

RFP No. 720-1707 Retail Real Estate Broker Services

Open Date: 01/11/17 02:30 PM

Agency Requisition Number: 720-1707

NOTE: You will need to download all of the following files for complete specifications and other required document, including a HUB subcontracting plan(if required).

Help: Right Click to and choose "save file as" or "save target as" to your computer.

-**Package 1** size: 4345588 (in bytes) Type: Specification Format: (ASCII Plain Text)

-**Package 2** size: 538009 (in bytes) Type: Additional Specification(s) Format: Acrobat PDF Files

Agency: UNIVERSITY OF TEXAS SYSTEM (720)

Open Date: 01/11/17 02:30 PM

Agency Requisition Number: 720-1707

Previous Price Paid: N/A

Solicitation type: 14 Days or more for entire solicitation package

NIGP Commodity Code(s):

Class-Item: 946 - 15

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REQUEST FOR PROPOSAL

RFP No. 720-1707 Retail Real Estate Broker Services

Proposal Submittal Deadline: Wednesday, January 11th, 2017 at 2:30 PM CST

The University of Texas System
Real Estate Office

Prepared By:
Darya Vienne
The University of Texas System
210 West Sixth St.
Suite B. 140E
Austin, Texas 78701-2891
dvienne@utsystem.edu
December 13th, 2016

REQUEST FOR PROPOSAL

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SECTION 1

INTRODUCTION

1.1 Description of The University of Texas System

The University of Texas System (“**University**”) is one of the nation’s largest systems of higher education, consisting of fourteen university and medical institutions that collectively enroll more than 217,000 students and employ more than 20,000 faculty and 70,000 healthcare professionals. The University is committed to improving the lives of Texans and people all over the world through education, research and health care.

1.2 Background

The University is governed by a Board of Regents that is supported in its operations by an administrative staff of approximately 600 employees. Most of these employees are located in several different office locations in Austin, Texas. To consolidate the Austin offices and improve operating efficiencies, the Board of Regents is currently constructing a new central administrative headquarters building on a half block site located north of 6th Street and between Colorado Street and Lavaca Street at 210 West 7th Street, Austin, Texas 78701 (the “**Building**”), as depicted on the aerial maps attached as **APPENDIX FOUR**. In addition to University’s employees, the building will be occupied by third-party office tenants and the University Federal Credit Union.

The Building will consist of eight office floors and seven parking garage floors, and contains approximately 312,000 rentable square feet (approximately 369,000 interior gross square feet) of space. The Building completion is anticipated in July 2017 and substantial occupancy by September 2017. Building will contain approximately 5,550 rentable square feet in a ground-floor suite with direct street access (the “**Lease Space**”) and a potential space for a coffee kiosk in the lobby (collectively, the “**Premises**”). The Lease Space may have sufficient clear height that it could support a mezzanine. Should the leasing market support it, the Lease Space could be divided into two (2) separate suites and space could be made available for a grease trap. A floor plan for the available space is available in **APPENDIX FIVE**. Parking may be available in the building’s parking garage.

1.3 Objective of Request for Proposal

In this Request for Proposal (“**RFP**”), The University Real Estate Office is seeking a commercial real estate brokerage firm with a specialization in leasing of ground level commercial retail space for the purpose of assisting University in leasing ground floor space in the Building to private parties.

The University of Texas System is soliciting proposals in response to this RFP No. 720-1707 from qualified vendors to provide retail real estate broker services (the “**Services**”) more specifically described in **Section 5** of this RFP. A separate RFP will be issued in the near future for Office Real Estate Broker Services related to the office floors of the Building.

SECTION 2

NOTICE TO PROPOSER

2.1 Submittal Deadline

University will accept proposals submitted in response to this RFP until 2:30 p.m., Central Standard Time (“CST”) on Wednesday, January 11th, 2017 (the “**Submittal Deadline**”).

2.2 University Contact Person

Respondents to this RFP (“**Proposers**”) should direct all questions or concerns regarding this RFP to the following University contact (“**University Contact**”):

Darya Vienne
Email: dvienne@utsystem.edu

University specifically instructs all interested parties to restrict all contact and questions regarding this RFP to written communications delivered to (i) University Contact, or (ii) if questions relate to Historically Underutilized Businesses, to the University HUB Coordinator (ref. **Section 2.5** of this RFP). *University Contact must receive all questions or concerns no later than 2:30 p.m. CST on Wednesday, December 21st, 2016.*

University will have a reasonable amount of time to respond to questions or concerns. It is University’s intent to respond to all appropriate questions and concerns; however, University reserves the right to decline to respond to any question or concern.

2.3 Criteria for Selection

The successful Proposer, if any, selected by University through this RFP will be the Proposer that submits a proposal on or before the Submittal Deadline that is the most advantageous to University. The successful Proposer is referred to as “**Contractor**.”

Proposer is encouraged to propose terms and conditions offering the maximum benefit to University in terms of (1) service, (2) total overall cost, and (3) project management expertise.

The evaluation of proposals and the selection of Contractor will be based on the information provided in the proposal. University may consider additional information if University determines the information is relevant.

Criteria to be considered by University in evaluating proposals and selecting Contractor, will be these factors:

- A. Cost (5%);
- B. Nature and scope of experience in commercial real estate leasing services (70%);
- C. Project Approach (25%).

2.4 Key Events Schedule

Issuance of RFP	Tuesday, December 13th, 2016
Deadline for Questions / Concerns (ref. Section 2.2 of this RFP)	Wednesday, December 21st, 2016

2.5 Historically Underutilized Businesses

- 2.5.1 **ALL AGENCIES OF THE STATE OF TEXAS ARE REQUIRED TO MAKE A GOOD FAITH EFFORT TO ASSIST HISTORICALLY UNDERUTILIZED BUSINESSES (EACH A “HUB”)** in receiving contract awards. The goal of the HUB program is to promote full and equal business opportunity for all businesses in contracting with state agencies. Pursuant to the HUB program, if under the terms of any agreement or contractual arrangement resulting from this RFP, Contractor subcontracts any of the Services, then Contractor must make a good faith effort to utilize HUBs certified by the Procurement and Support Services Division of the Texas Comptroller of Public Accounts. Proposals that fail to comply with the requirements contained in this **SECTION 2.5 WILL CONSTITUTE A MATERIAL FAILURE TO COMPLY WITH ADVERTISED SPECIFICATIONS AND WILL BE REJECTED BY UNIVERSITY AS NON-RESPONSIVE. ADDITIONALLY, COMPLIANCE WITH GOOD FAITH EFFORT GUIDELINES IF CONTRACTOR SUBCONTRACTS IS A CONDITION PRECEDENT TO AWARDED ANY AGREEMENT OR CONTRACTUAL ARRANGEMENT RESULTING FROM THIS RFP. PROPOSER ACKNOWLEDGES THAT, IF SELECTED BY UNIVERSITY, ITS OBLIGATION TO MAKE A GOOD FAITH EFFORT TO UTILIZE HUBS WHEN SUBCONTRACTING ANY OF THE SERVICES WILL CONTINUE THROUGHOUT THE TERM OF ALL AGREEMENTS AND CONTRACTUAL ARRANGEMENTS RESULTING FROM THIS RFP. FURTHERMORE, ANY SUBCONTRACTING OF THE SERVICES BY PROPOSER IS SUBJECT TO REVIEW BY UNIVERSITY TO ENSURE COMPLIANCE WITH THE HUB PROGRAM.**
- 2.5.2 UNIVERSITY HAS REVIEWED THIS RFP IN ACCORDANCE WITH [TITLE 34, TEXAS ADMINISTRATIVE CODE, SECTION 20.13 \(A\)](#), AND HAS DETERMINED THAT SUBCONTRACTING OPPORTUNITIES ARE POSSIBLE UNDER THIS RFP.
- 2.5.3 A HUB SUBCONTRACTING PLAN (“HSP”) IS A REQUIRED AS PART OF PROPOSER’S PROPOSAL. THE HSP WILL BE SUBMITTED, AND IF RELEVANT DEVELOPED AND ADMINISTERED IN ACCORDANCE WITH UNIVERSITY’S POLICY ON UTILIZATION OF HISTORICALLY UNDERUTILIZED BUSINESSES ATTACHED AS APPENDIX THREE AND INCORPORATED FOR ALL PURPOSES.

REGARDLESS OF WHETHER PROPOSER IS A HUB, IS NOT A HUB, OR PLANS TO SUBCONTRACT, WHETHER TO A HUB OR OTHER SUBCONTRACTOR, EACH PROPOSER MUST COMPLETE AND RETURN THE HSP IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THIS RFP, INCLUDING APPENDIX THREE. PROPOSERS THAT FAIL TO DO SO WILL BE CONSIDERED NON-RESPONSIVE TO THIS RFP IN ACCORDANCE WITH [SECTION 2161.252, GOVERNMENT CODE](#).

QUESTIONS REGARDING THE HSP MAY BE DIRECTED TO:

**CONTACT: CYNTHIA BOOKER
COORDINATOR, HUB TECHNICAL ASSISTANT**
PHONE: 409-772-1353
EMAIL: CBOOKER@UTSYSTEM.EDU

CONTRACTOR WILL NOT BE PERMITTED TO CHANGE ITS HSP UNLESS: (1) CONTRACTOR COMPLETES A NEW HSP IN ACCORDANCE WITH THE TERMS OF APPENDIX THREE, SETTING FORTH ALL MODIFICATIONS REQUESTED BY CONTRACTOR, (2) CONTRACTOR PROVIDES THE MODIFIED HSP TO UNIVERSITY,

(3) UNIVERSITY APPROVES THE MODIFIED HSP *IN WRITING*, AND (4) ALL AGREEMENTS RESULTING FROM THIS RFP ARE AMENDED IN WRITING TO CONFORM TO THE MODIFIED HSP.

2.5.4 PROPOSER MUST SUBMIT TWO (2) ORIGINALS OF THE HSP TO UNIVERSITY AT THE SAME TIME IT SUBMITS ITS PROPOSAL TO UNIVERSITY (REF. SECTION 3.2 OF THIS RFP.) THE ORIGINALS OF THE HSP MUST BE SUBMITTED UNDER SEPARATE COVER (MAILED INDEPENDENTLY) AND IN TWO (2) SEPARATE ENVELOPES (THE "HSP ENVELOPES"). PROPOSER MUST ENSURE THAT THE TOP OUTSIDE SURFACE OF HSP ENVELOPES CLEARLY INDICATING:

2.5.4.1 THE RFP NO. (REF. SECTION 1.3 OF THIS RFP) AND THE SUBMITTAL DEADLINE (REF. SECTION 2.1 OF THIS RFP), BOTH LOCATED IN THE LOWER LEFT HAND CORNER OF THE TOP SURFACE OF THE ENVELOPE,

2.5.4.2 THE NAME AND THE RETURN ADDRESS OF THE PROPOSER, AND

2.5.4.3 THE PHRASE "HUB SUBCONTRACTING PLAN".

ANY PROPOSAL SUBMITTED IN RESPONSE TO THIS RFP THAT IS NOT ACCOMPANIED BY TWO (2) SEPARATE HSP ENVELOPES MEETING THE ABOVE REQUIREMENTS MAY BE REJECTED BY UNIVERSITY AND RETURNED TO PROPOSER UNOPENED AS NON-RESPONSIVE DUE TO MATERIAL FAILURE TO COMPLY WITH ADVERTISED SPECIFICATIONS.

UNIVERSITY WILL OPEN PROPOSER'S HSP ENVELOPES PRIOR TO OPENING THE PROPOSAL TO CONFIRM PROPOSER SUBMITTED THE HSP. PROPOSER'S FAILURE TO SUBMIT TWO (2) COMPLETED AND SIGNED ORIGINALS OF PROPOSER'S HUB SUBCONTRACTING PLAN MAY RESULT IN UNIVERSITY'S REJECTION OF THE PROPOSAL AS NON-RESPONSIVE DUE TO MATERIAL FAILURE TO COMPLY WITH ADVERTISED SPECIFICATIONS; SUCH A PROPOSAL WILL BE RETURNED TO THE PROPOSER UNOPENED (REF. SECTION 1.5 OF APPENDIX ONE TO THIS RFP). NOTE: THE REQUIREMENT THAT PROPOSER PROVIDE TWO (2) ORIGINALS OF THE HSP UNDER THIS SECTION 2.5.4 IS SEPARATE FROM AND DOES NOT AFFECT PROPOSER'S OBLIGATION TO PROVIDE UNIVERSITY WITH THE NUMBER OF COPIES OF ITS PROPOSAL AS SPECIFIED IN SECTION 3.1 OF THIS RFP.

IF PROPOSER'S SUBMITTED HSP REFERS TO SPECIFIC PAGE(S) / SECTIONS(S) OF PROPOSER'S PROPOSAL THAT EXPLAIN HOW PROPOSER WILL PERFORM ENTIRE CONTRACT WITH ITS OWN EQUIPMENT, SUPPLIES, MATERIALS AND/OR EMPLOYEES, PROPOSER MUST INCLUDE COPIES OF THOSE PAGES IN HSP ENVELOPES. FAILURE TO DO SO WILL SLOW THE EVALUATION PROCESS AND MAY RESULT IN DISQUALIFICATION.

SECTION 3

SUBMISSION OF PROPOSAL

3.1 Number of Copies

Proposer must submit:

- A. One (1) complete paper copy of its *entire* proposal. Proposal must be typed on letter-size (8-1/2" x 11") paper, and must be submitted in a 3-ring binder. Preprinted material should be referenced in the proposal and included as labeled attachments. Sections within a proposal should be divided by tabs for ease of reference.

The paper copy of the proposal should contain the mark "original" on the front cover of the proposal. An original signature by an authorized officer of Proposer must appear on the Execution of Offer (ref. Section 2 of **APPENDIX ONE**) of one (1) of the submitted paper copies of the proposal.

University does not consider electronic signatures to be valid therefore the original signature must be a "wet signature."

- B. One (1) complete electronic copy of its entire proposal in a single .pdf file on USB Flash Drive. The USB Flash Drive must include a protective cover and be labeled with Proposer's name and RFP number.

In addition, Proposer must submit one (1) complete electronic copy of the proposal in a single .pdf file on separate USB Flash Drive on which all proposed pricing information, provided in response to **Section 6**, has been removed.

3.2 Submission

Proposals must be received by University on or before the Submittal Deadline (ref. **Section 2.1** of this RFP) and should be delivered to:

The University of Texas System Administration
210 West Sixth St.
Suite B. 140E
Austin, Texas 78701-2891
Attn: Darya Vienne

NOTE: Show the Request for Proposal number and submittal date in the lower left-hand corner of sealed bid envelope (box / container).

3.3 Proposal Validity Period

Each proposal must state that it will remain valid for University's acceptance for a minimum of one hundred and twenty (120) days after the Submittal Deadline, to allow time for evaluation, selection, and any unforeseen delays.

3.4 Terms and Conditions

- 3.4.1 Proposer must comply with the requirements and specifications contained in this RFP, including the Agreement (ref. **APPENDIX TWO**), the Notice to Proposer (ref. **Section 2** of this RFP), Proposal Requirements (ref. **APPENDIX ONE**) and the Specifications and Additional Questions (ref. **Section 5** of this RFP). If there is a conflict among the provisions in this RFP, the provision requiring Proposer to supply the better quality or greater quantity

of services will prevail, or if such conflict does not involve quality or quantity, then interpretation will be in the following order of precedence:

- 3.4.1.1. Specifications and Additional Questions (ref. **Section 5** of this RFP);
- 3.4.1.2. Agreement (ref. **Section 4** and **APPENDIX TWO**);
- 3.4.1.3. Proposal Requirements (ref. **APPENDIX ONE**);
- 3.4.1.4. Notice to Proposers (ref. **Section 2** of this RFP).

3.5 Submittal Checklist

Proposer is instructed to complete, sign, and return the following documents as a part of its proposal. If Proposer fails to return each of the following items with its proposal, then University may reject the proposal:

- 3.5.1 Signed and Completed Execution of Offer (ref. **Section 2** of **APPENDIX ONE**)
- 3.5.2 Signed and Completed Pricing and Delivery Schedule (ref. **Section 6** of this RFP)
- 3.5.3 Responses to Proposer's General Questionnaire (ref. **Section 3** of **APPENDIX ONE**)
- 3.5.4 Signed and Completed Addenda Checklist (ref. **Section 4** of **APPENDIX ONE**)
- 3.5.5 Responses to questions and requests for information in the Specifications and Additional Questions Section (ref. **Section 5** of this RFP)
- 3.5.6 Signed and completed originals of the HUB Subcontracting Plan (ref. **Section 2.5** of this RFP and **APPENDIX THREE**)
- 3.5.7 Redlined Agreement, if applicable (ref. **Section 4** of this RFP and **APPENDIX TWO**)

SECTION 4

GENERAL TERMS AND CONDITIONS

The terms and conditions contained in the attached Agreement (ref. **APPENDIX TWO**) or, in the sole discretion of University, terms and conditions substantially similar to those contained in the Agreement, will constitute and govern any agreement that results from this RFP. If Proposer takes exception to any terms or conditions set forth in the Agreement, Proposer will redline attached Agreement (ref. **APPENDIX TWO**) and include redlined Agreement as part of its proposal in accordance with **Section 5.3.1** of this RFP. Proposer's exceptions will be reviewed by University and may result in disqualification of Proposer's proposal as non-responsive to this RFP. If Proposer's exceptions do not result in disqualification of Proposer's proposal, then University may consider Proposer's exceptions when University evaluates the Proposer's proposal.

SECTION 5

SPECIFICATIONS AND ADDITIONAL QUESTIONS

5.1 General

The minimum requirements and the specifications for the Services, as well as certain requests for information to be provided by Proposer as part of its proposal, are set forth below. As indicated in **Section 2.3** of this RFP, the successful Proposer is referred to as the “**Contractor.**”

Contract Term: University intends to enter into an agreement with the Contractor to perform the Services for an initial term of one (1) year, with four (4) six (6)-month renewal options, at University’s sole discretion.

5.2 Minimum Requirements

Proposer must have recent experience (within the last three (3) years) representing landlords / owners in leasing ground floor commercial space in downtown Austin, Texas.

The lead Broker and other key real estate professional(s) assigned to market the property (“**Assigned Broker(s)**”) by the successful Respondent must be licensed real estate brokers / salespersons in the State of Texas.

Proposer must provide license(s) number(s) obtained by Assigned Broker(s).

5.3 Additional Questions Specific to this RFP

Proposer must submit the following information as part of Proposer’s proposal:

5.3.1 If Proposer takes exception to any terms or conditions set forth in the Agreement (ref. **APPENDIX TWO**), Proposer will redline attached Agreement (ref. **APPENDIX TWO**) and include redlined Agreement as part of its proposal.

5.4 Scope of Work

Contractor will provide the following services to University:

- A. Identify the type(s) of tenants that would be attracted to the Premises.
- B. Provide market analysis and pricing guidance for the Premises, including rent, tenant improvement levels, concessions, and parking for each type of tenant, if different.
- C. Establish a marketing strategy for each type of tenant that employs multiple types of advertising and exposure to the market including, but not limited to, listing on CoStar and other applicable real estate commercial listing services, internet exposure, alternate trade publication strategies, trade group events, signage, etc.
- D. Accurately list the Premises for lease.
- E. Provide technical assistance on the presentation of the Premises for lease.
- F. Show the Premises to potential tenants.
- G. Forward all offers to University’s Real Estate Office for consideration to lease.

- H. Assist University with the lease negotiations for accepted offers.
- I. Coordinate with University's legal counsel on lease transaction(s).
- J. Identify competing properties and how the Premises / University may compete successfully.

5.5 Additional Questions Specific to this RFP

Proposer must submit the following information as part of Proposer's proposal:

Vendor Experience (70%)

- 1) Provide references from three (3) of Proposer's clients from the past three (3) years for services that are similar in scope, size, and complexity to the Services described in this RFP.

Provide the following information for each client:

- Client (company) name and address;
 - Contact name with email address and phone number;
 - Time period from execution of listing agreement to lease execution;
 - Short description of work performed.
- 2) Indicate whether Proposer has worked with University (including any of the fourteen (14) University of Texas institutions) in the past five (5) years? If "yes," provide the institution's name, its contact information, and a brief description of work performed.
 - 3) Has Proposer worked with governmental organizations or other institutions of higher education? If "yes," provide the organization's name, its contact information, and a brief description of work performed.
 - 4) Provide the name(s) and contact information for the individual(s) who will be responsible for marketing the Premises and a statement of their qualifications, including licensing, education, years of experience, client list, and State of Texas Historically Underutilized Businesses ("**HUB**") certification, if any.
 - 5) Provide for each broker respondent intends to assign to this Project the gross transaction value (proportionally adjusted for Assigned Broker's share of the transaction) and the number of transactions closed by such broker for each of the last three (3) calendar years.
 - 6) Provide a brief description of at least two (2) comparable spaces in downtown Austin, Texas that were successfully marketed by the Assigned Broker(s).
 - 7) Provide a list of all other ground floor commercial spaces within a three-mile radius of the Premises being marketed by Proposer; include client owner / developer entity, location, size of space, and character of space.

Project Approach (25%) Do not provide actual or estimated prices (dollar amounts) in this Section (dollar amounts belong to **Section 6**).

- 8) Provide Proposer's price opinion and the proposed approach to marketing the Property, including, specifically, the identification of any challenges anticipated in marketing the Property.

Conflict of Interest Disclosure (NOT SCORED)

- 9) Provide information on any potential conflicts of interest that may be present among, Proposer, the Assigned Broker(s) and University.

Note: University may choose to make final decision contingent upon Board of Regents review of disclosed conflicts of interest.

SECTION 6

PRICING AND DELIVERY SCHEDULE

Proposal of: _____
(Proposer Company Name)

To: The University of Texas System

RFP No.: 720-1707 Retail Real Estate Broker Services

Ladies and Gentlemen:

Having carefully examined all the specifications and requirements of this RFP and any attachments thereto, the undersigned proposes to furnish the required pursuant to the above-referenced Request for Proposal upon the terms quoted (firm fixed percentage) below. University will not accept proposals which include assumptions or exceptions to the work identified in this RFP.

6.1 Fee for Service (5%)

Provide the Real Estate fees rates for the following scenarios:

- (1) In the event that there is no Cooperating Broker, _____ percent of the cumulative annual minimum rent required to be paid by the tenant for the initial term of a new lease;
- (2) In the event that there is a Cooperating Broker, _____ percent of the cumulative annual minimum rent required to be paid by the tenant for the initial term of a new lease. The Broker's Fee will be split by Broker with the co-broker as follows: two-thirds of the Broker's Fee actually received by Broker will be paid to the co-broker and one-third of the Broker's Fee will be retained by Broker;
- (3) In the event that there is one Intermediary Broker, _____ percent of the cumulative annual minimum rent required to be paid by the tenant for the initial term of a new lease.

6.2 Delivery Schedule of Events and Time Periods

Indicate number of calendar days needed to commence the Services from the execution of the services agreement: _____ Calendar Days

6.3 Payment Terms

University's standard payment terms are "net 30 days" as mandated by the *Texas Prompt Payment Act* (ref. [Chapter 2251, Government Code](#)).

[Section 51.012, Education Code](#), authorizes University to make payments through electronic funds transfer methods. Proposer agrees to accept payments from University through those methods, including the automated clearing house system ("ACH"). Proposer agrees to provide Proposer's banking information to University in writing on Proposer letterhead signed by an authorized representative of Proposer. Prior to the first payment, University will confirm Proposer's banking information. Changes to Proposer's bank information must be communicated to University in writing at least thirty (30) days before the effective date of the change and must include an [IRS Form W-9](#) signed by an authorized representative of Proposer.

University, an agency of the State of Texas, is exempt from Texas Sales and Use Tax on goods and services in accordance with [Section 151.309, Tax Code](#), and [Title 34 TAC Section 3.322](#). Pursuant to [34 TAC Section 3.322\(c\)\(4\)](#), University is not required to provide a tax exemption certificate to establish its tax exempt status.

Respectfully submitted,

Proposer: _____

By: _____
(Authorized Signature for Proposer)

Name: _____

Title: _____

Date: _____

APPENDIX ONE
PROPOSAL REQUIREMENTS

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SECTION 1

GENERAL INFORMATION

1.1 Purpose

University is soliciting competitive sealed proposals from Proposers having suitable qualifications and experience providing services in accordance with the terms, conditions and requirements set forth in this RFP. This RFP provides sufficient information for interested parties to prepare and submit proposals for consideration by University.

By submitting a proposal, Proposer certifies that it understands this RFP and has full knowledge of the scope, nature, quality, and quantity of the services to be performed, the detailed requirements of the services to be provided, and the conditions under which such services are to be performed. Proposer also certifies that it understands that all costs relating to preparing a response to this RFP will be the sole responsibility of the Proposer.

PROPOSER IS CAUTIONED TO READ THE INFORMATION CONTAINED IN THIS RFP CAREFULLY AND TO SUBMIT A COMPLETE RESPONSE TO ALL REQUIREMENTS AND QUESTIONS AS DIRECTED.

1.2 Inquiries and Interpretations

University may in its sole discretion respond in writing to written inquiries concerning this RFP and mail its response as an Addendum to all parties recorded by University as having received a copy of this RFP. Only University's responses that are made by formal written Addenda will be binding on University. Any verbal responses, written interpretations or clarifications other than Addenda to this RFP will be without legal effect. All Addenda issued by University prior to the Submittal Deadline will be and are hereby incorporated as a part of this RFP for all purposes.

Proposers are required to acknowledge receipt of each Addendum as specified in this Section. The Proposer must acknowledge all Addenda by completing, signing and returning the Addenda Checklist (ref. **Section 4** of **APPENDIX ONE**). The Addenda Checklist must be received by University prior to the Submittal Deadline and should accompany the Proposer's proposal.

Any interested party that receives this RFP by means other than directly from University is responsible for notifying University that it has received an RFP package, and should provide its name, address, telephone and facsimile (**FAX**) numbers, and email address, to University, so that if University issues Addenda to this RFP or provides written answers to questions, that information can be provided to that party.

1.3 Public Information

Proposer is hereby notified that University strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information.

University may seek to protect from disclosure all information submitted in response to this RFP until such time as a final agreement is executed.

Upon execution of a final agreement, University will consider all information, documentation, and other materials requested to be submitted in response to this RFP, to be of a non-confidential and non-proprietary nature and, therefore, subject to public disclosure under the *Texas Public Information Act* (ref. [Chapter 552, Government Code](#)). Proposer will be advised of a request for public information that implicates their materials and will have the opportunity to raise any

objections to disclosure to the Texas Attorney General. Certain information may be protected from release under Sections [552.101](#), [552.104](#), [552.110](#), [552.113](#), and [552.131](#), *Government Code*.

1.4 Type of Agreement

Contractor, if any, will be required to enter into a contract with University in a form substantially similar to the Agreement between University and Contractor (the “**Agreement**”) attached to this RFP as **APPENDIX TWO** and incorporated for all purposes.

1.5 Proposal Evaluation Process

University will select Contractor by using the competitive sealed proposal process described in this Section. Any proposals that are not submitted by the Submittal Deadline will be rejected by University as non-responsive due to material failure to comply with this RFP (ref. **Section 2.5.4** of this RFP). Proposals should include HUB Subcontracting Plan (“**HSP**”) attached (ref. **APPENDIX THREE** of this RFP). Upon completion of the initial review and evaluation of proposals, University may invite one or more selected Proposers to participate in oral presentations. University will use commercially reasonable efforts to avoid public disclosure of the contents of a proposal prior to selection of Contractor.

University may make the selection of Contractor on the basis of the proposals initially submitted, without discussion, clarification or modification. In the alternative, University may make the selection of Contractor on the basis of negotiation with any of the Proposers. In conducting negotiations, University will use commercially reasonable efforts to avoid disclosing the contents of competing proposals.

University may discuss and negotiate all elements of proposals submitted by Proposers within a specified competitive range. For purposes of negotiation, University may establish, after an initial review of the proposals, a competitive range of acceptable or potentially acceptable proposals composed of the highest rated proposal(s). In that event, University may defer further action on proposals not included within the competitive range pending the selection of Contractor; provided, however, University reserves the right to include additional proposals in the competitive range if deemed to be in the best interest of University. University will provide each Proposer within the competitive range with an equal opportunity for discussion and revision of its proposal.

After the Submittal Deadline but before final selection of Contractor, University may permit A Proposer to revise its proposal in order to obtain the Proposer's best and final offer. In that event, representations made by Proposer in its revised proposal, including price and fee quotes, will be binding on Proposer. University is not obligated to select the Proposer offering the most attractive economic terms if that Proposer is not the most advantageous to University overall, as determined by University.

University reserves the right to (a) enter into an agreement for all or any portion of the requirements and specifications set forth in this RFP with one or more Proposers, (b) reject any and all proposals and re-solicit proposals, or (c) reject any and all proposals and temporarily or permanently abandon this selection process, if deemed to be in the best interests of University. Proposer is hereby notified that University will maintain in its files concerning this RFP a written record of the basis upon which a selection, if any, is made by University.

1.6 Proposer's Acceptance of RFP Terms

Proposer (1) accepts [a] Proposal Evaluation Process (ref. **Section 1.5** of **APPENDIX ONE**), [b] Criteria for Selection (ref. **2.3** of this RFP), [c] Specifications and Additional Questions (ref. **Section 5** of this RFP), [d] terms and conditions of the Agreement (ref. **APPENDIX TWO**), and

[e] all other requirements and specifications set forth in this RFP; and (2) acknowledges that some subjective judgments must be made by University during this RFP process.

1.7 Solicitation for Proposal and Proposal Preparation Costs

Proposer understands and agrees that (1) this RFP is a solicitation for proposals and University has made no representation written or oral that one or more agreements with University will be awarded under this RFP; (2) University issues this RFP predicated on University's anticipated requirements for the Services, and University has made no representation, written or oral, that any particular scope of services will actually be required by University; and (3) Proposer will bear, as its sole risk and responsibility, any cost that arises from Proposer's preparation of a proposal in response to this RFP.

1.8 Proposal Requirements and General Instructions

- 1.8.1 Proposer should carefully read the information contained herein and submit a complete proposal in response to all requirements and questions as directed.
- 1.8.2 Proposals and any other information submitted by Proposer in response to this RFP will become the property of University.
- 1.8.3 University will not provide compensation to Proposer for any expenses incurred by the Proposer for proposal preparation or for demonstrations or oral presentations that may be made by Proposer. Proposer submits its proposal at its own risk and expense.
- 1.8.4 Proposals that (i) are qualified with conditional clauses; (ii) alter, modify, or revise this RFP in any way; or (iii) contain irregularities of any kind, are subject to disqualification by University, at University's sole discretion.
- 1.8.5 Proposals should be prepared simply and economically, providing a straightforward, concise description of Proposer's ability to meet the requirements and specifications of this RFP. Emphasis should be on completeness, clarity of content, and responsiveness to the requirements and specifications of this RFP.
- 1.8.6 University makes no warranty or guarantee that an award will be made as a result of this RFP. University reserves the right to accept or reject any or all proposals, waive any formalities, procedural requirements, or minor technical inconsistencies, and delete any requirement or specification from this RFP or the Agreement when deemed to be in University's best interest. University reserves the right to seek clarification from any Proposer concerning any item contained in its proposal prior to final selection. Such clarification may be provided by telephone conference or personal meeting with or writing to University, at University's sole discretion. Representations made by Proposer within its proposal will be binding on Proposer.
- 1.8.7 Any proposal that fails to comply with the requirements contained in this RFP may be rejected by University, in University's sole discretion.

1.9 Preparation and Submittal Instructions

1.9.1 Specifications and Additional Questions

Proposals must include responses to the questions in Specifications and Additional Questions (ref. **Section 5** of this RFP). Proposer should reference the item number and repeat the question in its response. In cases where a question does not apply or if unable to respond, Proposer should refer to the item number, repeat the question, and indicate N

/ A (Not Applicable) or N / R (No Response), as appropriate. Proposer should explain the reason when responding N / A or N / R.

1.9.2 Execution of Offer

Proposer must complete, sign and return the attached Execution of Offer (ref. **Section 2** of **APPENDIX ONE**) as part of its proposal. The Execution of Offer must be signed by a representative of Proposer duly authorized to bind the Proposer to its proposal. Any proposal received without a completed and signed Execution of Offer may be rejected by University, in its sole discretion.

1.9.3 Pricing and Delivery Schedule

Proposer must complete and return the Pricing and Delivery Schedule (ref. **Section 6** of this RFP), as part of its proposal. In the Pricing and Delivery Schedule, the Proposer should describe in detail (a) the total fees for the entire scope of the Services; and (b) the method by which the fees are calculated. The fees must be inclusive of all associated costs for delivery, labor, insurance, taxes, overhead, and profit.

University will not recognize or accept any charges or fees to perform the Services that are not specifically stated in the Pricing and Delivery Schedule.

In the Pricing and Delivery Schedule, Proposer should describe each significant phase in the process of providing the Services to University, and the time period within which Proposer proposes to be able to complete each such phase.

1.9.4 Proposer's General Questionnaire

Proposals must include responses to the questions in Proposer's General Questionnaire (ref. **Section 3** of **APPENDIX ONE**). Proposer should reference the item number and repeat the question in its response. In cases where a question does not apply or if unable to respond, Proposer should refer to the item number, repeat the question, and indicate N / A (Not Applicable) or N / R (No Response), as appropriate. Proposer should explain the reason when responding N / A or N / R.

1.9.5 Addenda Checklist

Proposer should acknowledge all Addenda to this RFP (if any) by completing, signing and returning the Addenda Checklist (ref. **Section 4** of **APPENDIX ONE**) as part of its proposal. Any proposal received without a completed and signed Addenda Checklist may be rejected by University, in its sole discretion.

1.9.6 Submission

*Proposer should submit all proposal materials as instructed in **Section 3** of this RFP. RFP No. (ref. **Title Page** of this RFP) and Submittal Deadline (ref. **Section 2.1** of this RFP) should be clearly shown (1) in the Subject line of any email transmitting the proposal, and (2) in the lower left-hand corner on the top surface of any envelope or package containing the proposal. In addition, the name and the return address of the Proposer should be clearly visible in any email or on any envelope or package.*

Proposer must also submit two (2) copies of the HUB Subcontracting Plan (also called the HSP) or HUB certification, as indicated by Section 5.4.

University will not under any circumstances consider a proposal that is received after the

Submittal Deadline. University will not accept proposals submitted by telephone or FAX transmission.

Except as otherwise provided in this RFP, no proposal may be changed, amended, or modified after it has been submitted to University. However, a proposal may be withdrawn and resubmitted at any time prior to the Submittal Deadline. No proposal may be withdrawn after the Submittal Deadline without University's consent, which will be based on Proposer's written request explaining and documenting the reason for withdrawal, which is acceptable to University.

SECTION 2

EXECUTION OF OFFER

THIS EXECUTION OF OFFER MUST BE COMPLETED, SIGNED AND RETURNED WITH PROPOSER'S PROPOSAL. FAILURE TO COMPLETE, SIGN AND RETURN THIS EXECUTION OF OFFER WITH THE PROPOSER'S PROPOSAL MAY RESULT IN THE REJECTION OF THE PROPOSAL.

2.1 Representations and Warranties. Proposer represents, warrants, certifies, acknowledges, and agrees as follows:

- 2.1.1 Proposer will furnish the Services to University and comply with all terms, conditions, requirements and specifications set forth in this RFP and any resulting Agreement.
- 2.1.2 This RFP is a solicitation for a proposal and is not a contract or an offer to contract. Submission of a proposal by Proposer in response to this RFP will not create a contract between University and Proposer. University has made no representation or warranty, written or oral, that one or more contracts with University will be awarded under this RFP. Proposer will bear, as its sole risk and responsibility, any cost arising from Proposer's preparation of a response to this RFP.
- 2.1.3 Proposer is a reputable company that is lawfully and regularly engaged in providing the Services.
- 2.1.4 Proposer has the necessary experience, knowledge, abilities, skills, and resources to perform the Services.
- 2.1.5 Proposer is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances relating to performance of the Services.
- 2.1.6 Proposer understands (i) the requirements and specifications set forth in this RFP and (ii) the terms and conditions set forth in the Agreement under which Proposer will be required to operate.
- 2.1.7 Proposer will not delegate any of its duties or responsibilities under this RFP or the Agreement to any sub-contractor, except as expressly provided in the Agreement.
- 2.1.8 Proposer will maintain any insurance coverage required by the Agreement during the entire term.
- 2.1.9 All statements, information and representations prepared and submitted in response to this RFP are current, complete, true and accurate. University will rely on such statements, information and representations in selecting Contractor. If selected by University, Proposer will notify University immediately of any material change in any matters with regard to which Proposer has made a statement or representation or provided information.
- 2.1.10 PROPOSER WILL DEFEND WITH COUNSEL APPROVED BY UNIVERSITY, INDEMNIFY, AND HOLD HARMLESS UNIVERSITY, THE STATE OF TEXAS, AND ALL OF THEIR REGENTS, OFFICERS, AGENTS AND EMPLOYEES, FROM AND AGAINST ALL ACTIONS, SUITS, DEMANDS, COSTS, DAMAGES, LIABILITIES AND OTHER CLAIMS OF ANY NATURE, KIND OR DESCRIPTION, INCLUDING REASONABLE ATTORNEYS' FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY OF THE FOREGOING, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY NEGLIGENT

ACTS OR OMISSIONS OR WILLFUL MISCONDUCT OF PROPOSER OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF PROPOSER IN THE EXECUTION OR PERFORMANCE OF ANY CONTRACT OR AGREEMENT RESULTING FROM THIS RFP.

2.1.11 Pursuant to Sections [2107.008](#) and [2252.903](#), *Government Code*, any payments owing to Proposer under the Agreement may be applied directly to any debt or delinquency that Proposer owes the State of Texas or any agency of the State of Texas, regardless of when it arises, until such debt or delinquency is paid in full.

2.1.12 Any terms, conditions, or documents attached to or referenced in Proposer's proposal are applicable to this procurement only to the extent that they (a) do not conflict with the laws of the State of Texas or this RFP, and (b) do not place any requirements on University that are not set forth in this RFP. Submission of a proposal is Proposer's good faith intent to enter into the Agreement with University as specified in this RFP and that Proposer's intent is not contingent upon University's acceptance or execution of any terms, conditions, or other documents attached to or referenced in Proposer's proposal.

2.2 No Benefit to Public Servants. Proposer has not given or offered to give, nor does Proposer intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with its proposal. Failure to sign this Execution of Offer, or signing with a false statement, may void the submitted proposal or any resulting Agreement, and Proposer may be removed from all proposer lists at University.

2.3 Tax Certification. Proposer is not currently delinquent in the payment of any taxes due under [Chapter 171, Tax Code](#), or Proposer is exempt from the payment of those taxes, or Proposer is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable. A false certification will be deemed a material breach of any resulting contract or agreement and, at University's option, may result in termination of any resulting Agreement.

2.4 Antitrust Certification. Neither Proposer nor any firm, corporation, partnership or institution represented by Proposer, nor anyone acting for such firm, corporation or institution, has violated the antitrust laws of the State of Texas, codified in [Section 15.01, et seq., Business and Commerce Code](#), or the Federal antitrust laws, nor communicated directly or indirectly the proposal made to any competitor or any other person engaged in such line of business.

2.5 Authority Certification. The individual signing this document and the documents made a part of this RFP, is authorized to sign the documents on behalf of Proposer and to bind Proposer under any resulting Agreement.

2.6 Child Support Certification. Under [Section 231.006, Family Code](#), relating to child support, the individual or business entity named in Proposer's proposal is not ineligible to receive award of the Agreement, and any Agreements resulting from this RFP may be terminated if this certification is inaccurate.

2.7 Relationship Certifications.

- No relationship, whether by blood, marriage, business association, capital funding agreement or by any other such kinship or connection exists between the owner of any Proposer that is a sole proprietorship, the officers or directors of any Proposer that is a corporation, the partners of any Proposer that is a partnership, the joint venturers of any Proposer that is a joint venture, or the members or managers of any Proposer that is a limited liability company, on one hand, and an employee of any member institution of University, on the other hand, other than the relationships which have been previously disclosed to University in writing.
- Proposer has not been an employee of any member institution of University within the immediate twelve (12) months prior to the Submittal Deadline.

- No person who, in the past four (4) years served as an executive of a state agency was involved with or has any interest in Proposer's proposal or any contract resulting from this RFP (ref. [Section 669.003, Government Code](#)).
- All disclosures by Proposer in connection with this certification will be subject to administrative review and approval before University enters into any Agreement resulting from this RFP with Proposer.

2.8 Compliance with Equal Employment Opportunity Laws. Proposer is in compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.

2.9 Compliance with Safety Standards. All products and services offered by Proposer to University in response to this RFP meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law ([Public Law 91-596](#)) and the *Texas Hazard Communication Act*, [Chapter 502, Health and Safety Code](#), and all related regulations in effect or proposed as of the date of this RFP.

2.10 Exceptions to Certifications. Proposer will and has disclosed, as part of its proposal, any exceptions to the information stated in this Execution of Offer. All information will be subject to administrative review and approval prior to the time University makes an award or enters into any Agreement with Proposer.

2.11 Conflict of Interest Certification.

- Proposer is not a debarred vendor or the principal of a debarred vendor (i.e. owner, proprietor, sole or majority shareholder, director, president, managing partner, etc.) either at the state or federal level.
- Proposer's provision of services or other performance under any Agreement resulting from this RFP will not constitute an actual or potential conflict of interest.
- Proposer has disclosed any personnel who are related to any current or former employees of University.
- Proposer has not given, nor does Proposer intend to give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to an officer or employee of University in connection with this RFP.

2.12 Proposer should complete the following information:

If Proposer is a Corporation, then State of Incorporation: _____

If Proposer is a Corporation, then Proposer's Corporate Charter Number: _____

RFP No.: 720-1707 Retail Real Estate Broker Services

NOTICE: WITH FEW EXCEPTIONS, INDIVIDUALS ARE ENTITLED ON REQUEST TO BE INFORMED ABOUT THE INFORMATION THAT GOVERNMENTAL BODIES OF THE STATE OF TEXAS COLLECT ABOUT SUCH INDIVIDUALS. UNDER SECTIONS [552.021](#) AND [552.023](#), GOVERNMENT CODE, INDIVIDUALS ARE ENTITLED TO RECEIVE AND REVIEW SUCH INFORMATION. UNDER [SECTION 559.004, GOVERNMENT CODE](#), INDIVIDUALS ARE ENTITLED TO HAVE GOVERNMENTAL BODIES OF THE STATE OF TEXAS CORRECT INFORMATION ABOUT SUCH INDIVIDUALS THAT IS INCORRECT.

Submitted and Certified By:

(Proposer Institution's Name)

(Signature of Duly Authorized Representative)

(Printed Name / Title)

(Date Signed)

(Proposer's Street Address)

(City, State, Zip Code)

(Telephone Number)

(FAX Number)

(Email Address)

SECTION 3

PROPOSER'S GENERAL QUESTIONNAIRE

NOTICE: WITH FEW EXCEPTIONS, INDIVIDUALS ARE ENTITLED ON REQUEST TO BE INFORMED ABOUT THE INFORMATION THAT GOVERNMENTAL BODIES OF THE STATE OF TEXAS COLLECT ABOUT SUCH INDIVIDUALS. UNDER SECTIONS [552.021](#) AND [552.023](#), *GOVERNMENT CODE*, INDIVIDUALS ARE ENTITLED TO RECEIVE AND REVIEW SUCH INFORMATION. UNDER [SECTION 559.004](#), *GOVERNMENT CODE*, INDIVIDUALS ARE ENTITLED TO HAVE GOVERNMENTAL BODIES OF THE STATE OF TEXAS CORRECT INFORMATION ABOUT SUCH INDIVIDUALS THAT IS INCORRECT.

Proposals must include responses to the questions contained in this Proposer's General Questionnaire. Proposer should reference the item number and repeat the question in its response. In cases where a question does not apply or if unable to respond, Proposer should refer to the item number, repeat the question, and indicate N / A (Not Applicable) or N / R (No Response), as appropriate. Proposer will explain the reason when responding N / A or N / R.

3.1 Proposer Profile

3.1.1 Legal name of Proposer company:

Address of principal place of business:

Address of office that would be providing service under the Agreement:

Number of years in Business: _____

State of incorporation: _____

Number of Employees: _____

Annual Revenues Volume: _____

Name of Parent Corporation, if any _____

NOTE: If Proposer is a subsidiary, University prefers to enter into a contract or agreement with the Parent Corporation or to receive assurances of performance from the Parent Corporation.

3.1.2 State whether Proposer will provide a copy of its financial statements for the past two (2) years, if requested by University.

- 3.1.3 Proposer will provide a financial rating of the Proposer entity and any related documentation (such as a Dunn and Bradstreet analysis) that indicates the financial stability of Proposer.
- 3.1.4 Is Proposer currently for sale or involved in any transaction to expand or to become acquired by another business entity? If yes, Proposer will explain the expected impact, both in organizational and directional terms.
- 3.1.5 Proposer will provide any details of all past or pending litigation or claims filed against Proposer that would affect its performance under the Agreement with University (if any).
- 3.1.6 Is Proposer currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity? If yes, Proposer will specify the pertinent date(s), details, circumstances, and describe the current prospects for resolution.
- 3.1.7 Proposer will provide a customer reference list of no less than three (3) organizations with which Proposer currently has contracts and / or to which Proposer has previously provided services (within the past five (5) years) of a type and scope similar to those required by University's RFP. Proposer will include in its customer reference list the customer's company name, contact person, telephone number, project description, length of business relationship, and background of services provided by Proposer.
- 3.1.8 Does any relationship exist (whether by family kinship, business association, capital funding agreement, or any other such relationship) between Proposer and any employee of University? If yes, Proposer will explain.
- 3.1.9 Proposer will provide the name and Social Security Number for each person having at least 25% ownership interest in Proposer. This disclosure is mandatory pursuant to [Section 231.006, Family Code](#), and will be used for the purpose of determining whether an owner of Proposer with an ownership interest of at least 25% is more than 30 days delinquent in paying child support. Further disclosure of this information is governed by the *Texas Public Information Act* (ref. [Chapter 552, Government Code](#)), and other applicable law.

3.2 Approach to Project Services

- 3.2.1 Proposer will provide a statement of the Proposer's service approach and will describe any unique benefits to University from doing business with Proposer. Proposer will briefly describe its approach for each of the required services identified in **Section 5.3** Scope of Work of this RFP.
- 3.2.2 Proposer will provide an estimate of the earliest starting date for services following execution of the Agreement.
- 3.2.3 Proposer will submit a work plan with key dates and milestones. The work plan should include:
- 3.2.3.1 Identification of tasks to be performed;
 - 3.2.3.2 Time frames to perform the identified tasks;
 - 3.2.3.3 Project management methodology;
 - 3.2.3.4 Implementation strategy; and

3.2.3.5 The expected time frame in which the services would be implemented.

3.2.4 Proposer will describe the types of reports or other written documents Proposer will provide (if any) and the frequency of reporting, if more frequent than required in this RFP. Proposer will include samples of reports and documents if appropriate.

3.3 General Requirements

3.3.1 Proposer will provide summary resumes for its proposed key personnel who will be providing services under the Agreement with University, including their specific experiences with similar service projects, and number of years of employment with Proposer.

3.3.2 Proposer will describe any difficulties it anticipates in performing its duties under the Agreement with University and how Proposer plans to manage these difficulties. Proposer will describe the assistance it will require from University.

3.4 Service Support

Proposer will describe its service support philosophy, how it is implemented, and how Proposer measures its success in maintaining this philosophy.

3.5 Quality Assurance

Proposer will describe its quality assurance program, its quality requirements, and how they are measured.

3.6 Miscellaneous

3.6.1 Proposer will provide a list of any additional services or benefits not otherwise identified in this RFP that Proposer would propose to provide to University. Additional services or benefits must be directly related to the goods and services solicited under this RFP.

3.6.2 Proposer will provide details describing any unique or special services or benefits offered or advantages to be gained by University from doing business with Proposer. Additional services or benefits must be directly related to the goods and services solicited under this RFP.

3.6.3 Does Proposer have a contingency plan or disaster recovery plan in the event of a disaster? If so, then Proposer will provide a copy of the plan.

SECTION 4

ADDENDA CHECKLIST

Proposal of: _____
(Proposer Company Name)

To: The University of Texas System

Ref.: **Retail** Real Estate Broker Services

RFP No.: 720-1707

Ladies and Gentlemen:

The undersigned Proposer hereby acknowledges receipt of the following Addenda to the captioned RFP (initial if applicable).

Note: If there was only one (1) Addendum, initial just the first blank after No. 1, not all five (5) blanks below.

No. 1 _____ No. 2 _____ No. 3 _____ No. 4 _____ No. 5 _____

Respectfully submitted,

Proposer: _____

By: _____
(Authorized Signature for Proposer)

Name: _____

Title: _____

Date: _____

APPENDIX TWO

EXCLUSIVE LISTING AGREEMENT **(Leasing)**

1. **AGENCY RELATIONSHIP.** This EXCLUSIVE LISTING AGREEMENT ("**Agreement**") is entered into effective as of the ___ day of _____, 201__ ("**Effective Date**"), by and between the **Board of Regents of The University of Texas System** ("**Owner**") and _____ ("**Broker**"), in consideration of the services to be performed by Broker in listing for lease and procuring tenants for the various premises comprising the Property (as defined in Paragraph 2) and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged. Owner hereby lists the Property with Broker and grants to Broker the exclusive right to solicit and seek offers to lease the Property from one or more qualified, financially responsible third parties during the Term and, if applicable, the Renewal Term of this Agreement, on the covenants, conditions and stipulations contained in this Agreement.

2. **PROPERTY.** The real property listed hereunder consists of approximately ___ rentable square feet of retail space located at _____, as depicted in Exhibit A ("**Property**").

3. **RENTALS.** Owner will list the various premises comprising the Property for lease at rentals to be determined by Owner after consultation with Broker. The rentals are subject to change by Owner, and Broker will keep Owner informed of market transactions and changing market conditions that in Broker's reasonable opinion are relevant to the rental value of the Property. On the Effective Date, the ground floor commercial space will initially be listed at an initial rental rate of \$_____ per rentable square foot.

4. **TERM.** The term of this Agreement ("**Term**") shall commence on the Effective Date and shall terminate at 5:00 p.m., _____, Texas time, on the ___th day of _____, 201__, unless sooner terminated or extended in accordance with the terms and provisions of this Agreement.

A. Early Termination. Owner and Broker agree that either party may terminate this Agreement without cause by giving written notice of termination to the other party, and such termination shall be effective on the earlier to occur of (i) 30 days after the postmarked date of the written notice of termination, or (ii) 30 days after the date the notice of termination is delivered to the other party other than by mail.

B. Renewal. Owner may renew this Agreement upon the same terms and conditions as stated herein for _____ periods of ___ months (the "**Renewal Term**"). Owner shall provide Broker thirty (30) days advance written notice ("**Renewal Notice**") prior to the end of the Term of Owner's intent to renew this Agreement. If the Owner wishes to extend the term of the Agreement as provided herein, the parties shall execute and deliver an amendment reasonably acceptable to the parties to memorialize the extension agreement.

C. Pending Lease. If on the termination or expiration of this Agreement there are one or more pending leases ("**Pending Lease**") which has been signed by Owner and a third party for any whole or part of the Property, but the term of the lease (as defined in the Pending Lease) has not yet commenced, this Agreement shall continue in effect with respect to such Pending Lease until such time as the Broker Fee described in Paragraph 6 below shall be payable and is paid by Owner to Broker.

D. Return of Materials. Upon the expiration or sooner termination of this Agreement, within five (5) business days thereafter Broker shall deliver to Owner all files and documents in Broker's possession or control relating to the Property or to prospective tenants thereof that were obtained or used by Broker in connection with its performance of this Agreement, including, without limitation, all written data or information generated by or for Broker, and all drawings, plans, books, agreements, environmental or other reports in Broker's possession or control. Broker may retain copies of such files and documents and may use such files and documents only for the purpose of (i) maintaining such files and documents in Broker's deal file; (ii) compliance with applicable State laws; and (iii) defense of any litigation instituted against Broker with respect to this Agreement. All such data, information and other documents shall be held by Broker in strictest confidence, and Broker shall not disclose to any other person any such confidential or proprietary information

of Owner (regardless of whether heretofore or hereafter disclosed to Broker except in those specific and limited instances where (i) Owner expressly authorizes Broker, in writing, to disclose any of the foregoing to others, or (ii) Broker is required by law or order of a court of applicable jurisdiction to make such disclosure. Except as expressly provided herein to the contrary, neither this Agreement nor the relationships arising hereunder shall be used by Broker for the advantage or purposes of Broker in any manner whatsoever, whether for advertising, promotional or publicity purposes or otherwise, without the prior written consent of Owner, which consent may be given or withheld in Owner's sole discretion, with or without cause.

5. **AGREEMENTS OF PARTIES.**

A. Permits. Broker represents to Owner that Broker holds all permits and licenses necessary or required under applicable law for Broker's performance of its services hereunder.

B. Reasonable Efforts. Broker agrees to act diligently and use commercially reasonable efforts consistent with industry standards in Texas in attempting to lease the premises of the Property in accordance with the terms of this Agreement.

C. Marketing Efforts.

(1) Advertising of Property. Broker shall, at Broker's sole cost and expense, advertise the Property by all such means and methods as Broker deems appropriate and to place "For Lease" signs on the Property and to remove all other signs offering the Property for lease. Broker shall provide written information regarding the Property to other commercial brokers working in the area and to any other interested parties. Broker shall submit to Owner all offers on any portion of the Property received by Broker, even if Owner has previously accepted an offer on the same or similar portion of the Property (unless the accepted offer provides otherwise with respect to the premises of the Property subject to the offer).

(2) Commercial Listing Services. Owner authorizes Broker to list the Property with reputable commercial leasing listing services. Broker shall advertise the Property in any appropriate commercial listing service or commercial listing publication where such services or publications are available.

(3) Promotional Materials. All promotional materials, advertising, Broker's mailings or tenant mailings must be approved by Owner, in its sole and absolute discretion, prior to their use. Broker will pay for all marketing materials, promotional materials, listing services, standard site signage and mailings, including, without limitation, those items specified in **Exhibit D.**

(4) Marketing meetings. Upon Owner's request from time to time, Broker shall meet with Owner in order to plan and implement a marketing program for the Property and to keep Owner fully advised as to the status of leasing activities at the Property.

(5) Financial Information. Upon request by Owner, Broker shall exercise commercially reasonable efforts to obtain (i) financial and reference information from the prospective tenants, and (ii) a prepayment of rent and security deposit and other terms set forth in Owner's lease contract or as otherwise required by Owner.

D. Co-Operating Brokers. Owner agrees that other brokers ("**Cooperating Brokers**"), including brokers representing tenants, may cooperate with Broker in procuring tenants for the Property. Broker and Cooperating Brokers and their respective agents are authorized to enter the Property at reasonable times for the purpose of showing the Property to prospective tenants. Broker may enter into a commission sharing agreement with a Cooperating Broker so long as such agreement is not inconsistent with the terms of this Agreement. Owner agrees to refrain from negotiating with prospective tenants (except those excluded parties identified in **Exhibit C**) who may contact Owner directly and shall refer all prospective tenants to Broker and otherwise cooperate in Broker's efforts to lease the Property. Broker is authorized to share Broker's Fee (as defined in **Paragraph 6**, below) with Cooperating Brokers. In no event, however, shall Owner ever be liable for any fee or commission in excess of Broker's Fee.

Owner's sole liability under this Agreement shall be to Broker, and only to Broker, as provided in this Agreement. **Broker agrees to indemnify and hold Owner harmless from any damages, costs, attorney's fees, liabilities or expenses whatsoever arising from the cooperation between Broker and Cooperating Brokers or from the sharing of Broker's Fee among Broker and Cooperating Brokers. This indemnity shall survive the expiration or sooner termination of this Agreement.**

E. Exclusive Representation. Broker and Broker's associates shall represent Owner exclusively. However, Broker may encounter circumstances in which Broker may be an agent of both Owner and a potential tenant. In such circumstances, Broker shall provide to Owner, in writing, the details of the Broker's representation of a potential tenant. Owner may, in its sole discretion, consent to Broker's representation of Owner and a potential tenant to a transaction (in which case Broker shall be deemed an "**Intermediary**"). If Owner consents to Broker acting as an Intermediary, Owner shall authorize Broker to appoint Agent (as defined below) to communicate with and carry out the instructions of Owner (and such Agent shall provide opinions and advice solely to Owner) and to appoint another license holder associated with Broker to communicate with and carry out the instructions of the other party to such transaction (and such license holder may provide opinions and advice to such other party); and acknowledges that Owner will be the source of any expected compensation to Broker. If Broker acts as an Intermediary for Owner and a Prospect (as defined below in Section 6.D) in the lease of all or part of the Property, Broker and Agent shall:

- (a) not disclose to the Prospect that Owner will accept a price less than the asking price unless otherwise instructed in a separate writing by Owner;
- (b) not disclose to Owner that the Prospect will pay a price greater than the price submitted in a written offer to Owner unless otherwise instructed in a separate writing by the Prospect;
- (c) not disclose any confidential information, or any information a party specifically instructs Broker in writing not to disclose, unless otherwise instructed in a separate writing by the respective party or required to disclose such information by law; and
- (d) treat all parties to the transaction honestly and impartially so as not to favor one party or work to the disadvantage of any party.

Broker's designated agents for performing the services to Owner required of Broker under this Agreement are _____ ("**Agent**"). No change or substitution will be made to the Agent without the prior written consent of Owner.

F. Activity Reports. During the Term and, if applicable, the Renewal Term of this Agreement, Broker agrees to prepare and furnish to Owner a monthly report, delivered to Owner no later than the tenth day of a month, summarizing in reasonable detail Broker's activities hereunder and the results thereof for the previous month. The report shall be in form and content satisfactory to Owner and shall include such information regarding advertising, people contacted, market participant reactions to the Property, market conditions, expenses incurred, property showings and related matters as Owner may request.

G. Confidential Information. As used herein, "**Confidential Information**" means all data, brochures, reports, interpretations, forecasts, leases, agreements, contracts, records and any other financial information containing or otherwise reflecting information concerning the Property which is not generally available to the public and which the Owner will provide to Broker in the course of this engagement, together with analysis, compilations, studies or other documents, whether prepared by Broker or others, which contain or otherwise reflect such information. Broker agrees that all Confidential Information shall be held and treated by Broker, its agents and employees in confidence and shall not, except as hereinafter provided, without the prior consent of Owner, be disclosed by Broker or its agents or employees, in any manner whatsoever, in whole or in part, and all shall not be used by Broker or its agents or employees other than in connection with this engagement, except where Broker is required to make such disclosure as a matter of

law. Moreover, Broker further agrees to disclose Confidential Information only to its agents and employees who need to know the Confidential Information for purposes of this engagement and who shall be advised by Broker of this Agreement. Broker shall not knowingly, during the term of or after termination of this Agreement, disclose information obtained in confidence from Owner except as authorized by Owner or as required by law. Broker shall not disclose to Owner any information obtained in confidence regarding any other person Broker represents or may have represented except as required by law.

H. Compliance With Laws. Broker shall comply with any and all laws, statutes, regulations, ordinances, judicial decisions, codes, rules and other governmental requirements applicable to any activities which Broker performs in furtherance of this Agreement.

6. BROKER'S FEE AND EXPENSES.

A. Broker's Fee. Subject to the conditions set forth herein, Owner agrees to pay Broker, in the county where the Property is located, a professional service fee ("**Broker's Fee**") in accordance with **Exhibit B** attached hereto. Except as expressly provided to the contrary in this Agreement, Broker shall not be entitled to any fee, commission or other compensation for its services hereunder in addition to the Broker's Fee.

B. Earning of Fee. Broker's Fee shall be earned and payable under this Agreement if and only if during the Term or, if applicable, the Renewal Term, (i) a third party tenant satisfactory to Owner is procured by Broker, Owner, or any Cooperating Broker, (ii) such tenant and Owner enter into a written contract of lease, upon terms and conditions satisfactory to Owner in its sole discretion, covering all or part of the Property, and (iii) such lease is executed and rent payments commence thereunder. (Hereinafter, a person who leases any whole or part of the Property from Owner in accordance with all of the provisions of this Agreement shall be referred to as a "**Satisfactory Tenant**"). Without limiting the generality of the foregoing, if a lease of any whole or part of the Property fails to close for any reason whatsoever, Broker's Fee shall not have been earned and shall not be payable and Broker shall not be entitled to Broker's Fee or any other commission or compensation hereunder.

(1) Lease of Property. Subject to the other terms and provisions of this Agreement, the Broker's Fee for a lease of any whole or part of the Property is payable in the following manner:

(i) Fifty Percent (50%) of the Broker's Fee shall be paid within thirty (30) days following the later of (a) execution by Owner and a tenant of a lease that does not contain conditions to its effectiveness, (b) Owner's receipt of the security deposit and all prepaid rental required of the tenant under the lease (if any), and (c) Broker's delivery of an invoice for the Broker's Fee to Owner; and

(ii) Fifty Percent (50%) of the Broker's Fee shall be paid within thirty (30) days after the later to occur of the (a) commencement date under the lease, provided that the tenant has taken possession of the premises and the tenant is performing in accordance with the terms of the lease, or (b) date that Tenant begins payment of rent under the lease.

C. No Lien for Broker's Fee. Broker and Owner agree that this Agreement's reference to a "Satisfactory Tenant" is a generic reference only. Without limitation of the foregoing, the use of "Satisfactory Tenant" is not intended to constitute a party "contemplated" by this Agreement for purposes of Section 62.004(b)(2) of the Texas Property Code, as it may be amended from time to time. The terms and provisions of this Paragraph 6 do not constitute Owner's acknowledgment or agreement that the Property, which is property owned by a state agency, is subject to the Texas Property Code, Chapter 62, Broker's and Appraiser's Lien on Commercial Real Estate.

D. Protection Period. Subject to the conditions set forth herein, Owner shall also pay a Broker's Fee to Broker if, within ninety (90) days after the expiration or sooner termination of this Agreement ("**Protection Period**"), any whole or part of the Property leased to, or Owner enters into a contract that thereafter results in the lease of any whole or part of the Property under such contract with, a person or entity

with whom Broker has had substantive negotiations for the lease of any whole or part of the Property prior to the expiration of the Term or, if applicable, the Renewal Term. As a condition precedent to Broker's rights and Owner's obligations under this subparagraph, on or before the fifth business day after the expiration of the Term, or, if applicable, the Renewal Term, Broker must submit to Owner a written listing of the full and complete names, addresses, telephone numbers and primary contact persons of those entities and persons ("**Prospects**") with whom Broker has had substantive negotiations for the lease of any whole or part of the Property prior to the expiration of the Term or, if applicable, the Renewal Term, as evidenced by a letter of intent and other written documentation from both Owner and the entity listed supporting that substantive negotiations have occurred. If Broker fails to submit such listing of Prospects to Owner on or before the fifth business day after the expiration of the Term, or, if applicable, the Renewal Term, or if Owner determines in its reasonable discretion that evidence provided by Broker fails to substantiate that a Prospect meets the conditions described in this section, Broker shall not be entitled to any commission under this Agreement for closings of leases during the Protection Period. As an additional condition to Broker's right to a Broker's Fee under this subparagraph, Broker shall have had and, if requested by Owner, shall continue to have through the closing of the lease an active and substantive role in the negotiation and closing of such lease to a person or entity listed by Broker as hereinabove described, and Broker shall have been the procuring cause of such lease. The amount of any Broker's Fee to which Broker is entitled under this subparagraph shall be calculated in accordance with the terms of **Exhibit B**.

E. Loss of Broker's Fee. Notwithstanding any provisions of this Agreement to the contrary, Broker shall not be entitled to Broker's Fee or any other commission or compensation earned hereunder (a) in the event of a default by Broker under this Agreement, or (b) in the event of a sale, exchange, or other transfer at any time of all or any part of the Property to a venture, partnership or other entity in which Owner is a principal or beneficiary or has an ownership interest, or to any of their successors or assigns, or to any state agency or other governmental entity; or (c) in the event of a sale, exchange, or other transfer to any person set forth on **Exhibit C**, attached hereto and incorporated herein (for purposes of this Agreement, the term "**Excluded Party**" includes any person or entity listed on **Exhibit C**, and any person or entity affiliated with any party listed on **Exhibit C**).

7. LIMITATION OF LIABILITY; INDEMNITY.

A. Limitation of Broker Liability. Owner agrees that Broker and Cooperating Brokers shall not be responsible in any manner for personal injury to Owner resulting from acts of third-parties or loss or damage of real property due to vandalism, theft, or any other damage or loss whatsoever, save and except to the extent such loss or damage is caused by the negligence or intentional acts of Broker and/or the Cooperating Brokers.

B. Indemnity of Owner. *Notwithstanding the foregoing, Broker agrees to indemnify and hold harmless Owner from all losses, damages, costs, claims and liabilities (including without limitation court costs and attorney's fees relating thereto) arising out of or related to (i) any misrepresentation or failure by Broker or any agent or representative of Broker to disclose material information regarding the Property to a Prospective Tenant; (ii) any material fact known by Broker relating to any Prospective Tenant or proposed transaction that Broker fails to disclose to Owner; (iii) any breach of or default under this Agreement by Broker; and/or (iv) any act or omission by Broker inconsistent with or outside the scope of this Agreement and the limited authority conferred hereby. This indemnity shall survive the expiration or sooner termination of this Agreement*

C. Limitation of Owner Liability. Broker agrees to look solely to Owner's interest in the Property for recovery of any judgment against Owner relating to this Agreement, and Owner, its employees, officers, directors, attorneys, agents and representatives shall not be personally liable for anything related to this Agreement. The foregoing shall not be deemed Owner's consent to a suit by Broker under this Agreement.

8. FORM OF LEASE CONTRACT. Broker understands and will advise all Cooperating Brokers and prospects that the lease will be on Landlord's standard form, with such changes as Landlord may agree to in writing, and any such lease must provide (i) the tenant may not rely on any representation or warranty

of Owner, its agents or employees, except as expressly set forth in the lease, (ii) the Owner will not subordinate its fee interest in the leased premises to the lien of a leasehold mortgagee; and (iii) the tenant must certify contemporaneously with the tenant's execution of the lease that no member of The Board of Regents of The University of Texas System has a pecuniary interest, directly or indirectly, in the contemplated transaction. Broker shall deliver to Owner three executed originals of any lease

9. OWNER'S APPROVAL. Broker or any Cooperating Brokers will not execute any lease or any other documents on behalf of Owner. All prospective tenants and all terms and conditions of each lease proposal and each lease including, without limitation, all terms relating to rent, additional rent, concessions and the like, shall be subject to Owner's approval in Owner's sole and absolute discretion. Accordingly, a lease shall become effective only when (i) signed by an authorized officer of Owner and authorized individual or, if appropriate, officer of tenant and (ii) delivered by Owner to such tenant.

10. DEFAULT. Notwithstanding anything to the contrary contained in this Agreement, Owner may terminate this Agreement immediately and without any prior notice and without any reimbursement of Broker's costs if (i) Broker breaches its representations, warranties, responsibilities or covenants under this Agreement in any material respect and such breach remains uncured for more than ten (10) days following written notice of such breach from Owner to Broker; (ii) Broker is adjudged a bankrupt or Broker makes an assignment for the benefit of its creditors under any insolvency act, and in either such event, no Broker's Fee or any other type of reimbursement shall be owing or due to Broker under this Agreement; or (iii) any one or more of the Agents ceases to be employed by Broker or otherwise ceases to be directly and continuously involved in the marketing and attempted leasing of the Property, unless Owner, at its sole option and sole discretion, accepts in writing a replacement agent, or no replacement agent, associated with Broker.

11. OWNER'S REPRESENTATIONS. Owner represents that Owner has fee simple title to and peaceable possession of the Property and all improvements and fixtures thereon and the legal capacity to convey the Property. Owner is not now a party to and agrees not to enter into a listing agreement with another broker for the lease of the Property during the Term or, if applicable, the Renewal Term, of this Agreement.

12. BROKER'S REPRESENTATIONS. Broker represents and warrants to Owner that Broker (i) is a duly licensed real estate broker under the laws of Texas and shall maintain such licensure in full force and effect throughout the Term and, if applicable, the Renewal Term of this Agreement; (ii) Agent and all other real estate agents employed by Broker to assist with the performance of Broker's duties under this Agreement will be duly licensed real estate agents under the laws of Texas; and (iii) all activities by Broker and Broker's real estate agents hereunder will be conducted in strict compliance with all applicable statutes of the State of Texas and the United States (including, without limitation, all fair housing and non-discrimination statutes) and the rules and regulations of the Texas Real Estate Commission.

13. FAIR HOUSING. Broker agrees that the Property will be offered, shown and made available for lease to all persons without regard to race, color, religion, national origin, sex, handicap or familial status.

14. PROPERTY DEFECTS. Broker is not authorized to make any representations or warranties, directly or indirectly, that may be binding on Owner with respect to the Property (including, without limitation, the physical condition or permitted uses of the Property under applicable law). ***Broker shall indemnify and hold Owner harmless from any representations or warranties made by Broker to tenant(s) other than those expressly made by Owner in any written disclosure delivered by Owner to Broker. This indemnity shall survive the expiration or sooner termination of this Agreement.***

15. MISCELLANEOUS. This Agreement is binding upon the parties hereto, their heirs, administrators, executors, successors and assigns. This Agreement may not be assigned by either party without the written approval of the other party. This Agreement contains the entire agreement of the parties and cannot be changed except by their written agreement.

16. NOTICES. All notices, demands, requests, and other communications given with respect to the subject matter of this Agreement shall be in writing and shall be deemed to be delivered on receipt if delivered

by hand delivery, facsimile transmission, or by a recognized overnight courier service, or two days after deposit in a regularly maintained receptacle of the United States Mail, registered or certified, return receipt request, postage prepaid, addressed as follows:

If to Owner: The University of Texas System
Office of General Counsel - Real Estate
201 W. 7th Street
Austin, TX 78701
Attention: Executive Director of Real Estate
Tel. No.: (512) 499-4333
Fax: (512) 499-4388
Email: realestatenotices@utsystem.edu

If to Broker: _____

Attention: _____

Tel. No.: _____

Email: _____

17. ELECTRONIC MAIL TRANSMISSION. An electronic mail transmission of a duly executed counterpart of this Contract shall be sufficient to evidence the binding agreement of each party to the terms hereof. However, each party agrees to promptly return to the other an original, duly executed counterpart of this Contract following the delivery of an electronic mail transmission thereof.

18. SAVING CLAUSE. Should any clause in this Agreement be found invalid by a court of law, the remainder of this Agreement shall not be affected thereby, and all other provisions of this Agreement shall remain valid and enforceable to the fullest extent permitted by law.

19. DISPUTE RESOLUTION. To the extent that Chapter 2260, *Texas Government Code*, is applicable to this Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by Owner and Broker to attempt to resolve any claim for breach of contract made by Broker that cannot be resolved in the ordinary course of business. To initiate the process, Broker shall submit written notice, as required by subchapter B of Chapter 2260, to Owner in accordance with the notice provisions in this Agreement. The Executive Vice Chancellor for Business Affairs of Owner, or such other officer of Owner as may be designated from time to time by Owner by written notice thereof to Broker in accordance with the notice provisions in this Agreement, shall examine Broker's claim and any counterclaim and negotiate with Broker in an effort to resolve such claims. The parties hereto specifically agree that (i) neither the occurrence of an event giving rise to a breach of contract claim nor the pendency of a claim constitute grounds for the suspension of performance by Broker; (ii) neither the issuance of this Agreement by Owner nor any other conduct, action or inaction of any representative of Owner relating to this Agreement constitutes or is intended to constitute a waiver of Owner's or the state's sovereign immunity to suit; and (iii) Owner has not waived its right to seek redress in the courts.

20. HOLIDAYS. For purposes of this Agreement, should any date specified herein as a deadline fall on (i) a Saturday or Sunday, or (ii) any day defined herein as a "Holiday," such date shall automatically be extended to the next following calendar day that is not a Saturday, Sunday or Holiday. "Holiday" shall mean any day on which the UT System Administration, national banks, Texas state banks and/or the U.S. Postal service are closed for business.

- LIST OF EXHIBITS:**
- A - Legal Description of Property
 - B - Broker's Fee Schedule
 - C - Excluded Parties

D - Payment Responsibilities

[Signatures appear on the following page]

EXECUTED as of the dates set forth below, to be effective on the date first written above.

OWNER:

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

_____, 2016

By: _____
Kirk S. Tames
Executive Director of Real Estate
The University of Texas System

BROKER/FIRM:

_____, 2016

By: _____
Name: _____
Title: _____

EXHIBIT A TO LISTING AGREEMENT
PROPERTY DESCRIPTION

EXHIBIT B TO LISTING AGREEMENT
BROKER'S FEE SCHEDULE

LEASE FEE SCHEDULE

- A. **Rate.** The Broker's Fee for leasing all or part of the Property shall be as follows:
- (4) In the event that there is no Cooperating Broker, four percent of the cumulative annual minimum rent required to be paid by the tenant for the initial term of a new lease;
 - (5) In the event that there is a Cooperating Broker, ___ percent of the cumulative annual minimum rent required to be paid by the tenant for the initial term of a new lease. The Broker's Fee will be split by Broker with the co-broker as follows: two-thirds of the Broker's Fee actually received by Broker will be paid to the co-broker and one-third of the Broker's Fee will be retained by Broker; and
 - (6) In the event that tenant, renews its lease or extends the term of the lease or leases additional space pursuant to renewals or extensions provided in the Lease, then subject to **Paragraph C or D** below, an amount equal to 50% of the amount provided for in (1) or (2) above, as applicable.
- B. **Lease Termination.** The Broker's Fee with respect to a lease which contains a clause permitting the tenant to cancel during the lease term shall be paid only on the Rent accruing up to the possible cancellation date; provided, however, (i) if such a lease contains a cancellation fee payment due from tenant to Owner in order to effectuate the cancellation and such cancellation penalty includes a sum equal to the unamortized cost of all incentives, infrastructure or other improvements paid by the Owner plus that portion of the leasing Broker's Fee which accrues for the period subsequent to the date of cancellation of the lease, then Broker shall be paid a Broker's Fee for the entire applicable term of the lease in accordance with this **Exhibit B**; or (ii) if such a lease does not contain a cancellation fee payment as provided in item (i) above, and the tenant does not cancel the lease on or before the cancellation date specified in such lease, within thirty (30) days following the specified cancellation date, Broker shall be paid a Broker's Fee on the Rent for the period from the cancellation date through the end of the applicable term of the lease in accordance with this **Exhibit B**.
- C. **Option to Renew or Extend.** Broker shall be paid a Broker's Fee as shown in this **Exhibit B** for options to renew or extend the lease term only if (i) such options to extend or renew are expressly provided for in the lease agreement entered into between the Owner and the tenant during the Term or, if applicable, the Renewal Term, of this Agreement, (ii) the Broker is actively involved in the negotiations of such renewal or extension at the time such renewal or extension is exercised, (iii) the duration of the primary term, previous renewals, and the contemplated renewal is less than ten (10) years in the aggregate, and (iv) such options are actually exercised. Any Broker's Fee payable pursuant to this **Subparagraph C** shall be paid as follows: (i) Fifty Percent (50%) of the Broker's Fee related to a renewal or extension within thirty (30) days following (x) the execution of the lease renewal/extension document by all parties, and (y) payment of any additional security deposit and prepaid rent as provided for in the lease renewal/extension document, and (z) delivery of Broker's invoice by Broker to Owner; and (ii) Fifty Percent (50%) of the Broker's Fee related to a renewal or extension within thirty (30) days after the commencement date of the renewal/extension term, provided that the tenant continues to retain possession of the premises and the tenant is performing in accordance with the terms of the lease and/or lease renewal/extension document. Notwithstanding the above, the cumulative Broker's Fee paid under the primary term and all renewal options may not exceed the Broker's Fee defined in **Exhibit B**.
- D. **Expansions and Options to Expand.** Broker shall be paid a Broker's Fee as shown in this **Exhibit B** for options to expand or expansions exercised by the tenant under a lease executed during the Term, or, if applicable, the Renewal Term of this Agreement, but only if (i) tenant expands within the Property pursuant to an option to expand negotiated at the time the lease is entered into and expressly provided for in the lease agreement and (ii) Broker is involved in negotiating the terms of such expansion of the area of the leased

premises. Any Broker's Fee payable pursuant to this Section D shall be paid 30 days following the date the tenant takes possession of the expanded leased premises and begins paying rent for the expanded leased premises in accordance with the terms and conditions of a written agreement between such tenant and Landlord regarding such expansion.

EXHIBIT C TO LISTING AGREEMENT
EXCLUDED PARTIES

1. University Federal Credit Union ("**UFCU**")
2. List any additional Excluded Parties here

EXHIBIT D TO LISTING AGREEMENT
BROKER'S PAYMENT RESPONSIBILITIES

1. Flyers, mailings and other project promotional materials.
2. Costs of multiple-listing or similar services.
3. Marketing brochure and contents.
4. Standard sign(s) and its placement on the Property

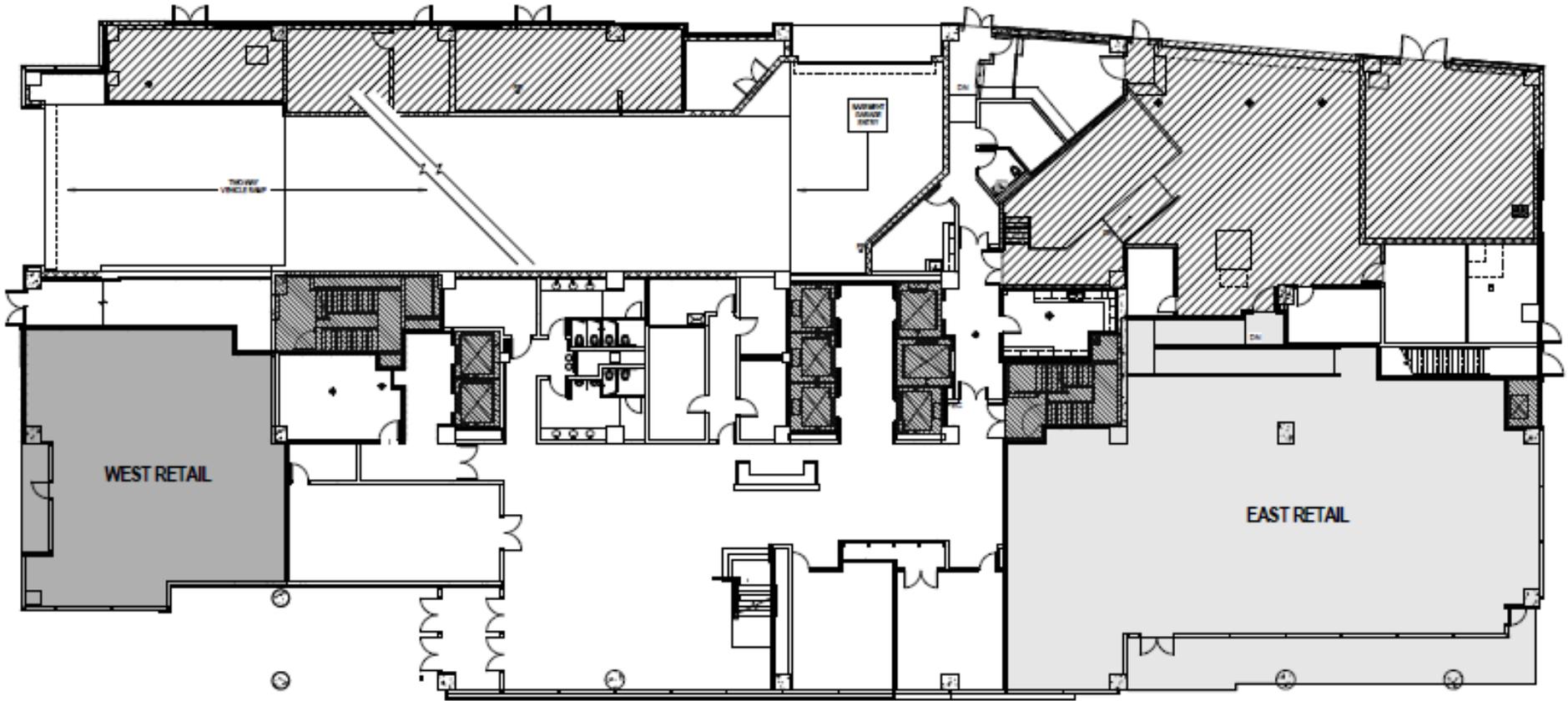
APPENDIX THREE
HUB SUBCONTRACTING PLAN
(INCLUDED AS SEPARATE ATTACHMENT)

APPENDIX FOUR
PROPERTY AERIAL MAP



No representation or warranties, expressed or implied, as to the accuracy of the information contained herein are made by any Party. References to acreage and boundaries are approximate. Recipients must verify the information and conduct their own investigation and analysis and bear all risk of any inaccuracies.

APPENDIX FIVE
PREMISES DESCRIPTION – EAST RETAIL

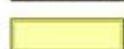
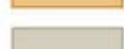
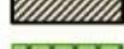


1 BOMA PLAN - LEVEL 1
SCALE: 3/32" = 1'-0"

- LEVEL 1
-  WEST RETAIL RENTABLE AREA = 2,242 RSF
 -  EAST RETAIL RENTABLE AREA = 5,551 RSF
 -  MIXED USE COMMON AREA
 -  MAJOR VERTICAL PENETRATIONS



LEGEND

-  Major Vertical Penetrations
-  Parking
-  Building Service Areas
-  Floor Service Areas
-  Base Building Circulation
-  Occupant Area
-  Amenity Areas
-  Occupant Storage
-  Retail Occupant Area
-  Mixed Use Common Area



1



View of retail Lease Space in Building, November 2016 (Colorado Street and 7th Street)

THE UNIVERSITY OF TEXAS SYSTEM ADMINISTRATION

OCTOBER 1, 2016

APPENDIX III

POLICY ON UTILIZATION

HISTORICALLY UNDERUTILIZED BUSINESSES

VENDOR/COMMODITIES



**The University of Texas System Office
of HUB Programs
Policy on Utilization of Historically Underutilized Businesses (HUBs)**

Contents

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○ HSP Good Faith Effort Method B (Attachment B)	Page 16-17
• HUB Subcontracting Opportunity Notification Form Minority and Trade Organizations contact information is available online at: https://www.comptroller.texas.gov/purchasing/vendor/hub/resources.php	Page 18
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The University of Texas System
Office of HUB Programs

POLICY ON UTILIZATION OF HISTORICALLY UNDERUTILIZED BUSINESSES (HUBS)

Introduction

In accordance with the Texas Government Code, Sections 2161.181-182 and Title 34, Section 20.13 of the Texas Administrative Code (TAC), the Board of Regents of The University of Texas System, acting through the Office of HUB Development shall make a good faith effort to utilize Historically Underutilized Businesses (HUBs) in contracts for construction services, including professional and consulting services; and commodities contracts. The HUB Rules promulgated by the Texas Comptroller of Public Accounts (the "Texas Comptroller"), set forth in 34 TAC Sections 20.10-20.28, encourage the use of HUBs by implementing these policies through race, ethnic and gender-neutral means.

The purpose of the HUB Program is to promote full and equal business opportunities for all business in State contracting in accordance with the following goals as specified in the State of Texas Disparity Study:

- 11.2% for heavy construction other than building contracts;
- 21.1% for all building construction, including general contractors and operative builder's contracts;
- 32.9% for all special trade construction contracts;
- 23.7% for professional services contracts;
- 26% for all other services contracts, and
- 21.1% for commodities contracts.

The University of Texas System shall make a good faith effort to meet or exceed the above stated goals to assist HUBs in receiving a portion of the total contract value of all contracts that UT System expects to award in a fiscal year. The University of Texas System may achieve the annual program goals by contracting directly with HUBs or indirectly through subcontracting opportunities in accordance with the Texas Government Code, chapter 2161, Subchapter F.

NOTE: The goals above are the State of Texas HUB goals. For purposes of this procurement, The University of Texas System goals listed in the Special Instructions on page 11 will apply.

SUMMARY OF REQUIREMENTS
Historically Underutilized Business (HUBs) Subcontracting Plan (HSP)

It is the policy of The University of Texas System and each of its component institutions, to promote and encourage contracting and subcontracting opportunities for Historically Underutilized Businesses (HUBs) in all contracts. Accordingly, UT System has adopted “**EXHIBIT H, Policy on Utilization of Historically Underutilized Businesses**”. The policy applies to all contracts with an expected value of \$100,000 or more. The Board of Regents of The University of Texas System is the contracting authority.

1. In all contracts for professional services, contracting services, and/or commodities with an expected value of \$100,000 or more, The University of Texas System, “UT System” or the “University” will indicate in the purchase solicitation (e.g. RFQ, RFP, or CSP) whether or not subcontracting opportunities are probable in connection with the contract. A HUB Subcontracting Plan is a required element of the architect, contractor or vendor Response to the purchase solicitation. The HUB Subcontracting Plan shall be developed and administered in accordance with the Policy. **Failure to submit a required HUB Subcontracting Plan (HSP) will result in rejection of the Response.**
2. If subcontracting opportunities are probable UT System will declare such probability in its invitations for bids, requests for proposals, or other purchase solicitation documents, and shall require submission of the appropriate HUB Subcontracting Plan with the Response.
 - a. When subcontracting opportunities are probable, and the Respondent proposes to subcontract any part of the work, the Respondent shall submit a **HUB Subcontracting Plan as prescribed by the Texas Comptroller** identifying subcontractors **[34 TAC §20.14 (d) (1)(A)(B)(C)(D) (2) (3)(A)(B)(C)(D)(E)(F) (4)(A)(B)]**.
 - b. When subcontracting opportunities are probable, but the Respondent can perform such opportunities with its employees and resources, the Respondent’s HUB Subcontracting Plan shall include **Section 3 –Self Performance [34 TAC §20.14 (d) (5) (A) (B) (C) (D)]**.
3. If subcontracting opportunities are not probable UT System will declare such probability in its invitations or bids, requests for proposals, or other purchase solicitation documents and shall require submission of the appropriate HUB Subcontracting Plan with the Response.
 - a. When subcontracting opportunities are not probable, and the Respondent proposes to perform all the work with its employees and resources, the Respondent shall submit a HUB Subcontracting Plan that includes **Section 3 – Self Performance Justification**.
 - b. When subcontracting opportunities are not probable, but the Respondent proposes to subcontract any part of the work, the Respondent shall submit a **HUB Subcontracting Plan as prescribed by the Texas Comptroller** identifying subcontractors.
4. Respondents shall follow, but are not limited to, procedures listed in the Policy when developing a HUB Subcontracting Plan.
5. **Competitive Sealed Proposals (CSP):** Respondents shall submit a HUB Subcontracting Plan (packaged separately) twenty-four (24) hours following the Response submission date and time or as prescribed by the project manager. Submit one (1) original and one (1) PDF copy on CD, DVD, or flash drive of the HUB Subcontracting Plan (HSP).
6. In making a determination whether a good faith effort has been made in the development of the required HUB Subcontracting Plan, UT System shall follow the procedures listed in the Policy. If accepted by the University, the HUB Subcontracting Plan shall become a provision of the Respondent’s contract with UT System.

Revisions necessary to clarify and enhance information submitted in the original HUB subcontracting plan may be made in an effort to determine good faith effort. Any revisions after the submission of the HSP shall be approved by the HUB Coordinator.

7. **Design Build (DB) and Construction Manager @ Risk (CM@R) responses:** Respondents to a “design build” or “construction manager-at-risk” purchase solicitation shall include the Letter of HUB Commitment in their Response attesting that the Respondent has read and understands the Policy on Historically Underutilized Businesses (HUBs), and a HUB Subcontracting Plan for all preconstruction and construction services including a HUB Subcontracting Plan as prescribed by the Texas Comptroller specific to construction services identifying first, second and third tier subcontractors. Respondents proposing to perform Part 1 pre construction services with their own resources and employees shall submit, as part of their HSP, the Self Performance Justification. Submit one (1) original and one (1) PDF copy on CD, DVD, or flash drive of the HUB Subcontracting Plan (HSP).
8. **DB and CM@R HUB Contract Requirements:** Contractors engaged under design-build and construction manager-at-risk contracts shall submit a HUB Subcontracting Plan for all preconstruction and construction Phase Services, and, must further comply with the requirements of this Policy by developing and submitting a HUB Subcontracting Plan for each bid package issued in buying out the guaranteed maximum or lump sum price of the project. The HSP shall identify first, second and third tier subcontractors.
9. The University of Texas System shall reject any Response that does not include a fully completed HSP as required. **An incomplete HUB Subcontracting Plan is considered a material failure to comply with the solicitation for proposals.**
10. **Changes to the HUB Subcontracting Plan:** Once a Respondent’s HSP is accepted by UT System and becomes a provision of the contract between Respondent and UT System, the Respondent can only change that HSP if (a) the Respondent complies with 34 TAC Section 20.14; (b) the Respondent provides its proposed changes to UT System for review; (c) UT System (including UT System’s HUB Coordinator) approves Respondent’s proposed changes to its HSP; and (d) UT System and the Respondent amend their contract (in writing signed by authorized officials of both parties) in order to replace the contract’s existing HSP with a revised HSP containing the changes approved by UT System.
11. **Expansion of Work:** If, after entering into a contract with a Respondent as a result of a purchase solicitation subject to the Policy, UT System wishes to expand the scope of work that the Respondent will perform under that contract through a change order or any other contract amendment (the “additional work”), UT System will determine if the additional work contains probable subcontracting opportunities not identified in the initial purchase solicitation for that contract. If UT System determines that probable subcontracting opportunities exist for the additional work, then the Respondent must submit to UT System an amended HUB Subcontracting Plan covering those opportunities that complies with the provisions of 34 TAC Section 20.14. Such an amended HSP must be approved by UT System and the Respondent (including UT System’s HUB Coordinator) before (a) the contract may be amended by UT System and the Respondent to include the additional work and the amended HSP and (b) the Respondent performs the additional work. If a Respondent subcontracts any of the additional subcontracting opportunities identified by UT System for any additional work (i) without complying with 34 TAC Section 20.14 or (ii) before UT System and that Respondent amend their contract to include a revised HSP that authorizes such subcontracting, then the Respondent will be deemed to be in breach of its contract with UT System. As a result of such breach, UT System will be entitled to terminate its contract with the Respondent, and the Respondent will be subject to any remedial actions provided by Texas law, including those set forth in Chapter 2161, Texas Government Code, and 34 TAC

Section 20.14. The University may report a Respondent’s nonperformance under a contract between that Respondent and UT System to the Texas Comptroller in accordance with 34 TAC Sections 20.10 through 20.18.

12. A Response may state that the Respondent intends to perform all the subcontracting opportunities with its own employees and resources in accordance with the Policy. However, if such a Respondent enters into a contract with UT System as a result of such a Response but later desires to subcontract any part of the work set forth in that contract, before the Respondent subcontracts such work it must first change its HUB Subcontracting Plan in accordance with the provisions of Section 10 above.
13. The University of Texas System shall require a professional services firm, contractor or vendor to whom a contract has been awarded to report the identity and the amount paid to its subcontractors on a monthly basis using a **HUB Subcontracting Plan (HSP) Prime Contractor Progress Assessment Report (PAR)** as a condition for payment.
14. If the University of Texas System determines that the successful Respondent failed to implement an approved HUB Subcontracting Plan in good faith, UT System, in addition to any other remedies, may report nonperformance to the Texas Comptroller in accordance with 34 TAC Section 20.14, (g) (1) related remedies of nonperformance to professional services firms, contractor and vendor implementation of the HSP.
15. In the event of any conflict between this “Summary of Requirements” and the remainder of the HUB Policy, the remainder of the HUB Policy will control.
16. These requirements, including the attachments referred to above, may be downloaded over the internet from: <http://utsystem.edu/offices/historically-underutilized-business/hub-forms>. For additional information contact: The University of Texas System
Office of HUB Programs
201 West Sixth Street, Room B.140E
Austin, TX 78701
(512) 499-4530

**Other Services/Vendor/Commodities HSP
Summary of Attachments Required from Respondents**

	Letter of Transmittal Page 8	Letter of HUB Commitment Page 9	HUB Subcontracting Plan (HSP) Pages 11-18	Progress Assessment Report (PAR) Page 19
1. UT SYSTEM DETERMINES THAT SUBCONTRACTING OPPORTUNITIES ARE PROBABLE.				
1. A. Respondent Proposes Subcontractors: Attachments required from the Respondent for the HUB Subcontracting Plan if the solicitation states that <u>subcontracting opportunities are probable</u> .	X		X	
1. B. Respondent Proposes Self-Performance: Attachments required from the Respondent for the HUB Subcontracting Plan if the solicitation states that <u>subcontracting opportunities are probable</u> , but the Respondent can perform such opportunities with its employees and resources.	X		X	
2. UT SYSTEM DETERMINES THAT SUBCONTRACTING OPPORTUNITIES ARE NOT PROBABLE.				
2. A. Respondent Proposes Self-Performance: Attachments required from the Respondent for the HUB Subcontracting Plan if the solicitation states that <u>subcontracting opportunities are not probable</u> , but the Respondent can perform such opportunities with its employees and resources.	X		X	
2. B. Respondent Proposes Subcontractors: Attachments required from the Respondent for the HUB Subcontracting Plan if the solicitation states that <u>subcontracting opportunities are not probable</u> , but the Respondent proposes to subcontract any part of the work.	X		X	
3. INDEFINITE DURATION/INDEFINITE QUANTITY CONTRACTS: Submit with initial qualifications. Attachments required from the Respondent prior to contract execution for each contract associated with a solicitation for miscellaneous services.		X	X	
4. CHANGES IN THE HUB SUBCONTRACTING PLAN AFTER AWARD: Attachments required from the Respondent to whom a contract has been awarded if it desires to make changes to the approved HUB Subcontracting Plan.			X	
5. REPORTING : Progress Assessment Report (PAR) required with all payment requests. The submittal of this attachment is a condition of payment.				X

(RESPONDENT’S BUSINESS LETTERHEAD)

Date

Regional HUB Coordinator
Office of HUB Programs
The University of Texas System
201 West Sixth St., Room B.140E
Austin, Texas 78701

RE: Historically Underutilized Business Plan for
(Project Title): _____
Project Number _____

Dear ,

In accordance with the requirements outlined in the specification section “HUB Participation Program,” I am pleased to forward this HUB Subcontracting Plan as an integral part of our response in connection with your invitation for Request for Proposals referencing the above project.

I have read and understand The University of Texas System Policy on Utilization of Historically Underutilized Businesses (HUBs). I also understand the State of Texas Annual Procurement Goal according to 34 Texas Administrative Code Section 20.13, and the goal as stated in the Agency Special Instructions section of the HUB Subcontracting Plan, page 11.

26% for all other services contracts

Subcontractors	No. of Subcontractors	Total Subcontract \$ Value	Total Estimated HUB %	% Minority Owned	% Woman Owned	% Service Disabled Veteran
HUB						
NON-HUB						
TOTAL						

I understand the above HUB percentages must represent Texas Comptroller HUB certification standards. For each of the listed HUB firms, I have attached a Texas Comptroller HUB Certification document.

Should we discover additional subcontractors claiming Historically Underutilized Business status during the course of this contract we will notify you of the same. In addition, if for some reason a HUB is unable to fulfill its contract with us, we will notify you immediately in order to take the appropriate steps to amend this contractual obligation.

Sincerely,

(Project Executive)

cc: Contract Administrator

RESPONDENT'S BUSINESS LETTERHEAD

Date

Regional HUB Coordinator
Office of HUB Programs
The University of Texas System
201 West Sixth St., Room B.140E
Austin, Texas 78701

RE: Historically Underutilized Business Plan for (Project Title _____
Project Number: _____

Dear :

In accordance with the requirements outlined in the specification section "HUB Participation Program", I am pleased to forward this HUB Subcontracting Plan as an integral part of our proposal in connection with your invitation for request for proposals, referencing Project Number _____.

I have read and understand The University of Texas System Policy on Utilization of Historically Underutilized Businesses (HUBs).

Good Faith Effort will be documented by a two-part HUB Subcontracting Plan (HSP) process. Part one (1) of the HSP submission will reflect self-performance with the appropriate sections completed per the instructions in Option One of the HSP Quick Checklist located on page 10 of The University of Texas Exhibit H Policy on Utilization of Historically Underutilized Businesses (HUBs).

As the scope of work/project is defined under this ID/IQ contract, part two (2) of the process will require a revised HUB Subcontracting Plan (HSP) and the Good Faith Effort will be documented per instructions in Attachment B (page 16-17) and Option Three of the HSP Quick Check List. The revised HUB Subcontracting Plan will be submitted to the HUB Coordinator prior to execution of each contract process. Documentation of subcontracted work will be provided with each pay request.

Sincerely,

Project Executive

cc: Project Manager



HUB Subcontracting Plan (HSP) QUICK CHECKLIST

While this HSP Quick Checklist is being provided to merely assist you in readily identifying the sections of the HSP form that you will need to complete, it is very important that you adhere to the instructions in the HSP form and instructions provided by the contracting agency.

- **If you will be awarding all of the subcontracting work you have to offer under the contract to only Texas certified HUB vendors, complete:**
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. - Yes, I will be subcontracting portions of the contract.
 - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors.
 - Section 2 c. - Yes
 - Section 4 - Affirmation
 - GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.
- **If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract* in place for more than five (5) years meets or exceeds the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:**
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. - Yes, I will be subcontracting portions of the contract.
 - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
 - Section 2 c. - No
 - Section 2 d. - Yes
 - Section 4 - Affirmation
 - GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.
- **If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors or only to Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract* in place for more than five (5) years does not meet or exceed the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:**
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. - Yes, I will be subcontracting portions of the contract.
 - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
 - Section 2 c. - No
 - Section 2 d. - No
 - Section 4 - Affirmation
 - GFE Method B (Attachment B) - Complete an Attachment B for each of the subcontracting opportunities you listed in Section 2 b.
- **If you will not be subcontracting any portion of the contract and will be fulfilling the entire contract with your own resources (i.e., employees, supplies, materials and/or equipment), complete:**
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. - No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources.
 - Section 3 - Self Performing Justification
 - Section 4 - Affirmation

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service, to include under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.



HUB Subcontracting Plan (HSP)

In accordance with Texas Gov't Code §2161.252, the contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, all respondents, including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit this State of Texas HUB Subcontracting Plan (HSP) with their response to the bid requisition (solicitation).

NOTE: Responses that do not include a completed HSP shall be rejected pursuant to Texas Gov't Code §2161.252(b).

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the 2009 State of Texas Disparity Study. The statewide HUB goals defined in 34 Texas Administrative Code (TAC) §20.13 are:

- **11.2 percent for heavy construction other than building contracts,**
- **21.1 percent for all building construction, including general contractors and operative builders' contracts,**
- **32.9 percent for all special trade construction contracts,**
- **23.7 percent for professional services contracts,**
- **26.0 percent for all other services contracts, and**
- **21.1 percent for commodities contracts.**

- - Agency Special Instructions/Additional Requirements - -

*In accordance with 34 TAC §20.14(d)(1)(D)(iii), a respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of the respondent's subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a respondent uses this method to demonstrate good faith effort, the respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only the aggregate percentage of the contracts expected to be subcontracted to HUBs with which the respondent **does not** have a **continuous contract*** in place for **more than five (5) years** shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.*

In accordance with 34 TAC §20.13(d)(1)(D)(iii), the goals below are the applicable goals for the University of Texas Administration only.

Other Services Goal – 26%

- Responses for Special Trades construction shall submit a HUB Subcontracting Plan (HSP) that meet the Good Faith Effort (GFE) prescribed in Method B, Attachment B. See instructions for Option Three on the HSP Quick Check List. No other Good Faith Effort method will be accepted.
- Responses for Miscellaneous Services Agreements for indefinite duration/indefinite quantity is a two (2) part process:
 1. Submit a Letter of HUB Commitment (page 9) and a GFE described in Option Four.
 2. Submit a revised HSP prior to the execution of each contract process as described in Option Three of the Quick Check List.
- Respondents shall submit a completed HSP to be considered responsive. Failure to submit a completed HSP shall result in the bid, proposal or other expression of interest to be considered non-responsive.
- Respondents who intend to self-perform all of their work shall submit an HSP for Self Performance HSP as described in Option Four.
- Prime Contractor Progress Assessment Report (PAR) shall be submitted with each request for payments as a condition of payment.
- Acceptable documentation of the GFE include fax, email or certified letter.

SECTION 1: RESPONDENT AND REQUISITION INFORMATION

a. Respondent (Company) Name: _____ State of Texas VID #: _____
 Point of Contact: _____ Phone #: _____
 E-mail Address: _____ Fax #: _____

b. Is your company a State of Texas certified HUB? - Yes - No

c. Requisition #: _____ Bid Open Date: _____ (mm/dd/yyyy)

Enter your company's name here: _____ Requisition #: _____

SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS

After dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, **including contracted staffing, goods and services will be subcontracted**. Note: In accordance with 34 TAC §20.11, a "Subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:

- **Yes**, I will be subcontracting portions of the contract. (If **Yes**, complete Item b of this SECTION and continue to Item c of this SECTION.)
- **No**, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources, including employees, goods and services. (If **No**, continue to SECTION 3 and SECTION 4.)

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you do not have a continuous contract* in place for more than five (5) years .	Percentage of the contract expected to be subcontracted to HUBs with which you have a continuous contract* in place for more than five (5) years .	Percentage of the contract expected to be subcontracted to Non-HUBs.
1		%	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
13		%	%	%
14		%	%	%
15		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

(Note: If you have more than fifteen subcontracting opportunities, a continuation sheet is available online at <https://www.comptroller.texas.gov/purchasing/vendor/hub/forms.php>.)

c. Check the appropriate box (Yes or No) that indicates whether you will be using **only** Texas certified HUBs to perform **all** of the subcontracting opportunities you listed in SECTION 2, Item b.

- **Yes** (If **Yes**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for **each** of the subcontracting opportunities you listed.)
- **No** (If **No**, continue to Item d, of this SECTION.)

d. Check the appropriate box (Yes or No) that indicates whether the aggregate expected percentage of the contract you will subcontract **with Texas certified HUBs** with which you **do not** have a **continuous contract*** in place with for **more than five (5) years**, **meets or exceeds** the HUB goal the contracting agency identified on page 1 in the "**Agency Special Instructions/Additional Requirements**."

- **Yes** (If **Yes**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for **each** of the subcontracting opportunities you listed.)
- **No** (If **No**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method B (Attachment B)" for **each** of the subcontracting opportunities you listed.)

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: _____ Requisition #: _____

SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS (CONTINUATION SHEET)

This page can be used as a continuation sheet to the HSP Form's page 2, Section 2, Item b. Continue listing the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you do not have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to non-HUBs.
16		%	%	%
17		%	%	%
18		%	%	%
19		%	%	%
20		%	%	%
21		%	%	%
22		%	%	%
23		%	%	%
24		%	%	%
25		%	%	%
26		%	%	%
27		%	%	%
28		%	%	%
29		%	%	%
30		%	%	%
31		%	%	%
32		%	%	%
33		%	%	%
34		%	%	%
35		%	%	%
36		%	%	%
37		%	%	%
38		%	%	%
39		%	%	%
40		%	%	%
41		%	%	%
42		%	%	%
43		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

Enter your company's name here: _____ Requisition #: _____

SECTION 3: SELF PERFORMING JUSTIFICATION (If you responded "No" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION 4.) If you responded "No" to SECTION 2, Item a, in the space provided below **explain how** your company will perform the entire contract with its own employees, supplies, materials and/or equipment.

SECTION 4: AFFIRMATION

As evidenced by my signature below, I affirm that I am an authorized representative of the respondent listed in SECTION 1, and that the information and supporting documentation submitted with the HSP is true and correct. Respondent understands and agrees that, if awarded any portion of the requisition:

- The respondent will provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor for the awarded contract. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.
- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report - PAR) to the contracting agency, verifying its compliance with the HSP, including the use of and expenditures made to its subcontractors (HUBs and Non-HUBs). (The PAR is available at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/ProgressAssessmentReportForm.xls>).
- The respondent must seek approval from the contracting agency prior to making any modifications to its HSP, including the hiring of additional or different subcontractors and the termination of a subcontractor the respondent identified in its HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to any and all enforcement remedies available under the contract or otherwise available by law, up to and including debarment from all state contracting.
- The respondent must, upon request, allow the contracting agency to perform on-site reviews of the company's headquarters and/or work-site where services are being performed and must provide documentation regarding staffing and other resources.

Signature	Printed Name	Title	Date (mm/dd/yyyy)
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Reminder:

- If you responded "Yes" to SECTION 2, Items c or d, you must complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.
- If you responded "No" SECTION 2, Items c and d, you must complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.

HSP Good Faith Effort - Method B (Attachment B)

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Enter your company's name here: _____	Requisition #: _____
---------------------------------------	----------------------

IMPORTANT: If you responded "**No**" to **SECTION 2, Items c and d** of the completed HSP form, you must submit a completed "HSP Good Faith Effort - Method B (Attachment B)" for **each** of the subcontracting opportunities you listed in **SECTION 2, Item b** of the completed HSP form. You may photo-copy this page or download the form at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-gfe-achm-b.pdf>.

SECTION B-1: SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

Item Number: _____ Description: _____

SECTION B-2: MENTOR PROTEGE PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor Protege Program, submitting its Protege (Protege must be a State of Texas certified HUB) as a subcontractor to perform the subcontracting opportunity listed in **SECTION B-1**, constitutes a good faith effort to subcontract with a Texas certified HUB towards that specific portion of work.

Check the appropriate box (Yes or No) that indicates whether you will be subcontracting the portion of work you listed in SECTION B-1 to your Protege.

- Yes (If *Yes*, continue to SECTION B-4.)
- No / Not Applicable (If *No* or *Not Applicable*, continue to SECTION B-3 and SECTION B-4.)

SECTION B-3: NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

When completing this section you **MUST** comply with items **a, b, c and d**, thereby demonstrating your Good Faith Effort of having notified Texas certified HUBs and trade organizations or development centers about the subcontracting opportunity you listed in SECTION B-1. Your notice should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. When sending notice of your subcontracting opportunity, you are encouraged to use the attached HUB Subcontracting Opportunity Notice form, which is also available online at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/HUBSubcontractingOpportunityNotificationForm.pdf>.

Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs and trade organizations or development centers. Also, be mindful that a working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.

- a.** Provide written notification of the subcontracting opportunity you listed in SECTION B-1, to three (3) or more Texas certified HUBs. Unless the contracting agency specified a different time period, you must allow the HUBs at least seven (7) working days to respond to the notice prior to you submitting your bid response to the contracting agency. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmlbsearch/index.jsp>. HUB status code "**A**" signifies that the company is a Texas certified HUB.
- b.** List the **three (3) Texas certified HUBs** you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the company's Texas Vendor Identification (VID) Number, the date you sent notice to that company, and indicate whether it was responsive or non-responsive to your subcontracting opportunity notice.

Company Name	Texas VID <small>(Do not enter Social Security Numbers.)</small>	Date Notice Sent <small>(mm/dd/yyyy)</small>	Did the HUB Respond?
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No

- c.** Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to **two (2)** or more trade organizations or development centers in Texas to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. Unless the contracting agency specified a different time period, you must provide your subcontracting opportunity notice to trade organizations or development centers at least seven (7) working days prior to submitting your bid response to the contracting agency. A list of trade organizations and development centers that have expressed an interest in receiving notices of subcontracting opportunities is available on the Statewide HUB Program's webpage at <https://www.comptroller.texas.gov/purchasing/vendor/hub/resources.php>.

- d.** List **two (2) trade organizations or development centers** you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

Trade Organizations or Development Centers	Date Notice Sent <small>(mm/dd/yyyy)</small>	Was the Notice Accepted?
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No

HSP Good Faith Effort - Method B (Attachment B) Cont.

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Enter your company's name here: _____ Requisition #: _____

SECTION B-4: SUBCONTRACTOR SELECTION

Enter the item number and description of the subcontracting opportunity you listed in **SECTION 2, Item b**, of the completed HSP form for which you are completing the attachment.

- a. Enter the item number and description of the subcontracting opportunity for which you are completing this Attachment B continuation page.

Item Number: _____ Description: _____

- b. List the subcontractor(s) you selected to perform the subcontracting opportunity you listed in **SECTION B-1**. Also identify whether they are a Texas certified HUB and their Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbllsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

Company Name	Texas certified HUB	Texas VID or federal EIN <small>Do not enter Social Security Numbers. If you do not know their VID I EIN, leave their VID I EIN field blank.</small>	Approximate Dollar Amount	Expected Percentage of Contract
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%

- c. If any of the subcontractors you have selected to perform the subcontracting opportunity you listed in **SECTION B-1** is not a Texas certified HUB, provide written justification for your selection process (attach additional page if necessary):

REMINDER: As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity it (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.

