

**GROUND LEASE AGREEMENT BETWEEN
FORT BEND COUNTY
AND THE UNIVERSITY OF HOUSTON S YSTEM**

This Ground Lease Agreement (this "Ground Lease"), fully executed as of _____, 2009, by and between the **UNIVERSITY OF HOUSTON SYSTEM**, a system of public institutions of higher education and agency for the State of Texas under Chapter 111.20 of the Texas Education Code ("Lessor" or "UHS") and **FORT BEND COUNTY, TEXAS**, a governmental subdivision of the State of Texas ("Lessee")(collectively, the "Parties").

RECITALS

WHEREAS, the Parties have discussed mutual goals regarding the construction and operation of a 40,000 square foot library located at the University of Houston System-Sugar Land campus (the "Library"); and

WHEREAS, the Parties desire to construct and operate the Library on the University of Houston System-Sugar Land campus ("UHSSL"); and

WHEREAS, Lessor has agreed to enter into this Ground Lease whereby Lessor will lease to Lessee a tract of approximately 3.39 acres of land on the UHSSL, and Lessee will develop, construct, operate, and use improvements on such land for use by students, faculty and staff of UHS for higher educational purposes and the residents of Fort Bend County, and such other persons as the Parties may agree, subject to the terms stated below and in the Operations Agreement to be negotiated by the Parties; and

WHEREAS, the Board of Regents of Lessor and the Commissioners Court of Lessee have approved execution of this Ground Lease; and

WHEREAS, the Parties believe that the interest of Fort Bend County residents and the Lessor's educational purpose can be best served by the joint construction and Lessee's operation of the Library; and

WHEREAS, Lessor hereby recognizes and finds that (1) the rent to be paid by Lessee; (2) the value derived from Lessee's payment of its share of the construction costs, its payment for the operation and maintenance of the Library, and (3) the residual value of the Library at the conclusion of the initial term or any extension term of the Ground Lease accruing to Lessor constitute fair and equitable consideration for the conveyance of the leasehold interests set forth in this Ground Lease;

NOW, THEREFORE, in consideration of the mutual covenants, conditions and agreements which follow, the Parties hereby agree as follows:

1. Definitions. The following terms as used in this Ground Lease, shall have the following meanings, unless the context indicates otherwise:

a. “Applicable Laws” means all federal and state statutes, acts, ordinances, rules, regulations, permits, licenses in effect during the initial term or any extension term of this Ground Lease that may be applicable to the Library or any aspect of the Library, including the planning, design, engineering, construction, development, maintenance, operations, management and use of the Library. Applicable Laws also means all other laws referenced throughout this Ground Lease.

b. “Approved Plans” means the plans, site plans, construction drawings and specifications approved by the Parties.

c. “Commencement Date” means the date this Ground Lease has been fully executed by the Parties or upon receipt of written notification from the Texas Higher Education Coordinating Board (“THECB”) of approval of this transaction, whichever date is later. A copy of the THECB’s approval shall be annexed to this Ground Lease as Exhibit A. In the event the THECB fails to approve this transaction by the close of business on October 30, 2009, Lessee may terminate this Ground Lease upon written notice to Lessor.

d. “Commencement of Construction” means the date on which excavation or foundation work is begun for the Library.

e. “Construction Standard” shall mean performance of all planning, design, and construction activities in a diligent and careful manner with the quality of services at least equal to the quality of services performed and practiced by Fort Bend County, as of the date of this Ground Lease, in the planning, design and construction of its library system.

f. “Contracts” shall mean any and all contracts and agreements entered into or to be executed by Lessee in connection with the performance of any of its obligations under this Ground Lease and the Operations Agreement relating to the planning, design, engineering, construction, equipping, furnishing, fixtures, management, operation, maintenance, and use of the Library.

g. “Conveyance Act” means the Act of the 75th Texas Legislature, R.S., Chapter 1243, 1997 Tex. Gen. Laws 1243 authorizing the conveyance of the University Tract from the State of Texas to the Lessor.

h. “Date of Opening” means the date the Library is opened for occupancy or use.

i. “Facility Equipment” means all moveable furniture, furnishings, equipment, machinery, telecommunications and computer equipment, books and other personal property owned by Lessee and used in connection with the Library.

j. *Intentionally Deleted.*

k. “Improvements” means all buildings, structures, appurtenant facilities or utilities located on the Premises during the initial lease term and any extension term of the Ground Lease, including the Library.

l. "Lease Term" means the initial term and/or any extension term of this Ground Lease.

m. "Library" means the facility and directly associated Infrastructure, as defined in Paragraph 11(b) of this Ground Lease, or any substitute facility approved in writing by designated authorized representatives of both parties, to be constructed on the Premises pursuant to this Ground Lease and in accordance with applicable law and University policy.

n. Intentionally Deleted

o. "Maintenance" means all actions required to keep the Premises in a usable condition and/or in good appearance, or to prevent deterioration. *"Maintenance"* includes, but is not limited to, major repairs to and/or replacement of the roof, electrical, plumbing, mechanical, heating, air conditioning, and other systems, repair and replacement of any fixed equipment or structural feature, or other structural items, alterations or modifications required to comply with any governmentally imposed laws and/or regulations and/or as required for health and safety.

p. "Operations Agreement" means the agreement between the Parties relating to the use, operations, and management of the Library to be negotiated between the Parties.

q. "Permitted Encumbrances" means, as of any particular time, (i) liens for *ad valorem* taxes, special assessments, and other charges not then delinquent or for taxes, assessments, and other charges being contested in accordance with the terms of this Ground Lease, (ii) currently existing utility, access, and other easements and rights of way, restrictions, and exceptions, (iii) inchoate mechanics' and materialmen's liens that arise by operation of law, but that have not been perfected by the required filing of record, for work done or materials delivered after the date of recording this Ground Lease, (iv) the State Conditions, and (v) any additional exceptions or encumbrances created or consented to by Lessor.

r. "Premises" means the approximate 3.39 acres located in Fort Bend County, Texas and leased pursuant to this Ground Lease as more particularly described and depicted in the attached Exhibit B (to be attached following execution with both parties' approval).

s. "Project Costs" shall mean, except as otherwise set forth in this Ground Lease or other Contracts between the Parties, all costs of every nature necessary to acquire and perform the Work and to otherwise plan, design, construct, and initially equip, fixture and furnish the Library in compliance in all material respects with the Approved Plans, Applicable Laws, this Ground Lease, the Operating Agreement, and the other Contracts, including the costs of all permits, licenses, etc. relating to the design, construction, and initial equipping of the Library. Project Costs may also include the demolition, design and construction of parking, landscaping, driveways and access areas located on the Site, and to the extent set out in the Approved Plans, on easements benefitting the Library. Lessor's share of Project Costs shall in all instances be subject to a cap of \$1.5 million.

t. "State Deed" means the deed conveying the University Tract from the State of Texas to the Lessor pursuant to the Conveyance Act.

u. **“State Conditions”** means the requirements imposed in the Conveyance Act and the State Deed that the University Tract (including the Premises) be used for higher educational purposes.

v. **“Substantial Change”** shall mean: any change in the Approved Plans which will materially alter: (1) Lessor’s use of the Library; (2) the protocol and procedures established in accordance with Paragraph 12.h of this Ground Lease; and/or (3) the exterior of any Improvements.

w. **“Work”** shall mean the total construction and related services required to be provided by a contractor for the construction and completion of the Library or component thereof in accordance with the Contract Documents. The term "Work" includes all labor, materials, and services necessary to produce the construction and completion of the Library, and the performance of any other professional services in accordance with agreements relating to the planning, design, engineering, construction, equipping and furnishing of the Library.

2. Leased Premises; Term. (a) *Initial Term.* In consideration of the rents, covenants, agreements, and conditions set forth between the Parties in this Ground Lease, Lessor does hereby lease to Lessee the approximately 3.39 acre Premises, more particularly described and depicted in Exhibit B. The term of the Ground Lease shall commence on the Commencement Date and the initial term shall expire at 12:00 midnight on the 50th anniversary date of the Commencement Date (the “Initial Term”).

(b) **Renewal and Extension of Ground Lease.** Provided Lessee is not in default beyond the expiration of any applicable cure period expressly granted to Lessee in this Ground Lease, the Ground Lease will be renewable for up to five (5) additional ten (10) year periods upon mutual written agreement of the Parties. The Parties’ mutual written agreement shall be executed by the appropriate individuals with authority to so bind each of the Parties at least one hundred eighty (180) days prior to the expiration of the Lease Term. Any renewal of this Ground Lease shall be upon terms and conditions as agreed to and appropriate, including but not limited to, lease rates and other costs and expenses for which Lessee is obligated. Nothing in this Paragraph shall prevent either Lessor or Lessee from deciding to not extend the Ground Lease beyond the initial lease term or any extension term.

(c) **Reversion of Library.** Except as may be provided in the Operations Agreement, and subject to Paragraph 29 of this Ground Lease or any further agreement of the Parties executed by their respective legally designated representatives, the title to all Improvements and Facility Equipment shall be vested in Lessee until the termination of this Ground Lease as provided in this Ground Lease, at which time all title to and ownership of the Library shall automatically and immediately vest (without the necessity of any further action being taken by Lessee or Lessor or any instrument being executed and delivered by Lessee to Lessor) in Lessor. The Premises, excluding the Facility Equipment, shall thereafter constitute and belong to and be the absolute property of Lessor or Lessor's successors and assigns, without further act or conveyance, and without liability to make such compensation to Lessee or to anyone whomsoever, and free and discharged from all and every lien, encumbrance, claim and charge of any character created or attempted to be created by Lessee at any time.

(d) Unless the Library is demolished in accordance with Paragraph 15, Lessee shall, at the expiration or termination of the Lease Term, quit and surrender the Premises in good order and condition, ordinary wear and tear and casualty excepted. Lessee shall surrender to the Lessor all keys used in connection with the Premises.

3. **Rent.** (a) *Initial Term Rent.* Lessee shall pay Lessor rental payments of \$1.00 (one dollar and xx cents) per year throughout the Initial Term of the Ground Lease, beginning upon the Effective Date of this Ground Lease. The rental of Fifty Dollars (\$50.00) shall be payable in advance on the first day of the Lease Term without notice or demand and without setoff.

(b) Lessee shall pay all rents and other charges owed to Lessor under the Ground Lease to the Lessor at the address set forth in Paragraph 43 of this Ground Lease or to such other individual and at such other place as may be designated by a legally authorized representative of Lessor.

(c) *Extension Term Rent.* Within 365 days of any Extension Term, the Parties shall determine any additional rent due to Lessor from Lessee during any Extension Term, the timing of rental payments, and any late charges associated with delayed payment, and other terms relating to rent, which shall be set forth in a writing signed by authorized representatives of the Parties.

4. **Other Costs and Expenses – Pro Rata Share**

(a) The Parties agree that the Library shall be designed to be an approximately 40,193 square foot building. The standard square footage of a Fort Bend County Public Library is 35,000 square feet. Therefore, approximately 5,193 square feet of the Library is to be associated for Lessor's use. A conceptual drawing of the Library is attached as Exhibit C.

(b) Except as specifically stated elsewhere in this Ground Lease or in the Operations Agreement, the Parties intend to share the Project Costs on a *pro rata* basis, as follows: Lessee's share of such costs will be a percentage determined by dividing the 35,000 square feet County standard by 40,193. Lessor shall be responsible for Project Costs associated with 5,193 square feet of space over the County standard for County Branch libraries. Therefore, Lessee would be responsible for 87.1% of the Project Costs and Lessor would be responsible for 12.9% of the Project Costs, plus the design revision costs of \$62,000, **subject to a cap of \$1.5 million.** As used in this Ground Lease, and except as provided in Paragraph 11(a), the term "Pro Rata Share" shall be determined after the final design of the Library is approved by the Parties and the exact square footage is determined based on the approved final design. The Parties may modify their respective Pro Rata Shares in writing, signed by the legally authorized representatives of each party.

(c) Lessor shall reimburse Lessee for the design revision costs of \$62,000.00 (sixty two thousand dollars) within 30 days of the effective date of this Ground Lease. Lessee shall pay the Project Costs as submitted and approved according to the Contracts and Lessee's standard practice with other Lessee libraries. Not later than the 15th day of the month following the month in which Project Cost payments are made, Lessee shall provide Lessor a schedule with documentation that reflects all Project Cost payments made by Lessee during such month.

Lessor shall pay to Lessee within 30 days of receiving such schedule Lessor's Pro Rata share of the Project Costs paid by Lessee.

5. Permitted Use. (a) Purpose of Ground Lease. Lessee shall be allowed to construct, install, operate, maintain and repair the Library and shall not be allowed to use the Premises or this Ground Lease for any other purpose other than for library purposes and to provide parking for those utilizing the Library.

(b) The Parties agree to cooperate at all times to ensure that the use of the Premises complies with the terms of the Conveyance Act and the State Deed.

6. Acceptance and Condition of Premises. (a) Lessee's Inspection. Lessee has had full opportunity to inspect and examine the Premises. Except for the express representations and warranties of Lessor set forth in this Ground Lease, Lessee's execution of this Ground Lease shall be conclusive evidence of Lessee's acceptance of the Premises on an "AS IS" condition.

(b) No Representations. Lessee agrees that no representations about the condition of the Premises and no promises to alter or improve the Premises have been made by Lessor or its agents to Lessee unless specifically set forth in this Ground Lease.

(c) Lessor makes no representation as to the accuracy or completeness of any information it has provided or may provide regarding the constructability or physical condition of the Premises and is not responsible for any interpretations or conclusions reached by Lessee and its contractors with respect to any such information. Lessor expressly disclaims any warranty, express or implied, under statutory or common law, or otherwise, with respect to the Premises, including its constructability, suitability, and/or physical condition.

(d) Lessor makes no implied warranties of merchantability, of fitness for a particular purpose, or of any other kind arising out of or that extend beyond this Ground Lease.

7. Taxes and Assessments. The Parties hereby acknowledge that given the public purposes served by the Library, *ad valorem* property taxes do not apply. Notwithstanding the foregoing, to the extent the interest or estate of Lessee created by this Ground Lease is or becomes subject to *ad valorem* property taxes, Lessee shall be responsible for and pay such taxes accordingly. Lessee further shall reimburse and hold Lessor harmless from the payment of, any and all municipal, county or state taxes assessed, if any, during the Lease Term against any leasehold interest, Facility Equipment, or personal property of any kind, owned by, or placed in or on the Premises by Lessee, and all taxes, assessments, license fees, excises, imposts, fees, and charges of every sort, nature and kind (singularly and collectively, "Taxes"), which during the Lease Term are or might be levied, assessed, charged, or imposed upon or against the Premises or the interest or estate of Lessee or Lessor in and to the Premises.

8. Compliance with Laws. (a) Except as set forth in Paragraph 8(d) below, Lessee shall, at the sole cost and expense of Lessee, observe and comply with all Applicable Laws, requirements, rules, regulations, orders, ordinances, codes or other requirements of the city, county, state and federal governments, or of any department, commission, or board thereof, now or hereafter in force and effect and applicable to Lessee's occupancy of the Premises (including

without limitation any and all environmental or public safety laws, statutes, codes or ordinances or any applicable requirements of the Americans with Disabilities Act), regarding the proper construction, use, maintenance, operation and occupancy of the Premises by Lessee. Lessee shall immediately notify Lessor of any violation of such laws, statutes, codes or ordinances. Lessee shall be solely responsible for payment of any fines or other penalties relating to violations of applicable state, federal or local laws, statutes, codes or ordinances. However, Lessor shall be responsible for payment of any fines or other penalties relating to violations of applicable state or federal laws that result solely from any acts or omissions of Lessor.

(b) Lessee acknowledges that Lessor has its own institutional rules and policies as well as the bylaws and policies of the UHS Board of Regents, which may be enforced and applied to any person with respect to conduct or activity(ies) outside the Library; provided, however, that such rules and policies do not unreasonably restrict access of Fort Bend County residents to the Library during the hours of operation of the Library. Lessor may authorize Lessor's officers and commissioned peace officers to enforce such rules and policies, subject to the jurisdictional limitations provided by law.

(c) Neither Lessor nor Lessee shall do, or knowingly permit anything to be done, in the Library on the Premises, which will, in any way, conflict with the Applicable Laws.

(d) Lessee shall obtain, at its expense, any required licenses, permits, insurance, and governmental approvals necessary to the performance of its obligations under this Ground Lease; provided, however, that the Parties shall pay their Pro Rata Share to the extent any such licenses, permits, insurance, and governmental approvals are related to the Project Costs of the Library. The Parties shall cooperate in the obtaining of all such required licenses, permits, and governmental approvals.

9. Insurance. (a) Lessee shall maintain insurance with respect to the Premises against all liabilities, casualties, risks and contingencies as is and would be customary and standard for such Premises owned and operated by a County or other political subdivision of the State of Texas. All coverages for such insurance shall be in amounts consistent with the amount of insurance maintained by Lessee for its facilities outside of the Premises and shall, at a minimum, insure against the statutory maximum liability established for Counties in the State of Texas. All such insurance policies for the Premises shall name Lessor as an additional insured. Notwithstanding the foregoing, at all times during the term of this Ground Lease, Lessee, at its sole cost and expense, shall provide and keep in full force and effect a policy of commercial general liability insurance, naming Lessor as additional insured with respect to the Premises pursuant to which the minimum limits of liability set forth under Texas state law as applicable to institutions of higher education shall apply. All such insurance shall be issued by (i) the same insurer that provides insurance for the Lessee generally or for other similar facilities owned by Lessee or (ii) an alternate insurer approved by Lessor. The Parties acknowledge that the Operating Agreement may provide different insurance requirements for the operation of the Library or use of the Premises, and in such case, the requirements of the Operating Agreement shall control over the provisions of this Paragraph. Such insurance policy shall contain a clause that the insurer will not cancel or change the insurance without first giving Lessor thirty (30) days prior-written notice. Written proof of insurance in the form of a certificate and copy of the applicable

insurance policy(ies) shall be delivered to Lessor on the Commencement Date of this Ground Lease, upon renewal of each such insurance policy, and upon renewal of the Ground Lease.

(b) In the event Lessee makes or contracts for any alterations, additions, replacements, or improvements, Lessee shall require any third party vendor or contractor performing work on the Premises to carry and maintain at no expense to Lessor the insurance coverages described below in Paragraph 13(d). Lessor and Lessee are to be named as additional insureds on all such coverages. Prior to commencement of such alterations, additions, replacements, or improvements, Lessee shall provide Lessor with a Certificate of Insurance and the endorsements to the applicable policies demonstrating that the Parties are named as additional insureds.

(c) If at any time Lessee does not comply with the provisions of this Paragraph, Lessor may, at its option and without prejudice to any other remedy it might have, cause insurance as described above to be issued, and in such event, Lessee shall pay the premium for such insurance as Additional Rent promptly upon Lessor's demand for such payment.

(d) All policies covering real or personal property which either Lessor or Lessee obtains affecting the Premises or the Library shall include a clause or endorsement, if obtainable, denying the insurer any rights of subrogation against the other party.

(e) Lessee agrees to maintain, at its expense an appropriate fire, extended coverage and malicious mischief insurance policy on the Library and Premises at full replacement value.

(f) Lessee shall, at its expense insure Lessee's furniture, furnishings, equipment, improvements, fixtures, or other Facility Equipment located in or on the Premises under a standard fire and extended coverage insurance policy providing adequate coverage to replace such property. Lessee acknowledges that Lessor shall not be responsible for carrying insurance of any kind on Lessee's furniture and furnishings or its equipment, improvements, fixtures or other Facility Equipment and that Lessor shall not be obligated to repair or replace the same in the event of a fire or other casualty affecting the Premises.

10. Costs for Preliminary Planning, Programming, and Construction of Roads. Lessee will be solely responsible for costs associated with: (a) preliminary planning and programming; (b) to the extent applicable, construction of any roads for use by the contractor; and (c) preliminary dirt work to raise site elevation of the Library as necessary.

11. Architectural Design of the Library. (a) Lessee has engaged Bailey Architects, an architectural firm (the "Architect") to proceed with the design of the Library. The Associate Vice Chancellor of UHSSL, or his delegate, and Lessee's Director of Facilities, Management and Planning, or his delegate, shall attend any meetings with the Architect to discuss the design of the Library. A copy of the final design, and any subsequent design change to the exterior of the Library, or any Substantial Change shall be presented to each of the Parties for approval. If the final design results in a smaller Library, then the Pro Rata Share to be paid by Lessor for design

shall not be less than 12.9% subject to a cap of \$1.5 million. If the final design results in a larger library, then the Pro Rata Share to be paid by Lessor for design shall be determined in accordance with the formula described in Paragraph 4 of this Ground Lease, subject to a cap of \$1.5 million. Lessor acknowledges its responsibility to pay Lessee an architectural redesign cost of \$62,000.00, which is currently due and owing.

(b) Infrastructure issues involving the Premises shall be included as part of the design process. “*Infrastructure*” means, collectively, access to UHSSL and the Premises, and private utilities and public utilities, such as electricity, gas, telecommunications, water, wastewater and drainage. Lessee agrees and acknowledges that Infrastructure supporting the Premises shall be designed and incorporated to maintain the aesthetics of UHSSL.

(c) After the design of the Library has been developed, and prior to approval by the Parties, Lessee shall, at Lessor’s request, formally present the design to Lessor’s senior administrators with floor plans, elevations, renderings, and material and finish boards.

(d) Upon written approval of the final design by both Parties, Lessee shall proceed to construct the Project based on the approved design, with the costs of architectural design and construction shared according to the Pro Rata Share (as specified in Paragraphs 4 and 11).

12. Construction of the Library. (a) Within thirty business days after the written approval by the Parties of the final design of the Library, Lessee shall initiate the bid process for the construction of the Library. Lessee will select the method of awarding the construction contract for the Library and shall negotiate and enter into the agreement with the contractor. Lessee shall keep Lessor informed during this process and will provide to Lessor a copy of the executed agreement between Lessee and Contractor prior to commencement of construction.

(b) Lessee shall not construct or cause to be constructed any Improvements on the Premises, other than the Library, without Lessor’s prior written consent.

(c) Lessor will provide Lessee with easements and access rights necessary to provide the Library with necessary utilities, including electrical service, sanitary and storm drainage, water, data and telephone services.

(d) As Project Costs, Lessee shall furnish all supervision, tools, implements, machinery, labor, materials and accessories such as are necessary and proper for the construction of the Library, shall pay all permit and license fees and shall construct, build, and complete the Library in a good, substantial and workmanlike manner, in accordance with the Construction Standard, and as required by this Ground Lease, the Approved Plans, all design and construction plans and specifications, and all documents executed pursuant to this Ground Lease, any Contracts, or by written agreement between the Parties.

(e) Prior to Construction, within ten (10) business days after receipt of the bid tab or cost estimate from the contractor, Lessee shall send Lessor a detailed summary of the estimated cost to construct the Library. Such summary shall include all known and estimated construction-related costs including but not limited to estimated construction amount, fees for professional services (as defined in the Texas Government Code), testing, and utility or tap connection fees.

The summary shall also specify the estimated Pro Rata Share of each of the Parties in both dollar amounts and percentages.

(f) Within ten (10) business days after Lessor receives the cost summary as provided above, Lessor shall submit any comments on the cost summary to Lessee. Lessee shall use good faith efforts to incorporate Lessor's comments into the final cost estimate. Within twenty (20) business days from receipt of Lessor's comments, Lessee shall prepare the final cost estimate and furnish a copy to Lessor.

(g) Prior to the issuance of the notice to proceed with Construction, a conference will be convened for attendance by Lessor, Lessee, the Contractor, Architect/Engineer and appropriate Subcontractors to set forth protocol and procedures relating to the operational conditions at the Premises and UHSSL, acceptable locations for laydown sites, vehicular and pedestrian access to the Premises, and other procedures so as not to interfere with, disrupt, or adversely affect Lessor's operations or those of Lessor's other licensees or invitees. Lessor shall review and approve any such protocol and procedures or modifications to such rules and procedures. The Associate Vice Chancellor of UHSSL, or his delegate, is designated as Lessor's representative for the purpose of determining and authorizing Lessor's protocol and procedures for construction and pre-construction logistics.

(h) Lessee shall execute the Construction Contract for the Library and shall issue a notice to proceed. Lessee shall provide Lessor with a copy of any pay application and related reports received under the terms of the Construction Agreement for the construction of the Library within 3 business days of receipt by Lessee. Lessee may within its discretion approve any individual change order that does not exceed \$50,000 and which does not involve a Substantial Change as defined in Paragraph 1(v). Any change order in excess of \$50,000 which will be shared pro rata between the Parties in accordance with Paragraph 4(b) of this Ground Lease, or any change order which involves a Substantial Change as defined in Paragraph 1(v) must be submitted to Lessor for written approval or other response within 5 business days of receipt. Any change order that relates exclusively to Lessor's use of the Library and which will have no material effect upon Lessee shall be at the sole cost of Lessor and subject to approval by Lessor. Any change order that relates exclusively to Lessee's use of the Library and which will have no material effect upon Lessor shall be at the sole cost of Lessee.

(i) Construction documents shall be provided to Lessor at the 50% and 90% completion stage for review and comment by Lessor. A final set of construction documents shall be provided after construction is completed.

(j) Upon completion of the construction, Lessee, upon the written request of Lessor, shall have an independent audit performed, at Lessor's cost, of the funds expended for construction of the Library. Based on said audit, Lessee shall return any pro rata cost savings to Lessor within thirty days of the submission of the audit and/or receipt of funds. If due to change orders, the costs of construction exceed the amount allocated by the Parties, Lessee shall provide Lessor with a summary of such costs and Lessor shall pay such additional amounts within thirty calendar days after receiving such summary of costs. In no event shall Lessor's payments exceed its \$1.5 million cap.

(k) Lessor shall be provided copies of payment and performance bonds in an amount equal to the contract price set forth in the Construction Contract or in accordance with Texas law.

(l) Lessee shall provide reports in writing as to the actual progress of the construction of the Library. Access to the Construction shall be provided to Lessor at reasonable times.

(m) Any agreement between Lessee and the Contractors responsible for the construction of the Library shall require the Contractors to indemnify, defend and save Lessor and Lessee harmless from any liability, loss, cost, penalty, damage or expense including attorneys' fees, which Lessor may incur as a result of any claim, damage, injury, course of action, proceeding, citations, or work stoppage arising out of or in any way connected with any alleged violation by the Contractors of any Applicable Laws, or standard, including but not limited to the Construction Standard. The Contractors shall at their own cost and expense protect their employees and other persons from risk of death, injury or bodily harm arising out of or in any way connected with their Work.

(n) The Parties acknowledge and agree that the drawings, specifications, and construction shall be provided to Lessor's State of Texas fire marshal for inspection, review and/or comment, approval, and enforcement. During construction, the fire marshal shall have the opportunity to be present during hydrotesting and other processes pertinent for the State fire marshal's purposes.

(o) In connection with the Construction Agreement and this Ground Lease, Lessee shall be responsible for implementing and monitoring the review processes utilized by Lessee in the construction of its library system to monitor construction costs and expenses. Upon reasonable notice, all accounts and records relating to the Project Costs and Lessee's construction of the Library will be open to inspections by Lessor or its designee.

(p) Lessee shall provide Lessor with a copy of as-built plans for the Library within 14 days of Lessee's receipt of the as-built plans.

13. Lessee's Construction Agreement. (a) The Construction Agreement shall provide that the Library will be planned, designed, and constructed in accordance with Schematic Drawings, attached hereto as Exhibit D.

(b) The Construction Agreement shall provide that any Substantial Change, as defined in Paragraph 1(v), is subject to Lessor's review and requires prior written approval of Lessor.

(c) The Construction Agreement shall provide that any Contractor shall perform its duties, responsibilities and obligations as to the design and construction of the Library prudently and in accordance with the Construction Standard and the applicable provisions of this Ground Lease. This Ground Lease shall be attached to the Construction Agreement.

(d) The Construction Agreement shall contain provisions requiring the General Contractor, its agents, contractors and subcontractors to (1) to indemnify and hold Lessor, its component institutions, and any of their agents, employees, officers, administrators, successors and assigns against any action for bodily injury, death or property damage sustained by the General Contractor, its agents, contractors and subcontractors, and/or any of their respective agents, employees, officers, administrators, successors and assigns, and/or any of Lessee's invitees and licensees; and (2) to maintain not less than One Million dollars (\$1,000,000) per occurrence and at least Two Million dollars (\$2,000,000) aggregate coverage in commercial general liability insurance, naming Lessor and Lessee as Additional Insureds, as well as commercially reasonable limits in other customary insurance coverages required under the State of Texas' Uniform General Conditions and those reasonably requested by Lessee. This will include Workers Compensation insurance coverage with statutory limits for the State of Texas, \$1,000,000 Employers Liability, automobile liability of \$1,000,000 per occurrence, and Umbrella Insurance with \$5,000,000 per occurrence/aggregate limit. Lessee shall provide Lessor Certificates of Insurance evidencing such coverage.

14. Remodeling or Renovation. (a) After completion of the Library, at least 120 days prior to undertaking any material structural alteration, renovation, remodel, or Improvement of the Library during the Lease Term, such that the alternation, renovation, remodel, or Improvement constitutes a Substantial Change, alters the exterior of the Library, or of any space that now or may hereafter be allocated specifically for Lessor's use, Lessee shall submit plans for such structural alteration, renovation, remodel, or Improvement to Lessor for Lessor's prior written approval, which shall not be unreasonably withheld.

(b) All alterations, renovations, additions, remodels, replacements, or Improvements will be accomplished using best professional practices as used in Lessee's library system, in conformity with all Applicable Laws and the Construction Standard. Lessee agrees that it will make all improvements to any portion of the Premises at its sole cost and expense unless such improvements are requested solely by Lessor for Lessor's exclusive use. Lessee agrees that should it make any alterations, renovations, additions, remodels, replacements or Improvements to any portion of the Premises, it will not be acting as agent, representative, or servant of Lessor and shall pay when due all claims for labor and material. Lessor may elect to post notices of non-responsibility on the Premises. Lessee shall in good faith consider Lessor's academic schedule when scheduling any such alterations, renovations, additions, remodels, replacements, or Improvements.

15. Demolition. After the initial term and at least one extended term of this Ground Lease, Lessor shall have the option to require Lessee to demolish the Improvements and clear the Premises of all rubble and debris at Lessee's sole cost and expense upon the expiration or termination of this Ground Lease. To the extent possible, at least 365 days, but no fewer than 150 days, before the termination of this Ground Lease, Lessor shall provide notice to Lessee of this requirement. Should Lessor exercise this option, Lessee shall have 150 days to comply after the termination of this Ground Lease. This provision shall survive the termination of this Ground Lease.

16. Non-Exclusive Easement. Lessor hereby grants to Lessee and its successors, assigns, successors-in-title, invitees, employees, and sublessees, a non-exclusive easement on, over, across, and through UHSSL for all forms of pedestrian and vehicular ingress, egress, and access between the Premises and the public streets and roadways abutting UHSSL. The non-exclusive easement granted herein shall expire automatically when this Ground Lease terminates.

17. Services and Utilities. (a) Lessee shall be responsible for all Basic Operating Costs, including, but not limited to, janitorial and custodial services, building maintenance, and security services within the Library, and its Pro Rata Share of the Levee Improvement Assessment imposed by the Fort Bend County Levee Improvement District No. 17. Basic Operating Costs shall include all operating and normal maintenance expenses of the Library, which shall consist of all expenditures of every kind and nature and which shall be paid by Lessee unless otherwise agreed to by the Parties in the Operating Agreement.

(b) Lessee shall be responsible for all utility bills and expenses, including, but not limited to, electricity, natural gas, and telecommunications. The connection fees for water, heat, gas, electricity, sewers and any and all other utilities used on the Premises throughout the Lease Term shall be included in the Project Costs.

(c) Lessor shall be responsible for and pay for costs associated with water, waste and trash collection excluding connection fees directly related to the Library.

18. Responsibility for Maintenance and Repair. (a) Except as provided in Paragraph 18b, Lessee shall be responsible for all maintenance, repair, cleaning, upkeep, and other such costs of the Library and Improvements on the Premises, including, without limitation, interior walls, floors, ceilings, heating and air conditioning, electrical and plumbing, custodial services and other mechanical operations of the Library and/or the Improvements. Lessee shall maintain the Library and Improvements in good, safe, usable, and insurable condition and repair, and not permit, commit or suffer any waste or abandonment of any of the Library. Lessee at Lessee's sole cost and expense at all times agrees to keep and maintain the Library and the Improvements in a good state of appearance and repair, with normal wear and tear. Lessee shall make all repairs, at its own cost, to the Library or any portion of the Premises for damages or injuries caused by Lessee, its agents, employees, invitees, visitors, or licensees. Lessee shall have a reasonable time to make any such repairs. Lessee's failure to maintain and repair the Library and Improvements shall constitute an event of Default.

(b) Lessor shall be responsible for maintenance, repair, cleaning, upkeep, and other such costs for the landscaping and parking lot on the Premises. Lessor shall have no other duty to repair or maintain the Premises or any other Improvements on the Premises, unless any damage necessitating any repair is caused exclusively by the negligence or misconduct of Lessor or its faculty, staff or students. To the extent the repairs are solely Lessor's responsibility, Lessee shall make such repairs, which shall be billed to and paid for, within a reasonable time, by Lessor.

19. Use And Operation of Library and Premises. (a) The Parties agree to negotiate the terms of any Operation Agreement or amendment to such Operations Agreement in good faith. The Operations Agreement shall set forth the Parties' agreement regarding the operation and use of the Library.

(b) The Operations Agreement shall provide at a minimum that Lessor's faculty, students, and staff will have the same access to the Library on the same terms and conditions that apply to the citizens of Fort Bend County. The Operations Agreement shall also entitle Lessor's educational partners, such as community colleges and school districts, to use the Library for academic purposes. To the extent that Lessor finances specific areas of the Library to be developed in the future, upon written agreement of the Parties, Lessor shall be entitled to control the use of those portions of the Library financed by Lessor.

(c) Subject to the terms of the Operations Agreement, Lessee shall provide staff and operate the Library in accordance with the standard rules and procedures that Lessee uses for other county libraries, including hours of operation, circulation policies and procedures and rules and regulations regarding use of meeting space. Such policies and procedures shall be made available to Lessor on a regular basis. Lessor may request, and Lessee shall in good faith agree to such request, that the Library be kept open beyond its regular hours of operation for higher educational purposes, except on official County library holidays; provided, however, that Lessor shall reimburse Lessee for the cost for the operation of the Library during those extended hour periods. Lessor shall not be responsible for any costs for staff or the operation of the Library except those associated with the extended hour periods referenced above.

(d) Lessee shall provide safety and security measures in the Library at a level not less than safety and security measures provided at other Fort Bend County libraries and in accordance with the Operations Agreement .

(e) Lessee shall be responsible for the selection of, repairs to, and the replacement of all furniture, fixtures and equipment ("FF&E") necessary for the effective operation of the Library. The Library will be designed for wireless access to the internet. Except as otherwise agreed in writing by the Parties, the initial cost of all audio-visual equipment, video-conferencing equipment, satellite access equipment, and wiring for wireless and telecommunications will be included in the FF&E as Project Costs.

(f) Collections; Circulation & Catalogs; Electronic Resources. Except as the Parties may otherwise agree in writing, Lessee shall be responsible for selecting and paying for all materials and designating quantities that will make up Lessee's Library "Opening Day Collection." Lessee shall be responsible for the acquisition (ordering) of the Library collections, including academic books, materials, prints, catalogs, periodicals and audio/visual materials, and those items generally considered as required to operate a public library (collectively, the "Collection Materials"). All Collection Materials shall be the property of Lessee and will be catalogued and classified according to Lessee's catalogue and classification system. Lessor's catalog system will be available by internet to any member of the public and may be accessed through Lessee's library website.

20. Parking. (a) Lessor shall be responsible for the operating and maintenance costs of the landscaping and parking lot on the Premises. The parking lot shall contain approximately 185 parking spaces.

(b) Unless otherwise agreed upon by the Parties, Lessee's staff and residents shall have sufficient parking to access the Library at no cost.

(c) Lessor shall have the right from time to time to establish and modify reasonable rules and regulations relating to the use of the parking areas not in conflict with Paragraph 20(b), and Lessee, its employees, agents, representatives, invitees, visitors, and licensees shall abide by such rules and regulations. Lessor shall not be assumed to be or held liable for any injury or damage resulting from violation of any parking agreement, rule, regulation or law by any other individual or entity.

21. Signage. Lessee may only install outside signage consistent with other outside signage utilized by Lessor and with Lessor's written approval.

22. Use of Lessor Name and Trademarks. Lessee shall not use the name, logo, informal seal, or other symbols and marks of Lessor, any of its universities or component programs, or any part of said names, without the written consent of the UHS Chancellor or his/her designee. Lessee shall not delegate or assign the authority to use Lessor's name or symbols to any person or entity without such prior written approval.

23. Liens. Notice is hereby given that Lessor shall not be liable for any labor or materials furnished to Lessee upon credit, and that no mechanic's, materialmen's, or other liens for any such labor or materials shall attach to or affect Lessor's interest in and to the Premises and or the Library. Nothing in this Ground Lease or the Construction Agreement shall be deemed or construed in any way as constituting the consent or request of Lessor, express or implied, by inference or otherwise, to the filing of any Lien against the Premises by any contractor, subcontractor, laborer, materialman, architect, engineer, or other person for the performance of any labor or the furnishing of any materials or services for or in connection with the Premises or any part thereof. Lessee shall not create or permit to be created and shall discharge at its own cost any such lien, encumbrance, or charge caused by Lessee's acts or omissions or those of any agent or representative of Lessee that might affect Lessor's interest in the Premises.

24. Assignment of Ground Lease. Lessee, and its successors and assigns, shall not have the right to assign, sublease or transfer this Ground Lease or any interest in the Ground Lease or any right or privilege appurtenant to this Ground Lease or to sublease the Premises or any portion thereof, without the express written consent of Lessor signed by Lessor's legally designated representatives. Any assignment or transfer for which consent is required but which is nevertheless made without such written consent shall be void *ab initio*. Any assignment or subletting by Lessee pursuant to this Paragraph shall not release Lessee from its obligations under this Ground Lease unless Lessor, by written agreement: (i) accepts such assignment or sublease; and (ii) expressly releases Lessee from such obligations.

25. Condemnation/Eminent Domain. (a) *General.* The term "*condemnation*" as used in this Ground Lease means the taking or appropriation of property, or any interest therein, in exercise of the power or right of eminent domain or such taking for public or quasi-public use or any state of facts relating to the taking or appropriation of property which, without an actual taking or appropriation, shall result in direct or consequential damages to any portion of the Premises or the leasehold interest conveyed pursuant to this Ground Lease. The term

“condemnation” also includes, to the extent not otherwise defined in this Paragraph, a temporary taking of the Premises or any part thereof or the Improvements for a period of one year or more, and the taking of the leasehold interest created in this Ground Lease.

(b) *Total Condemnation.* If all of the Premises (or such substantial portion thereof as shall make it economically unfeasible to continue to operate the remaining portion for library purposes) is so condemned, this Ground Lease shall terminate on the date title to the Premises vests in the condemnor; provided, however, that such termination shall be without prejudice to the rights of either party to recover just and adequate compensation from any such condemnor. The termination of the Ground Lease under this Paragraph shall not vest title to the Library to Lessor as provided in Paragraph 2(c) of this Ground Lease and the Lessee will not have any demolition obligation under Paragraph 14. Any award for the land of which the Premises are a part, or any negotiated payment by private sale of the land in lieu of such award, shall constitute Lessor’s property, and Lessee hereby assigns to Lessor all its right, title and interest in and to any such award or payment. Each of the Parties shall be entitled to receive and retain such separate awards and portions of lump sum awards as may be allocated to their existing respective interests in any condemnation proceedings. The termination of this Ground Lease shall not affect the rights of the respective parties to such awards.

(c) *Partial Condemnation.* In the event of a taking of less than a total taking as provided in subsection (b) above, this Ground Lease shall terminate as to the condemned portion of the Premises on the date title to the condemned portion of the Premises vests in the condemnor; provided, however, that such termination shall be without prejudice to the rights of Lessor and Lessee to recover just and adequate compensation from any such condemnor. The provisions of this Ground Lease shall remain in full force and effect as to the portion of the Premises not affected by the condemnation. If the Premises is partially condemned as provided in this subsection, the condemnation proceeds shall be paid as provided in subsection (b).

26. Estoppel Certificates. (a) Lessor and/or Lessee will execute, acknowledge and deliver to the other promptly upon request, a certificate certifying as to the following:

(i) *Validity of Lease:* that this Ground Lease is unmodified and in full force and effect (or, if there have been modifications, that this Ground Lease is in full force and effect, as modified, and stating the modifications);

(ii) *Defaults by Lessee:* that no notice has been given by Lessor to Lessee of any failure to comply under this Ground Lease that has not been cured and to the best of its knowledge and belief no Event of Default exists (or, if there has been any notice given or an Event of Default exists, describing the same).

(b) Certificates from Lessor and Lessee pertaining to the same matters may be relied upon by any prospective Leasehold Deed of Trust Trustee or by any prospective assignee of an interest under this Ground Lease or by any prospective sublessee as to all or any portion of the Premises.

27. Access to Premises. Lessor, its authorized representatives, agents, employees, and attorneys may, but shall be under no duty to, enter the Premises at reasonable times and hours to

inspect the Premises in order to determine whether Lessee is complying with its undertakings, duties, and obligations under this Ground Lease.

28. Submission of Matters to Lessor for Approval. Except as otherwise set forth in this Ground Lease, any matter which must be submitted to, consented to and/or approved in writing by Lessor or any matter which must be submitted to Lessor which may become effective if not denied by Lessor, as required under this Ground Lease, shall be submitted to Lessor by hand or mailed by United States certified or registered mail return receipt requested, to the address of Lessor designated for the giving of notice to Lessor under Paragraph 43 of this Ground Lease and shall either be approved or rejected by Lessor within 15 business days after receipt unless a shorter period of time is expressly stated elsewhere in this Ground Lease. If Lessor should fail so to approve or reject within such period, Lessor's approval shall be assumed to have been unconditionally granted and Lessee shall have the right to proceed on such matter so submitted. Lessor shall inform Lessee in writing of its rejection or approval of such submitted matter by United States certified or registered mail, return receipt requested, to the address of Lessee designated for the giving of notice to Lessee in Paragraph 43 of this Ground Lease. Any review by Lessor of any matter submitted to Lessor is for Lessor's own convenience and purpose only. By undertaking such review, Lessor does not obtain or have any liability to Lessee or any other person, including, without limitation, the insurers and lenders of Lessee.

29. Termination of Lease. (a) This Ground Lease and the tenancy created under the Ground Lease shall cease and terminate at the end of the initial Lease Term, or any renewal term, with at least 180 days written notice from either Lessor or Lessee. Any continued occupancy of the Premises by Lessee after the expiration of the Lease Term shall not operate to renew the Ground Lease.

(b) Whenever (i) a material breach of the terms and conditions of this Ground Lease has occurred; and (ii) Lessee has failed to cure such breach as further set forth in the default provisions of Paragraph 35 of this Ground Lease, Lessor may not terminate this Ground Lease until thirty (30) years have elapsed from the effective date of this Ground Lease. Prior to Lessor's ability to terminate under the circumstances described in this subsection, Lessor will be entitled to any right or remedy available to Lessor under this Ground Lease and/or now or hereafter available to Lessor at law and equity, including but not limited to specific performance and injunction and any other actual damages incurred by Lessor as a result of the material breach and/or Lessee's failure to cure such breach.

(c) After thirty (30) years from the effective date of this Ground Lease have elapsed, whenever (i) a material breach of the terms and conditions of this Ground Lease has occurred; and (ii) Lessee has failed to cure such breach as further set forth in the default provisions of Paragraph 35 of this Ground Lease, Lessor may terminate this Ground Lease in accordance with this clause, in whole, or from time to time in part, with one hundred twenty (120) days written notice to the Lessee. In such an event, Lessee will pay the rent through the entire period of actual tenancy, and Lessor also will be entitled to exercise any right or remedy available to Lessor under this Ground Lease and/or now or hereafter available to Lessor at law and equity, including but not limited to specific performance and injunction and any other actual damages incurred by Lessor as a result

of the material breach and/or an Event of Default by Lessee. However, neither Lessee nor Lessor shall be reimbursed for any anticipatory rentals, expense, or profits which have not been earned up to the date of termination.

(d) This Ground Lease may be terminated upon mutual written agreement by the Parties, executed by the appropriate individuals with authority to bind Lessor and Lessee respectively.

(e) After the expiration of the initial Lease Term and at least one Extension Term, this Ground Lease may be terminated by Lessor or Lessee at their discretion should either of them determine that the Ground Lease no longer serves a public purpose or upon a finding that the Ground Lease no longer serves Lessor's purposes or goals or meets Lessor's needs.

30. Holding Over by Lessee. Lessee shall not use or remain in possession of the Premises after the termination of this Ground Lease. Any holding over, or continued use or occupancy by Lessee after the termination of this Ground Lease, without the written consent of Lessor, shall not constitute a tenant-at-will interest in behalf of Lessee, but Lessee shall become a tenant-at-sufferance and all other expenses, obligations and payments in effect for the immediately preceding year of this Ground Lease shall be paid immediately by Lessee. There shall be no renewal whatsoever of this Ground Lease by operation of law. Nothing contained in this Ground Lease shall be construed as consent by Lessor to the occupancy or possession of the Premises by Lessee after termination of this Ground Lease. Upon the termination of this Ground Lease, Lessor shall be entitled to the benefit of all Applicable Laws, that may now or hereafter be in force, relating to the speedy recovery of the Premises held over by Lessee.

31. Lessee's Assumption of Risk: All property of Lessee kept or stored in or on the Premises shall be kept or stored at the sole risk of Lessee. Lessee hereby expressly agrees that Lessor shall not be liable or responsible in any manner for any damage or injury to the person or property of Lessee (including, but not limited to, the Premises) or the person or property of any other person or entity unless such damage or injury is a direct result of the action or inaction of Lessor.

32. Safety. (a) Neither Lessor nor Lessee shall do or permit anything to be done in any portion of the Library, or bring or keep anything therein which will, in any way, increase the rate of fire or any other insurance, casualty or otherwise, in the Library, or invalidate or conflict with the fire or other insurance policies, casualty or otherwise, in the Library,.

(b) Lessor shall have the right to cause its security or police officers to patrol and police the Premises; provided, however, such right shall not be exclusive of Lessee's right to have its police officers patrol and police the Library.

33. Notice of Loss, Damage and Injury. Lessee agrees to notify Lessor immediately of any fire, accident, damage or injury occurring in any portion of the Library.

34. Total or Substantial Destruction by Fire or Other Casualty. (a) If the Library, during the Lease Term, is damaged by fire, other casualty, or any other cause whatsoever (except

condemnation), regardless of the extent of such damage or destruction, within commercially reasonable promptness following the date of such damage or destruction, Lessee shall commence repair, reconstruction or replacement of the damaged or destroyed building or improvement and prosecute the same with reasonable diligence to completion, so that the Library shall, at Lessee's sole expense, be restored to substantially the same size, function and value as existing prior to the damage; provided, however, that if any available insurance proceeds (after payment of all or any portion of such insurance proceeds) are insufficient, in Lessee's reasonable judgment, to permit restoration in accordance with the terms of this Ground Lease, or if payment of the insurance proceeds is contested or not settled promptly for any reason, the Lessor shall grant an appropriate extension of time to commence repairs to allow Lessee to obtain reasonable replacement financing or to obtain the insurance proceeds. If the fire or other casualty is a direct result of the action or inaction of Lessor then Lessor shall assist with the cost of such repair, reconstruction or replacement to the extent agreed upon in a writing signed by authorized representatives of the Parties.

(b) If the damage does not render the Library uneconomical and/or unusable and/or it is determined that the Library can be restored to substantially the same size, function and value as existing prior to the damage, Lessee shall repair the damage and restore the Library to substantially the same size, function and value as existing prior to the damage with reasonable promptness. This Ground Lease shall not be affected except that the rent payable during the period of such damage, repair, and/or restoration shall be reduced according to the degree to which and/or time period during which Lessee's use of the Library is impaired. Lessee shall not be entitled to any other compensation, reduction, or reimbursement from Lessor as a result of any damage, destruction, repair, or restoration of or to the Library unless such damage or destruction is caused solely by the negligence or inaction of Lessor. This subsection does not relieve Lessee of any liabilities, obligations, or duties specified elsewhere in this Ground Lease.

(c) In the event the damage or destruction shall be so extensive to the Library as to render it uneconomical, and/or unusable in Lessee's reasonable opinion, to restore the Library for Lessee's use as specified in this Ground Lease, or if Lessee shall in good faith be unable to obtain reasonable replacement financing to restore the Library to substantially the same size, function, and value that existed prior to the damage or obtain the insurance proceeds, Lessee may, at its option, terminate this Ground Lease upon written notice to Lessor. The terms of this Ground Lease shall then expire by lapse of time upon the tenth day after such notice is mailed, and Lessee shall thereupon vacate and surrender the Premises to Lessor. No such termination shall release Lessee from any liability to Lessor arising from such damage or from any of the obligations or duties Lessee has under this Ground Lease prior to such termination. Moreover, if such damage is due to the negligent or willful act of Lessee, or Lessee's agents, representatives, employees, invitees, visitors, or licensees, then Lessee shall be liable for the cost of all repairs and there shall be no apportionment or abatement of rent. This provision shall survive the termination of this Ground Lease.

35. Events of Default and Remedies. (a) *Events of Default Defined.* An "Event of Default" has occurred if Lessee shall fail to perform or cause to be performed any other term, covenant, condition, or provision hereof, and to correct such failure within thirty (30) days after written notice specifying such is given to Lessee by Lessor. In the case of any such failure that

cannot with due diligence be corrected within such thirty (30) day period, it shall not constitute an Event of Default if corrective action is instituted by Lessee within the applicable period and diligently pursued until the failure is corrected.

(b) No act or thing done by Lessor shall be deemed to be an acceptance of a surrender of the Premises or shall relieve Lessee of any of its liabilities and obligations under this Ground Lease, unless Lessor, through an authorized representative, shall execute a written release of Lessee. Lessee's liability under this Ground Lease shall not be terminated by the execution of a new lease of the Premises by Lessor. This provision shall survive the termination of this Ground Lease.

(c) *Remedies.* Upon the occurrence of an Event of Default, Lessor may, terminate this lease as provided in Paragraph 29 and shall have the remedies set forth below and, without limitation, all rights or remedies now or hereafter available to Lessor under the laws of the State of Texas, including, but not limited to, recovery of rent, repossession of the Premises (after thirty years from the effective date of this Ground Lease have elapsed), and damages occasioned by Lessee's default.

i. No re-entry or taking possession of the Premises by the Lessor or any other action taken by the Lessor, as a result of any default of Lessee, shall relieve Lessee of any of its liabilities and obligations under this Ground Lease whether or not the Premises are relet.

ii. In the event that Lessee materially defaults in any obligation on its part to be performed under this Ground Lease, Lessor will attempt to mitigate any damage or loss caused by Lessee's breach by using commercially reasonable means. If Lessee is in default, Lessee will be liable for the following:

- a) Any lost rent;
- b) Repairs to the Premises for use beyond normal wear and tear;
- c) All Lessor's reasonable costs associated with eviction of Lessee;
- d) All Lessor's reasonable costs associated with collection of rent such as collection fees, late charges, and returned check charges;
- e) removing any of Lessee's equipment or fixtures left on the Premises or in any Improvement;
- f) Cost to remove any trash, debris, personal property, hazardous materials, or hazardous materials left by Lessee or Lessee's agents, employees, representatives, contractors, invitees, or licensees in the Premises or Building; and/or

g) Cost to replace any unreturned keys or access devices to the Premises and/or any Improvement.

36. Force Majeure. If Lessor or Lessee cannot perform any of its obligations due to events beyond the control of either Lessor or Lessee, the time provided for performing such obligations shall be extended by a period of time equal to the duration of such events. Such events control include, but are not limited to, acts of God, war, civil commotion, terrorism, labor disputes, strikes, fire, flood or other casualty, shortages of labor or material, government regulation or restriction and weather conditions.

37. Hazardous Materials. Lessor and Lessee shall not knowingly cause or permit the escape, disposal or release of any biologically or chemically active or other hazardous substances or materials within or in the vicinity of the Premises. Neither Lessor nor Lessee shall allow the storage or use of such substances or materials in any manner within or in the vicinity of the Premises unless such storage or use is sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such substances or materials in such locations. Nor shall Lessor or Lessee allow any such materials or substances to be brought onto any portion of the Premises except to use in the ordinary course of Lessor's or Lessee's business, and then only after written notice is given to the other party of the identity of such substances or materials. Without limitation, hazardous substances and materials shall include those described in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 *et seq.*, the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6901 *et seq.*, any other applicable federal, state or local laws in existence during the term of this Ground Lease, and the regulations adopted under any applicable federal, state, or local laws, and/or acts. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of hazardous substances or materials with respect to the Premises, then the party responsible for any such release of hazardous substances or materials shall bear the costs of such tests and, to the extent permitted under applicable law, any damage, penalty, or liability resulting from such release.

38. Attornment. In the event of the exercise of any power of sale under the provisions of any mortgage or deed of trust now or hereafter encumbering the Premises, the Lessee agrees that it shall attorn to the purchaser at such sale and that it shall recognize such purchaser as the Lessor under the terms of this Ground Lease and shall continue this Ground Lease in full force and effect regardless of whether such mortgage or deed of trust was superior or subordinate to this Ground Lease.

39. Written Approval or Agreement. Unless other provided in this Ground Lease, in any provision of this Ground Lease requiring written notice or a statement, modification, agreement, approval or consent in writing, such writing shall be executed by authorized representatives of Lessor or Lessee and sent in accordance with Paragraphs 28 and 43 of this Ground Lease.

40. Non-Discrimination. Lessee agrees: (a) not to discriminate in any manner against any employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or physical or mental handicap unrelated in nature and extent so as reasonably to preclude the performance of such employment; (b) to include a provision similar

to that contained in subsection (a), above, in any subcontract it enters into except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places, available to employees and applicants for employment, notices setting forth the substance of such provision contained in subsection (a) above.

41. Brokerage Fees. Both parties represent that no broker was involved with or is entitled to any commission in connection with the Premises or the negotiation of this Ground Lease.

42. Miscellaneous.

(a) *Provisions are Binding Upon Assigns and are Real Covenants.* The Parties mutually covenant, understand and agree that each of the provisions of this Ground Lease shall apply to, extend to, be binding upon and inure to the benefit or detriment of not only the Parties, but also the legal representatives, successors and assigns of the Parties, and shall be deemed and treated as real covenants running with the Premises during the Term. Whenever a reference to the Parties is made, such reference shall be deemed to include the legal representatives, successors and assigns of such party, the same as if in each case expressed.

(b) *Applicable Law and Court Proceedings.* This Ground Lease shall be governed, construed, performed and enforced in accordance with the laws of the State of Texas (excluding principles of conflict of law). Any suit, action or proceeding against any party arising out of or relating to this Ground Lease, any transaction contemplated thereby, or any judgment entered by any court in respect of any thereof may be brought in State District Court located in Fort Bend County, Texas or Harris County, Texas.

(c) *Invalidity of Provision or Part Thereof.* In the event any provision, or any portion of any provision of this Ground Lease is held invalid, the other provisions of this Ground Lease and the remaining portion of said provision, shall not be affected thereby and shall continue in full force and effect.

(d) *Time is of the Essence.* All time limits stated in this Ground Lease are of the essence of this Ground Lease.

(e) *No Partnership or Agency.* Nothing in this Ground Lease is intended, or shall in any way be construed, so as to create any form of partnership or agency relationship between the Parties. The Parties hereby expressly disclaim any intention of any kind to create any partnership or agency relationship between themselves. Nothing in this Ground Lease shall be construed to make either party liable for any of the indebtedness of the other, except as specifically provided herein.

(f) *Recordation of Memorandum of Lease.* Lessor and Lessee will execute, seal, acknowledge and deliver simultaneously with the execution of this Ground Lease, in recordable form, a memorandum of lease setting forth the basic terms hereof and the said memorandum of lease will be recorded in the appropriate records of Fort Bend County, Texas.

(g) Counterparts. This Ground Lease may be executed simultaneously in two or more counterparts, each of which shall be deemed original and all of which, when taken together, shall constitute one in the same document. The signature of any party to any counterpart shall be deemed a signature too, and may be appended to, any other counterpart.

(h) Waiver. No waiver by Lessor of any provision of this Ground Lease shall be deemed to have been made unless expressed in writing and signed by an authorized representative of Lessor. Lessor's failure to insist, in any one or more instances, upon a strict performance of any of the covenants, terms and conditions of this Ground Lease, or to exercise any right or option contained in this Ground Lease, shall not be construed as a waiver and shall not prevent Lessor from enforcing that provision or any other provision of this Ground Lease in the future. Lessor's receipt of rent, with knowledge of the breach of any covenant, term or condition of this Ground Lease, shall not be deemed a waiver of such breach.

(i) Interpretation. The captions or headings of the sections of this Ground Lease are to assist the parties in reading this Ground Lease and are not a part of the terms or provisions of this Ground Lease. In any provision relating to the conduct, acts or omissions of Lessee, the term "Lessee" shall include Lessee's agents, employees, officers, representatives, contractors, invitees, successors, licensees, or others using the Library or Premises with Lessee's expressed or implied permission.

(j) Entire Agreement. This Ground Lease, together with all agreements between the Parties referenced in this Ground Lease, embodies the entire understanding between the Parties with respect to the Library, and there are no prior effective representations, warranties or agreements between the Parties with respect to the Library. This Agreement shall supersede and replace all previous agreements pertaining to the Library between any of the Parties. Except as stated elsewhere in this Ground Lease, this Agreement contains the entire agreement between the Parties relating to the Premises and supersedes all negotiations, understandings and agreements, written or oral, between the Parties. This Ground Lease shall not be amended or modified, and no waiver of any provision hereof shall be effective, unless set forth in a written instrument signed by authorized representatives of each of the Parties.

(k) Representations. Lessee and Lessor each represents that it has the legal authority to enter into and execute the terms of this Ground Lease and that it has funds available to provide for the construction and operation of the Library.

43. Notices. (a) Notices required or permitted to be given by any party to the other under this Ground Lease, including bills, shall be deemed to have been received by the party or entity to whom they are sent, within three (3) days after their deposit in the United States Mail, properly stamped and addressed. The Parties shall have the right from time to time to change their respective address and each shall have the right to specify as its address any other address by at least seven (7) days written notice to the other party. Notices shall be in writing and shall be mailed to the Parties at the following address:

If to Lessee, to:

Fort Bend County
Attention: County Judge
301 Jackson
Richmond, Texas 77469

Facilities Management and Planning
Don Brady, Director
1517 Eugene Heimann Circle - Suite 500
Richmond, TX 77469

With a copy to:

Fort Bend County Commissioner Precinct 4
12919 Dairy Ashford Rd, Suite 200
Sugar Land, TX 77478

If to Lessor, to:

Richard D. Phillips
Associate Vice Chancellor
University of Houston System Sugar Land
14000 University Drive
Sugar Land, Texas 77479

With a copy to:

Dona H. Cornell
VC/CP for Legal Affairs and General Counsel
University of Houston System
311 E Cullen Building
Houston, Texas 77204-2162

(b) Notwithstanding anything contained in this Ground Lease to the contrary, any notice required to be given by Lessor or Lessee shall be deemed to have been given and shall be effective as of the date such notice is received or refused, as reflected on said notice. All notices, certificates, demands, requests, or other communications made by either party to the other which are required or permitted by the provisions of this Ground Lease shall be in writing.

SIGNATURE PAGES FOLLOW

IN WITNESS WHEREOF, the Parties hereto have executed this Contract in duplicate originals, each of equal dignity, as of the date and year of the second party to sign.

Executed as of the _____ day of _____, 200__.

LESSOR:

UNIVERSITY OF HOUSTON SYSTEM

By: _____
Name
Title
Date

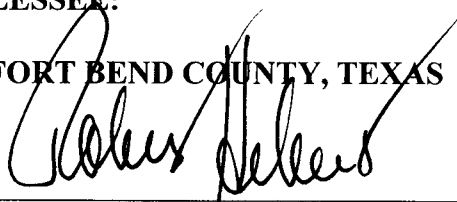
ATTEST:

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the __th day of _____, 200__ by _____, _____ and _____, _____ of the University of Houston System.

Notary Public in and for the State of Texas

(NOTARY SEAL)

LESSEE:
FORT BEND COUNTY, TEXAS


Robert E. Hebert
County Judge

Attest:

Dianne Wilson

Dianne Wilson, County Clerk



STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on the 8 th day of September, 2009
by Robert Hebert and _____, _____ of the Fort Bend County, Texas.
County Judge

D'neal Krisch
Notary Public in and for the State of Texas



(NOTARY SEAL)

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in an amount not to exceed \$ 1,500,000⁰⁰ to accomplish and pay the obligation of Fort Bend County in the foregoing matter.

Robert Ed Sturdivant
Robert Ed Sturdivant, County Auditor

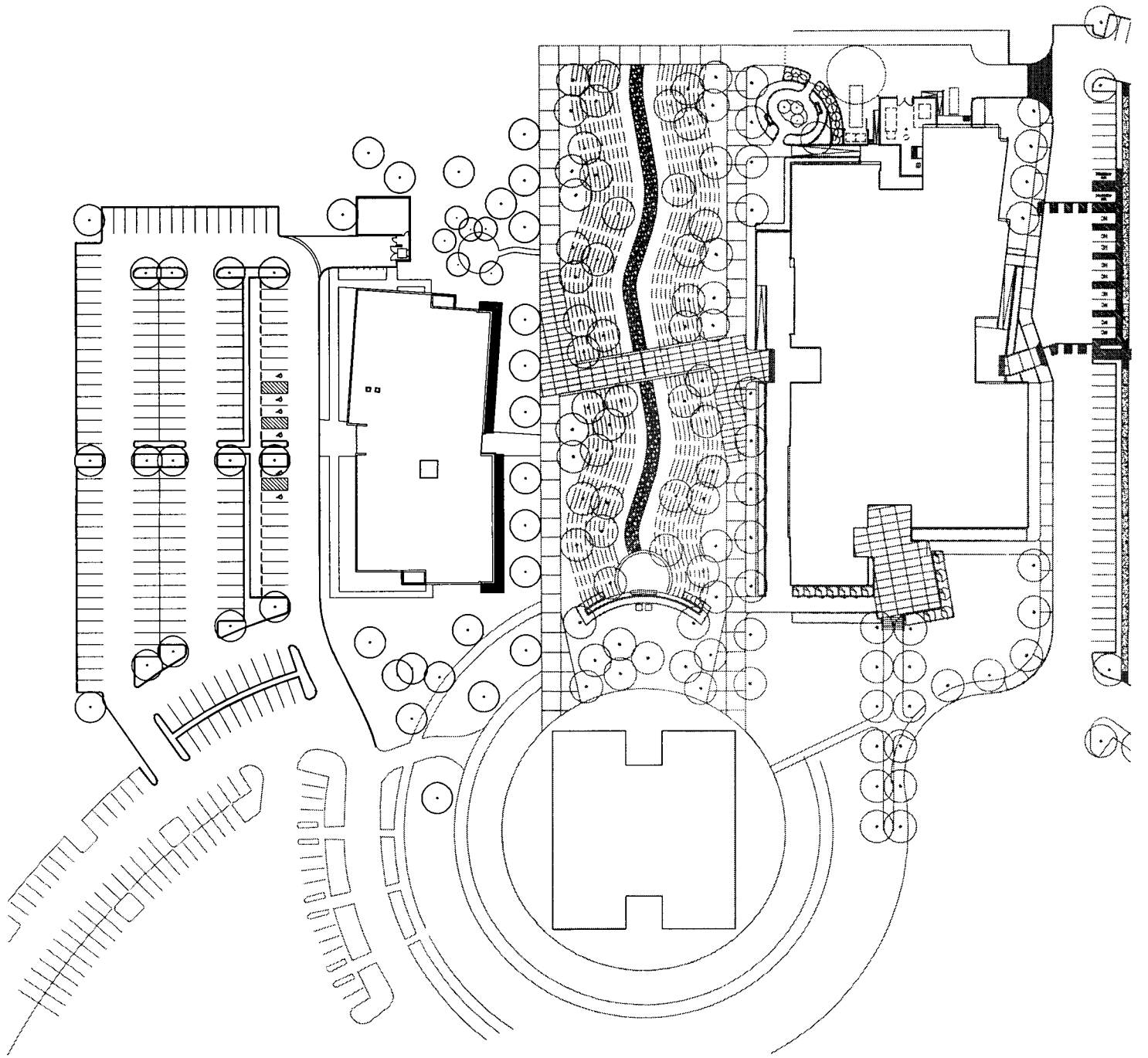
Approved As To Legal Form:

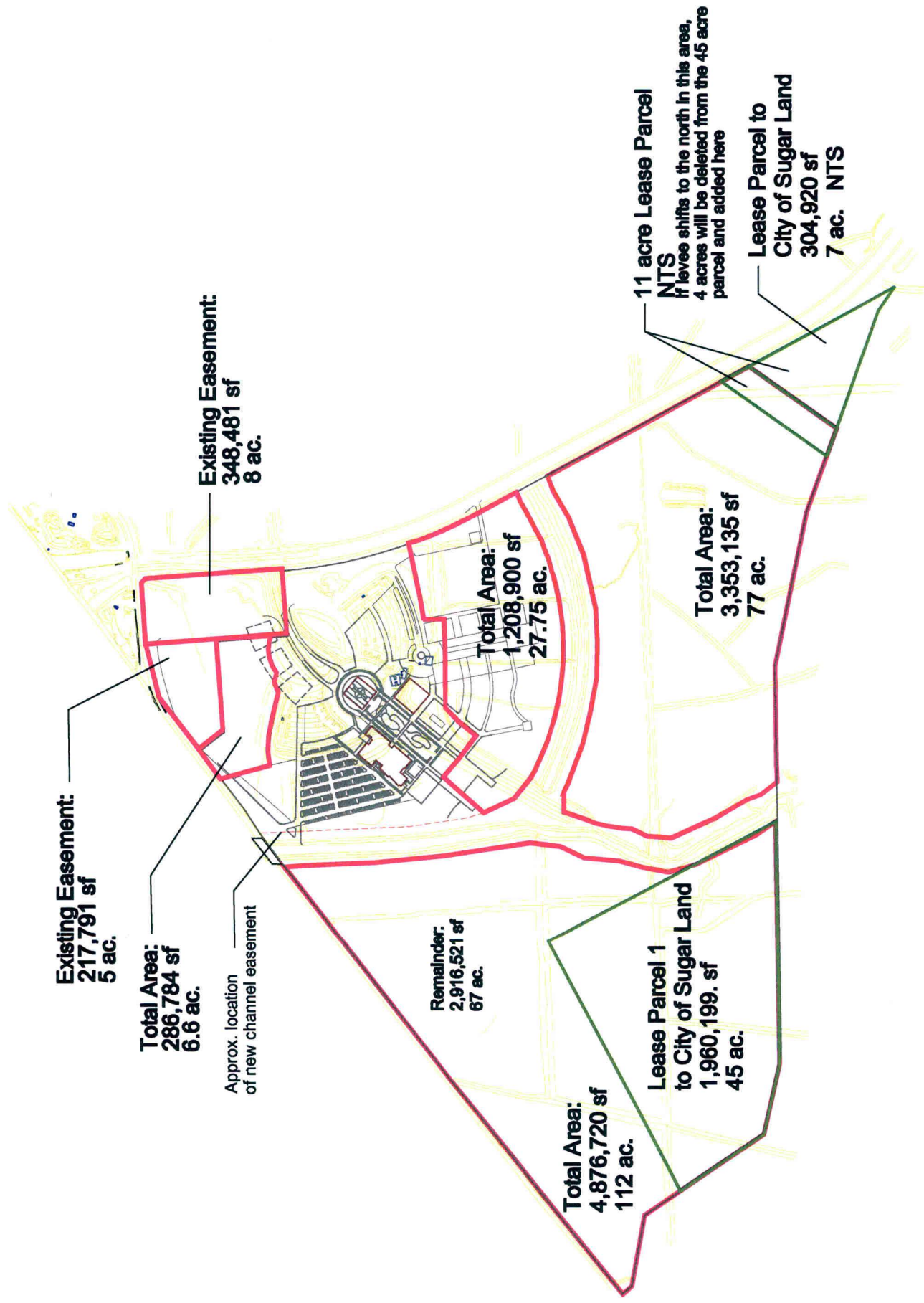
Ray Cordes 9/8/2009
~~Asst. County Atty.~~ Date

Exhibit A

A copy of the THECB's approval shall be annexed to this Ground Lease as Exhibit A.

Exhibit B





Existing Easement:
 217,791 sf
 5 ac.

Total Area:
 286,784 sf
 6.6 ac.

Existing Easement:
 348,481 sf
 8 ac.

Approx. location
 of new channel easement

Total Area:
 1,208,900 sf
 27.75 ac.

Remainder:
 2,916,521 sf
 67 ac.

Total Area:
 4,876,720 sf
 112 ac.

Lease Parcel 1
 to City of Sugar Land
 1,960,199. sf
 45 ac.

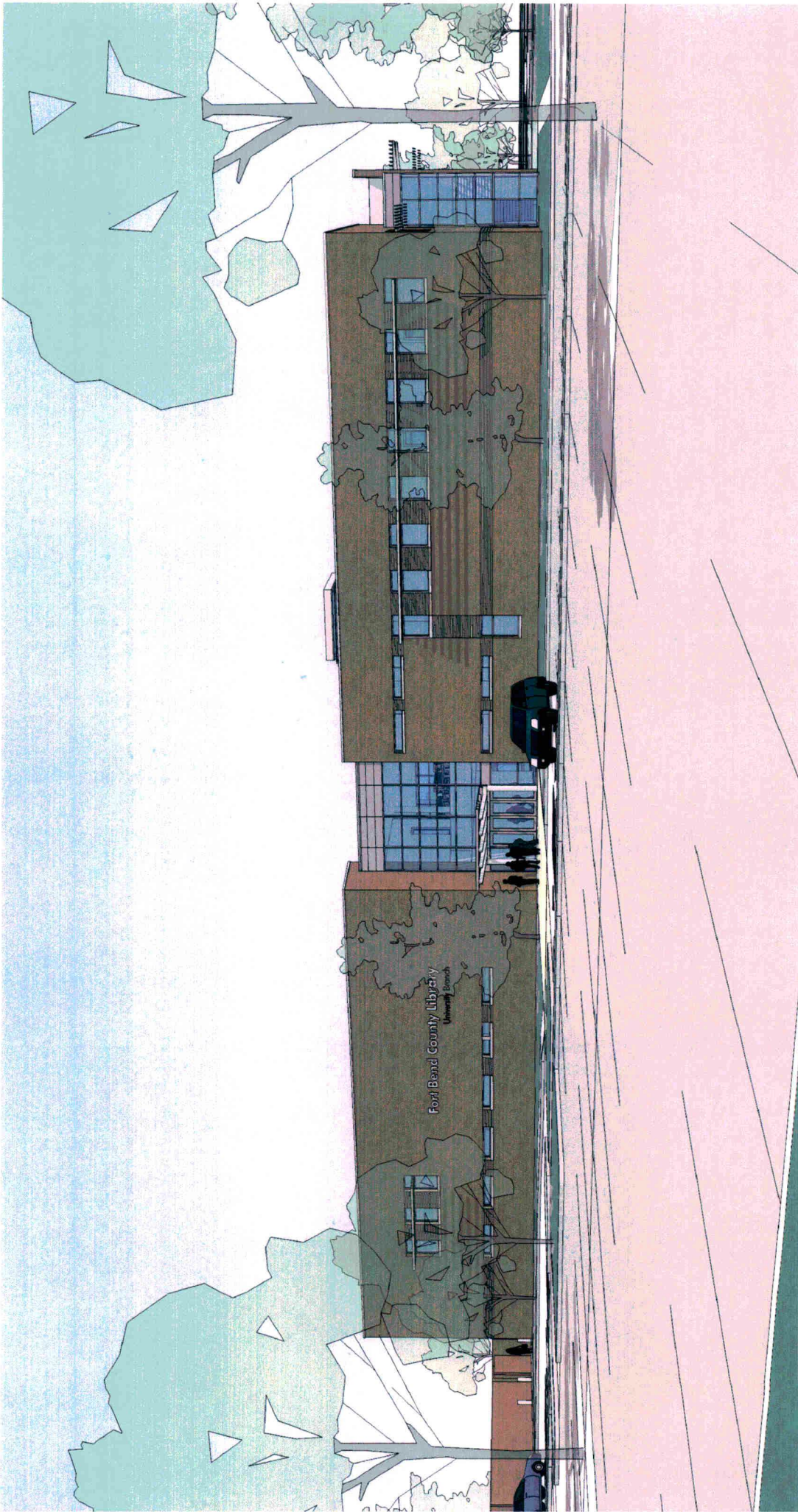
Total Area:
 3,353,135 sf
 77 ac.

11 acre Lease Parcel
 NTS

If levee shifts to the north in this area,
 4 acres will be deleted from the 45 acre
 parcel and added here

Lease Parcel to
 City of Sugar Land
 304,920 sf
 7 ac. NTS

Exhibit C



Fort Bend County Library
Exterior Perspective from Parking

BAILEY
ARCHITECTS

Interior Render Only. Document incomplete; not intended for regulatory approval, permitting, bidding or construction.
Architect: Ray D. Leiker Registration TX 5591 © July 6, 2009

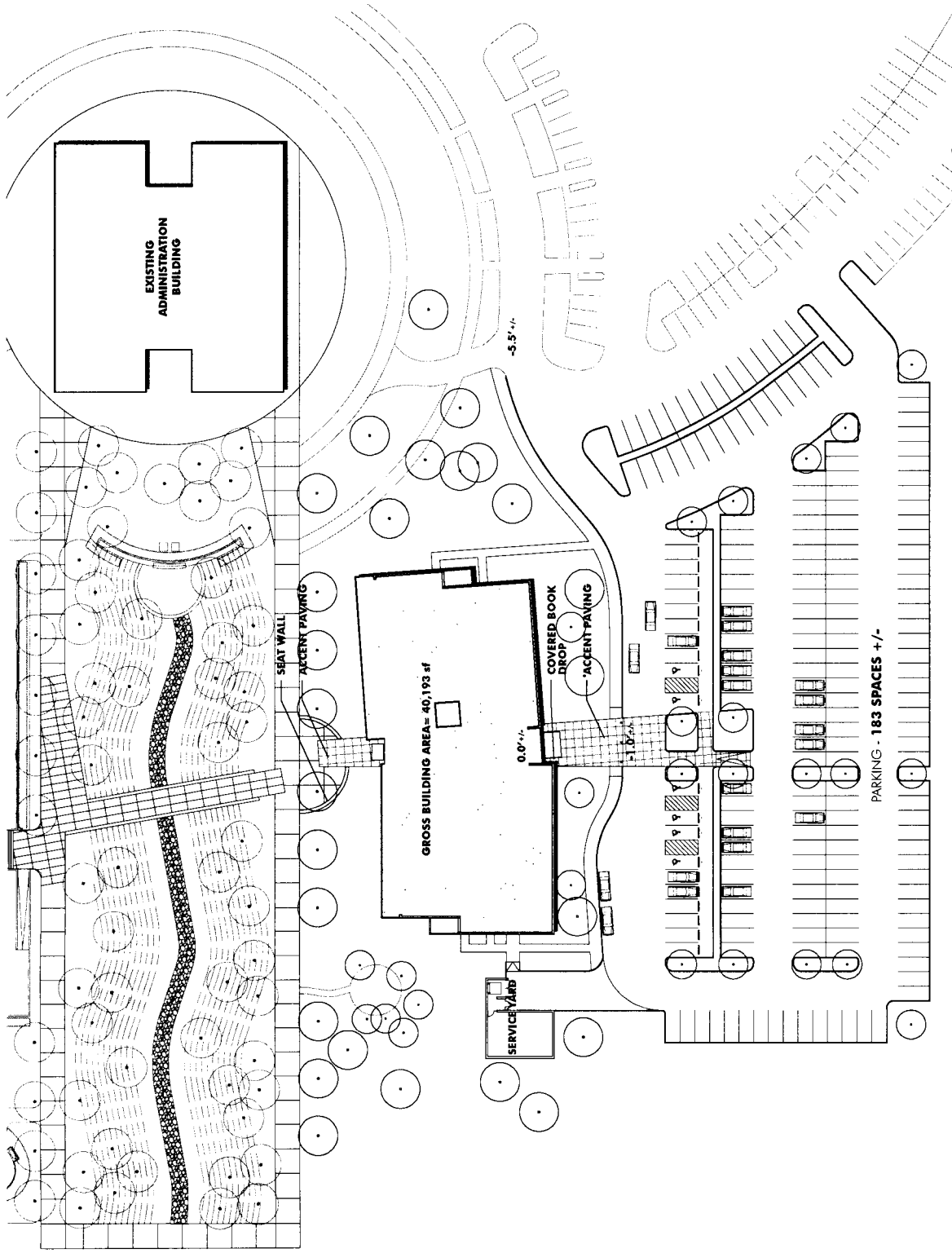


Fort Bend County Library
Exterior Perspective from Plaza

BAILEY
ARCHITECTS

Interior Render Only. Document incomplete; not intended for construction. All rights reserved. © Bailey Architects, Inc. 2009
Architect: Ray D. Laker, Registration TX 5591 © July 6, 2009

Exhibit D



SITE PLAN **A-101**

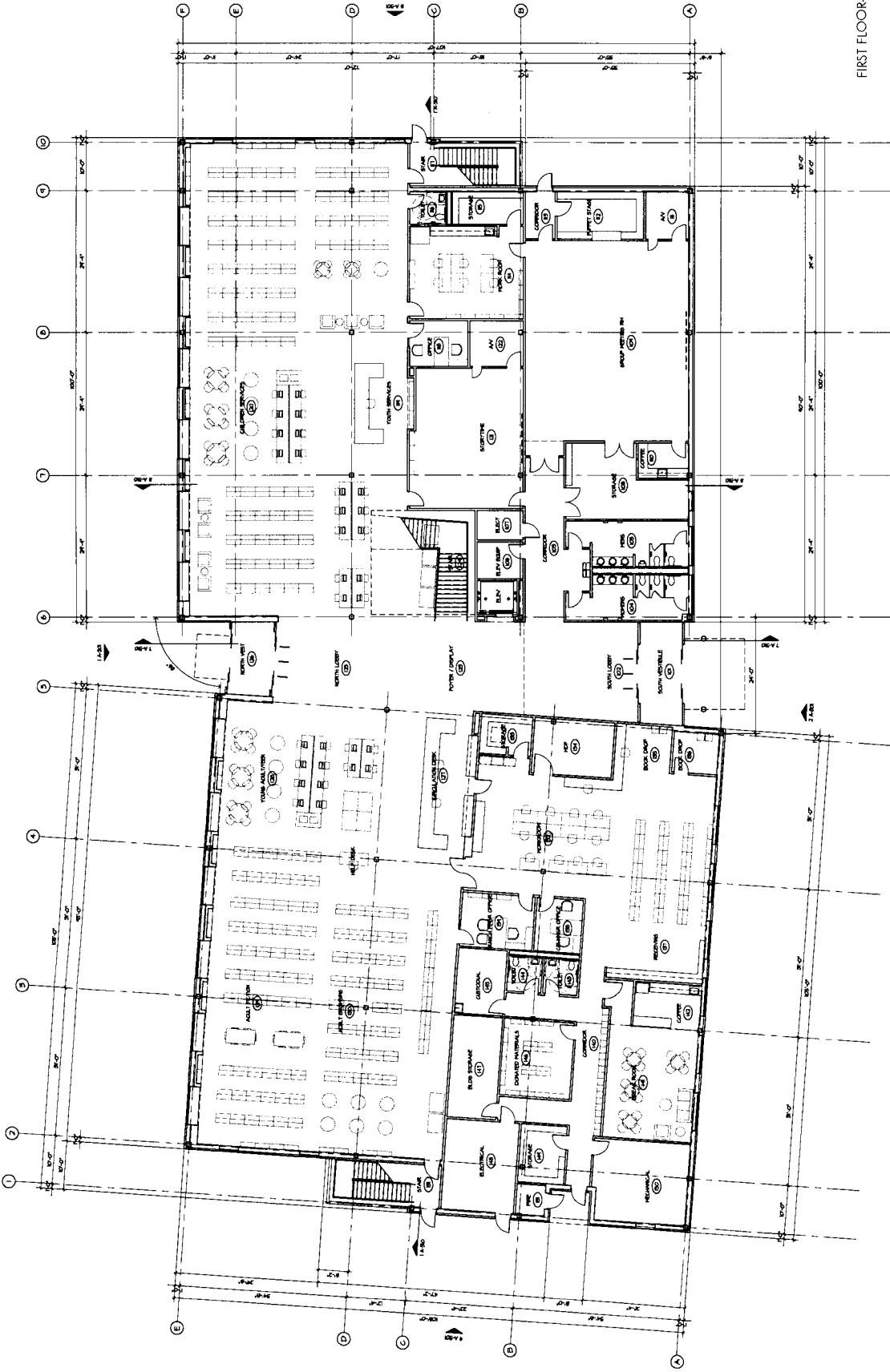


Brown + Gay Engineers, Inc. Civil Engineers
Burns Delatte + McCoy, Inc. MEP Engineers
SCA Consulting Engineers Structural Engineers
DataCom Design Group, Inc. IT/AV Consultant
Kudela + Weinheimer Landscape Consultant

B A I L E Y

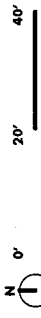
Interim Review Only. Document incomplete, not intended for regulatory approval, permitting, bidding or construction. Architect: Roy D. Lister, Registration #: 2571, 1/18/2009

Fort Bend County Library/ University Branch
 Schematic Design Presentation, March 02, 2009 PROGRESS SET



FIRST FLOOR- 22,839 S.F.

FIRST FLOOR PLAN **A-201**

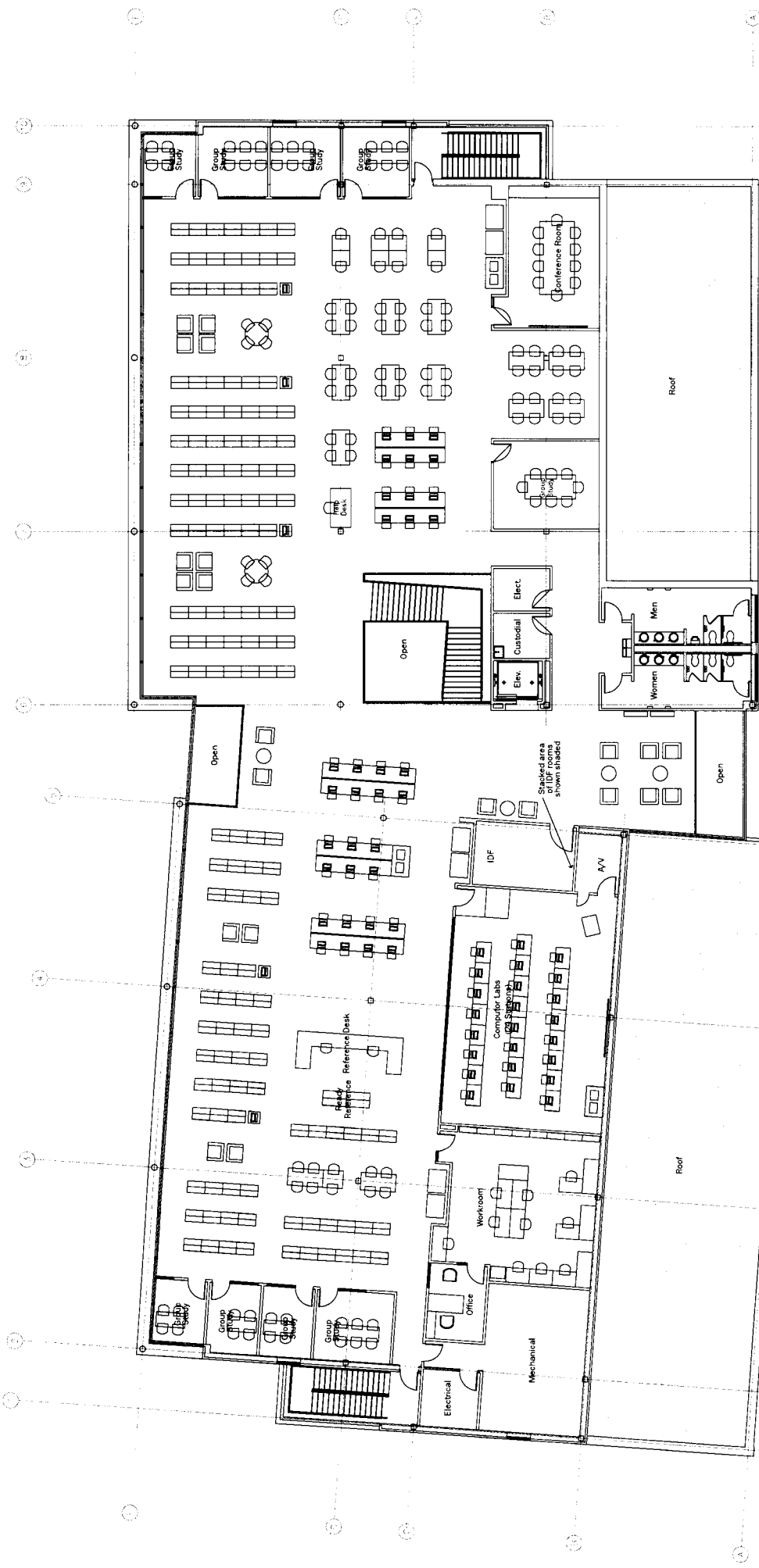


Fort Bend County Library/ University Branch
Schematic Design Presentation March 02, 2009 PROGRESS SET

Brown + Gay Engineers, Inc. Civil Engineers
Burns Delatte + McCoy, Inc. MEP Engineers
SCA Consulting Engineers Structural Engineers
DataCom Design Group, Inc. IT/AV Consultant
Kudels + Weinhelmer Landscape Consultant

BAILEY

Intern Review Only. Document incomplete, not intended for regulatory approval, permitting, bidding or construction. Architect: Roy D. Laffer Registration #25514, March 02, 2009



FIRST FLOOR: 22,839 S.F.
 SECOND FLOOR: 17,354 S.F.
 REVISED TOTAL: 40,193 S.F.

SECOND FLOOR PLAN Revised



Fort Bend County Library/ University Branch
 Schematic Design Presentation March 02, 2009 PROGRESS SET

Brown + Gay Engineers, Inc. Civil Engineers
Burns Delatte + McCoy, Inc. MEP Engineers
SCA Consulting Engineers Structural Engineers
DataCom Design Group, Inc. IT/AV Consultant
Kuddele + Weinhelmer Landscape Consultant

B A I L E Y

Interim Review Only. Document incomplete, not intended for regulatory approval. Issued pending construction. Architect: Ray D. Bailey, Registration # 25911, March 02, 2009



CHARACTER IMAGES **R3**

Brown + Gray Engineers, Inc. Civil Engineers
Burns Delatte + McCoy, Inc. MEP Engineers
SCA Consulting Engineers Structural Engineers
DataCom Design Group, Inc. IT/AV Consultant
Kudela + Weinhelmer Landscape Consultant

BAILEY ARCHITECTS

Indianapolis, Ohio. Document incomplete, not intended for regulatory approval, permitting, bidding or construction.
Architect: Ray D. Walker, Registration TX 5591 © March 02, 2009

Fort Bend County Library/ University Branch
Schematic Design Presentation March 02, 2009 PROGRESS SET