



REQUEST FOR PROPOSAL

RFP No. 720-1910 - Land Real Estate Broker Services

For the sale of approximately 305 Acres of Land bisected by Buffalo Speedway and Willowbend Boulevard, Houston, Texas

Proposal Submittal Deadline: November 30, 2018 at 2:30 PM Central Time

The University of Texas System
Real Estate Office

Prepared By:
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November 12, 2018

REQUEST FOR PROPOSAL

TABLE OF CONTENTS

SECTION 1: <u>INTRODUCTION</u>	3
SECTION 2: <u>NOTICE TO PROPOSER</u>	7
SECTION 3: <u>SUBMISSION OF PROPOSAL</u>	10
SECTION 4: <u>FORM OF LISTING AGREEMENT</u>	13
SECTION 5: <u>SCOPE AND REQUIREMENTS</u>	14
SECTION 6: <u>MAPS</u>	16

Attachments:

<u>APPENDIX ONE: PROPOSAL REQUIREMENTS</u>	20
SECTION 1: PROPOSER'S QUESTIONNAIRE	
SECTION 2: ADDENDA CHECKLIST	
SECTION 3: PRICING AND DELIVERY SCHEDULE	
<u>APPENDIX TWO: EXECUTION OF OFFER</u>	27
<u>APPENDIX THREE: FORM OF LISTING AGREEMENT</u>	32

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. The University of Texas System Administration functions as the headquarter component serving the academic and health institutions of The University of Texas System. It includes managerial, oversight, business, legal, accounting and other administrative functions. UT System Administration is directing this RFP process.

1.2 Background

In November of 2015, the Board of Regents of The University of Texas System authorized the purchase of approximately 305 acres in southwest Houston for future mission use. The Board of Regents of The University of Texas System (“**UT System**” or “**Owner**”) has acquired most of this property. The property is located north of Holmes Road, and is bisected by Buffalo Speedway and Willowbend Boulevard in Houston, Harris County, Texas (“**Land**”).

UT System commissioned a blue-ribbon task force, which envisioned a data research campus for the property. However, external forces led to the cancellation of the project. The Board of Regents has not authorized mission use or the implementation of any program on the Land. UT System now plans to sell or ground lease the Land held by Owner, consisting of approximately 305 acres.

1.3 Objectives of Request for Proposal

In this Request for Proposal (“**RFP**”), The University of Texas System Real Estate Office is seeking a commercial real estate brokerage firm with a national reach and with a specialization in the sale of land for the purpose of assisting University in selling or ground leasing the Land to third parties.

The University of Texas System is soliciting proposals in response to this RFP No. 720-1910 from qualified vendors (“**Proposers**”) to provide land real estate marketing and broker services (the “**Services**”) more specifically described in **Section 5** of this RFP.

In pursuing the selection of one or more Proposers to provide commercial marketing and brokerage services to sell or ground lease the Land, UT System has the following objectives:

- 1.3.1 Maximum Value to Owner: Owner wishes to maximize the value of the Land. As a perpetual institution, UT System can be deliberate in its approach to the sale and/or ground lease of the Land. Owner wishes for the sale or ground lease to generate the maximum financial return to Owner, considering the time-value of money. Proceeds to Owner from the Land may benefit the programs at The University of Texas System’s institutions.

- 1.3.1.1 Market-Driven Development: Owner does not require any specific uses on the Land. UT System does not anticipate having any presence on the Land. UT System may obtain a market study; likely uses may include attached or detached single-family residential, multi-family residential, retail/commercial, medical office and/or general office uses.
- 1.3.1.2 All Cash Transactions: AS AN AGENCY OF THE STATE OF TEXAS, OWNER MAY NOT PROVIDE, OR BE OBLIGATED FOR FINANCING FOR THE LAND OR ANY IMPROVEMENTS, INCLUDING INFRASTRUCTURE. OWNER MAY NOT ENTER INTO A PARTNERSHIP OR JOINT VENTURE IN ANY FORM.

1.4 Description of The Land

The Land is irregular in shape and is bisected by Buffalo Speedway, a major north-south arterial, and Willowbend Boulevard, which extends west of Buffalo Speedway. The Land is bounded on the south by the Union Pacific Railroad right of way, adjacent to Holmes Road (“UPRR”). On the north, portions of the land are bounded by Grand Fountains Drive. There is a small outparcel bounded by West Bellfort Avenue. Almost all of the Land is vacant.

Owner is under contract to acquire a small industrial building located between Holmes Road and Willowbend Boulevard with an anticipated closing date in late 2018. There is a cell tower under a long-term ground lease adjacent to the building.

1.4.1 Cell Tower: A small parcel between Willowbend Boulevard and the UPRR is encumbered by a cellular communications tower. Owner may be able to obtain an agreement to relocate the tower to another location within the Land; however, such relocation would be at no cost to the cell tower operator.

1.4.2 Physical characteristics are depicted in various attachments and supplements including:

- ✓ Site Plan of the Land (**Section 6.1** of this RFP);
- ✓ Aerial View of the Land Within Greater Houston (**Section 6.2** of this RFP).

1.4.3 The City of Houston Master Thoroughfare Plan may be found at https://www.houstontx.gov/planning/transportation/MTFPMAP/MTFP_Map16.pdf

1.5 Environmental Matters

1.5.1 Wetlands: Portions of the Land contain wetlands. Owner, through its consultants, has determined that the wetlands are not jurisdictional.

1.5.2 Texas Railroad Commission Voluntary Clean-up Plans: Parts of the Land were a part of the Pierce Junction oil field, which was a shallow oil-containing salt-dome discovered in 1921. The Land lies outside the dome itself, and contained working wells through the 1960’s, by which time Texas Railroad Commission (“TRRC”) documents indicate all the wells on the Land were abandoned and capped. Portions of the property, located in the northeast portion of the land known as Tract A, and the northwest portion of the land known as Tract C, benefit from completed voluntary clean-up plans (“VCP”). Owner has filed VCP’s with the TRRC for the balance of the Land. Owner has completed the remediation of certain areas that were former oil field well tank sites. Owner anticipates that the VCP’s will result in covenants that restrict ground water use, but not surface uses. Owner anticipates that the regulatory process will be complete and covenants put in place by 2021.

1.5.3 Texas Commission on Environmental Quality Voluntary Clean-up Plan: An approximately four-acre portion of the Land, located in the north central part of the portion of the Land known as Tract D, was formerly a polymer production and storage site. Owner has filed a VCP with the Texas Commission on Environmental Quality to clean-up and remediate the affected portion of the Land. Owner anticipates that the VCP will result in covenants that restrict ground water use and limit surface uses to non-residential commercial uses for that portion of the Land. Owner anticipates that the regulatory process will be completed and covenants put in place by 2021.

1.6 Infrastructure for The Land:

1.6.1 The Land lies within Harris County Improvement District #12 (“**HCID**”), and comprises the overwhelming majority of the district. This district allows for a portion of the increases in assessed value to pay for the expansion of infrastructure within the district. Buyers may access this funding to defray the expansion of utilities and infrastructure on the Land.

1.6.2 Water Utilities: A 24” diameter water main is located in the Buffalo Speedway right-of-way. 12” diameter water lines are located along Willowbend Boulevard and Grand Fountains Drive. Most of the capacity of this water infrastructure is available for use by the Land. The HCID may defray the cost of distributing water lines throughout the Land.

1.6.3 Sanitary Sewer: An existing interim sanitary sewer located on the northwest edge of the land provides immediate capacity to serve a portion of the Land. There is an existing gravity sanitary trunk line extending in the Buffalo Speedway right of way to Holmes Road; this trunk line varies from 12” to 27” diameter. There are existing gravity sanitary lines along both Willowbend Boulevard and Grand Fountains Drive. The City of Houston is extending a 42” gravity sanitary sewer main down Holmes Road that will serve the Land and other property. The segment from Kirby Road to Knight Road is expected to begin construction shortly. Pursuant to existing agreements, the Improvement District is paying for a portion of the cost of the extension of the sanitary main, using money provided by the previous property owner; the City is responsible for the balance of the costs. The HCID may to defray the cost of distributing sanitary sewer facilities throughout the Land.

1.6.4 Storm Water: The property is located within the Braes Bayou watershed. Storm water flows northwest through a box culvert beneath Buffalo Speedway into an on-site detention pond west of Buffalo Speedway before flowing off of the Land. This system serves certain adjacent off-site property and currently has capacity to serve a small portion of the Land. The existing facility will need to be expanded or supplemented and additional facilities built east of Buffalo Speedway to accommodate full build-out of the Land. The HCID may defray the cost of increasing storm water capacity and distributing storm water facilities throughout the Land.

1.6.5 Buffalo Speedway Overpass: The City of Houston plans to connect Buffalo Speedway located through the Land with the recently-extended segment located south of Holmes Road by way of a bridge over Holmes Road and the UPRR tracks. Once this bridge completed, Buffalo Speedway will be continuous from Westheimer Road in central Houston to Fuqua Street near Beltway 8. Houston’s Master Thoroughfare Plan calls for the extension of Buffalo Speedway to Beltway 8.

1.6.6 Metro Rail: Owner has held preliminary discussions with Metro regarding the possibility that Metro would extend light rail service through the property into Fort Bend County. If implemented, such service would provide additional access to the Southwestern suburbs, Texas Medical Center and Downtown Houston. Nevertheless, the exact nature of the connectivity, timing, and certainty of connection are unknown at this time.

1.7 Real Property Taxes

The Land is currently exempt from real property taxes due to Owner's status and use of the Land; however, Owner's exemption is not transferable. Buyers or ground tenants should expect that upon the sale or ground lease of land, both land and any improvements are likely to be taxable unless another exemption applies.

1.8 Disclaimer:

U. T. SYSTEM MAKES NO REPRESENTATIONS AS TO THE ACCURACY OF ENTITLEMENTS, ACCESS RIGHTS, UTILITY INFORMATION, OR OTHER INFORMATION ABOUT THE LAND PROVIDED HEREIN.

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 Friday, November 30, 2018 (the “**Submittal Deadline**”).

2.2 Inquiries and Interpretation

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 Monday, November 19th, 2018.*

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. University will have a reasonable amount of time to respond to questions or concerns. Only University’s responses 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. 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. All Addenda issued by University prior to the Submittal Deadline 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 2** of **APPENDIX ONE**). The Addenda Checklist must be received by University prior to the Submittal Deadline and should accompany the Proposer’s proposal.

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) marketing 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. Vendor Qualifications and Experience (40%);
- B. Project Team (25%);
- C. Approach to Project Services (25%);
- D. Pricing and Delivery Schedule (10%).

Proposer (1) accepts [a] Proposal Evaluation Process (ref. **Section 2.7** of this RFP), [b] Criteria for Selection (ref. **2.3** of this RFP), [c] Scope and Requirements (ref. **Section 5** of this RFP), [d] terms and conditions of the Agreement (ref. **APPENDIX THREE**), 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.

2.4 Key Events Schedule

Issuance of RFP	Monday, November 12, 2018
Deadline for Questions / Concerns (ref. Section 2.2 of this RFP)	2:30 p.m. CST on Monday, November 19, 2018
Submittal Deadline (ref. Section 2.1 of this RFP)	2:30 p.m. CST on Friday, November 3, 2018

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 AWARDING 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 [34 TEXAS ADMINISTRATIVE CODE, SECTION 20.285](#), AND HAS DETERMINED THAT SUBCONTRACTING OPPORTUNITIES ARE NOT PROBABLE UNDER THIS RFP.

2.6 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*.

2.7 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. 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 select the Contractor based on the proposals initially submitted, without discussion, clarification or modification. In the alternative, University may select the 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.

SECTION 3

SUBMISSION OF PROPOSAL

3.1 Submission Instructions

Proposer must submit:

A. Six (6) complete paper copies 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.

One (1) 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. **APPENDIX TWO**) 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.

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

3.1.1 Response to Questions

Proposals must include responses to the questions in Proposer's Questionnaire (ref. **Section 1 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.

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 7th St.
Austin, Texas 78701-2982
Attn: Darya Vienne

*Proposer should submit all proposal materials as instructed in **Section 3** of this RFP. RFP No. 720-1910 (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.*

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 THREE**), the Notice to Proposer (ref. **Section 2** of this RFP), Proposal Requirements (ref. **APPENDIX ONE**) and the Scope and Requirements (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. Proposal Requirements (ref. **APPENDIX ONE**);
- 3.4.1.2. Agreement (ref. **Section 4** and **APPENDIX THREE**);
- 3.4.1.3. Scope and Requirements (ref. **Section 5** of this RFP);
- 3.4.1.4. Notice to Proposers (ref. **Section 2** of this RFP).

3.4.2 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 risk and responsibility of the Proposer. 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 IS CAUTIONED TO READ THE INFORMATION CONTAINED IN THIS RFP CAREFULLY AND TO SUBMIT A COMPLETE RESPONSE TO ALL REQUIREMENTS AND QUESTIONS AS DIRECTED.

3.4.3 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; and (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) Proposals and any other information submitted by Proposer in response to this RFP will become the property of University.

3.4.4 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.

3.4.5 Any proposal that fails to comply with the requirements contained in this RFP may be rejected by University, in University's sole discretion.

- 3.4.6 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.

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.

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.

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. **APPENDIX TWO**).
- 3.5.2 Signed and Completed Pricing and Delivery Schedule (ref. **Section 3 of APPENDIX ONE**).
- 3.5.3 Responses to Proposer's Questionnaire (ref. **Section 1 of APPENDIX ONE**).
- 3.5.4 Signed and Completed Addenda Checklist (ref. **Section 2 of APPENDIX ONE**).
- 3.5.5 Responses to questions and requests for information in the Scope and Requirements Section (ref. **Section 5** of this RFP).
- 3.5.6 Redlined Agreement, if applicable (ref. **Section 4** of this RFP and **APPENDIX THREE**).

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.

SECTION 4

FORM OF LISTING AGREEMENT

The terms and conditions contained in the attached Agreement (ref. **APPENDIX THREE**) 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 THREE**) and include redlined Agreement as part of its proposal in accordance with **Section 4** 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 but is not required to accept Proposer's exceptions when University evaluates the Proposer's proposal.

SECTION 5

SCOPE AND REQUIREMENTS

5.1 General

The minimum scope and 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 two (2) years, with four (4) two (2)-year renewal options, at University’s sole discretion.

Approval by the Board of Regents: No Agreement resulting from this RFP will be effective for amounts exceeding one million dollars (\$1,000,000) until approved by the Board of Regents of The University of Texas System.

5.2 Minimum Requirements

Each Proposal must include information that clearly indicates that Proposer meets each of the following minimum qualification requirements:

Proposer must have a national marketing platform and capability and recent experience (within the last five (5) years) representing land owners in selling and/or leasing land in Houston, Harris County, Texas.

The lead Broker and other key real estate professional(s) assigned to market the property (“**Assigned Broker(s)**”) by Contractor 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 Scope of Work

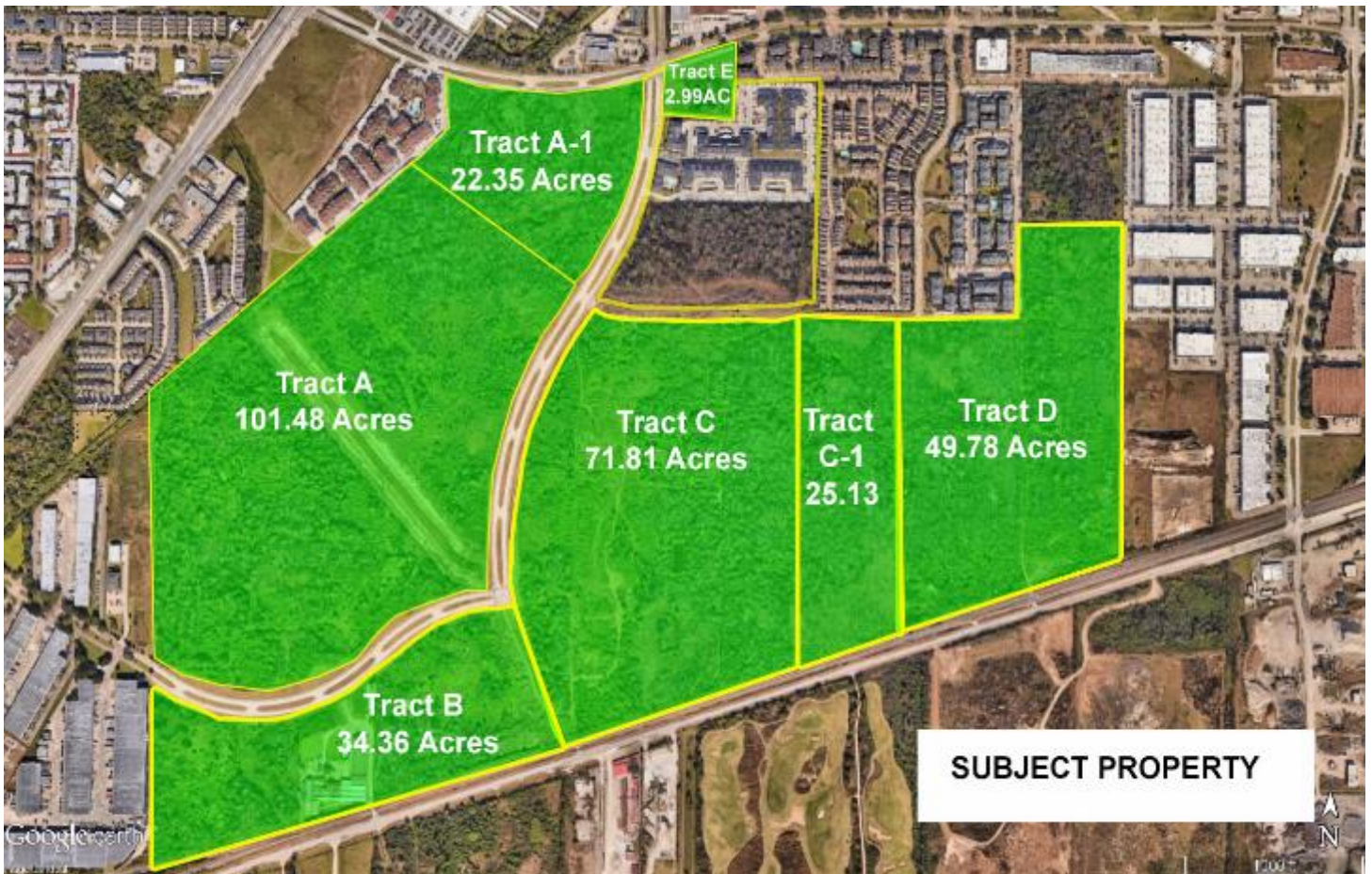
Contractor will provide the following services to University:

- A. Identify the type(s) of buyers or ground tenants that would be attracted to the Land.
- B. Provide market analysis and pricing guidance for the Land, including pricing, ground rent, and concessions, and for the buyer of each type of likely property use, or different portions of the Land, if different.
- C. Establish and implement a marketing strategy for each type of potential use 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 Land for sale or lease.
- E. Provide technical assistance on the presentation of the Land, including creating marketing materials, assistance in the creation of market-based concept plans, and placing signage on the Land.

- F. Show the Land to potential buyers.
- G. Forward all offers to University's Real Estate Office for consideration.
- H. Assist University with the negotiations for accepted offers.
- I. Coordinate with University's legal counsel and real estate officers on transaction(s).
- J. Identify competing properties and how the Land / University may compete successfully.

SECTION 6

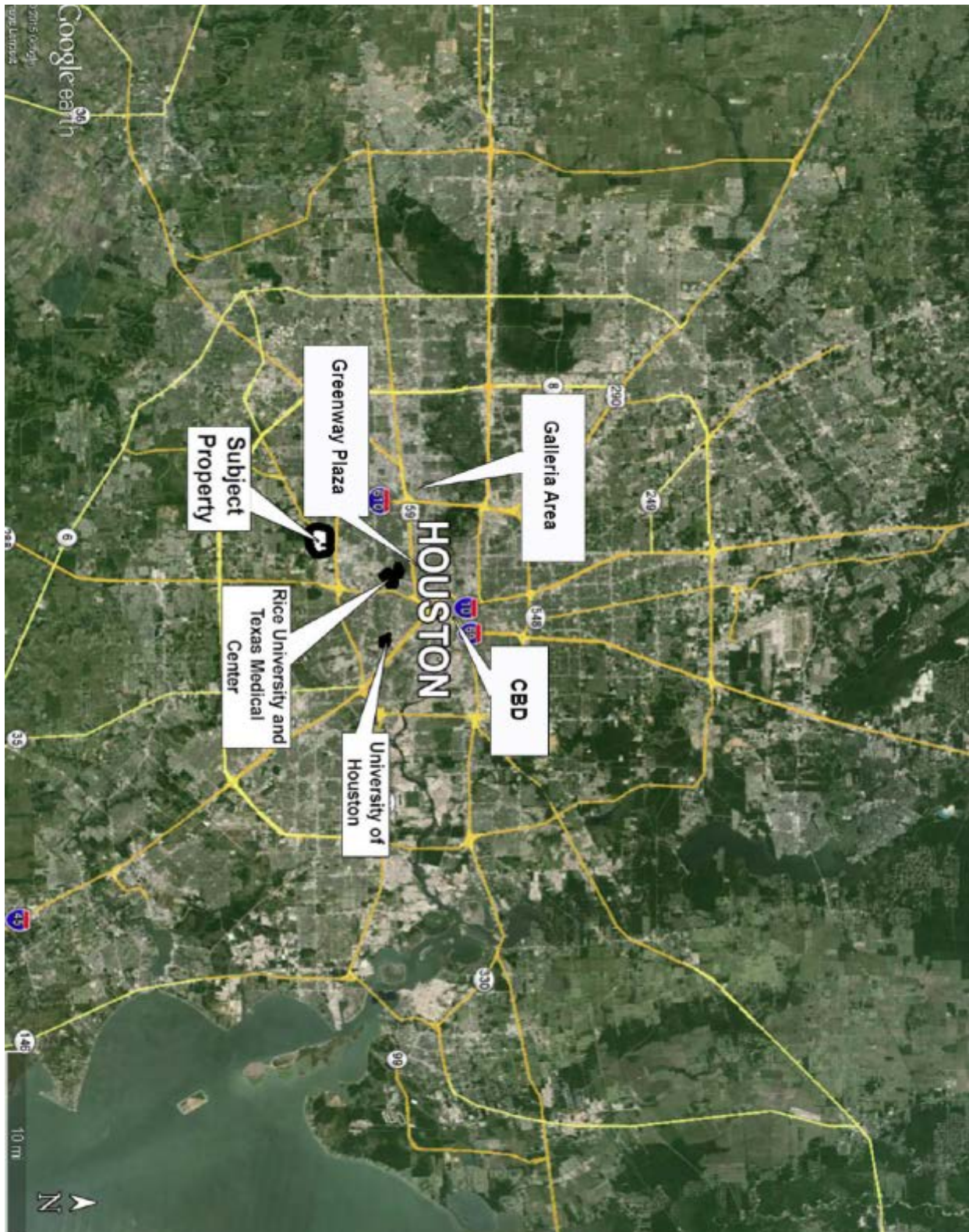
Maps



6.1 Site Plan of Land



6.2 Aerial View of Land



APPENDIX ONE
PROPOSAL REQUIREMENTS

TABLE OF CONTENTS

SECTION 1: <u>PROPOSER'S QUESTIONNAIRE</u>	20
SECTION 2: <u>ADDENDA CHECKLIST</u>	24
SECTION 3: <u>PRICING AND DELIVERY SCHEDULE</u>	25

APPENDIX ONE – SECTION 1

PROPOSER’S 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 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.

Vendor Qualifications and Experience (40%)

1.1 Proposer Profile

1.1.1 Legal name of Proposer company:

State of incorporation:

Address of principal place of business:

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

Number of years in Business:

Number of Employees:

Number of Employees at office providing service:

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.

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

1.1.3 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.

1.1.4 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.

- 1.1.5 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).
- 1.1.6 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.
- 1.1.7 Does any relationship exist (whether by family kinship, business association, capital funding agreement, or any other such relationship) between Proposer and any employee or regent of University? If yes, Proposer will explain.
- 1.1.8 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.

2.1 Scope of Proposer

Proposer will describe its regional, national, and if applicable international service and marketing platforms.

3.1 Customer References

- 3.1.1 Proposer will provide a customer reference list of no less than three (3) entities or people with which Proposer currently has contracts and / or to which Proposer has previously provided services (within the past seven (7) 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.

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.

3.1.1.1 Indicate whether Proposer has worked with University (including any of The University of Texas System's fourteen (14) institutions) in the past five (5) years? If "yes," provide the institution's name, its contact information, and a brief description of work performed.

3.1.1.2 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.

4.1 Service Support

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

5.1 Miscellaneous

- 5.1.1 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 services solicited under this RFP.
- 5.1.2 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 services solicited under this RFP.
- 5.1.3 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.
- 5.1.4 Proposer should state that its proposal will remain valid for University's acceptance for a minimum of one hundred and twenty (120) days after the Submittal Deadline
- 5.1.5 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.

Project Team (25%)

6.1 Project Team

- 6.1.1 Provide the name(s) and contact information for the individual(s) who will be responsible for marketing the Land and a statement of their qualifications, including licensing in the State of Texas, education, years of experience, client list, and State of Texas Historically Underutilized Businesses (HUB) certification, if any.
- 6.1.2 Provide for each broker Proposer intends to assign to this Project the gross transaction value (proportionally adjusted for Assigned Broker's share of the transaction) and the number of land sale or lease transactions closed by such broker for each of the last three (3) calendar years.
- 6.1.3 Provide a brief description of at least two (2) similar tracts of land/property in Houston, Texas that were successfully marketed by the Assigned Broker(s).

Approach to Project Services (25%)

7.1 Approach to Project Services

- 7.1.1 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.

- 7.1.2 Proposer will provide an estimate of the earliest starting date for services following execution of the Agreement.
- 7.1.3 Proposer will submit a work plan with key dates and milestones. The work plan should include:
 - 7.1.3.1 Identification of tasks to be performed;
 - 7.1.3.2 Time frames to perform the identified tasks;
 - 7.1.3.3 Project management methodology;
 - 7.1.3.4 Implementation strategy; and
 - 7.1.3.5 The expected time frame in which the services would be implemented.
- 7.1.4 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.
- 7.1.5 Provide Proposer's price opinion on the different portions of the Land
- 7.1.6 Provide Proposer's proposed approach to marketing the Land, including, specifically, the identification of any challenges anticipated in marketing the Land. Please discuss marketing approaches at the regional, national, and if applicable, international levels.
- 7.1.7 Provide a list of all other commercial land sites within a ten-mile radius of the Land being marketed by Proposer, and illustrate on a map of Houston; include client owner / developer entity, location, size, and proposed uses for the site(s). Discuss if Proposer considers any of these properties compete against the Land, and how such competition may be handled by Proposer
- 7.1.8 If Proposer takes exception to any terms or conditions set forth in the Agreement (ref. **APPENDIX THREE**), Proposer will redline attached Agreement (ref. **APPENDIX THREE**) and include redlined Agreement as part of its proposal.

Conflict of Interest Disclosure (NOT SCORED)

- 7.1.9 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.

APPENDIX ONE - SECTION 2

ADDENDA CHECKLIST

Proposal of: _____
(Proposer Company Name)

To: The University of Texas System

Ref.: Land Real Estate Broker Services

RFP No.: 720-1910

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 ONE - SECTION 3

PRICING AND DELIVERY SCHEDULE

Proposal of: _____
(Proposer Company Name)

To: The University of Texas System

RFP No.: 720-1910 Land 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.

3.1 Cost / Commission Structure (10%)

Provide the Real Estate fees rates for the following scenarios:

A. Sales:

- (1) In the event that there is no Cooperating Broker, _____ percent of the total sales price; state if there is an overall cap and/or if there are breakpoints.
- (2) In the event that there is a Cooperating Broker, _____ percent of the total sales price; state if there is an overall cap and/or if there are breakpoints. Describe how the Broker's Fee will be split by Broker with the co-broker.
- (3) In the event that there is one Intermediary Broker, _____ percent of the total sales price; state if there is an overall cap and/or if there are breakpoints. Describe how the Broker's Fee will be split by Broker with the Intermediary Broker.

B. Ground Leases:

- (4) 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 ground lease; state if renewal options are included in the initial commission calculation; state if there is an overall cap
- (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 ground lease. state if renewal options are included in the initial commission calculation; state if there is an overall cap; Describe how the Broker's Fee will be split by Broker with the co-broker.
- (6) 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 ground lease; state if renewal options are included in the initial commission calculation; state if there is an overall cap; Describe how the Broker's Fee will be split by Broker with the Intermediary Broker.

3.2 Delivery Schedule

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

3.3 Payment Terms

For matters invoiced by Proposer, University's standard payment terms are "net 30 days" as mandated by the *Texas Prompt Payment Act* (ref. [Chapter 2251, Government Code](#)). Notwithstanding the above, sales commissions will be paid in the customary manner at closing unless the parties agree otherwise.

[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 TWO

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.

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

- 1.1.1 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.
- 1.1.2 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.
- 1.1.3 Proposer is a reputable company that is lawfully and regularly engaged in providing the Services.
- 1.1.4 Proposer has the necessary licensing, experience, knowledge, abilities, skills, and resources to perform the Services.
- 1.1.5 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.
- 1.1.6 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.
- 1.1.7 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.
- 1.1.8 Proposer will maintain any insurance coverage required by the Agreement during the entire term.
- 1.1.9 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.
- 1.1.10 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.

1.1.11 LIMITATIONS. THE PARTIES ARE AWARE THERE ARE CONSTITUTIONAL AND STATUTORY LIMITATIONS (LIMITATIONS) ON THE AUTHORITY OF UNIVERSITY (A STATE AGENCY) TO ENTER INTO CERTAIN TERMS AND CONDITIONS THAT MAY BE PART OF THIS AGREEMENT, INCLUDING TERMS AND CONDITIONS RELATING TO LIENS ON UNIVERSITY'S PROPERTY; DISCLAIMERS AND LIMITATIONS OF WARRANTIES; DISCLAIMERS AND LIMITATIONS OF LIABILITY FOR DAMAGES; WAIVERS, DISCLAIMERS AND LIMITATIONS OF LEGAL RIGHTS, REMEDIES, REQUIREMENTS AND PROCESSES; LIMITATIONS OF PERIODS TO BRING LEGAL ACTION; GRANTING CONTROL OF LITIGATION OR SETTLEMENT TO ANOTHER PARTY; LIABILITY FOR ACTS OR OMISSIONS OF THIRD PARTIES; PAYMENT OF ATTORNEYS' FEES; DISPUTE RESOLUTION; INDEMNITIES; AND CONFIDENTIALITY, AND TERMS AND CONDITIONS RELATED TO LIMITATIONS WILL NOT BE BINDING ON UNIVERSITY EXCEPT TO THE EXTENT AUTHORIZED BY THE LAWS AND CONSTITUTION OF THE STATE OF TEXAS.

1.1.12 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.

1.1.13 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.

2.1 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.

2.2 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.

2.3 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 ventures 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, or its regents, 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, or a regent, 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 Certification regarding Boycotting Israel.** Pursuant to Chapter 2270, Texas Government Code, Proposer certifies Contractor (1) does not currently boycott Israel; and (2) will not boycott Israel during the Term of this RFP. Proposer acknowledges this RFP may be terminated and payment withheld if this certification is inaccurate.
- 2.11 Certification regarding Business with Certain Countries and Organizations.** Pursuant to Subchapter F, Chapter 2252, Texas Government Code, Proposer certifies Proposer is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Proposer acknowledges this RFP may be terminated and payment withheld if this certification is inaccurate.
- 2.12 Payment of Debt or Delinquency to the State.** Pursuant to §§2107.008 and 2252.903, Texas Government Code, Proposer agrees any payments owing to Proposer under this RFP may be applied directly toward any debt or delinquency Proposer owes the State of Texas or any agency of the State of Texas, regardless of when it arises, until paid in full.
- 2.13 State Auditor's Office.** Proposer understands acceptance of funds under this RFP constitutes acceptance of authority of the Texas State Auditor's Office or any successor agency (Auditor), to conduct an audit or investigation in connection with those funds (ref. §§51.9335(c), 73.115(c) and 74.008(c), Texas Education Code). Proposer agrees to cooperate with Auditor in the conduct of the audit or investigation, including providing all

records requested. Proposer will include this provision in all contracts with permitted subcontractors.

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 or regents 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.: 720-1910 Land 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'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)

APPENDIX THREE

EXCLUSIVE LISTING AGREEMENT

1. **AGENCY RELATIONSHIP.** This EXCLUSIVE LISTING AGREEMENT ("**Agreement**") is entered into effective as of the [REDACTED] day of [REDACTED], 2018 ("**Effective Date**"), by and between the **Board of Regents of The University of Texas System** ("**Owner**") and [REDACTED] ("**Broker**"), in consideration of the services to be performed by Broker in listing for sale or lease and procuring buyers or tenants for the various Premises (as defined in Paragraph 2), the respective obligations of the parties set out in this Agreement, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged. Owner hereby lists the Premises with Broker and grants to Broker the exclusive right to solicit and seek offers to sell to or lease the Premises from one or more qualified, financially responsible potential buyer or tenant entities ("**Prospect(s)**") 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 the land described in Exhibit A, including all improvements thereon (the "**Property**"). The parties expect that the sale or ground lease of the Property may consist of a number of separate transactions for portions of the Property. A portion of the Property may be referred herein as the Premises (the "**Premises**"); Owner may modify the various Premises by providing written notice thereof to Broker.

3. **SALES AND/OR RENTALS.** Owner will list the Property for sale or ground lease at prices and rentals to be determined by Owner after consultation with Broker. The prices and 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 value of the Property and the various Premises.

4. **TERM.** The term of this Agreement ("**Term**") shall commence five (5) calendar days following the Effective Date and shall terminate at 5:00 p.m., Austin, Texas time, on [REDACTED], unless sooner terminated or extended in accordance with the terms and provisions of this Agreement.

A. **Early Termination.** Owner and Broker agree that after the first anniversary of the Effective Date, 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 and Broker may by mutual consent renew this Agreement upon the same terms and conditions as stated herein for up to four (4) periods of two (2) years each (the "**Renewal Term**"). Owner shall provide Broker thirty (30) days advance written notice ("**Renewal Notice**") prior to the end of the Term or then current Renewal Term, as applicable, of Owner's intent to renew this Agreement. Broker shall have fifteen (15) days after receipt of the Renewal Notice to respond in writing to indicate its consent to renew this Agreement. If the parties agree to extend the term of the Agreement as provided herein, they 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**") that have been signed by Owner and a Satisfactory Tenant (as defined herein below in Section 6.B.) for the Property or any whole or part of a Premises, 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. Pending Sales Contracts. If on the termination or expiration of this Agreement there are one or more pending sales contracts (individually, a "**Pending Sales Contract**") in effect between Owner and a prospective buyer or buyers for the Property or any Premises and the transaction described in the Pending Sales Contract has not closed and funded, this Agreement shall continue in effect beyond such termination date as to each such Pending Sales Contract until the earliest to occur of (i) the closing and funding of the transaction described in the Pending Sales Contract; or (ii) the termination of the Pending Sales Contract.

E. Return of Materials. Upon the expiration or sooner termination of this Agreement, within five (5) business days thereafter Broker shall deliver to Owner all hard copy and electronic files and documents in Broker's possession or control relating to any of the Premises, Property or to Prospects thereof that were obtained or used by Broker in connection with its performance of this Agreement, including, without limitation, all 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 sell or ground lease 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 in a commercially reasonable manner by all such means and methods as Broker deems appropriate and to place "For Sale" and "For Lease" signs on the Property and to remove all other signs offering the Property for sale or for lease. Broker shall provide written information regarding the Property or its Premises to other commercial brokers

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 in writing, explicitly restricts Owner's right to entertain other offers). As appropriate for the Property or a Premises, such marketing efforts may involve regional, national or international scopes.

(2) Commercial Listing Services. Owner authorizes Broker to list the Property with reputable commercial leasing listing services. Broker shall advertise the Property and Premises 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 Prospects, 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 buyers or tenants for the Property and/or Premises. 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 Prospects. 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 Prospects (except those excluded parties identified in **Exhibit C**) who may contact Owner directly and shall refer all Prospects to Broker and otherwise cooperate in Broker's efforts to sell or lease the Property or Premises. 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 (i) an 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 (ii) another license holder sponsored by 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). Broker acknowledges that Owner will be the source of any expected compensation to Broker. If Broker acts as an Intermediary for Owner and a Prospect in the sale or 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 (as defined in Section 5.G), 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(s)**"). No change or substitution will be made to the Agents 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 quarterly 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 and Premises, 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 and Premises 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, complications, 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 written 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 Confidential Information 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 buyer or tenant satisfactory to Owner is procured by Broker, Owner, or any Cooperating Broker, and (ii) if a buyer, such buyer enters into a written contract of sale upon terms and conditions satisfactory to Owner in its sole discretion, covering the Property or a Premises, and such contract closes and funds with a transfer of the Property or a Premises; or (iii) if a tenant, such tenant and Owner enter into a written contract of lease, upon terms and conditions satisfactory to Owner in its sole discretion, covering the Property or a Premises, and (iii) such lease is executed and rent payments commence thereunder. (Hereinafter, a person who purchases or leases the Property or a Premises from Owner in accordance with all of the provisions of this Agreement shall be referred to as a "**Satisfactory Purchaser**" or "**Satisfactory Tenant**", as applicable). Without limiting the generality of the foregoing, if a sale or lease of any whole or part of the Property fails to close for any reason whatsoever, Broker's Fee shall not have been earned with respect to such part of the Property and shall not be payable and Broker shall not be entitled to Broker's Fee or any other commission or compensation hereunder.

(1) Sale of Property/Premises. Subject to the other terms and provisions of this Agreement, the Broker's Fee for a sale of the Property or a Premises is payable upon the closing and funding of the contract of sale.

(2) Lease of Property/Premises. Subject to the other terms and provisions of this Agreement, the Broker's Fee for a lease of the Property or a Premises 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 (a) the commencement date under the lease, provided that the tenant has taken possession of the Property or Premises and the tenant is performing in accordance with the terms of the lease, or (b) the 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 Purchaser" or "Satisfactory Tenant" is a generic reference only. Without limitation of the foregoing, the use of "Satisfactory Purchaser" or "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 in this Section 6.D and Section 6.E, Owner shall also pay a Broker's Fee to Broker if, within one hundred and twenty (120) days after the expiration or sooner termination of this Agreement ("**Protection Period**"), the Property or any of the Premises is leased or sold to, or Owner enters into a contract that thereafter results in the sale or lease of the Property or a Premises under such contract with, a person or entity with whom Broker has had substantive negotiations for the sale or lease of the Property or a Premises 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 ("**Protected Prospects**") with whom Broker has had substantive negotiations for the sale or lease of any whole or part of the Premises 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 Protected 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 Protected Prospect meets the conditions described in this section, Broker shall not be entitled to any commission under this Agreement for closings of sales or 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 to another State agency or 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. *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 Prospect; (ii) any material fact known by Broker relating to any Prospect 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 contract of sale or lease will be on Owner's standard form, with such changes as Owner may agree to in writing, or another form as may be agreed to by Owner, and any such agreement 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 agreement, (ii) the Owner will not subordinate its fee interest in the leased Property or Premises to the lien of a leasehold mortgagee; and (iii) the tenant or purchaser must certify contemporaneously with the tenant's execution of the lease or contract of sale 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 or contract of sale.

9. OWNER'S APPROVAL. Broker or any Cooperating Brokers will not execute any sales contract or lease or any other documents on behalf of Owner. All Prospects and all terms and conditions of each proposal and each sale contract or lease including, without limitation, all terms relating to price, rent, additional rent, concessions, terms, and the like, shall be subject to Owner's approval in Owner's sole and absolute discretion. Accordingly, a sales contract or lease shall become effective only when (i) signed by an authorized officer of Owner and authorized individual or, if appropriate, officer of buyer or tenant and (ii) delivered by Owner to such buyer or 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 Premises, 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 sell and lease the Property. Owner is not now a party to and agrees not to enter into a listing agreement with another broker for the sale or 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) the Agents 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. LIMITATIONS. THE PARTIES ARE AWARE THERE ARE CONSTITUTIONAL AND STATUTORY LIMITATIONS (LIMITATIONS) ON THE AUTHORITY OF OWNER (A STATE AGENCY) TO ENTER INTO CERTAIN TERMS AND CONDITIONS THAT MAY BE PART OF THIS AGREEMENT, INCLUDING TERMS AND CONDITIONS RELATING TO LIENS ON OWNER'S PROPERTY; DISCLAIMERS AND LIMITATIONS OF WARRANTIES; DISCLAIMERS AND LIMITATIONS OF LIABILITY FOR DAMAGES; WAIVERS, DISCLAIMERS AND LIMITATIONS OF LEGAL RIGHTS, REMEDIES, REQUIREMENTS AND PROCESSES; LIMITATIONS OF PERIODS TO BRING LEGAL ACTION; GRANTING CONTROL OF LITIGATION OR SETTLEMENT TO ANOTHER PARTY; LIABILITY FOR ACTS OR OMISSIONS OF THIRD PARTIES; PAYMENT OF ATTORNEYS' FEES; DISPUTE RESOLUTION; INDEMNITIES; AND CONFIDENTIALITY, AND TERMS AND CONDITIONS RELATED TO LIMITATIONS WILL NOT BE BINDING ON OWNER EXCEPT TO THE EXTENT AUTHORIZED BY THE LAWS AND CONSTITUTION OF THE STATE OF TEXAS.

14. Tax Certification. Broker 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 Broker 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 Owner's option, may result in termination of any resulting Agreement.

15. Antitrust Certification. Neither Broker nor any firm, corporation, partnership or institution represented by Broker, 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 this Agreement made to any competitor or any other person engaged in such line of business.

16. Child Support Certification. Under [Section 231.006, Family Code](#), relating to child support, the individual or business entity named in this Agreement is not ineligible to receive award of the Agreement, and this Agreement may be terminated if this certification is inaccurate.

17. Certification regarding Boycotting Israel. Pursuant to Chapter 2270, Texas Government Code, Broker certifies Contractor (1) does not currently boycott Israel; and (2) will not boycott Israel during the Term of this Agreement. Broker acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

18. Certification regarding Business with Certain Countries and Organizations. Pursuant to Subchapter F, Chapter 2252, Texas Government Code, Broker certifies Broker is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Broker acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

19. Payment of Debt or Delinquency to the State. Pursuant to §§2107.008 and 2252.903, Texas Government Code, Broker agrees any payments owing to Broker under this Agreement may be applied directly toward any debt or delinquency Broker owes the State of Texas or any agency of the State of Texas, regardless of when it arises, until paid in full.

20. State Auditor's Office. Broker understands acceptance of funds under this Agreement constitutes acceptance of authority of the Texas State Auditor's Office or any successor agency (Auditor), to conduct an audit or investigation in connection with those funds (ref. §§51.9335(c), 73.115(c) and 74.008(c), Texas Education Code). Broker agrees to cooperate with Auditor in the conduct of the audit or investigation, including providing all records requested. Broker will include this provision in all contracts with permitted subcontractors. __

21. OFAC. Each party represents and certifies to the other that (a) it is not a person and/or entity with whom United States ("U.S.") persons or entities are restricted from doing business under U.S. law, executive power, or regulation promulgated thereunder by any regulatory body; (b) no person or entity named on any U.S. list of specially designated nationals or blocked persons has any direct interest in it such that the direct investment in it is prohibited by any U.S. law; (c) it is not in violation of any U.S. money laundering law; and (d) none of its funds have been derived from unlawful activity such that the direct investment in it is prohibited by U.S. law. The foregoing are ongoing covenants of each party. Each party shall immediately advise the other party of any change in the status or accuracy of such representations, and upon request each party shall recertify such representations and certify in writing the identity of all entities and individuals owning or controlling it.

22. State Requirements Concerning the Disclosure of Interested Parties in a State Contract. Pursuant to Texas Government Code § 2252.908 and Chapter 46 of the rules of the Texas Ethics Commission, a state agency such as the Board of Regents of The University of Texas System (Owner) may not enter into certain statutorily defined contracts with a business entity unless the business entity, in accordance with said statute and administrative rules, fills out and electronically files Texas Ethics Commission Form 1295 entitled "Certificate of Interested Parties" with the Texas Ethics Commission at its website ("Form 1295"). The Form 1295 generated by the Commission's electronic filing application must be printed, signed by an authorized agent of the contracting business entity, and submitted (either electronically or by hard copy) to the state agency that is the party to the contract for which the form is being filed. The state agency will then electronically acknowledge its receipt of the signed Form 1295 with the Texas Ethics Commission not later than the 30th day after the state agency receives the signed Form 1295. This Lease is subject to the requirements of Texas Government Code § 2252.908 and Chapter 46 of the rules of the Texas Ethics Commission. Accordingly, Broker must comply with the statutory requirements before the Board of Regents of The University of Texas System may execute and enter into this Agreement. For this purpose, Broker is advised that:

An electronic version of Form 1295 may be obtained and filed at the following website maintained by the Texas Ethics Commission:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

The current text of Texas Government Code §2252.908 may be reviewed at:

<http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2252.htm#2252.908>

The current text of Texas Ethics Commission Chapter 46 may be reviewed at

<https://www.ethics.state.tx.us/legal/ch46.html>

23. **NO DISCRIMINATION.** Broker agrees that the Premises 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.

24. **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.***

25. **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.

26. **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
 OGC - Real Estate
 210 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

With a copy to: The University of Texas System

 210 W. 7th Street
 Austin, TX 78701
 Attention: Executive Vice Chancellor of Business Affairs
 Tel. No.: _____
 Fax: _____
 Email: _____

If to Broker: _____

 Attention: _____
 Tel. No.: _____
 Email: _____

27. **ELECTRONIC MAIL TRANSMISSION.** An electronic mail transmission of a duly executed counterpart of this Agreement 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 Agreement following the delivery of an electronic mail transmission thereof.

28. **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.

29. **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.

30. **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

_____, 201__

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

APPROVED AS TO CONTENT:

THE UNIVERSITY OF TEXAS SYSTEM

By: _____

BROKER/FIRM:

_____, 201__

By: _____

Name: _____

Title: _____

EXHIBIT A TO LISTING AGREEMENT
LEGAL DESCRIPTION OF PROPERTY

EXHIBIT B TO LISTING AGREEMENT
BROKER'S FEE SCHEDULE

SALE FEE SCHEDULE

A. Rate. The Broker's Fee per transaction for the sale of the Property or a Premises shall be calculated as follows:

- (1) If there is a Co-Broker:

- (2) If there is no Co-Broker:

B. Calculation of Purchase Price. For the purpose of the Broker's Fee calculations, the term "Purchase Price" shall be defined in accordance with an earnest money contract approved by Owner. None of the following items shall be considered in calculating Purchase Price for the purposes of determining the Broker's Fee:

- (1) items paid by Owner and reimbursed by purchaser through increases to the Purchase Price
- (2) improvements paid by Owner on behalf of purchaser;
- (3) cash concessions or incentives paid by Owner to purchaser;
- (4) reimbursement to purchaser for infrastructure or other costs;
- (5) extension fees or earnest money that in accordance with the Earnest Money Contract is not applicable to the Purchase Price; and
- (6) any other of purchaser's payment obligations which are not calculable at the time of closing.

LEASE FEE SCHEDULE

A. Rate. The Broker's Fee for leasing the Property or a Premises shall be as follows:

- (7) In the event that there is no Cooperating Broker, _____ of the cumulative "**Rent**," which is defined to include base rent required to be paid by the tenant for the initial term of a new lease; _____
- (8) In the event that there is a Cooperating Broker, _____ of the cumulative 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: _____ of the Broker's Fee actually received by Broker will be paid to the co-broker and _____ of the Broker's Fee will be retained by Broker;

- (9) In the event that Broker, _____ of the cumulative Rent required to be paid by the tenant for the initial term of a new lease; and
- (10) 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 applicable on an amortized basis to the period subsequent to the date of cancellation of the lease, then Broker shall be paid 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 of the nature described in item (i) above, and the tenant does not cancel the lease on or before the cancellation date specified in such lease, then within thirty (30) days following the specified cancellation date, Broker shall be paid that portion of the e Broker's Fee applicable to 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 Sections A(1)-(5) of this 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 Premises 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 actively 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

Board of Regents of The University of Texas System and all entities under its control

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 signs and their placement on the Property