

SECOND AMENDMENT TO BRACKENRIDGE DEVELOPMENT AGREEMENT

THIS SECOND AMENDMENT TO BRACKENRIDGE DEVELOPMENT AGREEMENT ("*Second Amendment*") is entered into effective as of 28th day of February, 2019 (the "*Effective Date*"), by and between BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM ("*The University*") and CITY OF AUSTIN, TEXAS (the "*City*").

RECITALS

A. The City and The University entered into that Brackenridge Development Agreement dated effective as of May 25, 1989 (the "*Original Development Agreement*"), concerning the development of certain real property commonly known as the "Brackenridge Tract" located in the City of Austin, Travis County, Texas. The Original Development Agreement was recorded on June 27, 1989, in Volume 10968 and Page 386 of the Real Property Records of Travis County, Texas.

B. The City and The University previously amended the Original Development Agreement pursuant to that certain First Amendment to Brackenridge Development Agreement dated effective as of November 16, 2018 (the "*First Amendment*"). As used herein, "*Development Agreement*" means the Original Development Agreement, as amended by the First Amendment.

C. The City and The University now desire to amend the Development Agreement to extend the initial term of the Development Agreement, all subject to the terms and conditions set forth herein.

AGREEMENT

In consideration of the recitals, the respective obligations of the parties set forth herein, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged by each of the undersigned, the City and The University hereby agree to amend the Development Agreement as follows, effective as of the Effective Date:

1. **Term of Development Agreement.** Section 1 of the First Amendment is deleted in its entirety. Section 16.3 of the Development Agreement is hereby amended and restated in its entirety as follows:

This Agreement shall be in full force and effect for a term commencing on the Effective Date and expiring on May 25, 2020 ("*Initial Term*").

2. **Board Approval.** Notwithstanding any other provision contained in the Development Agreement or this Second Amendment to the contrary, The University's agreements and obligations to perform hereunder are conditioned upon approval of this Second Amendment by the Board of Regents of The University of Texas System. If such approval is not obtained by 4:00 p.m. Austin, Texas time on February 27, 2019, this Second Amendment shall automatically terminate effective as of 4:00 p.m. Austin, Texas time on February 27, 2019.

3. **Capitalized Words.** All capitalized words used in this Second Amendment and not otherwise defined herein shall have the respective meanings given to such words in the Development Agreement. The Development Agreement is incorporated herein by reference for all purposes.

4. **Ratification and Compliance.** Except as expressly amended or modified by this Second Amendment, the Development Agreement shall continue in full force and effect. The University and the City each hereby ratify, affirm, and agree that the Development Agreement, as herein modified,

represents the valid, binding and enforceable obligations of The University and the City respectively. The University and the City each promise and agree to perform and comply with the terms, provisions and conditions of and the agreements in the Development Agreement, as modified by this Second Amendment. In the event of any conflict or inconsistency between the provisions of the Development Agreement and this Second Amendment, the provisions of this Second Amendment shall control and govern.

5. Entire Agreement and Amendments. The Development Agreement, as expressly modified by this Second Amendment, constitutes the sole and only agreement of the parties to the Development Agreement (as modified herein) and supersedes any prior agreements between the parties concerning the matters covered therein. The Development Agreement, as expressly modified by this Second Amendment, may be amended or supplemented only by an instrument in writing executed by both parties hereto.

6. City Authority. The City and the person signing on behalf of it jointly and severally warrant and represent to The University that (i) the City has the full right, power and authority to enter into this Second Amendment, (ii) all requisite action to authorize the City to enter into this Second Amendment and to carry out the City's obligations hereunder has been taken, and (iii) the person signing on behalf of the City has been duly authorized by the City to sign this Second Amendment on its behalf.

7. The University Authority. The University and the person signing on behalf of The University jointly and severally warrant and represent to the City that (i) The University has the full right, power and authority to enter into this Second Amendment, (ii) all requisite action to authorize The University to enter into this Second Amendment and to carry out The University's obligations hereunder has been taken, and (iii) the person signing on behalf of The University has been duly authorized by The University to sign this Second Amendment on its behalf.

8. Binding. This Second Amendment shall be binding on and inure to the benefit of The University, the City and their respective heirs, executors, administrators, legal representatives, successors and assigns.

9. Governing Law. This Second Amendment shall be construed and governed by the laws of the State of Texas in effect from time to time.

10. Paragraph Headings. The paragraph headings used herein are intended for reference purposes only and shall not be considered in the interpretation of the terms and conditions hereof.

11. Construction. Each party acknowledges that it and its counsel have had the opportunity to review this Second Amendment; 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 interpretation of this Second Amendment.

12. Counterparts. This Second Amendment may be executed in any number of counterparts, all of which taken together shall constitute one and the same agreement, and any of the parties to this Second Amendment may execute the Second Amendment by signing any of the counterparts.

[Signatures and acknowledgements appear on the following pages.]

EXECUTED by the authorized, respective representatives of The University and the City, to be effective as of the Effective Date.

THE UNIVERSITY: BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM

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

CITY: CITY OF AUSTIN, TEXAS

By: _____
Name: _____
Title: _____

Approved as to form: By: _____
Name: Kent Smith
Title: Assistant City Attorney

STATE OF TEXAS §

COUNTY OF TRAVIS §

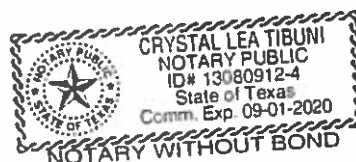
This instrument was acknowledged before me on the 26th day of February, 2019, by Kirk S. Tames, Executive Director of Real Estate of The University of Texas System, on behalf of the Board of Regents of The University of Texas System.


Notary Public in and for the State of Texas


Printed/stamped name of Notary

My Commission expires:

9.01.2020



EXECUTED by the authorized, respective representatives of The University and the City, to be effective as of the Effective Date.

THE UNIVERSITY: BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM

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

CITY: CITY OF AUSTIN, TEXAS

By: _____
Name: Rodney Applegate
Title: Assistant City Manager

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Approved as to form: By: Kent Smith
Name: Kent Smith
Title: Assistant City Attorney

STATE OF TEXAS §

COUNTY OF TRAVIS §

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

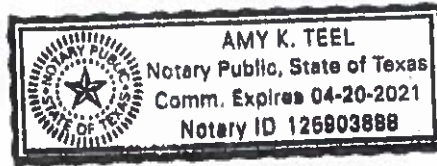
Notary Public in and for the State of Texas

Printed/stamped name of Notary

My Commission expires:

STATE OF TEXAS §

COUNTY OF TRAVIS §



This instrument was acknowledged before me on the 26th day of February, 2019, by Nedra Gonzales, Asst City Manager of the City of Austin, Texas, on behalf of the City of Austin, Texas.

Amy K. Teel
Notary Public in and for the State of Texas

Amy K. Teel
Printed/stamped name of Notary

My Commission expires:

4-20-21