



Writer's Direct Number: (512) 499-4330

**Tina Faltysek**  
Senior Real Estate Specialist  
[tfaltysek@utsystem.edu](mailto:tfaltysek@utsystem.edu)

June 5, 2023

OGC#117852

To Interested Real Estate Appraisers:

Via: Email

RE: Request for Qualifications for Commercial Appraisal Services – RFQ No. 720-2323

The University of Texas System Real Estate Office is seeking qualifications from interested and qualified real estate appraisers to perform an appraisal of a property located at 3825 Lake Austin Blvd., Austin, Travis Co., Texas, as depicted on the aerial map attached as Exhibit A.

## **SECTION 1 – INTRODUCTION**

### **1.1 Description of The University of Texas System and Real Estate Office**

The University of Texas System (“University”) has served Texas for more than 135 years, improving the lives of Texans—and people all over the world—through education, health care and research at [13 academic and health institutions](#) across the state, collectively referred to as the “UT Institutions”. With an enrollment of more than 240,000 students, the University is one of the nation’s largest public university systems of higher education. The University is also one of the largest employers in the state with 21,000 faculty – including Nobel laureates and members of National Academies – and more than 85,000 health care professionals, researchers and staff. The University of Texas System Administration (“UT System Administration”) functions as the headquarter component serving the UT Institutions.

UT System Administration has a Real Estate Office which provides centralized and comprehensive real estate services for UT System Administration and the UT Institutions. Such services include, but are not limited to, a comprehensive range of professional expertise and resources for campus and UT System Administration’s real estate transactions, including feasibility analyses, purchases, easements, and leases.

### **1.2 Description of Assignment**

The Board of Regents of The University of Texas System owns the property identified as 3825 Lake Austin Blvd., Austin, Travis Co., Texas, (“Property”) and currently ground leased to a tenant under a ground lease expiring in 2032. The ground lease includes a percentage rent component with a floor base rent. The Real Estate Office requests responses to this Request for Qualifications for Commercial Appraisal Service from qualified appraisal companies (“Respondent”) who meet a set of minimum qualifications to provide appraisal services to determine the leased fee value of the Property.

## **“Scope of Work”**

The Scope of Work is to determine the Property’s current fair market value of the leased fee interest.

Exhibit A – Aerial Map

Exhibit B – Travis Central Appraisal District

Exhibit C – Appraisal Services Agreement

## **SECTION 2 - RESPONSE REQUIREMENTS**

### **2.1 University Contact Person, Submission, and Deadline**

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

**Tina Faltysek**  
**Email: [tfaltysek@utsystem.edu](mailto:tfaltysek@utsystem.edu)**

University specifically requests that Respondents restrict all contact and questions regarding this RFQ to the above-named individual via email; otherwise, Respondent may be disqualified. University will accept Responses submitted in response to this RFQ until 5:00pm Austin, Texas Time on **June 16, 2023** (the “**Submittal Deadline**”) and emailed to the UT System Contact.

### **2.2 Criteria for Selection**

The successful Respondent, if any, selected by University through this RFQ will be based on the information provided by Respondent in response to **Section 3. Qualification Criteria and received by UT System Contact** on or before the Submittal Deadline.

Respondent should submit a proposal offering the maximum benefit to University in terms of (1) demonstrated competence and qualifications, and (2) fair and reasonable cost.

University will evaluate the responses and select a qualified Respondent based on the information provided in the responses. University may consider additional information if it determines the information is relevant. University reserves the right to award none, some, or all of the Services described in this RFQ.

Criteria considered by University in evaluating qualifications and selecting the most highly qualified Respondent will be demonstrated competence and qualifications to perform the Work for a fair and reasonable price.

### **2.3 Submittal Checklist**

Respondents are instructed to send a response that includes:

- A. Responses to Qualification Criteria (ref. **Section 3**).
- B. Signed and Completed Qualification Request Form (ref. **Section 4**).

### **SECTION 3 - QUALIFICATION CRITERIA**

Please provide a narrative response to the criteria listed below; it must address specific items noted with each criterion. Respondent can also include additional information Respondent believes University should know when determining qualifications.

#### **Evaluation Questions for Supplier Response**

A. Vendor Qualification	1. Provide the name of the Firm and appraiser who will be providing the service  2. List the Qualifications of the appraiser
B. Experience	3. Provide a description of up to three similar assignments that the appraiser has completed
C. Time Frame	4. Provide the Time Frame for Completing the Appraisal
D. UT System Real Estate Appraisal Services Agreement and Guidelines	5. Review the UT System Real Estate Appraisal Services Agreement and provide any changes or exceptions.

**SECTION 4 - QUALIFICATION REQUEST FORM**

Name of responding entity: \_\_\_\_\_

Business Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Federal Tax ID Number: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Contact E-mail Address: \_\_\_\_\_

Contact Phone Number(s): \_\_\_\_\_

Appraisal Fee for Service: \$\_\_\_\_\_

By completing and signing this form, the Respondent affirms that all the information is true and correct. The person signing below further affirms that they are a duly authorized representative of the Respondent's firm.

Submitted and Certified by:

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date



# EXHIBIT A



Subject Property

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.



## GENERAL INFO

### ACCOUNT

Property ID: 116347  
 Geographic ID: 0116090104  
 Type: R  
 Zoning: CS  
 Agent: KEEL & NASSOUR L.L.P  
 Legal Description: LOT 1-11 BLK 1 LAKE ADDN

Property Use: 43

### OWNER

Name: UNIVERSITY OF TEXAS  
 Secondary Name: BOARD OF REGENTS  
 Mailing Address: 210 W 7TH ST ATTN: REAL ESTATE  
 AUSTIN TX 78701-2903  
 Owner ID: 114198  
 % Ownership: 100.00  
 Exemptions:

### LOCATION

Address: 3825 LAKE AUSTIN BLVD TX 78703

Market Area:  
 Market Area CD: CEN  
 Map ID: 011818

### PROTEST

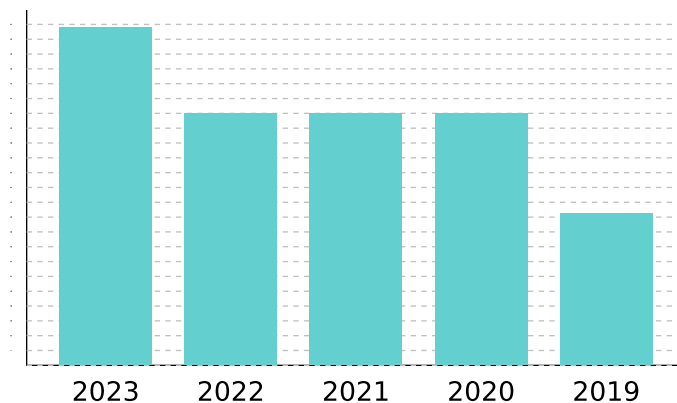
Protest Status:  
 Informal Date:  
 Formal Date:

## VALUES

### CURRENT VALUES

Land Homesite: \$0  
 Land Non-Homesite: \$11,394,200  
 Special Use Land Market: \$0  
 Total Land: \$11,394,200  
 Improvement Homesite: \$0  
 Improvement Non-Homesite: \$0  
 Total Improvement: \$0  
 Market: \$11,394,200  
 Special Use Exclusion (-): \$0  
 Appraised: \$11,394,200  
 Value Limitation Adjustment (-): \$0  
 Net Appraised: \$11,394,200

### VALUE HISTORY



Values for the current year are preliminary and are subject to change.

### VALUE HISTORY

Year	Land Market	Improvement	Special Use Exclusion	Appraised	Value Limitation Adj (-)	Net Appraised
2023	\$11,394,200	\$0	\$0	\$11,394,200	\$0	\$11,394,200
2022	\$8,500,000	\$0	\$0	\$8,500,000	\$0	\$8,500,000
2021	\$8,500,000	\$0	\$0	\$8,500,000	\$0	\$8,500,000
2020	\$8,500,000	\$0	\$0	\$8,500,000	\$0	\$8,500,000
2019	\$5,127,390	\$0	\$0	\$5,127,390	\$0	\$5,127,390

## TAXING UNITS

Unit	Description	Tax Rate	Net Appraised	Taxable Value
01	AUSTIN ISD	0.996600	\$11,394,200	\$11,394,200
02	CITY OF AUSTIN	0.462700	\$11,394,200	\$11,394,200
03	TRAVIS COUNTY	0.318239	\$11,394,200	\$11,394,200
0A	TRAVIS CENTRAL APP DIST	0.000000	\$11,394,200	\$11,394,200
2J	TRAVIS COUNTY HEALTHCARE DISTR	0.098684	\$11,394,200	\$11,394,200
68	AUSTIN COMM COLL DIST	0.098700	\$11,394,200	\$11,394,200

DO NOT PAY FROM THIS ESTIMATE. This is only an estimate provided for informational purposes and may not include any special assessments that may also be collected. Please contact the tax office for actual amounts.

## IMPROVEMENT

### LAND

Land	Description	Acres	SQFT	Cost per SQFT	Market Value	Special Use Value
COMM	Commercial Land	1.7461	76,062	\$100.00	\$7,606,200	\$0
LAND	Land	0.8696	37,880	\$100.00	\$3,788,000	\$0

## DEED HISTORY

Deed Date	Type	Description	Grantor/Seller	Grantee/Buyer	Book ID	Volume	Page	Instrument
-----------	------	-------------	----------------	---------------	---------	--------	------	------------

## GENERAL INFO

### ACCOUNT

Property ID: 776212  
Geographic ID: 0116090104  
Type: R  
Zoning: CS  
Agent: KEEL & NASSOUR L.L.P  
Legal Description: LOTS 1-11 BLK 1 LAKE ADDN IMP ONLY  
Property Use: 43

### OWNER

Name: OYSTER BOAT TOWN LANDING LTD  
Secondary Name:  
Mailing Address: 3825 LAKE AUSTIN BLVD STE 401  
AUSTIN TX 78703-3508  
Owner ID: 114227  
% Ownership: 100.00  
Exemptions:

### LOCATION

Address: 3825 LAKE AUSTIN BLVD TX 78703

Market Area:  
Market Area CD: CEN  
Map ID: 011818

### PROTEST

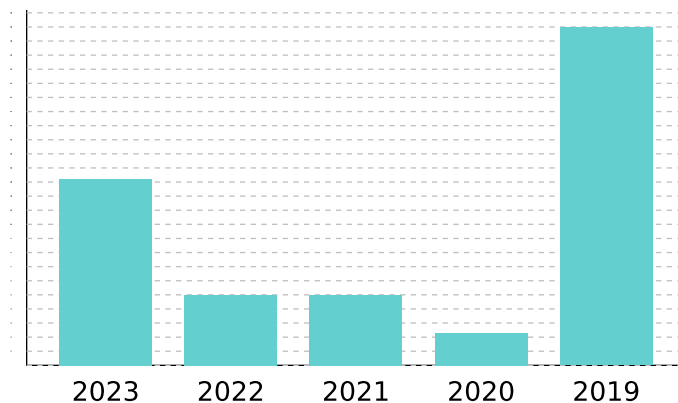
Protest Status:  
Informal Date:  
Formal Date:

## VALUES

### CURRENT VALUES

Land Homesite: \$0  
Land Non-Homesite: \$0  
Special Use Land Market: \$0  
Total Land: \$0  
  
Improvement Homesite: \$0  
Improvement Non-Homesite: \$1,322,279  
Total Improvement: \$1,322,279  
  
Market: \$1,322,279  
Special Use Exclusion (-): \$0  
Appraised: \$1,322,279  
Value Limitation Adjustment (-): \$0  
  
Net Appraised: \$1,322,279

### VALUE HISTORY



Values for the current year are preliminary and are subject to change.

### VALUE HISTORY

Year	Land Market	Improvement	Special Use Exclusion	Appraised	Value Limitation Adj (-)	Net Appraised
2023	\$0	\$1,322,279	\$0	\$1,322,279	\$0	\$1,322,279
2022	\$0	\$500,000	\$0	\$500,000	\$0	\$500,000
2021	\$0	\$500,000	\$0	\$500,000	\$0	\$500,000
2020	\$0	\$230,250	\$0	\$230,250	\$0	\$230,250
2019	\$0	\$2,395,733	\$0	\$2,395,733	\$0	\$2,395,733



TAXING UNITS

Unit	Description	Tax Rate	Net Appraised	Taxable Value
01	AUSTIN ISD	0.996600	\$1,322,279	\$1,322,279
02	CITY OF AUSTIN	0.462700	\$1,322,279	\$1,322,279
03	TRAVIS COUNTY	0.318239	\$1,322,279	\$1,322,279
0A	TRAVIS CENTRAL APP DIST	0.000000	\$1,322,279	\$1,322,279
2J	TRAVIS COUNTY HEALTHCARE DISTR	0.098684	\$1,322,279	\$1,322,279
68	AUSTIN COMM COLL DIST	0.098700	\$1,322,279	\$1,322,279

DO NOT PAY FROM THIS ESTIMATE. This is only an estimate provided for informational purposes and may not include any special assessments that may also be collected. Please contact the tax office for actual amounts.

IMPROVEMENT

Improvement #1:	RESTAURANT	Improvement Value:	\$672,656	Main Area:	12,148.5
State Code:	F1	Gross Building Area:	45,382		

Type	Description	Class CD	Exterior Wall	Number of Units	EFF Year Built	Year	SQFT
1ST	1st Floor	C		0	1993	1993	10,462.
1ST	1st Floor	C		0	1993	1993	1,686
501	CANOPY	S		1	1993	1993	2,107
551	PAVED AREA	CA		1	1993	1993	11,000
491	SPRINKLER HEADS	C		0	1993	1993	12,149
511	DECK	WA		1	1993	1993	2,831
482	LIGHT POLES	C		0	1993	1993	6
511	DECK	WA		1	1993	1993	2,107
511	DECK	WA		1	1993	1993	856.5
511	DECK	WA		1	1993	1993	750
511	DECK	WAC		1	1993	1993	540
511	DECK	WA		1	1993	1993	601
521	FIREPLACE	MA1		1	1993	1993	1
327	STORAGE COMM'L	G		1	1993	1993	133
327	STORAGE COMM'L	A		1	1993	1993	92
511	DECK	WA		1	1993	1993	60

Improvement Features					
1ST Ceiling Factor: 10, Floor Factor: 1ST, Grade Factor: G, Shape Factor: R					
1ST Ceiling Factor: 16, Floor Factor: 1ST, Grade Factor: G, Shape Factor: I					
Improvement #2:	SM STORE <10K SF	Improvement Value:	\$327,307	Main Area:	9,766
State Code:	F1	Gross Building Area:	71,252		

Type	Description	Class CD	Exterior Wall	Number of Units	EFF Year Built	Year	SQFT
1ST	1st Floor	C		0	1993	1993	6,542
2ND	2nd Floor	C		0	1993	1993	3,224
491	SPRINKLER HEADS	C		0	1993	1993	9,766
551	PAVED AREA	CA		1	1993	1993	7,000
511	DECK	WA		1	1993	1993	4,240
511	DECK	WS		1	1993	1993	3,285
501	CANOPY	A		1	1993	1993	378
511	DECK	WAC		1	1993	1993	1,115

Type	Description	Class CD	Exterior Wall	Number of Units	EFF Year Built	Year	SQFT
482	LIGHT POLES	C		0	1993	1993	2
581C	STORAGE ATT COMM	WW		1	1993	1993	40
611	TERRACE	CA		1	1993	1993	20
SO	Sketch Only	SO			1993	1993	395
SO	Sketch Only	SO			1993	1993	395
SO	Sketch Only	SO			1993	1993	440
SO	Sketch Only	SO			1993	1993	235
SO	Sketch Only	SO			1993	1993	200
SO	Sketch Only	SO			1993	1993	3,570
SO	Sketch Only	SO			1993	1993	40
SO	Sketch Only	SO			1993	1993	40
SO	Sketch Only	SO			1993	1993	10
SO	Sketch Only	SO			1993	1993	14,000
SO	Sketch Only	SO			1993	1993	10,000
SO	Sketch Only	SO			1993	1993	6,000
SO	Sketch Only	SO			1993	1993	315

### Improvement Features

1ST Ceiling Factor: 10, Floor Factor: 1ST, Grade Factor: G, Shape Factor: R							
2ND Ceiling Factor: 10, Floor Factor: 2ND, Grade Factor: G, Shape Factor: R							
<div> <div>Improvement #3:    <b>RESTAURANT</b></div> <div>Improvement Value:    <b>\$322,316</b></div> <div>Main Area:    <b>5,679</b></div> <div>State Code:    <b>F1</b></div> <div>Gross Building Area:    <b>24,234</b></div> </div>							

Type	Description	Class CD	Exterior Wall	Number of Units	EFF Year Built	Year	SQFT
1ST	1st Floor	D		0	1993	1993	5,679
551	PAVED AREA	CG		1	1993	1993	6,000
511	DECK	WSC		1	1993	1993	2,968
491	SPRINKLER HEADS	D		0	1993	1993	5,380
501	CANOPY	G		1	1993	1993	252
511	DECK	WS		1	1993	1993	1,512
511	DECK	WS		1	1993	1993	1,222
482	LIGHT POLES	D		0	1993	1993	3
501	CANOPY	A		1	1993	1993	184
511	DECK	WSC		1	1993	1993	480
611	TERRACE	CAC		1	1993	1993	190
611	TERRACE	CA		1	1993	1993	184
611	TERRACE	CA		1	1993	1993	180

### Improvement Features

1ST Ceiling Factor: 14, Floor Factor: 1ST, Grade Factor: G, Shape Factor: I							
---	--	--	--	--	--	--	--

## LAND

Land	Description	Acres	SQFT	Cost per SQFT	Market Value	Special Use Value
------	-------------	-------	------	---------------	--------------	-------------------

## DEED HISTORY

Deed Date	Type	Description	Grantor/Seller	Grantee/Buyer	Book ID	Volume	Page	Instrument
-----------	------	-------------	----------------	---------------	---------	--------	------	------------

## APPRAISAL SERVICES AGREEMENT

This Appraisal Services Agreement (“Agreement”) is made and entered into effective as of \_\_\_\_\_ (the “Effective Date”), by and between The Board of Regents of The University of Texas System (“University”) an institution of higher education and agency of the State of Texas, and \_\_\_\_\_ with a principal place of business at \_\_\_\_\_ (“Contractor”), taxpayer ID \_\_\_\_\_.

WHEREAS, University requested and obtained from Contractor a proposal to appraise certain real property identified as \_\_\_\_\_ and located in \_\_\_\_\_ County, Texas (the “Property”); and

WHEREAS, the Contractor represents that it has the experience, expertise, and appropriate skills to perform the appraisal services described herein.

NOW THEREFORE, for and in consideration of the mutual promises and covenants expressed herein, the parties agree as follows:

### 1. CONTRACTOR SERVICES

- 1.1 Contractor will provide a comprehensive appraisal of the Property, which will include the \_\_\_\_\_ Property and will perform all services and provide all goods necessary to develop and deliver such appraisal (collectively, the “Work”). The appraisal will conform to the Real Estate Appraisal Guidelines of The University of Texas System (the “Guidelines”), a copy of which is attached hereto as **Exhibit A** and incorporated herein by reference. The appraisal report produced by Contractor (the “Appraisal Report”) will be subject to review and approval by University. The Appraisal Report will be used by University to aid in decisions regarding the Property.

The appraisal(s) will be prepared by the following named person(s): \_\_\_\_\_ Contractor may not remove \_\_\_\_\_ from the project which is the subject of this Agreement without the prior written consent of University.

The appraisal(s) will be completed by Contractor on or before \_\_\_\_\_. Upon approval by University, Contractor will deliver to University one hard copy original and one PDF of the final Appraisal Report.

- 1.2 University and Contractor agree and acknowledge that University is entering into this Agreement in reliance on Contractor's special and unique knowledge and abilities with respect to performing the Work. Contractor accepts the relationship of trust and confidence established between it and University by this Agreement. Contractor covenants with University to use its best efforts, skill, judgment, and abilities to perform the Work and to further the interests of University in accordance with University requirements and procedures and in accordance with the highest standards of Contractor's profession or business.
- 1.3 Contractor warrants, represents, covenants, and agrees there are no obligations, commitments, or impediments of any kind that will limit or prevent performance of the Work.
- 1.4 Contractor warrants, represents, covenants, and agrees to maintain a staff of properly trained, credentialed, and experienced personnel to ensure satisfactory performance of Contractor's obligations under this Agreement.
- 1.5 Contractor further represents and warrants that Appraisal will be accurate and free from any material defects. Contractor's duties and obligations under this Agreement will not be in any way diminished by reason of any approval by University. Contractor will not be released from any liability by reason of any approval by University.

## **2. LICENSES, PERMITS, TAXES, FEES, LAWS AND REGULATIONS, RULES, AND INSURANCE**

- 2.1 Contractor will obtain, maintain in effect, and pay the cost for all approvals, licenses, filings, registrations, permits, or certifications that may be necessary for Contractor's performance of this Agreement.
- 2.2 Contractor will be responsible for the payment of all taxes, excises, fees, payroll deductions, employee benefits (if any), fines, penalties or other payments required by federal, state, or local law or regulation in connection with Contractor's performance of this Agreement.
- 2.3 If Contractor is a taxable entity as defined by [Chapter 171, Texas Tax Code](#), then Contractor certifies it is not currently delinquent in the payment of any taxes due under Chapter 171, Contractor is exempt from the payment of those taxes, or Contractor is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable.
- 2.4 Contractor will comply with and will be responsible for requiring its officers and employees to comply with all applicable national, federal, state and municipal, laws, regulations, codes, ordinances and orders and with those of any other body or authority having jurisdiction. ("Applicable Laws"). Furthermore, Contractor will perform the Work in compliance with The Board of Regents of The University of Texas System *Rules and Regulations* (<http://www.utsystem.edu/offices/board->



[regents/regents-rules-and-regulations](#)), and all other applicable rules, including those relative to personal health, security, environmental quality, safety, fire prevention, noise, smoking, parking and access restrictions (collectively, “University Rules”).

2.5 Contractor will obtain and maintain in force, at Contractor’s sole expense, all insurance required by University as set forth in the attached **Exhibit B**, “Insurance Requirements”.

### **3. CONFIDENTIALITY AND SAFEGUARDING OF UNIVERSITY RECORDS; PRESS RELEASES; PUBLIC INFORMATION; AND WORK MATERIALS**

Under this Agreement, Contractor may (1) create, (2) receive from or on behalf of University, or (3) have access to, records or record systems (collectively, “University Records”). Among other things, University Records may contain social security numbers, credit card numbers, or data protected or made confidential or sensitive by Applicable Laws. However, it is expressly agreed that University will not provide to Contractor, and Contractor will never seek to access, any University Records that contain personally identifiable information regarding any individual that is not available to any requestor under the *Texas Public Information Act*, [Chapter 552, Texas Government Code](#), including “directory information” of any student who has opted to prohibit the release of their “directory information” as that term is defined under the *Family Educational Rights and Privacy Act*, [20 USC §1232g](#) (“FERPA”).

Contractor represents, warrants, and agrees that it will: (1) hold University Records in strict confidence and will not use or disclose University Records except as (a) permitted or required by this Agreement, (b) required by Applicable Laws, or (c) otherwise authorized by University in writing; (2) safeguard University Records according to the security controls, including reasonable administrative, physical and technical standards that are proportionate to the University’s risk under the Agreement based on the sensitivity of University Records, and no less rigorous than the standards by which Contractor protects its own confidential information, and periodically provide to University evidence that Contractor meets the security controls required under the Agreement; (3) continually monitor its operations and take any action necessary to assure that University Records are safeguarded and the confidentiality of University Records is maintained in accordance with all Applicable Laws and the terms of this Agreement; and (4) comply with University Rules regarding access to and use of University’s computer systems, including UTS165 at <http://www.utsystem.edu/board-of-regents/policy-library/policies/uts165-information-resources-use-and-security-policy>. At the request of University, Contractor agrees to provide University with a written summary of the procedures Contractor uses to safeguard and maintain the confidentiality of University Records.

- 3.1 Notice of Impermissible Use.** If an impermissible use or disclosure of any University Records occurs, Contractor will provide written notice to University within one (1) business day after Contractor's discovery of that use or disclosure. Contractor will promptly provide University with all information requested by University regarding the impermissible use or disclosure.
- 3.2 Return of University Records.** Contractor agrees that within thirty (30) days after the expiration or termination of this Agreement for any reason, all University Records created or received from or on behalf of University will be (1) returned to University, with no copies retained by Contractor; or (2) if return is not feasible, destroyed. Twenty (20) days before destruction of any University Records, Contractor will provide University with written notice of Contractor's intent to destroy University Records. Within five (5) days after destruction, Contractor will confirm to University in writing the destruction of University Records.
- 3.3 Disclosure.** If Contractor discloses any University Records to a subcontractor or agent, Contractor will require the subcontractor or agent to comply with the same restrictions and obligations as are imposed on Contractor by this Section 3.
- 3.4 Press Releases.** Contractor will not make any press releases, public statements, or advertisement referring to the Work or the engagement of Contractor as an independent contractor of University in connection with the Work, this Agreement, or release any information relative to the Work for publication, advertisement or any other purpose without the prior written approval of University.
- 3.5 Public Information.** University strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information under the *Texas Public Information Act* ("TPIA"), [Chapter 552, Texas Government Code](#). In accordance with §§[552.002](#) and [2252.907](#), *Texas Government Code*, and at no additional charge to University, Contractor will make any information created or exchanged with University pursuant to this Agreement (and not otherwise exempt from disclosure under TPIA) available in a format reasonably requested by University that is accessible by the public.
- 3.6 Ownership and Use of Work Material.** All drawings, specifications, plans, computations, sketches, data, photographs, tapes, renderings, models, publications, statements, accounts, reports, studies, and other materials prepared by Contractor or any subcontractors in connection with Work (collectively, "Work Material"), whether accepted or rejected by University, are the sole property of University and for its exclusive use and re-use at any time without further compensation and without any restrictions. Contractor grants and assigns to University all rights and claims of whatever nature and whether now or hereafter arising in and to Work Material. Contractor will treat all Work Material as confidential. Contractor will deliver all Work Material to University upon expiration or termination of this Agreement pursuant to this Section 3.6 and Section 3.2.

**3.7 Termination.** In addition to any other termination rights in this Agreement and any other rights at law or equity, if University reasonably determines Contractor has breached any of the restrictions or obligations of this Section 3, University may immediately terminate this Agreement without notice or opportunity to cure.

**3.8 Duration.** The restrictions and obligations under this Section 3 shall survive expiration or termination of this Agreement for any reason.

#### **4. COMPENSATION**

University will compensate Contractor for services as provided in this Section 4. The total compensation to Contractor will be \$ \_\_\_\_\_ (“Contract Amount”). The Contract Amount is all-inclusive and University will not separately reimburse Contractor for expenses of traveling, copying, delivery, or any related activities. The Contract Amount includes all applicable federal, state or local sales or use taxes payable as a result of the execution or performance of this Agreement.

Payment for services performed will be processed within thirty (30) days of University’s receipt of one original and a PDF of the final Appraisal Report and an acceptable written invoice, subject to the requirements of [Chapter 2251, Texas Government Code](#).

Contractor is notified that University, as an agency of the State of Texas, is exempt from the Texas Sales and Use Tax on goods and services in accordance with [§151.309, Texas Tax Code](#) and [34 Texas Administrative Code \(“TAC”\) §3.322](#). Pursuant to 34 TAC §§3.322(c)(4) and (g)(3), this Agreement is sufficient proof of University’s tax exempt status and University is not required to provide further evidence of its exempt status.

Contractor affirms the relationship of the Parties is solely that of independent contractors. The employees of Contractor shall at all times and for all purposes be considered employees of Contractor, and under no circumstances shall be deemed employees of University. Contractor acknowledges that University will have no responsibility to provide insurance or other fringe benefits normally associated with employee status. As an independent contractor, Contractor is solely responsible for all taxes, withholdings, and other statutory or contractual obligations of any sort, including workers’ compensation insurance.

Contractor, in accordance with its status as an independent contractor, covenants and agrees that it will conduct itself consistent with such status, and that it will neither hold itself out as nor claim to be an officer, partner, joint venture, employee or agent of University by reason of this Agreement. Contractor will not bind nor attempt to bind University to any agreement or contract.

## **5. DEFAULT & TERMINATION**

- 5.1. If either Contractor or University is in default in the performance of any obligation under this Agreement, the party that is not in default may give written notice of the default to the other party and if the party notified fails to correct the default within ten (10) days or within such period fails to satisfy the party giving notice that the default does not exist, the party giving notice may terminate this Agreement in writing upon expiration of the ten (10) day period.
- 5.2. University may, without cause, terminate this Agreement at any time upon giving seven (7) days' advance written notice to Contractor. University may terminate this Agreement immediately in the event of the filing by or against Contractor of a petition for relief in bankruptcy or for receivership, or if Contractor becomes insolvent.
- 5.3. Termination under Section 5.1 or Section 5.2 will not relieve Contractor from liability for any default or breach under this Agreement or any other act or omission of Contractor. The termination of this Agreement will not affect any right or remedy of University that has accrued at the time of termination.
- 5.4. As to University, the notice and cure provisions in this Section 5 are, in all cases, subject to University's right to terminate under Section 3.7 and Section 16.

## **6. INDEMNIFICATION**

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, CONTRACTOR WILL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY UNIVERSITY, AND HOLD HARMLESS UNIVERSITY, THE UNIVERSITY OF TEXAS SYSTEM AND RESPECTIVE AFFILIATED INSTITUTIONS OR ENTERPRISES, REGENTS, OFFICERS, DIRECTORS, ATTORNEYS, EMPLOYEES, REPRESENTATIVES AND AGENTS (COLLECTIVELY, "INDEMNITEES") FROM AND AGAINST ALL DAMAGES, LOSSES, LIENS, DEMANDS, ALLEGATIONS, LIABILITIES, CAUSES OF ACTION, SUITS, JUDGMENTS, SETTLEMENTS, EXPENSES, COSTS, AND OTHER CLAIMS OF ANY NATURE, KIND, OR DESCRIPTION, INCLUDING ATTORNEYS' FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY OF THE FOREGOING (COLLECTIVELY, "CLAIMS") BY ANY PERSON OR ENTITY, ARISING OUT OF, CAUSED BY, OR RESULTING FROM CONTRACTOR'S PERFORMANCE UNDER OR BREACH OF THIS AGREEMENT AND THAT ARE CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENT ACT, NEGLIGENT OMISSION, WRONGFUL ACT, WRONGFUL OMISSION OR WILLFUL MISCONDUCT OF CONTRACTOR, ANYONE DIRECTLY EMPLOYED BY CONTRACTOR OR ANYONE FOR WHOSE ACTS CONTRACTOR MAY BE LIABLE. THE PROVISIONS OF THIS SECTION WILL NOT BE CONSTRUED TO ELIMINATE OR REDUCE ANY OTHER INDEMNIFICATION OR RIGHT WHICH ANY INDEMNITEES HAVE BY LAW OR EQUITY. ALL PARTIES WILL BE ENTITLED TO BE REPRESENTED BY COUNSEL AT THEIR OWN EXPENSE.



FURTHERMORE, CONTRACTOR WILL SAVE AND HOLD HARMLESS INDEMNITEES FROM ALL CLAIMS, DEMANDS, CAUSES OF ACTION, DAMAGES, LOSSES, LIENS, ALLEGATIONS, LIABILITIES, SUITS, JUDGMENTS, SETTLEMENTS, EXPENSES, COSTS AND OTHER CLAIMS OF ANY NATURE, KIND, OR DESCRIPTION, FOR TAXES, LICENSE FEES, EXCISES, FINES, AND PENALTIES; FOR SUPPLIES, SERVICES, OR MERCHANDISE PURCHASED BY CONTRACTOR; OR FOR WAGES AND FRINGE BENEFITS OF CONTRACTOR'S EMPLOYEES.

## 7. ASSIGNMENT

Neither party may assign this Agreement, in whole or in part, without the prior written consent of the other party.

## 8. NOTICES

Except as otherwise provided by this Section, notices, consents, approvals, demands, requests or other communications provided or permitted under this Agreement, will be in writing and sent via certified mail, hand delivery, overnight courier, facsimile transmission (to the extent a facsimile number is set forth below), or email (to the extent an email address is set forth below) to the attention of the party or department identified below, and notice will be deemed given (i) if delivered by certified mail, when deposited, postage prepaid, in the United States mail, or (ii) if delivered by hand, overnight courier, facsimile (to the extent a facsimile number is set forth below) or email (to the extent an email address is set forth below), when received:

If to University: Board of Regents of The University of Texas System  
210 W. 7<sup>th</sup> Street  
Austin, Texas 78701  
Attn: Executive Director of Real Estate  
512-499-4333

*with copy to:*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_  
Attention: \_\_\_\_\_

If to Contractor:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Fax: \_\_\_\_\_  
Email: \_\_\_\_\_  
Attention: \_\_\_\_\_

or other person or address as may be given in writing by either party to the other in accordance with this Section.

If Contractor intends to deliver written notice to University pursuant to [§2251.054, Texas Government Code](#), then Contractor will also send that notice to University at the above address.

## **9. ENTIRE AGREEMENT; MODIFICATIONS**

This Agreement supersedes all prior agreements, written or oral, between Contractor and University and, together with any Exhibits, Schedules, Supplements and other Attachments (collectively “Exhibits”), will constitute the entire agreement and understanding between the parties with respect to the subject matter hereof. This Agreement and each of its provisions will be binding upon the parties and may not be waived, modified, amended or altered except by in writing signed by University and Contractor. All Exhibits attached to this Agreement are incorporated for all purposes.

## **10. VENUE; GOVERNING LAW**

Travis County, Texas will be the proper place of venue for suit on or in respect of the Agreement. The Agreement and all the rights and obligations of the parties hereto and all of the terms and conditions hereof will be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas.

## **11. REPRESENTATIONS AND WARRANTIES BY CONTRACTOR**

If Contractor is a corporation or a limited liability company, Contractor warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver the Agreement, and the individual executing the Agreement on behalf of Contractor and has been duly authorized to act for and bind Contractor.

## **12. TAX CERTIFICATION**

If Contractor is a taxable entity as defined by [Chapter 171, Texas Tax Code](#), (“Chapter 171”), then Contractor certifies that it is not currently delinquent in the payment of any taxes due under Chapter 171, or that Contractor is exempt from the payment of those taxes, or that Contractor is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable.

### **13. TEXAS FAMILY CODE CHILD SUPPORT CERTIFICATION**

Pursuant to Section [§231.006, Texas Family Code](#), Contractor certifies that it is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

### **14. PAYMENT OF DEBTS OR DELINQUENCY TO THE STATE**

Pursuant to [§§2107.008](#) and [2252.903](#), *Texas Government Code*, Contractor agrees that any payments owing to Contractor under this Agreement may be applied directly toward any debt or delinquency Contractor 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.

### **15. RECORDS**

Records of Contractor's costs, reimbursable expenses pertaining to the Work and payments will be available to University or its authorized representative during business hours and will be retained by Contractor for seven (7) years after the expiration or termination of this Agreement or until all audit, claim, and litigation matters are resolved, whichever is later, unless University otherwise instructs Contractor in writing. [Section 441.1855 of the Texas Government Code](#).

### **16. LOSS OF FUNDING**

Performance by University under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature and/or allocation of funds by University. If Legislature fails to appropriate or allot necessary funds, or University fails to allocate necessary funds, then University will issue written notice to Contractor and University may terminate this Agreement without further duty or obligation hereunder. Contractor acknowledges that appropriation, allotment, and allocation of funds are beyond University's control.

### **17. BREACH OF CONTRACT CLAIMS**

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, will be used by University and Contractor to attempt to resolve any claim for breach of contract made by Contractor that cannot be resolved in the ordinary course of business. The chief business officer of University will examine Contractor's claim and any counterclaim and negotiate with Contractor 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 Contractor; (ii) neither the issuance of this Contract by University nor any other conduct, action or inaction of any representative of University relating to this Contract constitutes or is intended to constitute a waiver of University or

the state's sovereign immunity to suit; and (iii) University has not waived its right to seek redress in the courts.

## **18. STATE AUDITOR'S OFFICE**

Contractor understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "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*). Contractor agrees to cooperate with the Auditor in the conduct of the audit or investigation, including, without limitation, providing all records requested. Contractor will include this provision in all contracts with permitted subcontractors. This provision is included pursuant to [Section 2262.154 of the Texas Government Code](#).

## **19. CONTRACTOR CERTIFICATIONS**

- 19.1 Pursuant to [Chapter 2271, Texas Government Code](#), Contractor certifies that Contractor (1) does not currently boycott Israel; and (2) will not boycott Israel during the term of this Agreement. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- 19.2 Pursuant to [Subchapter F, Chapter 2252, Texas Government Code](#), Contractor certifies Contractor is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- 19.3 Pursuant to [Chapter 2274, Texas Government Code \(enacted by SB 19, 87<sup>th</sup> Texas Legislature, Regular Session \(2021\)\)](#), Contractor verifies (1) it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and (2) it will not discriminate during the term of this Agreement against a firearm entity or firearm trade association. Contractor acknowledges this Agreement may be terminated and payment withheld if this verification is inaccurate.
- 19.4 Pursuant to [Chapter 2274, Texas Government Code \(enacted by SB 13, 87<sup>th</sup> Texas Legislature, Regular Session \(2021\)\)](#), Contractor verifies (1) it does not boycott energy companies and (2) it will not boycott energy companies during the term of this Agreement. Contractor acknowledges this Agreement may be terminated and payment withheld if this verification is inaccurate.
- 19.5 Pursuant to [Section 161.0085, Texas Health and Safety Code \(enacted by SB 968, 87<sup>th</sup> Texas Legislature, Regular Session \(2021\)\)](#), Contractor certifies that it does not require a customer to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from Contractor's business. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.



## **20. ETHICS MATTERS; NO FINANCIAL INTEREST; DISCLOSURE OF INTERESTED PARTIES**

Contractor and its employees, agents, representatives and subcontractors have read and understand University's Conflicts of Interest Policy available at: [http://www.utsystem.edu/board-of-regents/policy-library/policies/int180-conflicts-interest-conflicts-commitment-and-outside-\],](http://www.utsystem.edu/board-of-regents/policy-library/policies/int180-conflicts-interest-conflicts-commitment-and-outside-) University's Standards of Conduct Guide available at: [https://www.utsystem.edu/documents/docs/policies-rules/ut-system-administration-standards-conduct-guide\],](https://www.utsystem.edu/documents/docs/policies-rules/ut-system-administration-standards-conduct-guide) and applicable state ethics laws and rules available at <https://www.utsystem.edu/offices/systemwide-compliance/ethics>.

Neither Contractor nor its employees, agents, representatives or subcontractors will assist or cause University employees to violate University's Conflicts of Interest Policy, University's Standards of Conduct Guide, or applicable state ethics laws or rules. Contractor represents and warrants that no member of the Board has a direct or indirect financial interest in the transaction that is the subject of this Agreement.

Further, Contractor agrees to comply with [§2252.908, Texas Government Code](#) (Disclosure of Interested Parties Statute), and [1 TAC §§46.1 through 46.5](#) (Disclosure of Interested Parties Regulations), as implemented by the Texas Ethics Commission ("TEC"), including, among other things, providing the TEC and University with information required on the form promulgated by TEC. Contractor may learn more about these disclosure requirements, including the use of TEC's electronic filing system, by reviewing the information on TEC's website at [https://www.ethics.state.tx.us/resources/FAQs/FAQ\\_Form1295.php](https://www.ethics.state.tx.us/resources/FAQs/FAQ_Form1295.php).

## **21. LIMITATIONS ON STATE AGENCIES; LIMITATION OF LIABILITY**

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 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.

FURTHERMORE, EXCEPT FOR UNIVERSITY'S OBLIGATION (IF ANY) TO PAY CONTRACTOR CERTAIN FEES AND EXPENSES, UNIVERSITY WILL HAVE NO LIABILITY TO CONTRACTOR OR TO ANYONE CLAIMING THROUGH OR UNDER CONTRACTOR BY REASON OF THE EXECUTION OR PERFORMANCE OF THIS AGREEMENT. NOTWITHSTANDING ANY DUTY OR OBLIGATION OF UNIVERSITY TO CONTRACTOR OR TO ANYONE CLAIMING THROUGH OR UNDER CONTRACTOR, NO PRESENT OR FUTURE AFFILIATED ENTERPRISE, SUBCONTRACTOR, AGENT, OFFICER, DIRECTOR, EMPLOYEE, REPRESENTATIVE, ATTORNEY OR REGENT OF UNIVERSITY, OR THE UNIVERSITY OF TEXAS SYSTEM, OR ANYONE CLAIMING UNDER UNIVERSITY HAS OR WILL HAVE ANY PERSONAL LIABILITY TO CONTRACTOR OR TO ANYONE CLAIMING THROUGH OR UNDER CONTRACTOR BY REASON OF THE EXECUTION OR PERFORMANCE OF THIS AGREEMENT.

## **22. MISCELLANEOUS**

### **Responsibility for Individuals Performing Work; Criminal Background Checks.**

Each individual who is assigned to perform Work under this Agreement will be an employee of Contractor or an employee of a subcontractor engaged by Contractor. Contractor is responsible for the performance of all individuals performing Work under this Agreement. Before starting Work, Contractor will (1) provide University with a list ("List") of all individuals who may be assigned to perform Work, and (2) have an appropriate criminal background screening performed on all the individuals on the List. Contractor will determine on a case-by-case basis whether each individual assigned to perform Work is qualified to provide the services. Contractor will not knowingly assign any individual to provide services at a University campus or healthcare center who has a history of criminal conduct unacceptable for a university campus or healthcare center, including violent or sexual offenses. Contractor will update the List each time there is a change in the individuals assigned to perform Work. Before starting Work under this Agreement, Contractor will provide University a letter signed by an authorized representative of Contractor certifying compliance with this Section 22. Contractor will provide University an updated certification letter each time there is a change in the individuals assigned to perform Work.

**Force Majeure.** Neither party hereto will be liable or responsible to the other for any loss or damage or for any delays or failure to perform due to causes beyond its reasonable control including acts of God, strikes, epidemics, pandemics, war, riots, flood, fire, sabotage, or any other circumstances of like character ("force majeure occurrence"). Provided, however, in the event of a force majeure occurrence, Contractor agrees to use its best efforts to mitigate the impact of the occurrence so that University may continue to provide education, healthcare, research and other mission critical services during the occurrence.

**Captions.** The captions of sections and subsections in this Agreement are for convenience only and will not be considered or referred to in resolving questions of interpretation or construction.

**Waivers.** No delay or omission in exercising any right accruing upon a default in performance of this Agreement will impair any right or be construed to be a waiver of any right. A waiver of any default under this Agreement will not be construed to be a waiver of any subsequent default under this Agreement.

**Survival of Provisions.** No expiration or termination of this Agreement will relieve either party of any obligations under this Agreement that by their nature survive expiration or termination, including but not limited to Sections 1.5, 2.2, 3, 5, 6, 10, 11, 15, 17, 18, and 23, provisions regarding waivers and severability in this Section 22, and **Exhibit B**, “Insurance Requirements”.

**Severability.** If any provision of this Agreement will, for any reason, be held invalid or unenforceable in any respect, the invalidity or unenforceability will not affect any other provision of this Agreement, and this Agreement will be construed as if the invalid or unenforceable provision had not been included.

**Binding Effect.** This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective permitted assigns and successors.

*Signatures on Following Page*

IN WITNESS WHEREOF, University and Contractor have executed and delivered this Agreement as of the date first above written.

THE BOARD OF REGENTS OF THE  
UNIVERSITY OF TEXAS SYSTEM

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: Geoffrey A. Richards

Name: \_\_\_\_\_

Title: Executive Director of Real Estate  
The University of Texas System

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## ATTACHMENTS

**Exhibit A:** Real Estate Appraisal Guidelines of The University of Texas System

**Exhibit B:** Insurance Requirements



## Exhibit A

# **REAL ESTATE APPRAISAL GUIDELINES** **THE UNIVERSITY OF TEXAS SYSTEM**

## **USE AND ACCEPTANCE OF GUIDELINES**

The following Real Estate Appraisal Guidelines (“Guidelines”) are a supplement and attachment to that certain Appraisal Services Agreement dated \_\_\_\_\_, 20\_\_\_\_ (the “Agreement”) between The Board of Regents of The University of Texas System (“University”) and the undersigned firm (“Contractor”). These Guidelines will be used as a checklist and guide when preparing appraisal reports for University.

These Guidelines, together with the specific provisions of the Agreement, are the basis upon which any appraisal will be reviewed and, if satisfactory, approved by University. All capitalized terms used in these Guidelines, except as otherwise specified herein, will have the same meaning designated in the Agreement. In the event of a conflict between the specific written provisions in the Agreement and these Guidelines, the specific written provisions in the Agreement will control.

The Contractor’s signature below indicates that Contractor has read, understands and agrees to comply with the Guidelines.

**APPRAISAL REPORT FORMAT AND PROCESS.** Each submitted Appraisal Report must adhere to the following process and format:

### **Letter of Transmittal**

The letter of transmittal should include the following:

- A statement identifying the type of appraisal report submitted
- Property identification
- Purpose of the appraisal and intended use
- Effective date of value or range of value
- Extraordinary assumptions and limiting conditions
- Opinion of the estimated value
- A statement certifying that the appraisal was completed in conformity with the most current version of the Uniform Standards of Professional Appraisal Practice (“USPAP”), the Code of Ethics of the Appraisal Institute and the Financial Institutions Reform, Recovery and Enforcement Act (“FIRREA”)

### **Introduction**

The Appraisal Report should include the following, at a minimum:

- Table of Contents
- Certification

- Summary of Pertinent Facts and Values
- Certification of the Qualifications of Appraiser(s)
- Letter of Authorization Stating the Requested Work or a Copy of this Agreement

### **Conflict of Interest**

The Certification must include a statement indicating that the appraiser has no direct or indirect interest in the Property, financial or otherwise.

### **Premises of the Appraisal Report**

#### ***Scope of Work and Report Format***

The Appraisal Report must describe in a separate paragraph and in a prominent section of the Report, the problem to be solved, the appraiser's determination of the work necessary to develop credible assignment results, and the scope of work. The three approaches to value should be used in each appraisal unless an approach is not applicable and not typically used in developing the value opinion, in which event the Report will specify any approach not used and explain why.

University must be permitted, in its discretion, to share the Report with third parties. The Appraisal Report may be subject to public disclosure under the Texas Public Information Act (*Texas Government Code*, Chapter 552) or under other statutory provisions. University strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General regarding the disclosure of appraisal reports and information.

#### ***Definition of Market Value***

Only one Market Value definition is acceptable. This definition is found in the FIRREA regulations, in *The Appraisal of Real Estate 12th Edition* and is compatible with the definition of market value cited in the current edition of *The Dictionary of Real Estate Appraisal*. The term "Market Value" should be defined in the Contractor's report as:

"The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition are the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. buyer and seller are typically motivated;
2. both parties are well informed or well advised, and acting in what they consider their best interests;
3. a reasonable time is allowed for exposure in the open market;
4. payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and
5. the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."

On rare occasions this definition may not apply to an appraisal assignment. If the appraiser determines it is necessary to define Market Value in a different fashion, or if the assignment is to appraise the subject property for a different value, the appraiser is required to inform the U.T. System Real Estate Office (“REO”) before completing the report and REO must approve an alternate definition in advance.

### ***Property Rights Appraised***

The Appraisal Report is required to identify the real estate and the specific realty interest being appraised, i.e., fee simple, leased fee, leasehold.

- Fee Simple – Typically owner occupied – no leases. A capitalized value of market rent will typically reflect fee simple value in the income capitalization approach.
- Leased Fee – Lessor’s/owner’s interest in leased property. When a property is encumbered by any type of lease or leases, the appraisal must indicate the leased fee value of the property.
- Leasehold – Tenant’s interest subject to the terms and conditions of a lease. This value may be positive or negative and is determined by comparing the contract rental rate to the market rate.

When a Property is encumbered with a lease or leases, appraiser must identify both the Leased Fee and Leasehold Values and provide an explanation of, and adjustments for, either a negative or positive Leasehold Value.

### ***Assumptions & Limiting Conditions***

Appraiser will identify and explain all assumptions and limiting conditions in the Appraisal Report. Some properties, especially proposed developments, or some requests for a particular type of valuation, may require an expansion of the assumptions. However, the assumptions and limiting conditions in the Appraisal Report must not be so broad that they invalidate or render the estimated value meaningless. The Appraisal Report must mention any extraordinary assumptions or hypothetical conditions. The appraiser is required to inform the REO before completing the report and must arrive at a list of extraordinary assumptions or hypothetical conditions that is acceptable to the REO.

### ***Scope of the Appraisal***

The appraiser should clearly state the correct function of the appraisal and describe the scope of the appraisal assignment. There are seven key assignment elements that must be used in making the scope of work decision: intended use, intended user, type and definition of value, subject property, relevant property characteristics, effective date, and assignment conditions. The first three elements are the dominant concepts. Intended use and users provide the appraiser an objective basis for deciding how much information and analysis to include in the development and reporting processes. The definition of value provides the basis for determining what kind of information and analysis to include in these processes. The intended use and definition of value are both used to determine relevant characteristics. When any of the above-listed information is absent, the appraiser will consult with the REO. In addition, the appraiser must be able to explain to intended users or the appraiser’s peers, the reason for excluding any information or procedure that would appear to be relevant.

### ***Appropriate Date of Value***

The Appraisal Report must state the date of value, which may be different from the date on the letter of transmittal; typically, the “as is” value, subject to all current market, environmental and property conditions, is shown. For “to be built” construction purposes, the critical effective date of valuation is “As of” (a) construction completion, and/or (b) stabilized operations, that is, fully leased to stabilized occupancy and all tenants paying rent. (FIRREA also requires an “as is” value in either event.) Either the projected date of the prospective value should be stated in the appraisal.

### ***Property History***

The Appraisal Report must consider and analyze any recent purchase price (within 3 years for commercial properties and 1 year for one to four-family residential), any pending sale price (if under contract for purchase) or any offering or option price. If such information is unobtainable, the Appraisal Report must explain the efforts undertaken to obtain the information.

### ***Presentation of General Data***

The Appraisal Report must include the following:

- Common Property Address: With the exception of large vacant tracts of land, all properties should be referenced by street address or other reference to governmentally established streets and roads.
- Legal Description: Every Appraisal Report must include a legal description of the property and the source of the legal description.
- Any information concerning deed restrictions and covenants or other conditions of title limiting the development, redevelopment or continued use of the property. If none or not available, then that must be explained.
- Relevant regional, city (geographic, legal, social and economic factors) and neighborhood data (boundaries, trend, and linkages)
- A discussion of adjacent land uses and development trends
- Real estate tax information

The Appraisal Report must include current assessment and tax information including general and special assessments and tax abatements from the local assessor’s office.

### ***Site Data***

The Appraisal Report must include the following:

- Description of size and shape of the site;
- Topographical features;
- Drainage and floodplain conditions;
- Soil and subsoil conditions;
- Description of ingress and egress;
- Availability of utilities;

- Relationship to surrounding properties;
- Nuisances and hazards;
- Off-site improvements;
- Functional adequacy of site; and
- Zoning: The Appraisal Report must comment on any factors that render the subject property in non-compliance with zoning regulations: e.g., the number of parking spaces or loading berths. A statement also should be included as to whether the noncompliance has an impact on value.

## **Improvement Data**

The Appraisal Report should include the following:

- Physical description of improvements;
- Adequate photos of improvements;
- Floorplan layout;
- Construction details, including the quality of construction;
- Age and condition of improvements;
- Description of equipment and fixtures;
- Analysis of current use;
- Discussion of deferred maintenance;
- Discussion of functional utility;
- Discussion describing the subject property's relationship to the surrounding area; and
- Description of the site improvements.

## **Market/ Absorption Study**

The market absorption, including the supply and demand trends in a competitive situation, affects the value of the property being appraised. A market study may be critical to optimizing the highest and best use of the property as presented in the Appraisal Report. Consequently, a supplemental market study should be included and referenced in the Appraisal Report, if appropriate.

## **Highest & Best Use**

The highest and best use section of the Appraisal Report should include:

- Definition, components and statement of highest and best use as if vacant and as improved;
- Discussion of physical characteristics;
- Development of the four tests (physically possible, legally permissible, financially feasible, and maximally productive);
- Full discussion, analysis, and reconciliation of all potential uses; and
- Discussion of marketability (supply-demand, competition, market trends, absorption/occupancy levels), whenever applicable.

The highest and best use of the property must include its use “As Vacant” and “As Improved.”

The Appraisal Report must take into consideration the principle of “Consistent Use,” if the Highest and Best Use section of the Report shows the existing use as an interim use.

### **Cost Approach**

- Land value data should include at least three verified and recent comparable sales with appropriate adjustments when compared to the subject. The appropriate adjustments must be explained. A map showing the relationship of the comparable sales to the subject property is required. Comparable sales should not be part of an assemblage or acquisitions by an authority that has the right of eminent domain.
- Source of construction cost data.
- Explanation of factors considered in developing an estimate of accrued depreciation.
- The value concluded by this approach must be properly identified as one of the following: As Is, As Completed or As Stabilized.

### **Sales Comparison Approach**

- The sales comparison valuation must include analysis of at least three verified and recent comparable sales. A map showing the relationship of the comparable sales to the subject property is required. Photos of the sales are required. Comparable sales should not be part of an assemblage or acquisitions by an authority that has the right of eminent domain.
- A sales summary table and appropriate adjustments when compared to the subject property with comparative analysis are required. The appropriate adjustments must be explained. When applicable, the sales must be adjusted for special financing to reflect “a cash equivalent” basis (as required by the Market Value definition).
- The value concluded by this approach must be properly identified as one of the following: As Is, As Completed or As Stabilized.

### **Income Capitalization Approach**

- Current comparable market rental data and projected growth rates, with analysis, are required to support the estimate of the subject property’s present and prospective market rent. The estimate of market rent is expected even if the subject is under lease. Photos of comparable rental properties are required.
- Current contract rent must be used in any leased fee valuation. This requirement will satisfy the “As Is” directive of the FIRREA regulations.
- An estimate of vacancy and collection loss applicable to the subject property is required (supported by market data whenever possible).
- Use of actual operating income/expense data for the subject property is strongly recommended. Projected expenses must be justified. If an operating statement is “Stabilized” then Contractor will comment on the justification for stabilization. Expenses may be stabilized to reflect market conditions for prospective projections but any changes from actual expenses must be fully explained.
- Capitalization and discount rates should be discussed and justified.



- A direct capitalization technique may be used for any single tenant building with a lengthy lease or a building with stabilized income/expenses.
- A discounted cash flow technique is required for any leased property that has or is projected to have an uneven income or expenses. This includes any proposed new property, renovated properties, or properties that require extensive future capital expenditures.
- The value concluded by this approach must be properly identified as one of the following: As Is, As Completed or As Stabilized.
- A test of reasonableness may include the debt coverage technique or a gross income multiplier analysis.

### **Reconciliation**

The Appraisal Report should emphasize which approach best typifies the purchaser's motives and decision-making criteria. The Report should also reconcile the quality and quantity of available data utilized within each approach and should reference a reasonable exposure time.

### **Exposure Time**

An exposure time estimate and how it relates to the final value is required and should be included in the Final Value Reconciliation. Marketing time is not required but is recommended for each Appraisal Report.

## **MISCELLANEOUS REQUIREMENTS FOR APPRAISAL REPORT**

- The overall support and reasoning for key assumptions must be well documented.
- The appraiser's certification section must be similar in content with SR 2-3.
- If personal property, trade fixtures, intangibles or other items that are not real property represent a significant part of the overall value, those items must be identified and valued separately.
- Appraisal Report must prominently identify any apparent or known environmental contamination that has come to the appraiser's attention.
- The appraiser must include his/her Texas State license/certification number and date of expiration under the signature.
- All pages of the Appraisal Report should be numbered.

## **TIMELY DELIVERY OF REPORTS**

The nature of the University's work makes it important that the appraiser strictly complies with the time requirements set forth in this Agreement for each particular property. Contractor's failure to meet the time schedule agreed to complete the assignment will jeopardize the appraiser's ability to do future appraisal work for the University.

## **SUBMITTAL OF REPORTS**

All reports should be submitted electronically in finished form but in draft format to:

Exhibit B-7

Geoffrey A. Richards  
Executive Director of Real Estate  
E-Mail: [grichards@utsystem.edu](mailto:grichards@utsystem.edu)

Approved final appraisal reports, complete with photographs, in a quantity as contracted for with each assignment, and each with original signatures should be delivered to:

Geoffrey A. Richards  
Executive Director of Real Estate  
The University of Texas System  
210 W. 7th Street  
Austin, Texas 78701  
Attn: Real Estate

In addition, the approved final appraisal should be sent electronically to Mr. Richards at [grichards@utsystem.edu](mailto:grichards@utsystem.edu) and to [tfaltysek@utsystem.edu](mailto:tfaltysek@utsystem.edu).

#### **AGREEMENT TO COMPLY WITH GUIDELINES**

The undersigned, has read, understands and will comply with the Real Estate Appraisal Guidelines of The University of Texas System, as set forth herein, with the understanding that these Guidelines are part of the Agreement.

*Signatures on Following Page*

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature) (Date)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Texas License No.) (Expiration Date)

**Exhibit B**  
**Insurance Requirements**

1.1 Contractor, consistent with its status as an independent contractor will carry and will cause its subcontractors to carry, at least the following insurance, with companies authorized to do insurance business in the State of Texas or eligible surplus lines insurers operating in accordance with the [Texas Insurance Code](#), having an A.M. Best Rating of A-:VIII or better, and in amounts not less than the following minimum limits for each coverage. The insurance requirements herein are minimum requirements for this contract and in no way limit Contractor's obligations (including Contractor's indemnity obligations) contained in this Agreement. Contractor is solely responsible for procuring insurance in addition to that set forth in this **Exhibit B** as Contractor determines is necessary to protect the Contractor or its agents, representatives, employees, or subcontractors.

1.1.1 Workers' Compensation Insurance with statutory limits, and Employer's Liability Insurance with limits of not less than \$1,000,000:

Employers Liability - Each Accident	\$1,000,000
Employers Liability – Disease - Each Employee	\$1,000,000
Employers Liability – Disease - Policy Limit	\$1,000,000

Workers' Compensation policy must include identification of the U.S. states where Contractor is to perform Work for University.

1.1.2 Commercial General Liability Insurance with limits of not less than:

Each Occurrence Limit	\$1,000,000
Personal & Advertising Injury	\$1,000,000
General Aggregate	\$2,000,000
Products - Completed Operations Aggregate	\$2,000,000

Contractor's Commercial General Liability Insurance policy must include bodily injury including death, property damage and liability assumed under an insured contract, including defense costs with respect to liability arising out of activities performed by or on behalf of the Contractor.

1.1.3 Business Auto Liability Insurance covering all owned, non-owned or hired automobiles, with limits of not less than \$1,000,000 single limit of liability per accident for Bodily Injury and Property Damage.

1.1.4 Umbrella/Excess Liability Insurance with limits of not less than \$2,000,000 per occurrence and aggregate. The Umbrella/Excess Liability policy will be excess over and at least as broad as the underlying coverage as required under sections 1.1.1 Employer's Liability; 1.1.2 Commercial General Liability; and 1.1.3 Business Auto Liability. Inception and expiration dates will be the same as the underlying policies. Drop down

coverage will be provided for reduction or exhaustion of underlying aggregate limits and will provide a duty to defend for any insured.

- 1.1.5 Professional Liability (Errors & Omissions) Insurance with limits of not less than \$1,000,000 each claim, \$3,000,000 aggregate. Such insurance will cover all Work performed by or on behalf of Contractor under this Agreement. If the professional liability insurance policy provided by Contractor is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall proceed the Effective Date of this Agreement; and that Contractor will either maintain continuous coverage under such policy, or Contractor will procure and maintain an extended reporting period under the policy that can be exercised for a period of two (2) years starting on the later of the time Work under this Agreement is completed, or the time the policy expires or is cancelled. No Professional Liability policy written on an occurrence form will include a sunset or similar clause that limits coverage unless such clause provides coverage for at least twenty-four (24) months after the expiration or termination of this Agreement for any reason.

1.2 Contractor will deliver to University:

- 1.2.1 After the execution and delivery of this Agreement and prior to the performance of any Work by Contractor, evidence of insurance on a Texas Department of Insurance (“TDI”) approved certificate form (the Acord form is a TDI-approved form) verifying the existence of all required insurance policies; and, if the coverage period shown on the current certificate form ends during the Term, then prior to the end of the coverage period, a new certificate form verifying the continued existence of all required insurance policies. Certificates of Insurance shall reflect applicable limits, sub-limits, self-insured retentions and deductibles provided by Contractor. The certificate must confirm the required coverages in the “Additional Remarks” section or Contractor must provide a copy of the declarations page. In the event Contractor maintains broader coverage and/or higher limits than the minimums shown above, University requires and shall be entitled to the broader coverage and/or higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to University.

- 1.2.1.1 **All insurance policies** (except for workers' compensation, employer's liability, and professional liability) will be endorsed and name University and The University of Texas System as Additional Insured for liability caused by Contractor's acts or omissions with respect to its on-going and completed operations. A Blanket Additional Insured Certificate is also acceptable. Commercial General Liability and Business Auto Liability will be endorsed to provide primary and non-contributory coverage. No policy will be canceled until after thirty (30) days' unconditional written notice to University. Contractor will send notice to University thirty (30) days in advance of any cancellation, material change, or non-renewal relating to any insurance policy required in this **Exhibit B**.
- 1.2.1.2 Contractor hereby waives all rights of subrogation against University and The University of Texas System. **All insurance policies** will be endorsed to provide a waiver of subrogation in favor of University and The University of Texas System. A Blanket Waiver of Subrogation Certificate is also acceptable.
- 1.2.1.3 Contractor will pay any deductible or self-insured retention and be responsible for any policy waiting periods for claims covered by policies Contractor is required to provide under this Agreement.
- 1.2.1.4 Certificates of Insurance, Additional Insured/Blanket Additional Insured, Waiver of Subrogation/Blanket Waiver of Subrogation Endorsements as required by this Agreement will be mailed, faxed, or emailed to the following University contact:

Name: Tina Faltysek  
Address: 210 W. 7<sup>th</sup> Street, Austin, Texas 78701  
Email Address: [tfaltysek@utsystem.edu](mailto:tfaltysek@utsystem.edu)  
FAX: \_\_\_\_\_

- 1.3 Contractor's insurance will be kept in force until all Work has been fully performed and accepted by University in writing or the Agreement expires, is terminated or is cancelled, whichever is later.
- .

End of Exhibit.