

FIRST AMENDMENT TO BRACKENRIDGE DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO BRACKENRIDGE DEVELOPMENT AGREEMENT ("*Amendment*") is entered into effective as of 16th day of November, 2018 (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 "*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 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 now desire to amend the Development Agreement to acknowledge and agree to extend the deadline for the delivery of the Notice of Cancellation for the purpose of not extending the term of the Lease beyond the Initial Term, to confirm the currently-designated City Liaison and the currently-designated University Liaison, and to update the addresses of the parties for notice purposes.

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. **Notice of Cancellation.** The second sentence of Section 16.3 of the Development Agreement is hereby amended and restated in its entirety as follows:

The Initial Term shall be automatically extended three times, for additional five year terms (each five-year term hereinafter referred to as an "Extension Period"), unless a written notice of cancellation ("Notice of Cancellation") is delivered by either party to the other party (i) by February 28, 2019, before the expiration of the Initial Term, or, if applicable, (ii) on a date not more than 365 days and not less than 180 days before the expiration of an existing Extension Period.

2. **City Liaison and University Liaison.**

- a. The City hereby confirms that Sara Hensley, Assistant City Manager, is the currently-serving City Liaison (as defined in Section 1.9 of the Development Agreement), and shall continue to serve as the City Liaison until the City designates a replacement City Liaison and notifies The University of the replacement City Liaison.
- b. The University hereby confirms that Kirk S. Tames, Executive Director of Real Estate of The University of Texas System, is the currently-serving University Liaison (as defined in Section 1.10 of the Development Agreement), and shall continue to serve as the University Liaison until The University designates a replacement University Liaison and notifies the City of the replacement University Liaison.

3. Notice.

- a. The fourth sentence of Section 16.5 of the Development Agreement is hereby amended and restated in its entirety as follows:

Any notice delivered to The University under this section shall be addressed:

The University of Texas System
OGC – Real Estate
210 West 7th Street
Austin, Texas 78703
Attn: Executive Director of Real Estate

With a copy to:

Office of the Senior Vice President & Chief Financial Officer
The University of Texas at Austin
P.O. Box 8179
Austin, Texas 78713-8179
Attn: Senior Vice President & Chief Financial Officer

The University of Texas System
OGC – Real Estate
210 West 7th Street
Austin, Texas 78703
Attn: Real Estate Attorney

Kirk S. Tames, University Liaison
OGC – Real Estate
210 West 7th Street
Austin, Texas 78703

- b. The fifth sentence of Section 16.5 of the Development Agreement is hereby amended and restated in its entirety as follows:

Any notice delivered to the City under this section shall be addressed:

City Manager
City of Austin
301 W. 2nd Street, 3rd Floor
Austin, TX 78701

With a copy to:

City Attorney
City of Austin
301 W. 2nd Street, 3rd Floor
Austin, TX 78701

Sara Hensley, City Liaison
City of Austin
200 W. 2nd Street
Austin, TX 78701

4. **Capitalized Words.** All capitalized words used in this 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.

5. **Ratification and Compliance.** Except as expressly amended or modified by this 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 Amendment. In the event of any conflict or inconsistency between the provisions of the Development Agreement and this Amendment, the provisions of this Amendment shall control and govern.

6. **Entire Agreement and Amendments.** The Development Agreement, as expressly modified by this 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 Amendment, may be amended or supplemented only by an instrument in writing executed by both parties hereto.

7. **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 Amendment, (ii) all requisite action to authorize the City to enter into this 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 Amendment on its behalf.

8. **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 Amendment, (ii) all requisite action to authorize The University to enter into this 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 Amendment on its behalf.

9. **Binding.** This 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.

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

11. **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.

12. **Construction.** Each party acknowledges that it and its counsel have had the opportunity to review this 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 Amendment.

13. **Counterparts.** This 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 Amendment may execute the Amendment by signing any of the counterparts.

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

CITY: CITY OF AUSTIN, TEXAS

By: [Signature]
 Name: Sarah Hensley
 Title: Interim Asst. City Manager

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

STATE OF TEXAS §

COUNTY OF TRAVIS §

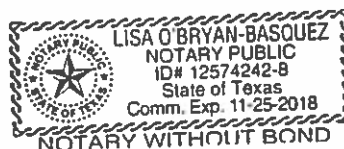
This instrument was acknowledged before me on the 16th day of November, 2018, by Kirk S. Tames, Executive Director of Real Estate of The University of Texas System, on behalf of the Board of Regents of The University of Texas System.

[Signature]
 Notary Public in and for the
 State of Texas

LISA O'BRYAN-BASQUEZ
 Printed/stamped name of Notary

My Commission expires:

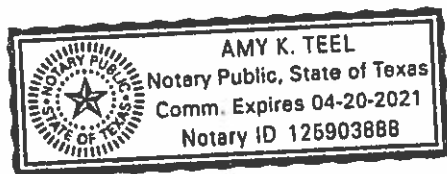
11-25-18



STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 16th day of November, 2018, by Sara Wesley, Interim ACM of the City of Austin, Texas, on behalf of the City of Austin, Texas



A. Teel
Notary Public in and for the
State of Texas

Amy K. Teel
Printed/stamped name of Notary

My Commission expires:

4-20-2021