

ARTICLES OF INCORPORATION

OF

TEXAS SOUTHMOST COLLEGE FOUNDATION, INC.

FILED  
In the Office of the  
Secretary of State of Texas

FEB 23 1984

Clerk A  
Corporations Section

We, the undersigned natural persons of the age of twenty-one (21) years or more, all of whom are citizens of the State of Texas, acting as Incorporators of a corporation under the Texas Business Corporation Act, DO HEREBY ADOPT the following ARTICLES OF INCORPORATION for such corporation:

ARTICLE ONE

The name of the corporation is:

TEXAS SOUTHMOST COLLEGE FOUNDATION, INC.

ARTICLE TWO

NON-PROFIT CORPORATION

The corporation is a non-profit corporation.

ARTICLE THREE

DURATION

The period of its duration is perpetual.

ARTICLE FOUR

The corporation shall have no members and shall not issue any shares of stock.

ARTICLE FIVE

PURPOSES

The purposes for which the corporation is organized are:

(a) The Corporation is organized exclusively for educational and charitable purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501 (c) (3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Law), and, more specifically, to receive and administer funds for such charitable and educational purposes, all for the public welfare, and for no other purposes, and to that end to take

and hold, by bequest, devise, gift, purchase, or lease, either absolutely or in trust for such objects and purposes, or any of them, any property, real, personal or mixed, without limitation as to amount of value, except such limitations, if any, as may be imposed by law; to sell, convey, and dispose of any such property and to invest and reinvest the principal thereof, and to deal with and expend the income therefrom for any of the before-mentioned purposes, without limitation, except such limitations, if any, as may be contained in the instrument under which such property is received; to receive any property, real, personal, or mixed, in trust, under the terms of any will, deed of trust, or other trust instrument for the foregoing purposes or any of them, and in administering the same to carry out the directions, and exercise the powers, contained in the trust instrument under which the property is received, including the expenditure of the principal as well as the income, for one or more of such purposes, if authorized or directed in the trust instrument under which it is received, but no gift, bequest or devise of any such property shall be received and accepted if it be conditioned or limited in such manner as shall require the disposition of the income or its principal to any person or organization other than a "charitable organization" or for other than "charitable purposes" within the meaning of such terms as defined in ARTICLE TEN of these Articles of Incorporation, or as shall in the opinion of the Board of Directors, jeopardize the federal income tax exemption of the Corporation pursuant to Section 501 (c) (3) of the Internal Revenue Code of 1954, as now in force or afterwards amended; to receive, take title to, hold and use the proceeds and income of stocks, bonds, obligations, or other securities of any corporation or corporations, domestic or foreign, but only for the foregoing purposes, or some of them; and, in general, to exercise any, all and every power for which a non-profit corporation organized for scientific, educational, and charitable purposes, all for the public welfare, can be authorized to exercise, but only to the extent the exercise of such powers are in furtherance of exempt purposes.

(b) No part of the net earnings of the Corporation shall inure to the benefit of or be distributable to its members, directors, officers, or

other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in ARTICLE FIVE hereof. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting, to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of these Articles, the Corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501 (c) (3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law) or (b) by a corporation, contributions to which are deductible under Section 170 (c) (2) of the Internal Revenue Code of 1954 (or any corresponding provision of any future United States Internal Revenue Law).

(c) Included among the educational and charitable purposes for which the Corporation is organized, as qualified and limited by sub-paragraphs (a) and (b) of this ARTICLE FIVE are the following:

- 1.) The central purpose of the foundation is to support and enhance the role and mission of Texas Southmost College.
- 2.) Other purposes include:
  - a. fund raising;
  - b. provision of monies to the institution for the distribution of scholarships;
  - c. sponsorship of literary/art collections, presentations, and lectures;
  - d. provision of supplementary funds to the institution for the purposes of endowments, instructional materials and equipment, real estate/buildings, staff development, and special activities for the general support of the college;
  - e. administration of projects, grants, and/or contracts that are either federally or privately sponsored to enhance the mission of the foundation;
  - f. the corporation shall distribute its income for each taxable year at such time and in such manner as not to become subject to tax on undistributed income imposed by Section 4942 of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws;
  - g. the corporation shall not engage in any act of self-dealing as defined in Section 4941 (d) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws;

- h. The corporation shall not retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent tax laws.
- i. The corporation shall not make any investments in such manner as to subject it to tax under Section 4944 of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws.
- j. The corporation shall not make any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws.

#### ARTICLE SIX

The post office address of the initial registered office of the Corporation in this State is 14 Crown Ridge, Brownsville, Texas 78521. The name and post office address of the Resident Agent of the Corporation in this State is JAIME CHAHIN, 14 Crown Ridge, Brownsville, Texas 78521. Said Resident Agent is an individual actually residing in this State.

#### ARTICLE SEVEN

The number of Directors of the Corporation shall not exceed twenty-five (25) which number may be increased or decreased pursuant to the By-Laws of the Corporation, but shall never be less than three (3). The names of the Directors who shall act until the first annual meeting or until their successors are duly chosen and qualified are:

MARY YTURRIA  
54 Calle Cenizo  
Brownsville, Texas 78520

GRACIANA DE PENA  
2625 Village Drive  
Brownsville, Texas 78521

JAIME CHAHIN  
14 Crown Ridge  
Brownsville, Texas 78521

#### ARTICLE EIGHT

Upon the dissolution of the Corporation's affairs, or upon the abandonment of the Corporation's activities due to its impracticable or inexpedient nature, the assets of the Corporation shall be distributed, transferred, conveyed, delivered and paid over to any other charitable organization (as hereinafter defined) of this or any other State having a similar or analogous character or purpose, in some way associated with or connected with the corporation to which the property previously belonged.



#### ARTICLE NINE

The Corporation may by its By-Laws make any other provisions or requirements for the arrangement or conduct of the business of the Corporation, provided the same be not inconsistent with the Articles of Incorporation nor contrary to the laws of the State of Texas or of the United States.

#### ARTICLE TEN

In these Articles of Incorporation,

(a) References to "charitable organizations" or "charitable organization" mean corporations, trusts, funds, foundations, or community chests created or organized in the United States or in any of its possessions, whether under the laws of the United States, any state or territory, the District of Columbia, or any possession of the United States, organized and operated exclusively for charitable purposes, no part of the net earnings of which inures or is payable to or for the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda or otherwise attempting, to influence legislation and which do not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidates for public office. It is intended that the organization described in this Article Ten shall be entitled to exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954, as now in force or afterwards amended.

(b) The term "charitable purposes" shall be limited to and shall include only religious, charitable, scientific testing for public safety, literary, or educational purposes within the meaning of the terms used in Section 501(c)(3) of the Internal Revenue Code of 1954 by only such purposes as also constitute public charitable purposes under the laws of the United States, any state or territory, the District of Columbia, or any possession of the United States, including, but not limited to, the granting of scholarships to men and women to enable them to attend educational institutions.

ARTICLE ELEVEN

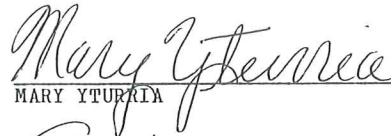
The names and addresses of the Incorporators are:

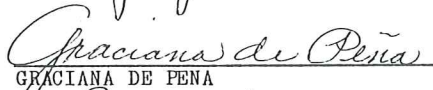
MARY YTURRIA  
54 Calle Cenizo  
Brownsville, Texas 78520

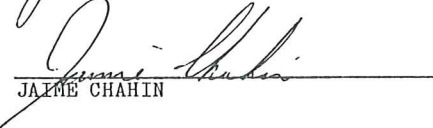
GRACIANA DE PENA  
2625 Village Drive  
Brownsville, Texas 78521

JAIME CHAHIN  
14 Crown Ridge  
Brownsville, Texas 78521

IN WITNESS WHEREOF, we have hereunto set our hands on this, the 31<sup>st</sup> day  
of January, A. D. 1984.

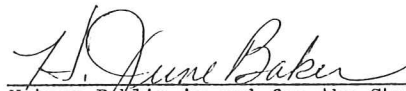
  
MARY YTURRIA

  
GRACIANA DE PENA

  
JAIME CHAHIN

THE STATE OF TEXAS §  
COUNTY OF CAMERON §

I, H. June Baker, a Notary Public, DO HEREBY CERTIFY that on  
this 31st day of January, A. D. 1984, personally appeared before me MARY  
YTURRIA, GRACIANA DE PENA, and JAIME CHAHIN who, each being by me first duly  
sworn, severally declared to me that they are the persons who signed the  
foregoing document as Incorporators, and that the statements contained therein  
are true.

  
Notary Public in and for the State of Texas.  
My Commission Expires: April 8, 1987.

**ARTICLES OF AMENDMENT  
TO  
ARTICLES OF INCORPORATION**

Pursuant to the provisions of Article 1396-4.03 of the Texas Non-Profit Corporation Act, the undersigned corporation adopts the following Articles of Amendment to its Articles of Incorporation:

**ARTICLE ONE**

The name of the corporation is Texas Southmost College Foundation, Inc.

**ARTICLE TWO**

(a) ARTICLE TWO is hereby amended by deleting the language therein contained in its entirety and substituting the following language therefor:

"The corporation is a non-profit corporation which is subject to the provisions of the Texas Non-Profit Corporation Act."

(b) ARTICLE FIVE is hereby amended by deleting the language therein contained in its entirety and substituting the following language therefor:

"Section 5.1 General Purposes. In general, and subject to the various limitations set forth herein, the corporation is organized exclusively for educational and charitable purposes, and consistent therewith, the corporation shall have the purposes (i) to make distributions to organizations that are exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986 or the corresponding provisions of any future United States revenue laws ("Internal Revenue Code"); (ii) to receive and administer funds for such charitable and educational purposes, all for the public welfare, and for no other purposes, and to that end to take and hold, by bequest, devise, gift, purchase, or lease, either absolutely or in trust for such objects and purposes, or any of them, any property, real, personal or mixed, without limitation as to amount or value, except such limitations, if any, as may be imposed by law; (iii) to sell, convey, and dispose of any such property and to invest and reinvest the principal thereof, and to deal with and expend the income therefrom for any of its purposes hereunder, without limitation, except such limitations, if any, as may be contained in the instrument under which such property is



received; (iv) to receive any property, real, personal, or mixed, in trust, under the terms of any will, deed of trust, or other trust instrument for any of its purposes hereunder, and in administering the same to carry out the directions, and exercise the powers, contained in the trust instrument under which the property is received, including the expenditure of the principal as well as the income, for one or more of such purposes, if authorized or directed in the trust instrument under which it is received (but no gift, bequest or devise of any such property shall be received and accepted if it be conditioned or limited in such manner as shall require the disposition of the income or its principal to any person or organization other than a "charitable organization" or for other than "charitable purposes" within the meaning of such terms as defined in ARTICLE TEN of these Articles of Incorporation, or as shall, in the opinion of the Board of Directors, jeopardize the federal income tax exemption of the corporation pursuant to Section 501(c)(3) of the Internal Revenue Code); (v) to receive, take title to, hold and use the proceeds and income of stocks, bonds, obligations, or other securities of any corporation or corporations, domestic or foreign, but only for its purposes hereunder, or some of them; and (vi) in general, to exercise any, all and every power which a non-profit corporation organized for scientific, educational, and charitable purposes, all for the public welfare, can be authorized to exercise, but only to the extent the exercise of such powers complies with the limitations herein and is in furtherance of exempt purposes.

Section 5.2 Specific Limitations. No part of the net earnings of the corporation shall inure to the benefit of or be distributable to its members, directors, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in this ARTICLE FIVE. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting, to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any



political campaign on behalf of any candidate for public office. Notwithstanding any other provision of these Articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code or (b) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code. The corporation, if and to the extent that any of the following Internal Revenue Code Sections may be applicable, (i) shall distribute its income for each taxable year at such time and in such manner as not to become subject to tax on undistributed income imposed by Section 4942 of the Internal Revenue Code; (ii) shall not engage in any act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code of 1954; (iii) shall not retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code; (iv) shall not make any investments in such manner as to subject it to tax under Section 4944 of the Internal Revenue Code; and (v) shall not make any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code.

Section 5.3 Support of Texas Southmost College and its Activities. The central purpose of the corporation is to support and enhance the role and mission of Texas Southmost College, a 2 year public junior college located in Brownsville, Texas, administered and operated as a political subdivision of the state of Texas. The corporation's purposes are broadly stated and conferred herein in order to maximize its utility in providing such support to Texas Southmost College, but it is expressly provided, in addition to the other limitations set forth herein, that no activities shall be carried on, or distributions or applications of funds or property made, by the corporation (even if otherwise for permitted charitable or exempt activities) which are not made for the benefit of Texas Southmost College, for the support of its educational and public activities and programs or otherwise for purposes necessary in the conduct by Texas Southmost College of its function as a public school.

The purposes of the corporation in support of Texas Southmost College include without limitation

(i) fund raising; (ii) provision of monies to the institution for the distribution of scholarships; (iii) sponsorship of literary/art collections, presentations, and lectures; (iv) provision of supplementary funds to the institution for the purposes of endowments, instructional materials and equipment, real estate/buildings, staff development, and special activities for the general support of the college; and (v) administration of projects, grants, and/or contracts that are either federally or privately sponsored to enhance the mission of Texas Southmost College and of the corporation."

(c) ARTICLE SIX is hereby amended by deleting the language therein contained in its entirety and substituting the following language therefor:

"The address of the registered office of the corporation is 807 Brazos, Austin, Texas 78701, and the name of the initial registered agent of the corporation at such address is The Prentice-Hall Corporation System, Inc."

(d) ARTICLE EIGHT is hereby amended by deleting the language contained therein in its entirety and substituting the following language therefor:

"Upon the dissolution of the corporation's affairs, or upon the abandonment of the corporation's activities due to its impracticable or inexpedient nature, the assets of the corporation shall be distributed, transferred, conveyed, delivered and paid over to Texas Southmost College (or its successor institution, if any), but if such institution is not then in existence or is not then a public college operated and administered as a political subdivision of the state of Texas, to such one or more public colleges operated and administered as political subdivisions of the state of Texas as the corporation's Board of Directors at that time shall determine."

(e) ARTICLE TEN is hereby amended by deleting the words "Internal Revenue Code of 1954, as now in force or afterward amended" every place it appears in said ARTICLE TEN and substituting in every such place the following words, "Internal Revenue Code".



(f) ARTICLE ELEVEN is hereby added to the Articles of Incorporation and the full text of such Article so added is as follows:

"ARTICLE ELEVEN

Section 11.1 Indemnification. To the extent required or permitted pursuant to the Texas Non-Profit Corporation Act Article 1396-2.22A (the "Indemnification Article"), as may be amended, or its successors, the corporation may indemnify any and all of its directors, officers, former directors, former officers, employees and agents against judgments, fines, settlements, penalties and reasonable expenses actually incurred by any of them in connection with any actual, pending, threatened or completed action, suit, claim or proceeding in which any of them are or may be made a party by reason of being or having been a director, officer, employee or agent of the corporation. Such indemnification shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any bylaw, agreement or otherwise.

Section 11.2 Insurance. The corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the corporation would have the power to indemnify him against such liability under the provisions of the Texas Non-Profit Corporation Act.

Section 11.3 Non-Exclusivity. The provisions of Sections 11.1 and 11.2 of this Article Eleven shall not be deemed exclusive of any other rights to which any such director, officer or person may be entitled under any other agreement, pursuant to a vote of directors, as a matter of law or otherwise, either as to action in his official capacity or as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of the heirs, executors and

administrators of such a person. No person shall be entitled to indemnification pursuant to this Article Eleven in relation to any matter as to which indemnification shall not be permitted by law.

Section 11.4 Defined Terms. Terms used herein that are defined in the Indemnification Article shall have the respective meanings set forth in the Texas Indemnification Article.

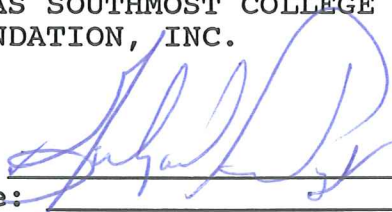
Section 11.5 Repeal of Sections 11.1, 11.2 or 11.3. Any repeal or modification of the foregoing Sections 11.1, 11.2, 11.3 or 11.4 shall not adversely affect any right or protection of a director of the corporation existing at the time of such repeal or modification."

**ARTICLE THREE**

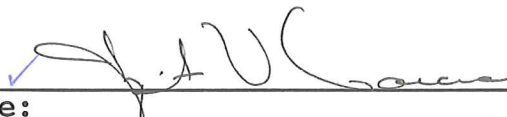
The corporation has no members. The amendments to the Articles of Incorporation set forth in Article Two of these Articles of Amendment to Articles of Incorporation were adopted by the Directors of the corporation by a written consent signed by all Directors on the Board of Directors of the corporation then in office.

DATED April \_\_, 1990.

TEXAS SOUTHMOST COLLEGE  
FOUNDATION, INC.

By:   
Name: \_\_\_\_\_  
Title: President

Attest:

By:   
Name: \_\_\_\_\_  
Title: Secretary

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