00.

In consequence thereof, the Owner agrees to employ the Engineer and the Engineer agrees to perform professional engineering services in connection with the project as stated in the Section to follow, and for having rendered such services, the Owner agrees to pay to the Engineer compensation as stated in the Section to follow.

SECTION II
CHARACTER AND EXTENT OF BASIC SERVICES

The Engineer shall render the following professional Basic Services necessary for the development of the project:

A. PRELIMINARY PHASE

(1) Participate in preliminary conferences with Owner to establish the scope of the project and the requirements of the systems.

(2) Determine types of facilities best suited to meet the Owner's requirements.

(3) Prepare preliminary layouts as required to define location and routing of the facilities.

(4) Prepare design criteria and outline specifications for the project.
(5) Counsel with the Owner on methods of construction as related to the project, costs and suitability to the site.

(6) Prepare preliminary cost estimate for the project. This will be a budget type estimate based on the Engineer's experience and records as opposed to an itemized material and labor estimate.

B. DESIGN PHASE

(1) Participate in design conferences with the Owner to plan and coordinate the project.

(2) Prepare calculations for previously established design requirements.

(3) Make recommendations as to changes in scope as may be required to stay within the Owner's budget.

(4) Prepare contract drawings in pencil on tracing paper in sufficient detail to define the construction work.

(5) Prepare technical specifications for the project typed on white bond paper.

(6) Update construction cost estimate prepared during Preliminary Phase. This will be a budget type estimate based on the Engineer's experience and records as opposed to an itemized material and labor estimate.

(7) Provide and issue plans and specifications to bidders.

(8) Prepare addenda as may be required during the bidding period and answer questions raised by bidders in the procurement of bids.

C. CONSTRUCTION PHASE

(1) Assist Owner in analyzing bids and preparing recommendations on all proposals relating to the project.

(2) Participate in preconstruction conferences and provide Owner with consultation and advice.

(3) Review samples, manufacturer's data, schedules laboratory, shop and mill tests of material and equipment and other data which the Contractor is required to submit, solely to determine conformance with design concept of the project and compliance with information given by the contract documents. Such review shall not relieve the Contractor from his responsibility for compliance with the contract documents.
(4) Answer questions regarding the plans and specifications. Preparations of additional plans for purposes other than clarification is not included in Basic Services. Preparation of change order documents required during construction is not included in Basic Services (See Special Services).

(5) Make recommendations regarding proposed changes to the work. Detailed investigative and survey work and/or plans and specifications required to implement pricing of proposed changes is considered to be a Special Service.

(6) Assist the Owner in reviewing amounts required in partial payment invoices.

(7) Make periodic site visits to observe the progress and quality of the executed work and to determine in general if the work is proceeding in accordance with the contract documents. In performing this service, the Engineer will not be required to make exhaustive or continuous on-site observations to check the quality or quantity of the work or material; he will not be responsible for techniques and sequence of construction or safety precautions incident thereto, and he will not be responsible or liable in any degree for the Contractor's failure to perform the construction work in accordance with the contract documents. During visits to the site, and on the basis of the Engineer's on-site observations as an experienced and qualified design professional he will keep the Owner informed of the extent of the progress of the work, and advise the Owner in writing of material and substantial defects and deficiencies in the work of the Contractor which are discovered by the Engineer or otherwise brought to the Engineer's attention in the course of construction.

(8) Make a final observation of the completed construction of the facilities. This specifically includes one observation of each system shown in the construction drawings and specifications and a report in writing to the Owner. Additionally, one review of each system is included on notification by the Contractor that the defects in the system have been corrected. Observance or guidance of detailed performance tests is considered to be a Special Service.

SECTION III
SPECIAL SERVICES

A. PREDICTABLE SPECIAL SERVICES

In addition to the Preliminary Phase, Design Phase and Construction Phase Basic Services, there are certain Predictable Special Services.
which vary in scope or requirement from one project to the next, but are usually common to a typical building design project. Following is a list of such Predictable Special Services.

1. Technical observation of construction by a full-time resident project representative, and supporting staff as required.

2. Preparing record drawings showing changes made during the construction process, based on data furnished by the Contractor.

3. Travel and subsistence by the Engineer outside of Tarrant County, in connection with this project when authorized by the Owner, other than to the site.

4. Special consultants to the Engineer and other disbursements if approved by the Owner.

5. Field surveys for staking of the line for the Contractor; extensive value engineering; or life cycle cost studies.

6. Providing itemized material and labor detailed cost estimates.

7. Observing or guiding detailed performance or proof tests of systems during construction or on completion of the project.

8. Detailed investigative and survey work required to implement pricing of proposed changes; preparation of plans and/or specifications for construction contract change order documents.

9. Preparation of operating and maintenance manuals or training in operating and maintenance procedures.

B. UNPREDICTABLE SPECIAL SERVICES

This category of Special Services includes items that may well be involved in any particular building design project, but which are not necessarily typical. Following is a list of such Unpredictable Special Services:

1. Changes to drawings and specifications or extra expense incurred by reason of insolvency of the Contractor; readvertisement for bids, or changes to drawings and specifications which are made after a general preliminary plan, concept or scheme has been approved, and which may become necessary through no fault of the Engineer.

2. Preparation of duplicate or alternate designs requested by the Owner for the purpose of obtaining alternate bids, except those required to keep the project within budget.

3. Redesign required for reasons beyond the control of the Engineer.

4. Evaluation and recommendations on Construction Contractor's claims.
(5) Assistance to the Owner as an expert witness in any litigation arising from the development or construction of the project.

(6) Providing prolonged contract administration and observation of construction should the construction contract time be exceeded by more than 25 percent through no fault of the Engineer.

(7) Preparation of documents for prepurchase of equipment, or multiple construction contracts.

SECTION IV

EXCLUDED SERVICES

The following are beyond the scope of professional engineering services and are excluded from this agreement:

(1) Engineer shall not be required to furnish any legal, accounting, or insurance counseling service to the Owner.

SECTION V

OWNER'S RESPONSIBILITY

During the Preliminary Phase, the Owner will furnish the Engineer all needed site information, including boundary surveys, easement, topography, utilities, and lines and grades of existing streets, pavements and structures on the site.

At the completion of design, the Owner will designate any contractors to whom he wishes drawings and specifications to be supplied. The Engineer will provide required sets of drawings to the Owner and all contractors. During Preliminary and Design Phases the Engineer will furnish prints to the Owner for coordinating and checking.

Owner will furnish the Engineer necessary information from other consultants.

SECTION VI

THE ENGINEER'S COMPENSATION

For and in consideration of the services to be rendered by the Engineer, the Owner shall pay, and the Engineer shall receive the compensation hereinafter set forth, for the Preliminary, Design and Construction Phases of the Project and for Special Services not included in these phases.

All remittances by Owner of such compensation shall either be mailed or delivered to Engineer's office in Tarrant County, Texas.
A. BASIC SERVICES CHARGE

Compensation of Basic Services will be 8 percent of the construction cost to the Owner (see Definition of Terms - Section VII) of all work authorized by the Owner at one time and handled by the Engineer in accordance with this Agreement.

(1) Preliminary Phase

Payment for Services in the Preliminary Phase shall be 20 percent of Basic Services Charge of the work authorized by the Owner in this phase.

Partial payments shall be made monthly. Payments will be made in proportion to that part of the services which has been accomplished, as evidence by monthly statements submitted by the Engineer to the Owner.

(2) Design Phase

During the preparation of the general working drawings and specifications, monthly payments shall be made to the Engineer aggregating at the completion thereof, a sum sufficient to increase the total payments to 80 percent of the Basic Services Charge of the work authorized by the Owner in this phase based on the Engineer's estimate of construction cost of the work.

In the event that proposals for construction of any work authorized in the Design Phase are received within 90 days after submission of completed contract drawings and specifications to the Owner by the Engineer, the Basic Services Charge for the Preliminary Phase and the Design Phase shall be adjusted to "construction cost" as reflected by the lowest acceptable proposal, or lowest bona fide bid if no contract is awarded. Where no proposal or bona fide bids are received, Engineer's estimates shall be the basis for final payment for these two phases. No reduction shall be made from the Basic Services Charge due to penalties or liquidated damages or other sums withheld from Contractor's payments.

(3) Construction Phase

During the Construction Phase monthly payments shall be made to the Engineer in proportion to services rendered until the aggregate of total payments for basic services equals the Basic Services Charge.

B. SPECIAL SERVICES CHARGES

Except as modified hereinafter, Engineer's charges for all Predictable and Unpredictable Special Services as previously described shall be at hourly rates of salary cost times a multiplier of 2.5 for
personal services and shall be at invoice cost plus a 10 percent service charge for direct expense and subcontract expense. Salary cost of Engineer's principals shall be at the rate of $22.00 per hour.

Charges for assistance to the Owner as an expert witness in any litigation arising from the development or construction of the project shall be $440.00 per diem for each day, or part thereof, in which the Engineer's presence is required.

Charges for extra travel and subsistence for the Engineer when authorized by the Owner shall be cost of travel and living expenses plus a 10 percent service charge.

Payments to the Engineer for Special Services will be made monthly by the Owner on presentation of monthly statements by the Engineer for such services.

C. LATE PAYMENT CHARGES

In event payments are not promptly made, Engineer reserves the right as provided herein, at any time thereafter to treat the agreement as terminated by the Owner and recover compensation as provided by Section XII.

SECTION VII
DEFINITION OF TERMS

A. CONSTRUCTION COST

Construction cost is defined as the total cost to the Owner for the execution of the construction work. Excluded are charges or other cost for engineering and legal services, the cost of land, rights-of-way, legal and administrative expenses. Included are the direct cost to the Owner of all construction contracts including performance bonds, insurance and other general construction expenses which represent cost to Owner and value of work, items of construction, including labor, materials and equipment required for the completed work and the total value at site of project of all labor, materials and equipment purchased or furnished directly by the Owner.

B. SALARY COST

Salary cost is defined as the cost of salaries of principals, engineers, designers, draftsmen, stenographers, surveymen, clerks, laborers, etc., for time directly chargeable to the project, plus social security contributions, unemployment, excise and payroll taxes, employment compensation insurance, retirement benefits, medical and insurance benefits, sick leave, vacation, and holiday pay applicable thereto.
C. SUBCONTRACT EXPENSE

Subcontract expense is that incurred by the Engineer in employment of consultants in specialized fields and outside firms for services such as acoustical, etc.

D. DIRECT NONLABOR EXPENSE

Direct non-labor expense is that incurred by the Engineer for supplies, printing, transportation, equipment, travel, communications, subsistence and lodging away from home, and similar incidental in connection with this assignment.

SECTION VIII

OWNERSHIP OF DOCUMENTS

Engineer's drawings and specifications, notes, and other data remain his property as instruments of service. Owner will be furnished and may retain the tracings in consideration of which it is mutually agreed that he will use them solely in connection with the work and shall not authorize their use on other work except by written consent of the Engineer. Reuse for extensions of the original project shall be at the Owner's sole risk and without liability or legal exposure to the Engineer. Reuse for new projects entitles the Engineer to further compensation at a rate to be mutually agreed upon.

SECTION IX

LIABILITY LIMITATION

Engineer shall have no liability to Owner or to others for acts or omissions of the Contractor or any other persons performing work on this project; for construction means, methods, techniques, sequences, or procedures; for safety precautions and programs in connection with the work; for Contractor's failure to carry out the work in accordance with drawings and specifications; or for any other reason beyond warranty of the use of reasonable skills in execution of the assignment covered by this agreement.

This agreement is made for the benefit of the Owner and Engineer only, and is not intended to benefit any others. Accordingly no third party shall have any claim against either the Owner or Engineer by virtue of this agreement.

SECTION X

RENEGOTIATION

Should there be a lapse of 12 months or more between completion of any phase of the work and commencement of the next succeeding phase, this agreement will be subject to renegotiation in respect to the remaining work to be completed.
SECTION XI
DELAYS AND ABANDONMENT

If this project is abandoned or indefinitely delayed, or if this agreement is terminated, the Engineer shall be paid for his services to date.

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BREACH OF CONTRACT

If payment is not made to the Engineer when due according to Section VI of this agreement and this agreement is placed in the hands of an attorney for collection of such payment, or if any suit or other judicial proceeding is instituted or had for the purpose of such collection or if it is collected through a probate or bankruptcy proceeding, the Owner shall pay an additional amount over and above the accrued payment or payments with interest thereon, if any, as reasonable attorney's fees.

SECTION XIII
TERMINATION

This agreement may be terminated by either party on seven days written notice should the other party fail substantially to perform in accordance with its terms through no fault of the other. On termination, the Owner will owe the Engineer for all compensation earned under this agreement to the date of termination.

SECTION XIV
ADDRESS OF NOTICES AND COMMUNICATIONS

All notices and communications under this agreement to be mailed or delivered to the Owner shall be to the following address:

Stephen F. Austin State University
Nacogdoches, Texas 75961
Attention: Vice President for Fiscal Affairs

All notices and communications under this agreement to be mailed or delivered to the Engineer shall be to the following address:

1414 Oil & Gas Building
Fort Worth, Texas 76102
SECTION XV

SUCCESSORS AND ASSIGNMENTS

Owner and Engineer each binds himself and his successors, executors, administrators and assigns to the other party of this agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this agreement. Except as above, neither the Owner nor the Engineer shall assign, sublet or transfer his interest in this agreement without the written consent of the other, and they further agree that this contract represents the entire agreement between them and cannot be changed, added to or modified in any way or manner except by an instrument in writing signed by the Owner and the Engineer.

EXECUTED IN TWO (2) counterparts (each of which is deemed an original) on behalf of Engineer and on behalf of Owner.

BOARD OF REGENTS
STEPHEN F. AUSTIN STATE UNIVERSITY

By: Homer Bryce
Title: Chairman, Board of Regents,
Stephen F. Austin State University
Date: July 21, 1979

LOVE, FRIBERG & ASSOCIATES, INC.
CONSULTING ENGINEER

By: E. Virgil Fitting
Title: President
Date: July 21, 1979
Upon motion of Regent Perkins, seconded by Regent Todd, with all members voting aye, it was ordered that the contract with Kent-Marsellos-Scott, Lufkin, Texas, for architectural services in connection with miscellaneous minor projects, be approved and the Chairman of the Board be authorized to sign the contract.
CONTRACT FOR ARCHITECTURAL SERVICES

CITY OF NACOGDOCHES

THE STATE OF TEXAS

COUNTY OF NACOGDOCHES

THIS AGREEMENT made as of the twenty-first day of July in the year Nineteen Hundred and Seventy Nine and between the BOARD OF REGENTS STEPHEN F. AUSTIN STATE UNIVERSITY, NACOGDOCHES, Texas acting herein by and through its President, hereinafter called the Owner, and KENT-MARSELLOS-SCOTT, ARCHITECTS-ENGINEERS, Lufkin, Texas hereinafter called the Architect for the following project:

PROFESSIONAL ASSISTANCE IN MISCELLANEOUS SMALL PROJECTS

The Owner and the Architect agree as set forth below.

NOW, THEREFORE, the Owner and the Architect for the considerations hereinafter set forth agree as follows:

I. The Architect Shall provide professional services for the Project in accordance with the Terms and Conditions of this Agreement.

II. The Owner shall compensate the Architect in accordance with the Terms and Conditions of this Agreement as stated in Article 14. All such payments and every payment herein provided shall be from current funds available to the Owner and as applicable to the projects involved for expenditure for the use and benefit of Stephen F. Austin State University.

III. The Architect and the Owner further agree to the following Terms and Conditions:
ARTICLE 1

ARCHITECT’S SERVICES AND RESPONSIBILITIES

BASIC SERVICES

The Architect's Basic Services consist of the five phases described in Paragraphs 1.1 through 1.5 and include normal structural, mechanical and electrical engineering services and any other services included in Article 15 as part of Basic Services.

1.1 SCHEMATIC DESIGN PHASE

1.1.1 The Architect shall review the program furnished by the Owner to ascertain the requirements of the Project and shall review the understanding of such requirements with the Owner.
1.1.2 The Architect shall provide a preliminary evaluation of the program and the Project budget requirements, each in terms of the other, subject to the limitations set forth in Subparagraph 3.2.1.

1.1.3 The Architect shall review with the Owner alternative approaches to design and construction of the Project.

1.1.4 Based on the mutually agreed upon program and Project budget requirements, the Architect shall prepare, for approval by the Owner, Schematic Design Documents consisting of drawings and other documents illustrating the scale and relationship of Project components.

1.1.5 The Architect shall submit to the Owner a Statement of Probable Construction Cost based on current area, volume or other unit costs.

1.2 DESIGN DEVELOPMENT PHASE

1.2.1 Based on the approved Schematic Design Documents and any adjustments authorized by the Owner in the program or Project budget, the Architect shall prepare, for 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.

1.2.2 The Architect shall submit to the Owner a further Statement of Probable Construction Cost.

1.3 CONSTRUCTION DOCUMENTS PHASE

1.3.1 Based on the approved Design Development Documents and any further adjustments in the scope of quality of the Project or in the Project budget
authorized by the Owner, the Architect shall prepare, for approval by
the Owner, Construction Documents consisting of Drawings and Specifi-
cations setting forth in detail the requirements for the construction of
the Project.

1.3.2 The Architect shall assist the Owner in the preparation of the necessary
bidding forms, the Conditions of the Contract, and the form of the Agree-
ment between the Owner and the Contractor.

1.3.3 The Architect shall advise the Owner of any adjustments to previous
Statements of Probable Construction Cost indicated by changes in re-
quirements or general market conditions.

1.3.4 The Architect shall assist the Owner in connection with the Owner's
responsibility for filing documents required for the approval of
government authorities having jurisdiction over the Project.

1.4 BIDDING OR NEGOTIATION PHASE

1.4.1 The Architect, following the Owner's approval of the Construction
Documents and of the latest Statement of Probable Construction Cost,
shall assist the Owner in obtaining bids or negotiated proposals, and
assist in awarding and preparing contracts for construction.

1.5 CONSTRUCTION PHASE—ADMINISTRATION OF THE CONSTRUCTION
CONTRACT

1.5.1 The Construction Phase will commence with the award of the Contract
for Construction and, together with the Architect's obligation to provide
Basic Services under this Agreement, will terminate when final payment
to the Contractor is due, or in the absence of a final Certificate for
Payment or of such due date, sixty days after the Date of Substantial Completion of the Work, whichever occurs first.

1.5.2 Unless otherwise provided in this Agreement and incorporated in the Contract Documents, the Architect shall provide administration of the Contract for Construction as set forth below and in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement.

1.5.3 The Architect shall be a representative of the Owner during the Construction Phase, and shall advise and consult with the Owner. Instructions to the Contractor shall be forwarded through the Architect. The Architect shall have authority to act on behalf of the Owner only to the extent provided in the Contract Documents unless otherwise modified by written instrument in accordance with Subparagraph 1.5.16.

1.5.4 The Architect shall visit the site at intervals appropriate to the stage of construction or as otherwise agreed by the Architect in writing to become generally familiar with the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of such on-site observations as an Architect, the Architect shall keep the Owner informed of the progress and quality of the work, and shall endeavor to guard the Owner against defects and deficiencies in the Work of the Contractor.
1.5.5 The Architect shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, for the acts or omissions of the Contractor, Subcontractors or any other persons performing any of the Work, or for the failure of any of them to carry out the Work in accordance with the Contract Documents.

1.5.6 The Architect shall at all times have access to the Work wherever it is in preparation or progress.

1.5.7 The Architect shall determine the amounts owing to the Contractor based on observations at the site and on evaluations of the Contractor's Applications for Payment, and shall issue Certificates for Payment in such amounts, as provided in the Contract Documents.

1.5.8 The issuance of a Certificate for Payment shall constitute a representation by the Architect to the Owner, based on the Architect's observations at the site as provided in Subparagraph 1.5.4 and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated; that, to the best of the Architect's knowledge, information, and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by or performed under the Contract Documents, to minor deviations from the Contract Documents correctable
prior to completion, and to any specific qualifications stated in the Certificate for Payment); and that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment shall not be a representation that the Architect has made any examination to ascertain how and for what purpose the Contractor has used the moneys paid on account of the Contract Sum.

1.5.9 The Architect shall be the interpreter of the requirements of the Contract Documents and the judge of the performance thereunder by both the Owner and Contractor. The Architect shall render interpretations necessary for the proper execution or progress of the Work with reasonable promptness on written request of either the Owner or the Contractor, and shall render written decisions, within a reasonable time, on all claims, disputes and other matters in question between the Owner and the Contractor relating to the execution or progress of the Work or the interpretation of the Contract Documents.

1.5.10 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in written or graphic form. In the capacity of interpreter and judge, the Architect shall endeavor to secure faithful performance by any interpretation or decision rendered in good faith in such capacity.

1.5.11 The Architect's decisions in matters relating to artistic effect shall be final if consistent with the intent of the Contract Documents. The
Architect's decisions on any other claims, disputes or other matters, including those in question between the Owner and the Contractor, shall be subject to arbitration as provided in this Agreement and in the Contract Documents.

1.5.12 The Architect shall have authority to reject Work which does not conform to the Contract Documents. Whenever, in the Architect's reasonable opinion, it is necessary or advisable for the implementation of the intent of the Contract Documents, the Architect will have authority to require special inspection or testing of the Work in accordance with the provision of the Contract Document, whether or not such Work be then fabricated, installed or completed.

1.5.13 The Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for conformance with the design concept of the Work and with the information given in the Contract Documents. Such action shall be taken with reasonable promptness so as to cause no delay. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

1.5.14 The Architect shall prepare Change Orders for the Owner's approval and execution in accordance with the Contract Documents, and shall have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time which are not inconsistent with the intent of the Contract Documents.
1.5.15 The Architect shall conduct inspections to determine the Dates of Substantial Completion and final completion, shall receive and forward to the Owner for the Owner's review written warranties and related documents required by the Contract Documents and assembled by the Contractor, and shall issue a final Certificate for Payment.

1.5.16 The extent of the duties, responsibilities and limitations of authority of the Architect as the Owner's representative during construction shall not be modified or extended without written consent of the Owner, the Contractor and the Architect.

1.6 PROJECT REPRESENTATION BEYOND BASIC SERVICES

1.6.1 If the Owner and Architect agree that more extensive representation at the site than is described in Paragraph 1.5 shall be provided, the Architect shall provide one or more Project Representatives to assist the Architect in carrying out such responsibilities at the site.

1.6.2 Such Project Representatives shall be selected, employed and directed by the Architect, and the Architect shall be compensated therefor as mutually agreed between the Owner and the Architect as set forth in an exhibit appended to this Agreement, which shall describe the duties, responsibilities and limitations of authority of such Project Representatives.

1.6.3 Through the observations by such Project Representatives, the Architect shall endeavor to provide further protection for the Owner against defects and deficiencies in the Work, but the furnishing of such project representation shall not modify the rights, responsibilities or obligations of the Architect as described in Paragraph 1.5.
1.7 ADDITIONAL SERVICES

The following Services are not included in Basic Services unless so identified in Article 15. They shall be provided if authorized or confirmed in writing by the Owner, and they shall be paid for by the Owner as provided in this Agreement, in addition to the compensation for Basic Services.

1.7.1 Providing analyses of the Owner's needs, and programming the requirements of the Project.

1.7.2 Providing financial feasibility or other special studies.

1.7.3 Providing planning surveys, site evaluations, environmental studies or comparative studies of prospective sites, and preparing special surveys, studies and submissions required for approvals of governmental authorities or others having jurisdiction over the Project.

1.7.4 Providing services relative to future facilities, systems and equipment which are not intended to be constructed during the Construction Phase.

1.7.5 Providing services to investigate existing conditions or facilities or to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by the Owner.

1.7.6 Preparing documents of alternate, separate or sequential bids or providing extra services in connection with bidding, negotiation or construction prior to the completion of the Construction Documents Phase, when requested by the Owner.
1.7.7 Providing coordination of Work performed by separate contractors or by the Owner's own forces.

1.7.8 Providing services in connection with the work of a construction manager or separate consultants retained by the Owner.

1.7.9 Providing Detailed Estimates of Construction Cost, analyses of owning and operating costs, or detailed quantity surveys or inventories of material, equipment and labor.

1.7.10 Providing services for planning tenant or rental spaces.

1.7.11 Making revisions in Drawings, Specifications or other documents when such revisions are inconsistent with written approvals or instructions previously given, are required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents or are due to other causes not solely within the control of the Architect.

1.7.12 Preparing Drawings, Specifications and supporting data and providing other services in connection with Change Orders to the extent that the adjustment in the Basic Compensation resulting from the adjusted Construction Cost is not commensurate with the services required of the Architect, provided such Change Orders are required by causes not solely within the control of the Architect.

1.7.13 Making investigations, surveys, valuations, inventories or detailed appraisals of existing facilities, and services required in connection with construction performed by the Owner.
1.7.14 Providing consultation concerning replacement of any Work damaged by fire or other cause during construction, and furnishing services as may be required in connection with the replacement of such Work.

1.7.15 Providing services made necessary by the default of the Contractor, or by major defects or deficiencies in the Work of the Contractor, or by failure of performance of either the Owner or Contractor under the Contract for Construction.

1.7.16 Providing extensive assistance in the utilization of any equipment or system such as initial start-up or testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance, and consultation during operation.

1.7.17 Providing services after issuance to the Owner of the final Certificate for Payment, or in the absence of a final Certificate for Payment, more than sixty days after the Date of Substantial Completion of the Work.

1.7.18 Preparing to serve or serving as an expert witness in connection with any public hearing, arbitration proceeding or legal proceeding.

1.7.19 Providing services of consultants for other than the normal architectural, structural, mechanical and electrical engineering services for the Project.

1.7.20 Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted architectural practice.
ARTICLE 2
THE OWNER'S RESPONSIBILITIES

2.1 The Owner shall provide full information regarding requirements for
the Project including a program, which shall set forth the Owner's design
objectives, constraints and criteria, including space requirements and
relationships, flexibility and expandability, special equipment and
systems and site requirements.

2.2 If the Owner provides a budget for the Project it shall include contingencies for bidding, changes in the Work during construction, and other costs which are the responsibility of the Owner, including those described in this Article 2 and in Subparagraph 3.1.2. The Owner shall, at the request of the Architect, provide a statement of funds available for the Project, and their source.

2.3 The Owner shall designate, when necessary, a representative authorized to act in the Owner's behalf with respect to the Project. The Owner or such authorized representative shall examine the documents submitted by the Architect and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of the Architect's services.

2.4 The Owner shall furnish a legal description and a certified land survey of the site, giving, as applicable, grades and lines of streets, alleys, pavements and adjoining property; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and complete data pertaining to
existing buildings, other improvements and trees; and full information concerning available service and utility lines both public and private, above and below grade including inverts and depths.

2.5 The Owner shall furnish the services of soil engineers or other consultants when such services are deemed necessary by the Architect. Such services shall include test borings, test pits, soil bearing values, percolation tests, air and water pollution tests, ground corrosion and resistivity tests, including necessary operations for determining subsoil, air and water conditions, with reports and appropriate professional recommendations.

2.6 The Owner shall furnish structural, mechanical, chemical and other laboratory tests, inspections and reports as required by law or the Contract Documents.

2.7 The Owner shall 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 moneys paid by or on behalf of the Owner.

2.8 The services, information, surveys and reports required by Paragraphs 2.4 through 2.7 inclusive shall be furnished at the Owner's expense, and the Architect shall be entitled to rely upon the accuracy and completeness thereof.
2.9 If the Owner observes or otherwise becomes aware of any fault or defect in the Project or nonconformance with the Contract Documents, prompt written notice thereof shall be given by the Owner to the Architect.

2.10 The Owner shall furnish required information and services and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Architect's services and of the Work.

ARTICLE 3
CONSTRUCTION COST

3.1 DEFINITION

3.1.1 The Construction Cost shall be the total cost or estimated cost to the Owner of all elements of the Project designed or specified by the Architect.

3.1.2 The Construction Cost shall include at current market rates, including a reasonable allowance for overhead and profit, the cost of labor and materials furnished by the Owner and any equipment which has been designed, specified, selected or specially provided for by the Architect.

3.1.3 Construction Cost does not include the compensation of the Architect and the Architect's consultants, the cost of the land, rights-of-way, or other costs which are the responsibility of the Owner as provided in Article 2.

3.2 RESPONSIBILITY FOR CONSTRUCTION COST
3.2.1 Evaluations of the Owner's Project budget, Statements of Probable Construction Cost and Detailed Estimates of Construction Cost, if any, prepared by the Architect, represent the Architect's best judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Project budget proposed, established or approved by the Owner, if any, or from any Statement or Probable Construction Cost or other cost estimate or evaluation prepared by the Architect.

3.2.2 No fixed limit of Construction Cost shall be established as a condition of this Agreement by the furnishing, proposal or establishment of a Project budget under Subparagraph 1.1.2 or Paragraph 2.2 or otherwise, unless such fixed limit has been agreed upon in writing and signed by the parties hereto. If such a fixed limit has been established, the Architect shall be permitted to include contingencies for design, bidding and price escalation, to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents, to make reasonable adjustments in the scope of the Project and to include in the Contract Documents alternate bids to adjust the Construction Cost to the fixed limit. Any such fixed limit shall be
increased in the amount of any increase in the Contract Sum occurring after execution of the Contract for Construction.

3.2.3 If the Bidding or Negotiation Phase has not commenced within three months after the Architect submits the Construction Documents to the Owner, any Project budget or fixed limit of Construction Cost shall be adjusted to reflect any 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.

3.2.4 If a Project budget or fixed limit of Construction Cost (adjusted as provided in Subparagraph 3.2.3) is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall (1) give written approval of an increase in such fixed limit, (2) authorize renegotiating of the Project within a reasonable time, (3) if the Project is abandoned, terminate in accordance with Paragraph 10.2, or (4) cooperate in revising the Project scope and quality as required to reduce the Construction Cost. In the case of (4), provided a fixed limit of Construction Cost has been established as a condition of this Agreement, the Architect, without additional charge, shall modify the Drawings and Specifications as necessary to comply with the fixed limit. The providing of such service shall be the limit of the Architect's responsibility arising from the establishment of such fixed limit, and having done so, the Architect shall be entitled to compensation for all services performed, in accordance with this Agreement, whether or not the Construction Phase is commenced.
ARTICLE 4
DIRECT PERSONNEL EXPENSE

4.1 Direct Personnel Expense is defined as the direct salaries of all 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 employee benefits, insurance, sick leave, holidays, vacations, pensions and similar contributions and benefits.

ARTICLE 5
REIMBURSABLE EXPENSES

5.1 Reimbursable Expenses are in addition to the Compensation for Basic and Additional Services and include actual expenditures made by the Architect and the Architect's employees and consultants in the interest of the Project for the expenses listed in the following Subparagraphs:

5.1.1 Fees paid for securing approval of authorities having jurisdiction over the Project.

5.1.2 Expense of data processing and photographic production techniques when used in connection with Additional Services.

5.1.3 Expense of any additional insurance coverage or limits, including professional liability insurance, requested by the Owner in excess of that normally carried by the Architect and the Architect's consultants.
ARTICLE 6

PAYMENTS TO THE ARCHITECT

6.1 PAYMENTS ON ACCOUNT OF BASIC SERVICES

6.1.1 Payments for Basic Services shall be made monthly and shall be in proportion to services performed within each Phase of Services, on the basis set forth in Article 14.

6.1.2 If and to the extent that the Contract Time initially established in the Contract for Construction is exceeded or extended through no fault of the Architect, compensation for any Basic Services required for such extended period of Administration of the Construction Contract shall be computed as set forth in Paragraph 14.2 for Additional Services.

6.1.3 When compensation is based on a percentage of Construction Cost, and any portions of the Project are deleted or otherwise not constructed, compensation for such portions of the Project shall be payable to the extent services are performed on such portions, in accordance with the schedule set forth in Subparagraph 14.1.2 based on (1) the lowest bona fide bid or negotiated proposal or, (2) if no such bid or proposal is received, the most recent Statement of Probable Construction Cost or Detailed Estimate of Construction Cost for such portions of the Project.

6.2 PAYMENTS ON ACCOUNT OF ADDITIONAL SERVICES

6.2.1 Payments on account of the Architect's Additional Services as defined in Paragraph 1.7 and for Reimbursable Expenses as defined in Article 5 shall be made monthly upon presentation of the Architect's statement of services rendered or expenses incurred.
6.3 PAYMENTS WITHHELD
6.3.1 No deductions shall be made from the Architect's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractors, or on account of the cost of changes in the Work other than those for which the Architect is held legally liable.

6.4 PROJECT SUSPENSION OR TERMINATION
6.4.1 If the Project is abandoned in whole or in part, the Architect shall be compensated for all services performed prior to receipt of written notice from the Owner of such abandonment, together with Reimbursable Expenses then due and all Termination Expenses as defined in Paragraph 10.4. If the Project is resumed after being suspended for more than three months, the Architect's compensation shall be equitably adjusted.

ARTICLE 7
ARCHITECT'S ACCOUNTING RECORDS
7.1 Records of Reimbursable Expenses and expenses pertaining to Additional Services and services performed on the basis of a Multiple of Direct Personnel Expense shall be kept on the basis of generally accepted accounting principles and shall be available to the Owner or the Owner's authorized representative at mutually convenient times.

ARTICLE 8
OWNERSHIP AND USE OF DOCUMENTS
8.1 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 of Drawings, Specifications for information and reference in connection with the Owner's use and occupancy of the Project. The Drawings and Specifications shall not be used by the Owner on other projects, for additions to this Project, or for completion of this Project by others provided the Architect is not in default under this Agreement, except by agreement in writing and with appropriate compensation to the Architect.

8.2 Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's rights.

ARTICLE 9

ARBITRATION

9.1 All claims, disputes and other matters in question between the parties to this Agreement, arising out of or relating to this Agreement or the breach thereof, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining unless the parties mutually agree otherwise. No arbitration, arising out of or relating to this Agreement, shall include, by consolidation, joinder or in any other manner, any additional person not a party to this Agreement except by written consent containing a specific reference to this Agreement and signed by the Architect, the
Owner, and any other person sought to be joined. Any consent to arbitration involving an additional person or persons shall not constitute consent to arbitration of any dispute not described therein. This Agreement to arbitrate and any agreement to arbitrate with an additional person or persons duly consented to by the parties to this Agreement shall be specifically enforceable under the prevailing arbitration law.

9.2 Notice of the demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The demand shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

9.3 The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

ARTICLE 10

TERMINATION OF AGREEMENT

10.1 This Agreement may be terminated by either party upon seven days' written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination.
10.2 This Agreement may be terminated by the Owner upon at least seven
days' written notice to the Architect in the event that the Project is
permanently abandoned.

10.3 In the event of termination not the fault of the Architect, the Architect
shall be compensated for all services performed to termination date,
 together with Reimbursable Expenses then due and all Termination
Expenses as defined in Paragraph 10.4.

10.4 Termination Expenses include expenses directly attributable to termina-
tion for which the Architect is not otherwise compensated, plus an
amount computed as a percentage of the total Basic and Additional Com-
pensation earned to the time of termination, as follows:

20 percent if termination occurs during the Schematic
    Design Phase; or

10 percent if termination occurs during the Design Develop-
    ment Phase; or

5 percent if termination occurs during any subsequent phase.

ARTICLE 11

MISCELLANEOUS PROVISIONS

11.1 Unless otherwise specified, this Agreement shall be governed by the law
of the principal place of business of the Architect.

11.2 Terms in this Agreement shall have the same meaning as those in AIA
Document A201, General Conditions of the Contract for Construction,
current as of the date of this Agreement.
11.3 As between the parties to this Agreement: as to all acts or failures to act by either party to this Agreement, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the relevant Date of Substantial Completion of the Work, and as to any acts or failures to act occurring after the relevant Date of Substantial Completion, not later than the date of issuance of the final Certificate for Payment.

11.4 The Owner and the Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages covered by any property insurance during construction as set forth in the edition of AIA Document A201, General Conditions, current as of the date of this Agreement. The Owner and the Architect each shall require appropriate similar waivers from their contractors, consultants and agents.

ARTICLE 12
SUCCESSORS AND ASSIGNS

12.1 The Owner and the Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the Owner nor the Architect shall assign, sublet or transfer any interest in this Agreement without the written consent of the other.
ARTICLE 13
EXTENT OF AGREEMENT

13.1 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 Owner and Architect.

ARTICLE 14
BASIS OF COMPENSATION

The Owner shall compensate the Architect for the Scope of Services provided, in accordance with Article 6, Payments to the Architect, and the other Terms and Conditions of this Agreement, as follows:

14.1 ARCHITECT'S COMPENSATION

14.1.1 FOR SERVICES, as described in Paragraphs 1.1 through 1.5, and any other services, Compensation shall be computed as follows:
Principals time at the fixed rate of $55.00 per hour. For the purpose of this agreement the principals are:

Wilbur Kent
Floyd Marsellos
Ray Scott

Employees time (other than principals) at a multiple of 2-1/2 times the employee's Direct Personnel Expense as defined in Article 4.

14.1.2 FOR SERVICES OF CONSULTANTS, including structural, mechanical and electrical engineering services, a multiple of (1.5) times the amounts billed to the Architect for such services.

14.2 FOR REIMBURSABLE EXPENSES, as described in Article 5, a multiple of (1.0) times the amounts expended by the Architect, the Architect's employees and consultants in the interest of the Project.

14.3 Payments due the Architect and unpaid under this Agreement shall bear interest beginning sixty days from the date payment is due at the rate of 6%.

14.4 The Owner and the Architect agree in accordance with the Terms and Conditions of this Agreement that:

14.5 IF THE SCOPE of the Project or of the Architect's Services is changed materially, the amounts of compensation shall be equitably adjusted.
NUMBER OR COUNTERPART COPIES

This Contract is executed in four counterparts.

IN WITNESS WHEREOF the parties hereto have made and executed this Agreement, the day and year first above written.

BOARD OF REGENTS
STEPHEN F. AUSTIN STATE UNIVERSITY

By [Signature]
President of the Board

ATTEST:

[Signature]
Secretary

KENT, MARSELLOS AND SCOTT
ARCHITECTS-ENGINEERS

By [Signature]
Upon motion of Regent Todd, seconded by Regent Cullum, with all members voting aye, it was ordered that a committee of Regents Wright, Perkins, Powers, and Todd be authorized to counsel the University President to obtain a commitment for the purchase of the Ollie Bailey Farm, subject to Coordinating Board approval.

Upon motion of Regent Perkins, seconded by Regent Todd, with all members voting aye, it was ordered that in the event a final judgment is entered by the court in favor of the plaintiff in Somberg v. Walker, et al., the University, with the assistance of the Texas Attorney General's Office, be instructed to appeal to the United States Fifth Court of Appeals.

At the conclusion of the business above, each Regent present was given copies of the following:

1. Article XVI, Sections 12, 33, and 40, Texas Constitution
2. Chapters 36 and 39, Penal Code, as amended
3. Articles 5996-5996g, Revised Civil Statutes of Texas, 1925, as amended

This transmittal is in compliance with H.R. No. 167 of the 66th Legislature which states that all state boards and commissions should specifically disclose to their members the requirements of the constitutional and statutory laws. The Regents who were not present were to be mailed a set of these documents.
CERTIFICATION

In accordance with the request of the Board of Regents, the President of the University and the Vice President for Fiscal Affairs certify, to the best of their knowledge and belief, that:

1. All accounting reports submitted to the Board of Regents contain information resulting from procedures that are in compliance with State law and regulations are correct; and,

2. That all funds are on deposit with approved depositories as authorized by the Board on July 29, 1978.

Meeting adjourned at 12:00 noon