

RFO No. REO 189654

**REQUEST FOR OFFERS
PURCHASE OF PROPERTY**

Approximately 119,090 SF of Land with existing improvements at 5304, 5308, 5310 El Paso Drive, Texas

The Board of Regents of The University of Texas System, for the use and benefit of The University of Texas El Paso ("Seller"), announces that it is seeking offers for the purchase of the surface interest of property containing approximately 2.73 acres of land in El Paso, Texas. The purpose of this announcement is to describe the property and to outline the process that will be followed for the sale. Details of the process appear below.

THE PROPERTY

LOCATION:

The offering consists of three properties commonly known as 5304, 5308, and 5310 El Paso Drive, El Paso, Texas. See the map attached as Exhibit A.

LEGAL DESCRIPTION:

The property is described as approximately 2.73 acres in the Elijah Bennett Survey No. 11, Tract 36-A, City of El Paso, Texas. All oil, gas, and other minerals owned by the sellers, if any, will be expressly reserved to the seller.

PHYSICAL DESCRIPTION, IMPROVEMENTS, AND INFORMATION:

The property is quadrilateral in shape and is comprised of one tract of land broken into three separate addresses.

According to the El Paso County Appraisal District the property contains four structures per Central Appraisal District Geographic ID X011999000C4500. 5310 El Paso Drive hosts a 9,644 SF building with a 800 SF metal ancillary structure. 5308 El Paso Drive houses a 7,539 SF building with a 1,200 SF concrete block ancillary building. 5304 El Paso Drive contains a 2,400 SF building.

Please see the El Paso County Appraisal District Tax Account Parcel ID #: 112798 attached as Exhibit E.

Each offeror should independently determine the availability of utilities to the site, and the physical and legal access to the site. The seller will only sell the property on an **"AS IS, WHERE IS" basis, "WITH ANY AND ALL FAULTS."** SELLER MAKES NO REPRESENTATIONS OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, EXCEPT AS EXPRESSLY SET FORTH IN THIS CONTRACT, NOR IS ANY EMPLOYEE OR AGENT OF SELLER AUTHORIZED TO MAKE ANY REPRESENTATION OR WARRANTY, AS TO THE QUALITY OR CONDITION OF THE PROPERTY, MERCHANTABILITY, SUITABILITY OR FITNESS OF THE PROPERTY FOR ANY USE WHATSOEVER, KNOWN OR UNKNOWN TO, OR COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION, OR LAND USE LAWS, RULES, REGULATIONS, ORDERS, OR REQUIREMENTS INCLUDING, BUT NOT LIMITED TO, THOSE PERTAINING TO THE HANDLING, GENERATING, TREATING, STORING, OR DISPOSING OF ANY HAZARDOUS WASTE OR SUBSTANCE. IN NO EVENT SHALL SELLER BE RESPONSIBLE OR LIABLE FOR LATENT OR PATENT DEFECTS OR FAULTS, IF ANY, IN THE PROPERTY, OR FOR REMEDYING OR REPAIRING THE SAME INCLUDING, WITHOUT LIMITATION, DEFECTS RELATED TO ASBESTOS OR ASBESTOS CONTAINING MATERIALS, UNDERGROUND STORAGE TANKS OR HAZARDOUS OR TOXIC MATERIALS, CHEMICALS OR WASTE, OR FOR

CONSTRUCTING OR REPAIRING ANY STREETS, UTILITIES OR OTHER IMPROVEMENTS SHOWN ON ANY PLAT OF THE PROPERTY. By closing the purchase and sale, the purchaser warrants that the purchaser has fully inspected the property, is fully satisfied with the same in all respects **“AS IS, WHERE IS, WITH ANY AND ALL FAULTS,”** IS NOT RELYING ON ANY REPRESENTATION OR WARRANTY OF SELLER, EXCEPT THE WARRANTY OF TITLE CONTAINED IN THE DEED WITHOUT WARRANTY, AND ACCEPTS ANY LIABILITIES OR COSTS ARISING IN CONNECTION WITH THE CONDITION OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO ANY COSTS OR LIABILITIES PERTAINING TO ANY ARCHAEOLOGICAL OR ENVIRONMENTAL CONDITION ON THE PROPERTY.

THE SALES PROCESS

The offer process will be administered by the Real Estate Office of The University of Texas System. All inquiries regarding this sale should be directed to Kristin Brooks-Keller at the following address:

Kristin Brooks-Keller
Portfolio Manager
U.T. System Real Estate Office
210 West 7th Street
Austin, Texas 78701
Telephone (512) 579-5074
FAX: (512) 499-4523
EMAIL: kbrooks@utsystem.edu

The following criteria are required for each offer. Offers that do not comply with these guidelines may be rejected, at the sole option of the seller.

1. All offers submitted shall be for the cash purchase of the property. The seller will not finance any portion of the sale.
2. The property is being offered in its current **“AS IS”** condition with all defects.
3. Offers must be submitted on the enclosed form of Real Estate Contract attached as Exhibit F and each offer should include the information in the “Guidelines for Cash Offer” stated below. Please note that these guidelines are intended as an outline only and are not a full and complete listing of all terms and conditions that are to be included in the contract of sale.

Important Dates and Deadlines:

June 28, 2019

Sale package available on the UT System Real Estate Office website at <http://www.utsystem.edu/reo/RFPsNo.htm>

July 10, 2019

Site visits to the property will be available this day only by prior appointment with a representative from The University of Texas El Paso. Please contact Kristin Brooks-Keller if you are interested in making an appointment.

July 19, 2019

Offers will be accepted until 4:00 p.m., Austin, Texas, time at the U. T. System Real Estate Office. Offers must be sealed and must be submitted in an envelope provided with the request for offers package or must be marked, “5304, 5308, and 5310 El Paso Blvd, RFO Package.”

After the submission deadline, we will review all offers for completeness and adherence to the terms of this request for offers. At the sole discretion of the Seller, incomplete submissions may either be rejected or returned to the offeror for prompt completion and resubmission. Based on the final submission, each offer will be evaluated. At this phase of the process, the seller reserves the right, but shall have no obligation, to enter into negotiations with one or more offerors regarding the offer and to request evidence of prior experience and financial qualifications. If, after such review and negotiation, the seller elects to accept an offer, it will execute the Real Estate Contract and notify the selected offeror. The buyer will have five (5) business days after that notice to deposit the required earnest money and the independent contract consideration of \$100 with the title company.

GUIDELINES FOR SUBMITTING A CASH OFFER

1. The required earnest money deposit and the independent contract consideration must be deposited in full by the buyer with the Title Company (as defined in the Real Estate Contract) **by the deadline stated above.**
2. The Seller will provide at closing, at its expense, a standard Form T-1 Texas Owner Policy of Title Insurance in the amount of the purchase price. Any endorsements to the title policy will be the sole expense of the buyer.
3. The Seller shall have no obligation to furnish any Survey of the property to buyer. If buyer obtains a new Survey of the property, buyer shall provide a copy of the new Survey to Seller within 3 business days of buyer's receipt of the new Survey.
4. The Seller reserves the right to require evidence satisfactory to the Seller of an offeror's financial ability to purchase the property for the amount stated in the offer before the Seller determines which offer to select. An offeror who fails to promptly supply evidence of financial ability shall be disqualified at the option and sole discretion of the Seller.
5. THE SELLER RESERVES THE RIGHT TO REJECT ANY AND ALL OFFERS IN ITS SOLE DISCRETION. THE SELLER SHALL HAVE THE RIGHT TO DISCONTINUE THE OFFER PROCESS AT ANY TIME PRIOR TO EXECUTION OF THE REAL ESTATE CONTRACT AND THE SELLER SHALL HAVE NO OBLIGATION TO NOTIFY ANY OFFEROR OF SUCH DISCONTINUATION. THE SELLER RESERVES THE RIGHT TO SELL THE PROPERTY TO ANY THIRD PARTY AND ON ANY TERMS ACCEPTABLE TO THE SELLER AFTER DISCONTINUANCE OF THE OFFER PROCESS WITHOUT NOTICE TO THE OFFERORS.
6. ANY OFFER PRESENTED TO THE SELLER MUST BE BASED ON THE OFFEROR'S OWN INVESTIGATION AND NOT ON ANY STATEMENTS MADE BY THE SELLER OR ANY SELLING AGENT. THE SELLER MAKES NO REPRESENTATION OR WARRANTIES WHATSOEVER WITH RESPECT TO THE PROPERTY OR THE INFORMATION SET FORTH HEREIN.
7. THE PROPERTY IS SUBJECT TO WITHDRAWAL FROM THE MARKET AT ANYTIME FOR ANY OR NO REASON.
8. Offers will be reviewed and evaluated to determine whether the Seller wishes to obtain additional information from or negotiate with any offeror. The Seller reserves the right to terminate this request for offers, re-solicit offers, and reject any or all offers. In addition, the Seller reserves the right to waive formalities, procedural requirements, minor technical inconsistencies, or any requirements in this request for offers when deemed to be in the Seller's best interest. The Seller reserves the right to enter into

negotiations with one or more offerors.

9. By submitting an offer, the offeror acknowledges and agrees that (1) this request for offers is a solicitation for offers and is not a contract or an offer to contract; (2) the submission of an offer in response to this request for offers will not create a contract between the offeror and the Seller; (3) the Seller has made no representation, written or oral, that a contract will be issued under this request for offers; and (4) the offeror shall bear, as its sole risk and responsibility, any cost that arises from its preparation of an offer and any costs associated with the clarification or negotiation of its offer.
10. The envelope for submission of an offer **MUST BE SEALED AND MARKED 5304, 5308, and 5310 El Paso Blvd, RFO Package.**

ATTACHMENTS

Exhibit A - Location Map

Exhibit B – Commitment for Title Insurance

Exhibit C – Pictures

Exhibit D – El Paso Appraisal District Account Information

Exhibit E – Real Estate Contract

Aerial Map



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

Exhibit B

Title Commitment

Exhibit C

Pictures



View of west and north facades of Building 1 -
5310 El Paso Dr, facing south.



View of east and north facades of Building 1 -
5310 El Paso Dr., facing southwest.



View of east and south facades of Building 1 -
5310 El Paso Dr., facing west.



View of north and west facades of Building 2 -
5308 El Paso Dr., facing southeast.



View of Building 4 on El Paso Dr., facing west.



View of west facade of Building 3 - 5304 El Paso
Dr., facing east.



Typical interior of 5310 El Paso Dr.



Typical interior of 5310 El Paso Dr.



Typical interior of 5308 El Paso Dr.



Typical interior of 5304 El Paso Dr.



View of excess land area, looking south.



View of parking lot, looking east.



Street scene looking east on El Paso Dr.,
subject to the right.



Street scene looking west on El Paso Dr.,
subject to the left.

Exhibit D
El Paso Appraisal District

EPCAD - Print View for Property 112798

Property

Account			
Type:	R	Geo ID:	X011999000C4500
Prop ID:	112798	Legal Description:	E BENNETT SURV 11 TR 36-A (2.7339 AC)
Agent Code:	-	Property Use	-
Property Use Code:	-	Description:	
Location			
Address:	5304 EL PASO DR EL PASO, TX		
Neighborhood:	CENTRAL---SOUTH		
Neighborhood CD:	240		
Mapsc:	737N		
Map ID:	NEA137		
Owners			
Name:	UNIVERSITY OF TEXAS		
Mailing Address:	ATTN: REAL ESTATE OFFICE		
	210 W 7TH ST AUSTIN TX 78701-3099		
Owner ID:	23893		
Ownership (%):	100.00		
Exemptions	EX-XV		

Values (2019)

(+) Improvement Homesite Value:	\$0.00
(+) Improvement Non Homesite Value:	\$834,811.00
(+) Land Homesite Value:	\$0.00
(+) Land Non Homesite Value:	\$858,639.00
(+) Agricultural Market Valuation:	\$0.00
(+) Timber Market Valuation:	\$0.00
(=) Market Value:	\$1,693,450.00
(-) Agricultural Or Timber Use Value Reduction:	\$0.00
(=) Appraised Value:	\$1,693,450.00
(-) HS Cap:	\$0.00
(=) Assessed Value:	\$1,693,450.00

Taxing Jurisdiction (2019)

Owner:	UNIVERSITY OF TEXAS					
Ownership (%):	100.00					
Total Value:	\$1,693,450.00					
Entity:	Description:	Tax Rate:	Freeze Ceiling:	Appraised Value:	Taxable Value:	Estimated Tax:
CAD	CENTRAL APPRAISAL DISTRICT	0.000000	\$-.-	\$1,693,450.00	\$0.00	\$0.00
CEP	CITY OF EL PASO	0.843332	\$-.-	\$1,693,450.00	\$0.00	\$0.00
G01	EL PASO COUNTY	0.447819	\$-.-	\$1,693,450.00	\$0.00	\$0.00
IEP	EL PASO I.S.D.	1.310000	\$-.-	\$1,693,450.00	\$0.00	\$0.00

Entity:	Description:	Tax Rate:	Freeze Ceiling:	Appraised Value:	Taxable Value:	Estimated Tax:
SCC	EPCC	0.140273	\$-.-	\$1,693,450.00	\$0.00	\$0.00
SHO	UNIV MED CTR	0.251943	\$-.-	\$1,693,450.00	\$0.00	\$0.00
Total Tax Rate:		2.993367				
Taxes With Current Exemptions:						\$0.00
Taxes Without Exemptions:						\$50691.18
<p>The El Paso Central Appraisal District makes no claims, promises or guarantees about the accuracy, completeness, or adequacy of this information and expressly disclaims liability for any errors and omissions. Data relating to tax rates and tax values is being provided as unofficial data. Please visit the City of El Paso Consolidated Tax Office website for official values.</p>						

Improvements/Building (2019)

Type: State Code: Living Area: Value:			Commercial XVMI 9644.00 sqft (\$1.00)			
Type CD:	Description:		Class CD:	Exterior Wall:	Year Built:	Square Footage:
MA	MAIN AREA		INCA	804	1972	9644.00
49B	SECURITY FENCING--BARBED WIRE		*	-	1972	2100.00
45C	YARD PAVING--CONCRETE		*	-	1972	2482.00
60P	PEDESTRIAN CANOPY		*	-	1972	36.00
61M	ANCILLIARY BLDG--METAL		*	-	1972	800.00
Type: State Code: Living Area: Value:			Commercial XVMI 7539.00 sqft (\$1.00)			
Type CD:	Description:		Class CD:	Exterior Wall:	Year Built:	Square Footage:
45B	YARD PAVING--ASPHALT		*	-	1973	44819.00
61C	ANCILLIARY BLDG--CONCRETE BLK		*	-	1973	1200.00
MA	MAIN AREA		PFCA	804	1973	7539.00
45C	YARD PAVING--CONCRETE		*	-	1973	3414.00
49B	SECURITY FENCING--BARBED WIRE		*	-	1973	9394.00
Type: State Code: Living Area: Value:			Commercial XVMI 2400.00 sqft (\$1.00)			
Type CD:	Description:	Class CD:	Exterior Wall:	Year Built:	Square Footage:	
MA	MAIN AREA	PFSA	888	1973	2400.00	

Land (2019)

#	Type:	Description:	Acres:	Square Footage:	Eff Front:	Eff Depth:	Market Value:	Prod Valu
1	240214	SECONDARY ABOVE AVG INSIDE FRONTAGE	2.04	88871.11	0.00	0.00	\$0.00	\$0
2	240214	SECONDARY ABOVE AVG INSIDE FRONTAGE	0.69	30218.86	0.00	0.00	\$0.00	\$0

Roll Value History

Year:	Improvements:	Land Market:	Ag Valuation:	Appraised:	HS Cap:	Assess
2019	\$834,811.00	\$858,639.00	\$0.00	\$1,693,450.00	\$0.00	\$1,693,450
2018	\$834,811.00	\$858,639.00	\$0.00	\$1,693,450.00	\$0.00	\$1,693,450
2017	\$834,811.00	\$858,639.00	\$0.00	\$1,693,450.00	\$0.00	\$1,693,450
2016	\$834,811.00	\$858,639.00	\$0.00	\$1,693,450.00	\$0.00	\$1,693,450
2015	\$0.00	\$412,141.00	\$0.00	\$412,141.00	\$0.00	\$412,141
2014	\$0.00	\$412,141.00	\$0.00	\$412,141.00	\$0.00	\$412,141

Deed History

#	Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	7/1/1981	UNK	UNKNOWN	-	UNIVERSITY OF TEXAS	0000	0000	-
2	1/4/1900	UNK	UNKNOWN	UNIVERSITY OF TEXAS	WEST PROPERTIES INC	0000	0000	-

Executive Director/Chief Appraiser

Dinah L. Kilgore, R.P.A.

Location:

5801 Trowbridge Dr.

El Paso, TX 79925

P: (915) 780-2000

F: (915) 780-2130

General Information:

(915) 780-2131

Email us: admin@epcad.org

Webmaster: webmaster@epcad.org

© 2019 - El Paso Central Appraisal District

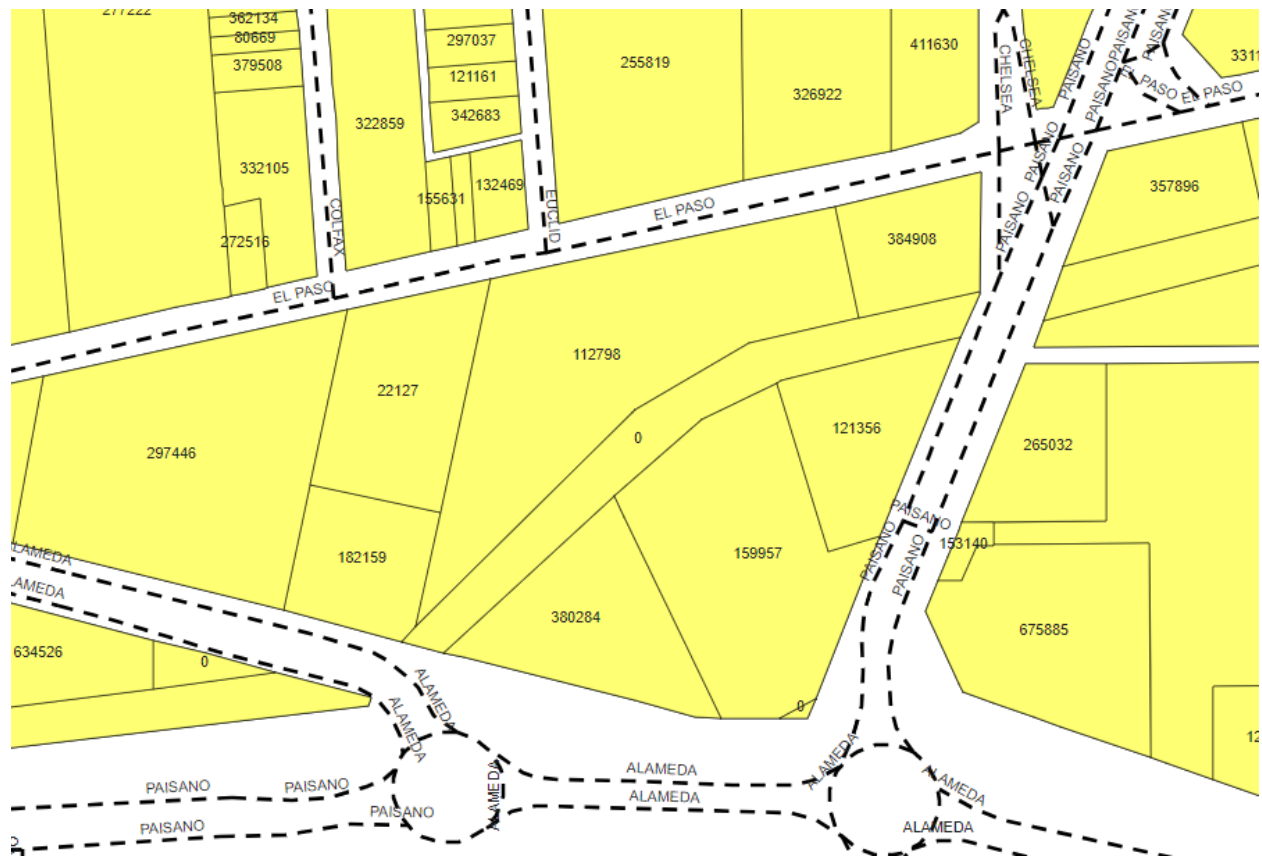


Exhibit E
Real Estate Contract

REAL ESTATE CONTRACT

5304, 5308 and 5310 El Paso Drive, El Paso, Texas

1. **PARTIES.** The names and addresses of the parties to this Real Estate Contract ("**Contract**") are:

a. Purchaser:

Telephone No. _____
Fax No. _____
Email: _____

b. Seller:

Board of Regents of The University of Texas System
Office of General Counsel – Real Estate
210 West 7th Street
Austin, Texas 78701
Attention: Executive Director of Real Estate
Telephone No. (512) 499-4333
Fax No. (512) 499-4523
Email: ktames@utsystem.edu

2. **DEFINED TERMS.** As used in this Contract, the following terms shall have the meanings set forth herein:

- a. Closing:** The closing, funding and consummation of Seller's conveyance of the Property to Purchaser.
- b. Closing Date:** That date agreed upon by the parties for Closing, which date shall be no later than **days** after the Effective Date, or, **days** after the later to occur of (i) the expiration of the Cure Period, or (ii) the expiration of the Feasibility Period.
- c. Days:** All references to "days" in this Contract shall refer to calendar days, except as otherwise expressly provided herein.
- d. Deed:** The deed without warranty by which Seller shall convey the Land and the Improvements to Purchaser at Closing, which deed shall be substantially of the form attached as **Exhibit A** hereto.
- e. Effective Date:** The date this Contract is signed by the last to sign of Purchaser or Seller. If one party fails to date its execution of this Contract, the Effective Date shall be the date shown for the other party's execution. Each party agrees to give notice to the other party immediately upon execution of this Contract.

- f. **Escrow Deposit:** \$ _____ U.S., together with any interest earned thereon in accordance with the terms of this Contract.
- g. **Feasibility Period:** The period commencing on the Effective Date and expiring at 5:00 p.m. Austin, Texas time on the _____ day thereafter.
- h. **Independent Contract Consideration:** \$ _____ U.S., which amount is taken out of the Escrow Deposit in accordance with Section 6, below.
- i. **Property:** The real and personal property to be conveyed by Seller to Purchaser at Closing, as described in Section 3, below.
- j. **Purchase Price:** \$ _____ U.S.
- k. **Title Company:** **Stewart Title**, having an address of 415 N. Mesa, El Paso, Texas 79901; Attn: Ron R. Rush ron.rush@stewart.com and Angie A. Ybarra angie.ybarra@stewart.com
- l. **Title Policy:** A Texas Standard Form T-1 Texas Owner's Policy of Title Insurance
- m. **Underwriter:** The title insurance underwriting company associated with the Title Company that at Closing will underwrite the Title Policy on the Land (as defined in Section 3.a) issued in favor of Purchaser.

3. PROPERTY. Seller agrees to sell, convey, grant and assign to Purchaser, and Purchaser agrees to purchase and pay for, the following real and personal property (collectively, the "**Property**"):

a. Land. Approximately 2.73 acres in Elijah Bennett Survey No. 11, Tract 36-A, City of El Paso, El Paso County, Texas, commonly known as 5304, 5308 and 5310 El Paso Drive, El Paso, Texas, together with all rights and interests appurtenant thereto, including all of Seller's right, title and interest in and to (i) [adjacent streets, alleys,] rights-of-way and easements exclusively serving the Land; and (ii) any adjacent strips or gores of real estate; SAVE AND EXCEPT all oil, gas and other minerals from the Land, which are reserved by Seller, together with all rights owned by Seller (if any) of ingress and egress upon the Land for the purpose of exploring, developing and drilling the mineral estate. **Waiver of Surface Rights.** At Purchaser's written request made prior to Closing, Seller will execute and deliver at closing a Waiver of Surface Rights in substantially the form attached hereto as **Exhibit D** waiving Seller's right to use the surface of the property for exploration, drilling, or production of oil, gas and minerals; and

b. Improvements. Any and all buildings, fixtures and improvements located on the Land and all rights, titles and interests appurtenant to such building, fixtures and improvements (collectively, the "**Improvements**").

4. PURCHASE PRICE. Subject to the terms and conditions of this Contract, Purchaser agrees to pay the Purchase Price to Seller at Closing in cash or other good and immediately available United States Federal funds satisfactory to Seller and the Title Company.

5. ESCROW DEPOSIT. Purchaser shall deliver the Escrow Deposit to Title Company on or before the **fifth business day** after the Effective Date. The Title Company shall hold the Escrow Deposit in a federally-insured account, and both parties agree to take such actions as Title Company may reasonably require in connection with the opening of such an account. IF PURCHASER FAILS TO TIMELY DELIVER THE ENTIRE ESCROW DEPOSIT TO TITLE COMPANY, THEN SELLER MAY, AT ITS SOLE OPTION, TERMINATE THIS CONTRACT UPON WRITTEN NOTICE OF TERMINATION GIVEN TO PURCHASER AT ANY TIME PRIOR TO THE DEPOSIT OF THE ENTIRE ESCROW DEPOSIT WITH THE TITLE COMPANY. IN THE EVENT SELLER SO TERMINATES THIS CONTRACT, THE PARTIES SHALL HAVE NO FURTHER OBLIGATIONS TO EACH OTHER HEREUNDER, SAVE AND EXCEPT FOR THOSE OBLIGATIONS THAT BY THEIR EXPRESS TERMS ARE INTENDED TO SURVIVE THE CLOSING OR TERMINATION OF THIS CONTRACT. Purchaser and Seller authorize Title Company's disbursement of funds from the Escrow Deposit in accordance with the terms and provisions of this Contract. At Closing, the Escrow Deposit shall be applied to the Purchase Price or returned to Purchaser, at Purchaser's option.

6. INDEPENDENT CONTRACT CONSIDERATION. \$_____ of the Escrow Deposit shall be retained by Seller as Independent Contract Consideration for Purchaser's option evidenced in this Contract; however, if the Closing occurs, that amount shall be credited to the Purchase Price.

7. TRUST AGREEMENT. If Purchaser is a trust or a trustee, then as a condition precedent to Seller's obligation to close under this Contract, Purchaser shall deliver to Seller within **five business days** after the Effective Date (i) a true, correct and complete copy of Purchaser's trust agreement and any and all amendments thereto (collectively, the "**Trust Agreement**"); and (ii) any other documentation required to identify the true owner of the Property to Seller's reasonable satisfaction, as required by Section 2252.092 of the Texas Government Code. Any trust agreement provided by Purchaser to Seller shall be subject to the confidentiality rules set forth in Section 2252.094 of the Texas Government Code. IF PURCHASER FAILS TO TIMELY DELIVER THE TRUST AGREEMENT TO SELLER, THEN SELLER, AT SELLER'S OPTION, MAY (IN ADDITION TO ANY OTHER REMEDY PROVIDED IN THIS CONTRACT FOR SUCH DEFAULT) TERMINATE THIS CONTRACT AT ANY TIME PRIOR TO THE EARLIER TO OCCUR OF THE CLOSING DATE OR DELIVERY OF THE TRUST AGREEMENT TO SELLER. IN THE EVENT SELLER SO ELECTS TO TERMINATE THIS CONTRACT, ANY ESCROW DEPOSIT HELD BY THE TITLE COMPANY (LESS THE INDEPENDENT CONTRACT CONSIDERATION) WILL BE RETURNED TO PURCHASER AND THE PARTIES SHALL HAVE NO FURTHER OBLIGATIONS TO EACH OTHER HEREUNDER, SAVE AND EXCEPT FOR THOSE OBLIGATIONS THAT BY THEIR EXPRESS TERMS ARE INTENDED TO SURVIVE THE CLOSING OR TERMINATION OF THIS CONTRACT.

8. TITLE COMMITMENT AND SURVEY.

a. Title Commitment. Within **twenty days** after the Effective Date, Seller shall cause the Title Company and the Underwriter to issue to Purchaser, in the form then promulgated under applicable Texas law, their written commitment ("**Commitment**") to issue Purchaser a Title Policy for the Land. The Commitment shall set forth the status of the title of the Land and show all liens, encumbrances, easements, rights-of-way, encroachments, reservations, restrictions, and any other matters affecting the Land, together with a legible copy of all documents referenced therein.

b. Survey. Within **twenty days** after the Effective Date, Seller will deliver to Purchaser Seller's most current survey (if any) of the Land and the Improvements ("**Survey**"). **SELLER MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY NATURE, EXPRESS OR IMPLIED, REGARDING THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED IN SELLER'S SURVEY(S). SHOULD PURCHASER USE OR RELY ON SELLER'S SURVEY(S), PURCHASER SHALL DO SO AT PURCHASER'S SOLE RISK.** Purchaser, at its option, may obtain a current survey of the Land ("**Survey**") prepared by a duly registered Texas surveyor that

complies with the Texas Society of Professional Surveyors' standards and specifications for a Category 1A Survey and is of a form and substance sufficient to permit modification of the standard survey exception on the Title Policy. If Purchaser obtains a Survey, Purchaser shall deliver a copy of the Survey to Seller within **three business days** of Purchaser's receipt of the Survey. Notwithstanding that a new survey is prepared in connection with this Contract, any field notes prepared by the surveyor in conjunction with the Survey will not control in the event of any conflicts or inconsistencies with the description of the Land contained or referred to in the deed into Seller, except as otherwise mutually agreed in writing by the parties. All costs and expenses of the Survey shall be payable by Purchaser; provided further that any costs for recertification or up-dating of the Survey required by Purchaser shall be at Purchaser's expense.

c. Review of Title Commitment and Survey. Purchaser shall have until 5:00 p.m. on the **twentieth day** following Purchaser's receipt of the Commitment ("**Purchaser's Objection Period**") to specify in writing to Seller those matters reflected on the Commitment and the Survey that directly reflect encumbrances to title of the Land that Purchaser finds objectionable ("**Objections**").

i. Permitted Encumbrances. Any item not timely specified by Purchaser as an Objection shall be deemed a "Permitted Exception" and will be shown as a reservation from or exception to the warranty of title in the Deed. Notwithstanding the preceding sentence, (i) liens or security interests affecting the Property, other than liens and security interests specifically allowed under this Contract, shall be deemed Objections, and (ii) the following shall be deemed Permitted Exceptions and may not be objected to by Purchaser (a) standard printed exceptions included in the Texas Standard Form Owner Title Insurance Policy; (b) exceptions to title that are expressly required by this Contract; and (c) Seller's or third-party interests in the oil, gas and mineral estate in the Land.

ii. Seller's Cure. Within **thirty days** following written notice from Purchaser of the Objections ("**Cure Period**"), Seller shall notify Purchaser in writing ("**Seller's Response**") as to (i) those Objections that Seller has satisfied at Seller's expense during the Cure Period; (ii) those Objections that Seller cannot or will not satisfy during the Cure Period but agrees to satisfy at Seller's expense prior to Closing; and (iii) those Objections that Seller cannot or will not satisfy at Seller's expense at any time under this Contract. Seller's failure to timely give the Seller's Response to Purchaser shall be deemed an election by Seller not to satisfy any of the Objections at any time under this Contract, and in the event Seller's Response fails to address any particular Objection(s), Seller shall be deemed to have elected not to satisfy such Objection(s) at any time under this Contract.

d. Objections Not Corrected During the Cure Period. With respect to each Objection that the Seller's Response indicates will not be satisfied during the Cure Period but will be satisfied on or before Closing, Seller's satisfaction of such Objection is a condition precedent to Purchaser's obligation to close hereunder, and Seller's failure to satisfy such Objection by the Closing Date shall be a default by Seller hereunder. If Seller's Response (or failure to respond) indicates that Seller cannot or will not satisfy any one or more of the Objections at any time under this Contract, then Purchaser must, in its sole discretion and as its sole remedy in such circumstance, either:

i. Termination. Terminate this Contract by giving Seller written notice thereof on or before the expiration of **ten days** after the earlier of (i) the expiration of the Cure Period; or (ii) the giving of the Seller's Response to Purchaser, in which event the Escrow Deposit (less the Independent Contract Consideration to be delivered to Seller) shall be returned to Purchaser and both parties shall be released from all further obligations under this Contract, save and except for those obligations that by their express terms are intended to survive the Closing or termination of this Contract; or

ii. **Waiver of Objections.** As to those Objections that Seller stated would not be corrected at any time under this Contract, elect to purchase the Property subject to the Objections not to be corrected, in which event such uncorrected Objections shall be deemed waived by Purchaser and shall thereafter be Permitted Exceptions under this Contract.

If Purchaser fails to give the written notice of termination specified in Section 8.d.i, Purchaser shall be deemed to have elected to waive the Objections not corrected and to accept such exceptions as Permitted Exceptions and keep the Contract in effect under Section 8.d.ii.

e. **Revisions to Survey or Title Commitment.** In the event that the Survey or the Commitment is revised after the expiration of Purchaser's Objection Period and such revised Survey or Commitment discloses material matters not previously disclosed to Purchaser ("**New Exceptions**"), the notice and objection procedure set forth in Section 8.c and Section 8.d shall be repeated solely with respect to such New Exceptions, save and except that the Purchaser's Objection Period and the Seller's Cure Period under Section 8.c shall each be **five business days** and Purchaser's termination period under Section 8d(i) shall be three business days, and the Purchaser's Objection Period shall commence upon the date that Purchaser receives the revised Commitment and/or Survey and legible copies of all documents, instruments and plats referenced in the New Exceptions; and the Closing Date shall be extended accordingly.

9.FEASIBILITY STUDIES.

a. **Property Condition Determination.** If Purchaser determines, in Purchaser's sole judgment and discretion, that the Property is not suitable for Purchaser's intended use, Purchaser may terminate this Contract by giving Seller written notice of Purchaser's decision to terminate prior to the expiration of the Feasibility Period. Upon delivery to Seller of such written notice of termination, Purchaser and Seller shall instruct the Title Company to (i) disburse the Independent Contract Consideration, which, notwithstanding anything in this Contract to the contrary, shall be paid to Seller and (ii) refund the balance of the Escrow Deposit to Purchaser. Thereafter, both parties shall be released from further obligations under this Contract, except as such obligations and covenants herein that expressly survive the Closing or termination of this Contract. Purchaser's failure to give timely notice of termination pursuant to the terms of this subsection shall be deemed a waiver of Purchaser's right to so terminate this Contract.

b. **Feasibility Studies.** Subject to the terms of this Section 9 and the rights of tenants and other occupants of the Land, Purchaser and Purchaser's agents, representatives and contractors may, after reasonable prior notice to Seller, enter upon the Land and the Improvements during the Feasibility Period, for the purpose of inspecting the Property and conducting such non-invasive tests and examinations thereof ("**Feasibility Studies**") as may be desired by Purchaser. Purchaser shall be responsible for all costs associated with all such Feasibility Studies and shall permit Seller to have a representative present during all Feasibility Studies. Purchaser shall take all reasonable actions and implement all protections necessary to ensure that all actions taken in connection with the Feasibility Studies, and all equipment, materials and substances generated, used or brought onto the Property in connection therewith pose no material threat to the safety of persons, property or the environment. Purchaser shall leave the Property in the condition in which Purchaser or Purchaser's agents and representatives found it. Purchaser shall not permit any liens to attach to the Property by reason of the exercise of Purchaser's rights hereunder.

i. **Invasive Studies.** Notwithstanding anything in this Contract to the contrary, Purchaser shall not conduct any invasive tests (such as drilling) without the prior written consent of Seller

and Seller have the right to withhold, prevent or bar any and all entries, surveys, tests (including, without limitation, a Phase II environmental study of the Property), investigations and other matters that in Seller's reasonable judgment may result in any injury to the Property or breach of any contract, or expose Seller to any losses, claims or liabilities or violation of applicable law, or otherwise adversely affect the Property or Seller's interest therein. Purchaser shall use reasonable efforts to minimize disruption to the tenants and other occupants of the Property in connection with Purchaser's or Purchaser's agents' or representatives' activities pursuant to this Section 9. No consent by Seller to any such activity shall be deemed to constitute a waiver by Seller or assumption of liability or risk by Seller. **PURCHASER HEREBY AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS SELLER FROM AND AGAINST ANY AND ALL LOSS, DAMAGE, CLAIMS, REMEDIES, DEFENSES, DEMANDS, SUITS, CAUSES OF ACTION, LIABILITIES, COSTS OR EXPENSES, OF WHATEVER KIND OR CHARACTER, ARISING OUT OF OR IN ANY WAY RELATED TO PURCHASER'S FEASIBILITY STUDIES.** The foregoing indemnification obligations of Purchaser shall survive the termination or Closing of this Contract.

c. Property Condition Reports. The results of Feasibility Studies of the Property conducted by Purchaser are referred to herein as "**Property Condition Reports**." Purchaser shall provide Seller free of charge with copies of all Property Condition Reports prepared for or provided to Purchaser immediately upon receipt of same. Prior to the closing of the sale of the Property, Purchaser and its agents, consultants, and employees may not disclose any Property Condition Report to any third party without Seller's prior written approval, unless Purchaser is legally compelled to make such disclosure; and provided further that in the event this Contract terminates without a closing of the sale of the Property, this prohibition against disclosure shall survive the termination of this Contract. All Property Condition Reports shall be deemed to be the sole property of Seller prior to Closing, but shall become the property of Purchaser from and after Closing; provided that Seller may retain one or more copies thereof without charge. Seller shall not disclose any Property Condition Report to any third party without Purchaser's prior written approval, unless Seller is legally compelled to make such disclosure; provided, however, that in the event this Contract terminates without Closing of the sale of the Property, Seller may use the Property Condition Reports for any purpose, and may disclose and distribute them as Seller wishes.

d. Access to Seller Information. Within **five days** after the Effective Date, Seller shall allow Purchaser reasonable access to copies of the following that are in Seller's possession regarding the Property ("**Seller's Reports**"): (i) all existing leases of space in the Property; (ii) all service, maintenance, and other contracts relating to the ownership and operation of the Property; (iii) all building permits and certificates of occupancy or of substantial completion, if any; and (iv) all plans and specifications pertaining to the Improvements. **SELLER MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY NATURE, EXPRESS OR IMPLIED, REGARDING THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED IN SELLER'S REPORTS. SHOULD PURCHASER USE OR RELY ON SELLER'S REPORTS, PURCHASER SHALL DO SO AT PURCHASER'S SOLE RISK.** Purchaser, its agents, consultants, and employees, shall not disclose Seller's Reports to any third party without Seller's prior written approval. This prohibition shall survive any termination of this Contract, but shall terminate upon the consummation of Closing and the conveyance of the Property to Purchaser. If this Contract terminates without the Closing of the sale of the Property, Purchaser shall immediately return Seller's Reports to Seller as a condition to receiving a refund, if applicable, of all or any part of the Escrow Deposit in accordance with other provisions of this Contract.

10. MAINTENANCE AND OPERATION OF THE PROPERTY. From the Effective Date through the earlier to occur of the Closing or termination of this Contract, Seller (i) will maintain the Property as it existed on the Effective Date, except for reasonable wear and tear and casualty damage; and (ii) without the prior written consent of Purchaser, will not amend any Lease, voluntarily extend the term of any Lease

(provided that such is not meant to prohibit a tenant's exercise of a right of extension already granted under an existing Lease), or enter into any new Lease of any whole or part of the Property.

11. WARRANTIES AND COVENANTS. PURCHASER UNDERSTANDS AND AGREES THAT SELLER OBTAINED THE PROPERTY THROUGH A WILL OR AS A RESULT OF A TRUST OR OTHER MEANS, AND IS SELLING THE PROPERTY STRICTLY ON AN "AS IS, WHERE IS" BASIS, "WITH ANY AND ALL FAULTS." OTHER THAN THE SPECIAL WARRANTY OF TITLE PROVIDED IN THE DEED, SELLER MAKES NO REPRESENTATIONS OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, EXCEPT AS EXPRESSLY SET FORTH IN THIS CONTRACT, NOR IS ANY EMPLOYEE OR AGENT OF SELLER AUTHORIZED TO MAKE ANY REPRESENTATION OR WARRANTY, AS TO THE QUALITY OR CONDITION OF THE PROPERTY, MERCHANTABILITY, SUITABILITY OR FITNESS OF THE PROPERTY FOR ANY USE WHATSOEVER, KNOWN OR UNKNOWN TO SELLER, OR COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION, OR LAND USE LAWS, RULES, REGULATIONS, ORDERS, OR REQUIREMENTS INCLUDING, BUT NOT LIMITED TO, THOSE PERTAINING TO THE HANDLING, GENERATING, TREATING, STORING, OR DISPOSING OF ANY HAZARDOUS WASTE OR SUBSTANCE. IN NO EVENT SHALL SELLER BE RESPONSIBLE OR LIABLE FOR LATENT OR PATENT DEFECTS OR FAULTS, IF ANY, IN THE PROPERTY, OR FOR REMEDYING OR REPAIRING THE SAME INCLUDING, WITHOUT LIMITATION, DEFECTS RELATED TO ASBESTOS OR ASBESTOS CONTAINING MATERIALS, UNDERGROUND STORAGE TANKS OR HAZARDOUS OR TOXIC MATERIALS, CHEMICALS OR WASTE, OR FOR CONSTRUCTING OR REPAIRING ANY STREETS, UTILITIES OR OTHER IMPROVEMENTS SHOWN ON ANY PLAT OF THE PROPERTY. BY CLOSING THE PURCHASE AND SALE, PURCHASER WARRANTS THAT PURCHASER HAS FULLY INSPECTED THE PROPERTY, IS FULLY SATISFIED WITH THE SAME IN ALL RESPECTS "AS IS, WHERE IS, WITH ANY AND ALL FAULTS," IS NOT RELYING ON ANY REPRESENTATION OR WARRANTY OF SELLER OTHER THAN THE WARRANTY OF TITLE PROVIDED IN THE DEED, IN PURCHASING THE PROPERTY FROM SELLER, AND ACCEPTS ANY LIABILITIES OR COSTS ARISING IN CONNECTION WITH THE CONDITION OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO ANY COSTS OR LIABILITIES PERTAINING TO ANY ENVIRONMENTAL CONDITION ON THE PROPERTY.

The provisions of this Section shall survive the Closing and shall be included in the Deed.

12. CLOSING.

a. Date and Place. The Closing of the sale of the Property shall occur on a date as agreed upon by the parties, which shall be no later than the Closing Date. The Title Company will be instructed to disburse the Purchase Price and other funds in accordance with this Contract, record the Deed and the other closing documents directed to be recorded, and distribute documents and copies of the closing documents in accordance with the written instructions of Seller and Purchaser.

b. Seller's Obligations at Closing. At Closing, Seller shall deliver or cause the following to be delivered to Purchaser:

i. Deed. The Deed, duly-executed and acknowledged by Seller, conveying good and indefeasible fee title to the Land and the Improvements to Purchaser, subject only to the Permitted Exceptions and any liens created by Purchaser in connection with the purchase of the Property;

ii. Possession. Possession of the Property;

iii. Owner Policy of Title Insurance. The Title Policy, issued by the Underwriter for the Title Company in favor of Purchaser in the amount of the Purchase Price, insuring that at the Closing Date

Purchaser is the owner of the Land and the Improvements, subject to any Permitted Exceptions and any liens created by Purchaser in connection with the purchase of the Land and Improvements. The Basic Premium for the Title Policy shall be paid by Seller and all endorsements to the Purchaser's Title Policy shall be at the option and sole expense of Purchaser. At the option and sole expense of Purchaser, the survey exception may be deleted except for "shortages in area";

iv. Certification. A Non-Foreign Certification, in compliance with Section 1445 of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder, stating under penalty of perjury the Seller's United States identification number and that Seller is not a "foreign person" as defined in Section 1445, duly executed and acknowledged by Seller; and

v. Keys. Keys to all locks located on the Property that are in Seller's possession;

vi. Trust Instrument. If Purchaser is a trust or trustee, Purchaser shall deliver to Seller at Closing (i) a true, correct and complete copy of any instruments not previously delivered to Seller pursuant to Section 7 of this Contract, and (ii) the written certification of Trustee as to the then current beneficiaries under the Trust. Seller's obligations to close are conditioned upon Purchaser's compliance with Section 2252.092 of the Texas Government Code; and

vii. Waiver of Surface Rights. A Waiver of Surface Rights in substantially the form attached hereto as Exhibit J, duly executed and acknowledged by Seller;

viii. Other Instruments. Such other documents as are customarily executed in the State of Texas in connection with the conveyance of the Property, including all required closing statements, releases, affidavits, evidences of authority to execute the documents, and any other instruments that may be reasonably required by the Underwriter and/or Title Company.

c. Purchaser's Obligations at Closing. At Closing, Purchaser shall

i. Payment of Purchase Price. Pay the Purchase Price to Seller at Closing, subject to any adjustments for prorations or other credits, in accordance with the provisions of this Contract; and

ii. Other Instruments. Execute, acknowledge and deliver to the Seller and/or Title Company, as applicable, and such other documents as are customarily executed in the State of Texas in connection with the conveyance of real property, including all required closing statements, releases, affidavits, evidences of authority to execute the documents, and any other instruments that may be reasonably required by the Title Company.

d. Prorations. According to the records of the El Paso County Appraisal District, it is Seller's current understanding that the Property is currently exempt from ad valorem taxation. Purchaser shall be responsible for all ad valorem taxes attributable to the period of time from and after the Closing Date and for all subsequent assessments for prior years due to change in land usage or ownership. If, on or before the Closing Date, a taxing authority asserts that the Property, while owned by Seller, was not tax exempt, Seller, in its sole discretion, may either cause the Title Company to prorate the taxes claimed to be due, or contest any such assertion that taxes are owed by Seller. If Seller elects to prorate taxes, the proration shall be based on the base tax amount that the taxing authority asserts is due, or on such other estimate that is approved by Seller, and Seller shall pay by credit on Purchaser's closing statement at the Closing Seller's prorata portion of those taxes. When the amount of taxes levied against the Property for the year of Closing is known, either

Seller or Purchaser shall have the right to have the proration amount readjusted with the result that Seller shall pay for those taxes attributable to the period of time prior to the Closing Date; provided, however, that to avail itself of the right to have the proration amount readjusted, the party seeking readjustment must deliver to the other party a written request to that effect on or before March 1 of the calendar year immediately following the year of Closing. Payments after the Closing Date shall be made in immediately available funds to the applicable party at its address set forth in Section 1.

e. Closing Costs. Each party is responsible for paying the legal fees of its counsel in negotiating, preparing, and closing the transaction contemplated by this Contract. Seller is responsible for paying fees, costs, and expenses identified in this Contract as being the responsibility of Seller. Purchaser is responsible for paying fees, costs, and expenses identified in this Contract as being the responsibility of Purchaser. Any Title Company escrow fee shall be split equally between the parties. All other expenses shall be allocated between the parties in the customary manner for closings of real property similar to the Land and the Improvements in the area in where the same is located.

13. DEFAULTS AND REMEDIES.

a. Purchaser's Default and Seller's Remedies.

i. Purchaser's Default. Purchaser shall be in default under this Contract if Purchaser shall (i) do or fail to do any act, the performance or nonperformance of which is required of Purchaser under this Contract, or (ii) fail or refuse to pay the Purchase Price at Closing for any reason other than a default by Seller.

ii. Seller's Remedies. If Purchaser is in default under this Contract, Seller may, as Seller's sole remedy at law or in equity, (i) terminate this Contract by written notice delivered to Purchaser and receive the entire Escrow Deposit as liquidated damages for such termination of the Contract for Purchaser's default; and (ii) enforce (if, when and as applicable from time to time after the termination of this Contract) all indemnities of Purchaser to Seller under this Contract.

b. Seller's Defaults and Purchaser's Remedies.

i. Seller's Defaults. Seller shall be deemed to be in default under this Contract if Seller shall do or fail to do any act, the performance or nonperformance of which is required of Seller under this Contract, for any reason other than a default by Purchaser.

ii. Purchaser's Remedies. If Seller is in default under this Contract, Purchaser may, as its sole remedy at law or in equity for such default, either (i) terminate this Contract by written notice delivered to Seller on or before the Closing Date, as appropriate, and receive a return of the Escrow Deposit (less the Independent Contract Consideration to be delivered to Seller), or (ii) enforce specific performance of this Contract.

c. Notice to Title Company. Upon the termination of this Contract pursuant to this Section or any other provision of this Contract, the parties covenant and agree to deliver a letter of instruction to the Title Company directing disbursement of the Escrow Deposit to the party entitled thereto under the terms of this Contract. In the event that either party hereto fails or refuses to execute and deliver such an instruction letter when the other party is entitled to receive the disbursement of the Escrow Deposit (less the Independent Contract Consideration to be delivered to Seller), the party refusing to deliver the instruction

letter shall (to the extent authorized by the statutes and the Constitution of the State of Texas) pay, upon the final order of a court with appropriate jurisdiction, the actual and reasonable attorney fees, court costs and other costs of collection incurred in connection with the recovery thereof by the party entitled to the Escrow Deposit (less the Independent Contract Consideration to be delivered to Seller).

14. REAL ESTATE COMMISSION.

a. **No Brokers.** Seller represents to Purchaser that in connection with the Closing and sale of the Property pursuant to this Contract, no brokerage fee or commission is due or will be payable to any person claiming by, through or under Seller. Purchaser represents to Seller that in connection with the Closing and sale of the Property pursuant to this Contract, no brokerage fee or commission is due or will be payable to any person claiming by, through or under Purchaser.

or

a. **Brokerage Commission.** If and when the Closing occurs, Seller agrees to pay to the following real estate agent(s) (collectively, "Brokers", whether one or more) a commission for services rendered in connection with this transaction equal to a total of ____ percent of the Purchase Price, to be divided as follows:

_____	-	_____	%
_____	-	_____	%

Purchaser represents and warrants to Seller that except as set forth above, no brokerage commission is due or payable to any other person claiming by, through or under Purchaser in connection with the Closing of the sale of the Property contemplated by this Contract. Seller's obligation to pay the commission is totally contingent on the consummation of the transaction contemplated herein and shall not be payable if Closing and funding do not occur for any reason, including the default of either Seller or Purchaser.

b. **Indemnity.** *Seller (but only to the extent authorized by the laws and the Constitution of the State of Texas) and Purchaser each agrees to indemnify, defend and hold the other party harmless from any loss, liability, claim or cost (including, without limitation, attorneys' fees, costs of suit, and court costs) arising out of a claim for a fee or commission pertaining to the sale of the Property that arises in favor of any person claiming by, through, or under the indemnifying party.* This indemnity shall survive the Closing or termination of this Contract.

15. MISCELLANEOUS.

a. **Notice.** Any notice required or permitted to be delivered under this Contract shall be deemed received when actually delivered by hand delivery, facsimile transmission, or overnight courier, or when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to Seller or Purchaser, as the case may be, at the physical address or Post Office box stated in Section 1 and to Seller's and Purchaser's respective attorneys at the physical address or Post Office box as set forth below:

Purchaser's Attorney:

Attention: _____

Seller's Attorney:

Office of General Counsel
201 West 7th Street
Austin, Texas 78701

Attention: _____

Telephone No.: _____

Fax No.: _____

Email: _____

Telephone No.: (512) _____

Fax No.: (512) 499-4523

Email: _____@utsystem.edu

b. No Conflict of Interest. If Purchaser is not an individual, Purchaser certifies that no member of the Board of Regents of The University of Texas System (i) owns or has a beneficial interest in more than five percent of Purchaser's outstanding capital stock, (ii) is an officer or employee of Purchaser, or (iii) to Purchaser's knowledge, has a pecuniary interest, directly or indirectly, in the transaction contemplated in this Contract.

c. Assignment of Contract. Purchaser may assign this Contract only with the prior written consent of Seller, which will not be unreasonably withheld. Seller reserves the right to require Purchaser to submit to Seller information satisfactory to Seller to enable Seller to satisfy itself that Purchaser's assignee has the financial qualifications to close the transaction. Any assignment made by Purchaser without Seller's prior written consent shall be voidable and of no force and effect at the option of Seller.

d. Holidays. For purposes of this Contract, 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, The University of Texas at El Paso, national banks, Texas state banks and/or the U.S. Postal service are closed for business.

e. Survival of Covenants. Any of the representations, warranties, covenants and agreements of the parties under this Contract, and rights and benefits of the parties, pertaining to a period of time following Closing shall survive Closing and shall not be merged therein.

f. Applicable Law and Venue. This Contract and the rights and obligations of the parties hereto shall be interpreted, construed and enforced in accordance with the laws of the State of Texas. Any action brought to enforce or interpret this Contract may be brought in the court of appropriate jurisdiction in either Travis County, Texas or the county in which the Land is located.

g. Parties Bound. This Contract shall be binding upon and inure to the benefit of the parties to this Contract and their respective heirs, executors, administrators, legal representatives, successors, and assigns. This Section shall not constitute a party's consent to an assignment of this Contract.

h. Severability. In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Contract, and this Contract shall be construed as if such invalid, illegal and unenforceable provision had never been contained in this Contract.

i. Entirety and Amendments. This Contract (including all exhibits and addenda attached hereto) constitutes the sole and only agreement of the parties to this Contract and supersedes any prior understandings or written or oral agreements between the parties concerning the purchase of the Property. This Contract may be amended or supplemented only by an instrument in writing executed by the party against whom enforcement is sought.

j. Time of Essence. Time is of the essence in the performance of the undertakings and obligations of the parties under this Contract.

k. Gender. Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

l. Construction. Each party acknowledges that it and its counsel have reviewed this Contract and that the normal rule of construction shall not be applicable and there shall be no presumption that any ambiguities will be resolved against the drafting party in the interpretation of this Contract. The captions in this Contract are for convenience only and shall not be deemed to define, limit or affect in any way the scope, meaning, intent or extent of this Contract or any part of it.

m. Risk of Loss. Seller shall bear the risk of all loss or damage to the Property from all causes other than the activities of Purchaser, until Closing. If, prior to Closing, all or part of the Property is damaged by fire or by any other cause of whatsoever nature, or condemnation proceedings are commenced or notice of such proceedings given, Seller shall promptly give Purchaser written notice of such damage or condemnation notice. After notice of such damage or condemnation (from Seller or otherwise), Purchaser shall have the option to require Seller either to convey the Property on the Closing Date to Purchaser in its damaged condition and to assign Purchaser all of Seller's right, title and interest in and to claims Seller may have under the insurance policies covering the Property, if any, or condemnation awards, or Purchaser may, at Purchaser's option, terminate this Contract by written notice delivered to Seller, with a copy to the Title Company. On receipt of said notice, the Title Company shall promptly disburse the Independent Contract Consideration to Seller and refund to Purchaser the balance of the Escrow Deposit and this Contract shall be of no further force and effect.

n. Purchaser's Contract Authorization. If Purchaser is a legal entity and not an individual, Purchaser warrants and represents to Seller that Purchaser has the full right, power, and authority to purchase the Property from Seller as provided in this Contract and to carry out Purchaser's obligations under this Contract, and that all requisite action necessary to authorize Purchaser to enter into this Contract and to carry out Purchaser's obligations hereunder has been or on or before Closing will have been taken, and the person signing this Contract on behalf of Purchaser has been duly authorized by Purchaser to execute and deliver this Contract.

o. No Implied Waiver. A party's failure to insist at any time on the strict performance of any covenant or agreement or its failure to exercise any option, right, power or remedy contained in this Contract, shall not be construed as a waiver or a relinquishment thereof for the future. The waiver of a breach or the acceptance of cure for any violation of any term, covenant, agreement, or condition contained in this Contract shall not prevent a subsequent act being a breach of this Contract.

p. No Third Party Beneficiaries. Except as otherwise expressly extended to a third party under the terms of this Contract, no beneficial rights are given to any third parties by or under this Contract.

q. E-Mail Transmission. A pdf facsimile of a duly executed counterpart of this Contract, mailed to a party at the address for e-mail notice shown below, 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 party an original, duly executed counterpart of this Contract following the e-mail delivery of the pdf facsimile thereof.

E-mail address for Seller: kbrooks@utsystem.edu

E-mail address for Purchaser: _____]

t. **Facsimile Transmission.** A telecopied facsimile of a duly executed counterpart of this Contract shall be sufficient to evidence the binding agreement of each party to the terms hereof. However, each party agrees to promptly return to the other an original, duly executed counterpart of this Contract following the delivery of a telecopied facsimile thereof.

u. **Multiple Counterparts.** This Contract may be simultaneously executed in a number of counterparts, each of which for all purposes shall be deemed an original and all of which, when taken together, shall constitute but one and the same instrument.

v. **Force Majeure.** If the performance by a party of any provision of this Contract is delayed or prevented by (i) an act of God such as weather or earthquake; (ii) an act of war or terrorism; or (iii) restriction by any governmental authority, then the period for the party's performance of the provision shall be automatically extended for the same amount of time that the party is so delayed or hindered.

16. STATUTORY NOTICES. The following statutory notices are provided to Purchaser:

a. **Notice to Purchaser.** **THE PURCHASER IS ADVISED THAT PURCHASER SHOULD HAVE THE ABSTRACT OR TITLE COMMITMENT COVERING THE PROPERTY EXAMINED BY AN ATTORNEY OF PURCHASER'S OWN SELECTION AND BY SIGNING THIS CONTRACT PURCHASER ACKNOWLEDGES RECEIPT OF THIS NOTICE.**

b. **Other Notices.** Purchaser is advised of the matters set forth in the Exhibit C attached hereto.

d. **Seller's Disclosure Notice.** Purchaser acknowledges that, as an agency of the State of Texas, Seller is exempt from the requirement of delivering a Seller's Disclosure Notice pursuant to Section 5.008 of the *Texas Property Code*. Purchaser will fully investigate the matters that would ordinarily be disclosed in such document prior to Closing.

17. LIST OF EXHIBITS. The following exhibits are appended to this Contract and incorporated herein by reference:

Exhibit A - Land Description
Exhibit B – Deed without Warranty
Exhibit C – Statutory Notices
Exhibit D – Waiver of Surface Rights

18. TERMINATION OF OFFER. Notwithstanding any other provision in this Real Estate Contract to the contrary, if the Effective Date has not occurred on or before _____, 2019, this Contract shall be voidable at the option of Seller at any time prior to the actual occurrence of the Effective Date, upon written notice by Seller to Purchaser. In such event, the Escrow Deposit (including the Independent Contract Consideration) deposited with Seller or the Title Company shall be returned to Purchaser.

19. EXECUTION IN ACCORDANCE WITH ANNOUNCEMENT FOR SALE. By execution and submission of this Real Estate Contract, Purchaser hereby represents and warrants to Seller that (i) Purchaser has read and understands the Announcement for Sale, pursuant to which the Property is offered for sale by Seller, and this

Real Estate Contract; and (ii) Purchaser's offer is made in accordance with the terms and provisions of the Announcement for Sale.

DATE OF EXECUTION:

_____, 20____

SELLER:

BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM for
the use and benefit of The University of Texas at El Paso

By: _____

Kirk S. Tames

Executive Director of Real Estate

The University of Texas System

Approved as to Content:

By: _____

Name: _____

Title: _____

Date: _____, 20____

DATE OF EXECUTION:

_____, 20____

PURCHASER (entity):

By: _____

Name: _____

Title: _____

DATE OF EXECUTION:

_____, 20____

PURCHASER (individual):

Print Name: _____

_____, 20____

Print Name: _____

JOINDER OF BROKERS

Broker(s) have executed this Contract solely for the purpose of evidencing their agreement to the terms of Section 14.a of this Contract. No consent by Broker(s) shall be required to amend any other term of this Contract.

DATE OF EXECUTION:

BROKER(S):

_____, 20__

By: _____

Name: _____

Title: _____

DATE OF EXECUTION:

_____, 20__

By: _____

Name: _____

Title: _____

RECEIPT BY TITLE COMPANY

The undersigned, a title insurance company duly licensed and doing business under the laws of Texas, acknowledges on this _____ day of _____, 2019 that it is in receipt of both (i) the Escrow Deposit in the amount of \$_____ in the form of cash or other immediately available funds; and (ii) a copy of this Contract executed by both Purchaser and Seller. The undersigned further acknowledges and agrees to (i) promptly notify Purchaser and Seller of the receipt of the Escrow Deposit and the fully signed Contract; and (ii) perform the duties and obligations of the "Title Company" set forth in the Contract.

By: _____
Name: _____
Title _____

EXHIBIT A TO REAL ESTATE CONTRACT

LAND DESCRIPTION

EXHIBIT A TO REAL ESTATE CONTRACT

DEED WITHOUT WARRANT

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

DEED WITHOUT WARRANTY

STATE OF TEXAS §
§
COUNTY OF EL PASO §

Effective Date: _____, 2019

Grantor: BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM

Grantor's Mailing Address:

Office of General Counsel
Real Estate Office
210 West 7th Street
Austin, Travis County, Texas 78701
Attention: Executive Director of Real Estate

Grantee:**Grantee's Mailing Address (including county):**

Consideration: TEN and No/100 DOLLARS (\$10.00) cash in hand and other good and valuable consideration paid by Grantee, the receipt and legal sufficiency of which are hereby acknowledged.

Property (including any improvements):

- a. Land. The real property _____, as more particularly described on the attached Exhibit A, together with all rights and interests appurtenant thereto, including all of Grantor's right, title and interest in and to adjacent streets, alleys, rights-of-way and any adjacent strips or gores of real estate and all rights, titles and interests appurtenant thereto; SAVE AND EXCEPT all oil, gas and other minerals from the Land, which are reserved by Grantor; and
- b. Improvements. All buildings, fixtures and improvements (collectively, the "Improvements") located on the Land and all rights, titles and interests appurtenant to such buildings, fixtures and improvements;

Reservations from and Exceptions to Conveyance:

There is reserved from this Conveyance, and Grantor is not hereby conveying to Grantee any interest in and to all the oil, gas and other minerals in and under the Property owned by Grantor, if any, which are expressly reserved to Grantor.

This Conveyance is subject to (i) all easements, rights-of-way, prescriptive rights, leases, licenses, agreements, and other interests which affect the Property, whether of record or not, (ii) any discrepancies, conflicts, or shortages in area or boundary lines or any encroachments or any overlapping of improvements which a current survey would show, and (iii) all matters of public record that affect the Property, including without limitation, all easements, restrictions, reservations, covenants, conditions, oil and gas leases, and mineral severances, but only to the extent that said items are still valid and in force and effect at this time.

ADDITIONALLY, GRANTOR CONVEYS THE PROPERTY TO GRANTEE "AS IS, WHERE IS" AND "WITH ANY AND ALL FAULTS." GRANTOR MAKES NO REPRESENTATIONS OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, AS TO THE QUALITY OR CONDITION OF THE PROPERTY, MERCHANTABILITY, SUITABILITY OR FITNESS OF THE PROPERTY FOR ANY USE WHATSOEVER, KNOWN OR UNKNOWN TO GRANTORS, OR COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION, OR LAND USE LAWS, RULES, REGULATIONS, ORDERS, OR REQUIREMENTS INCLUDING, BUT NOT LIMITED TO, THOSE PERTAINING TO THE HANDLING, GENERATING, TREATING, STORING, OR DISPOSING OF ANY HAZARDOUS WASTE OR SUBSTANCE. IN NO EVENT SHALL GRANTOR BE RESPONSIBLE OR LIABLE FOR LATENT OR PATENT DEFECTS OR FAULTS, IF ANY, IN THE PROPERTY, OR FOR REMEDYING OR REPAIRING THE SAME INCLUDING, WITHOUT LIMITATION, DEFECTS RELATED TO ASBESTOS OR ASBESTOS CONTAINING MATERIALS, UNDERGROUND STORAGE TANKS OR HAZARDOUS OR TOXIC MATERIALS, CHEMICALS OR WASTE, OR FOR CONSTRUCTING OR REPAIRING ANY STREETS, UTILITIES OR OTHER IMPROVEMENTS SHOWN ON ANY PLAT OF THE PROPERTY. BY GRANTEE'S ACCEPTANCE OF THIS CONVEYANCE, GRANTEE WARRANTS THAT GRANTEE HAS FULLY INSPECTED THE PROPERTY, IS FULLY SATISFIED WITH THE SAME IN ALL RESPECTS, ACCEPTS THE PROPERTY "AS IS, WHERE IS, WITH ANY AND ALL FAULTS," AND IS NOT RELYING ON ANY REPRESENTATION OR WARRANTY OF GRANTOR. GRANTEE, BY ITS ACCEPTANCE OF THIS DEED, ACCEPTS ANY LIABILITIES OR COSTS IN CONNECTION WITH THE CONDITION OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO ANY COSTS OR LIABILITIES PERTAINING TO ANY ENVIRONMENTAL CONDITION ON THE PROPERTY.

GRANTOR, for the Consideration and subject to the Reservations from and Exceptions to Conveyance, has, and by these presents does grant, sell and convey unto Grantee, Grantor's right, title and interest, if any, to the Property, together with, all and singular, the rights and appurtenances thereto in any wise belonging, to have and to hold unto Grantee, Grantee's successors and assigns forever.

All without express or implied warranty. ALL WARRANTIES THAT MIGHT ARISE BY COMMON LAW AS WELL AS THE WARRANTIES IN SECTION 5.023 OF THE TEXAS PROPERTY CODE (OR ITS SUCCESSOR) ARE EXCLUDED.

By Grantee's acceptance of this Deed Without Warranty, Grantee assumes and agrees to pay all taxes affecting the Property for 2019 and all subsequent years and any and all taxes assessed against the Property due to a change in usage, regardless of the year(s) for which those taxes are assessed.

When the context requires, singular nouns and pronouns include the plural.

Executed on the date set forth in the acknowledgment line below, to be effective for all purposes as of the Effective Date.

BOARD OF REGENTS OF THE
UNIVERSITY OF TEXAS SYSTEM

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

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the ____ day of _____ 2019, by Kirk S. Tames, Executive Director of Real Estate of The University of Texas System, for the Board of Regents of The University of Texas System.

Notary Public in and for
The State of Texas

EXHIBIT C TO REAL ESTATE CONTRACT

STATUTORY NOTICES

STATUTORY NOTICES GOVERNING THE SALE OF REAL PROPERTY

Agriculture Code §60.063	Property located in agricultural development district (none exist as of 1/1/2008)
Local Govt. Code §212.155	City's right to enforce private restrictive covenants (applies only to cities without zoning ordinances <u>or</u> having 1.5 million or more in population)
Natural Res. Code §33.135	Real property abuts tidally influenced state lands (Does not apply to conveyance of mineral interests or leaseholds)
Natural Res. Code §61.025	Real property is located seaward of Gulf Intercoastal Waterway (Does not apply to conveyance of mineral interests or leaseholds)
Occupations Code §1958.154	Seller must provide buyer with copies of any Mold Remediation Certificate issued on property within prior five years
Property Code §5.013	Location of transportation pipeline on unimproved real property. (Notice is not required if seller is obligated to furnish a title commitment prior to closing and buyer may terminate for any uncured title objections)
Property Code §5.205	Real property may be subject to a private transfer fee obligation (replacing Prop. Code §5.017)
Property Code §11.008	Notice of confidentiality rights must be put at top of deed or deed of trust
Property Code §27.007	Contract for construction, repair or alteration of residential real property by builder is subject to Residential Construction Liability Act
Transportation Code §257.005	Real property is located in a road district
Water Code §49.452	Property is located in a general law statutory taxing district subject to Chapter 49 of the Water Code [Sales <u>to</u> a governmental entity are exempted, but not <u>from</u> a governmental entity §49.452(a)(2)(D)]

MISCELLANEOUS STATUTORY PROHIBITIONS AND REQUIREMENTS

Health & Safety Code §361.538	A person may not undertake the development of a tract of land that is greater than one acre in area unless the person has conducted soil tests, in accordance with commission rules, to determine whether any part of the tract overlies a closed municipal solid waste landfill facility.
Health & Safety Code §361.539	Owner of land that overlies a closed municipal solid waste landfill facility must file a notice to such effect in the county real property records
Property Code §5.015	Person holding right of first refusal against condo property subject to Property Code Chapters 81 or 82 may not charge a fee for declining to exercise that right (such as a fee for providing written evidence of the declination)
30 T.A.C. §330.953	A person may not undertake the development of a tract of land that is greater than one acre in area unless the person conducts a soil test prior to or during development and construction to determine if a landfill exists on the property.

WAIVER OF SURFACE RIGHTS

Executed to be effective _____, 20__.

BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS
SYSTEM, for the use and benefit of THE UNIVERSITY OF
TEXAS AT EL PASO

Date: _____

By: _____

Kirk S. Tames

Executive Director of Real Estate

The University of Texas System

Approved as to Content:

Date: _____

By: _____

Name: _____

Title: _____

PURCHASER:

Date: _____

By: _____

Name: _____

Title: _____

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

 This instrument was acknowledged before me on the ____ day of _____, 20____, by
, ____ [title] _____, on behalf of the Board of Regents of The University of Texas System, for the use and
benefit of The University of Texas _____.

Notary Public in and for
The State of Texas

STATE OF TEXAS §
 §
COUNTY OF _____ §

 This instrument was acknowledged before me on the ____ day of _____, 20____, by
_____, _____ of
_____ on behalf of said _____.

Notary Public in and for
The State of Texas