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UT RFP-Dev.,Constr.,Operation,Maint. & Decom. of Solar Energy Resource on UTLands ****UPDATED 8-03-16***

Open Date: 08/19/16 03:00 PM

Agency Requisition Number: UL-SOLAR-2016-1

NOTE: You will need to download all of the following files for complete specifications and other required document, including a HUB subcontracting plan(if required).

Help: Right Click to and choose "save file as" or "save target as" to your computer.

-**Package 1** size: 569904 (in bytes) Type: Specification Format: Acrobat PDF Files

-**Package 2** size: 9037730 (in bytes) Type: Addendum Format: Acrobat PDF Files

-**Package 3** size: 105656 (in bytes) Type: Addendum Format: Acrobat PDF Files

****Update 8-03-16 - Updated Q&A with additional questions received (Package 3)**** ****Update 8-01-16 - Updated Q&A (Package 3)**** ****Update 7-25-16 - add Q&A (Package 3)**** University Lands (UL), a part of the University of Texas System (UTS), is soliciting proposals in response to a Request for Proposal ("RFP") for Selection of one or more Respondents qualified and experienced in the development and operation of solar energy resources. The successful Respondent will develop, construct, operate, maintain, and eventually decommission a solar photovoltaic (PV) energy system capable of producing a minimum of 50 megawatts (AC) of electricity on Permanent University Fund (PUF) Lands in West Texas. UTS will entertain proposals related only to PUF acreage holdings in Culberson, El Paso, Hudspeth, Pecos and Upton counties. A map of the available acreage is attached to this RFP as APPENDIX FOUR.

Agency: UNIVERSITY OF TEXAS SYSTEM (720)

Open Date: 08/19/16 03:00 PM

Agency Requisition Number: UL-SOLAR-2016-1

Previous Price Paid: N/A

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Contact Information:

Contact Name: University Lands

Email: grp-rfpvq@utsystem.edu

Upload Date: 2016-07-06 10:51:06.34 Updated date: 2016-08-03 09:22:09.923

REQUEST FOR PROPOSAL

by

**The University of Texas System Administration
on behalf of the Office of University Lands**

for

**Services Related to the Development, Construction, Operation,
Maintenance and Decommissioning of a Solar Energy Resources
Project on the Permanent University Fund (PUF) Lands**

RFP No. UL-SOLAR-2016-1

Submittal Deadline: 3:00 p.m., Friday, August 19, 2016

Issued: July 6, 2016

REQUEST FOR PROPOSAL

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SECTION 1

INTRODUCTION

1.1 Description of University

With eight academic universities and six health institutions, The University of Texas System ("UT System") is one of the nation's largest systems of public higher education. UT System employs over 90,000 people, and total student enrollment exceeds 217,000. The mission of UT System is to provide high-quality educational opportunities and medical care for the enhancement of the human resources of Texas, the nation, and the world through intellectual and personal growth.

1.2 Background and Special Circumstances

In early 2016, University Lands engaged the Energy Institute at The University of Texas at Austin to assess the capacity for solar energy development on the Permanent University Fund (PUF) Lands. ***Results from the Energy Institute's study (APPENDIX THREE) is attached as a separate addendum to this RFP.***

1.3 Objective of this Request for Proposal

University Lands (UL), a part of the University of Texas System (UTS), is soliciting proposals in response to a Request for Proposal ("RFP") for Selection of one or more Respondents qualified and experienced in the development and operation of solar energy resources. The successful Respondent will develop, construct, operate, maintain, and eventually decommission a solar photovoltaic (PV) energy system capable of producing a minimum of 50 megawatts (AC) of electricity on Permanent University Fund (PUF) Lands in West Texas.

UTS will entertain proposals related only to PUF acreage holdings in Culberson, El Paso, Hudspeth, Pecos and Upton counties. A map of the available acreage is attached to this RFP as **APPENDIX FOUR**.

1.4 Group Purchase Authority

Texas law authorizes institutions of higher education (defined by Section 61.003, Education Code) to use the group purchasing procurement method (ref. Sections 51.9335, 73.115, and 74.008, Education Code). Additional Texas institutions of higher education may therefore elect to enter into a contract with the successful Proposer under this RFP. In particular, Proposer should note that University is part of The University of Texas System ("UT System"), which is comprised of fourteen institutions described at <http://www.utsystem.edu/institutions>. UT System institutions routinely evaluate whether a contract resulting from a procurement conducted by one of the institutions might be suitable for use by another, and if so, this could give rise to additional purchase volumes. As a result, in submitting its proposal in response to this RFP, Proposer should consider proposing pricing and other commercial terms that take into account such higher volumes and other expanded opportunities that could result from the eventual inclusion of other institutions in the purchase contemplated by this RFP.

SECTION 2

NOTICE TO PROPOSER

2.1 Submittal Deadline

University will accept proposals submitted in response to this RFP until 3:00 p.m., Central Prevailing Time on Friday, August 19, 2016 (the “**Submittal Deadline**”).

2.2 University Contact Person

Proposers will direct all questions or concerns regarding this RFP to the following University email address:

GRP-RFPVQ@utsystem.edu

Subject Line of email: RFP No. UL-SOLAR-2016-1; Attn: UTLands Solar

University specifically instructs interested parties to restrict all contact and questions regarding this RFP to written communications delivered in accordance with this Section **on or before close of business on Friday July 29, 2016**. University will provide responses within a reasonable time frame following the time for submission of questions. It is University’s intent to respond to timely submitted questions. University reserves the right, however, to decline to respond to any question.

University may post and periodically update a Question and Answer (Q&A) document as *an addendum* to this RFP. *A final Q&A will be posted as an addendum on, or shortly thereafter, Friday, August 12, 2016*. Interested parties should check the posting site for updates, if any, at: http://esbd.cpa.state.tx.us/bid_show.cfm?bidid=125673

2.3 Criteria for Selection

The successful Proposer, if any, selected by University in accordance with the requirements and specifications set forth in this RFP will be the Proposer that submits a proposal in response to this RFP on or before the Submittal Deadline that is the most advantageous to University. The successful Proposer is referred to as the “**Contractor**.”

Proposer is encouraged to propose terms and conditions offering the maximum benefit to University in terms of (1) services to University, (2) total overall cost to University, and (3) project management expertise. Proposers should describe all educational, state and local government discounts, as well as any other applicable discounts that may be available to University in a contract for the Services.

An evaluation team from University will evaluate proposals. The evaluation of proposals and the selection of Contractor will be based on the information provided by Proposer in its proposal. University may give consideration to additional information if University deems such information relevant.

The criteria to be considered by University in evaluating proposals and selecting Contractor, will be those factors listed below:

2.3.1 Scored Criteria:

2.3.1.1 **Technical Criteria:** to include, but not be limited to, proposed site suitability, proposed technology, and Project specifications (more specifically detailed in **Section 5.2.4** of this RFP).

2.3.1.2 **Cost Criteria:** to include, but not be limited to proposed property lease terms, Project financing arrangements, and Project ownership/operation scenarios (more specifically detailed in **Section 5.2.4** of this RFP).

2.3.1.3 **Proposer Prior Performance Criteria:** to include, but not be limited to, Proposer's history of projects of similar size and characteristics, Proposer's financial health and history, and Proposer's principal employees qualifications and experience (more specifically detailed in **Section 5.2.4** of this RFP).

2.4 Key Events Schedule

Issuance of RFP	Wednesday, July 06, 2016
Pre-Proposal Conference (ref. Section 2.5 of this RFP)	10:00 a.m. Central Prevailing Time on Wednesday, July 27, 2016
Deadline for Questions/Concerns (ref. Section 2.2 of this RFP)	Friday, July 29, 2016
UT System Response to Questions (ref. Section 2.2 of this RFP)	Friday, August 12, 2016
Submittal Deadline (ref. Section 2.1 of this RFP)	3:00 p.m. Central Prevailing Time on Friday, August 19, 2016

2.5 Pre-Proposal Conference

University will hold a pre-proposal teleconference at 10:00 a.m., Central Prevailing Time on Wednesday, July 27, 2016. The pre-proposal conference will allow all Proposers an opportunity to ask University's representatives relevant questions and clarify provisions of this RFP. The bridge number to call for this teleconference is 1-866-244-8528 with Participation Passcode 491752#

SECTION 3

SUBMISSION OF PROPOSAL**3.1 Number of Copies**

Proposer must submit (a) **One (1) complete paper copy of its entire proposal**, and (b) **One (1) complete electronic copy of its entire proposal in a single .pdf file on flash drive**. An *original* signature by an authorized officer of Proposer must appear on the Execution of Offer (ref. Section 2 of APPENDIX ONE) of the submitted paper copy of the proposal.

3.2 Submission

Proposals must be received by University on or before the Submittal Deadline (ref. **Section 2.1** of this RFP) and should be delivered to:

Jerry Fuller
 Director of Contracts and Procurement
 The University of Texas System Administration
 210 West Sixth St.
 Suite B. 140E
 Austin, Texas 78701-2891

3.3 Proposal Validity Period

Each proposal must state that it will remain valid for University's acceptance for a minimum of One Hundred and Eighty (180) days after the Submittal Deadline, to allow time for evaluation, selection, and any unforeseen delays.

3.4 Terms and Conditions

3.4.1 Proposer must comply with the requirements and specifications contained in this RFP, including the Agreement (ref. **APPENDIX TWO**), the Notice to Proposer (ref. **Section 2** of this RFP), Proposal Requirements (ref. **APPENDIX ONE**) and the Specifications and Additional Questions (ref. **Section 5** of this RFP). If there is a conflict among the provisions in this RFP, the provision requiring Proposer to supply the better quality or greater quantity of services will prevail, or if such conflict does not involve quality or quantity, then interpretation will be in the following order of precedence:

- 3.4.1.1. Specifications and Additional Questions (ref. **Section 5** of this RFP);
- 3.4.1.2. Agreement (ref. **APPENDIX TWO**);
- 3.4.1.3. Proposal Requirements (ref. **APPENDIX ONE**);
- 3.4.1.4. Notice to Proposers (ref. **Section 2** of this RFP).

3.5 Submittal Checklist

Proposer is instructed to complete, sign, and return the following documents as a part of its proposal. If Proposer fails to return each of the following items with its proposal, then University may reject the proposal:

- 3.5.1 Responses to questions and requests for information in the Specifications and Additional Questions Section (ref. **Section 5** of this RFP)
- 3.5.2 Signed and Completed Execution of Offer (ref. **Section 2** of **APPENDIX ONE**)
- 3.5.3 Responses to Proposer's General Questionnaire (ref. **Section 3** of **APPENDIX ONE**)
- 3.5.4 Signed and Completed Addenda Checklist (ref. **Section 4** of **APPENDIX ONE**)

SECTION 4**GENERAL TERMS AND CONDITIONS**

The terms and conditions contained in the attached Agreement (ref. **APPENDIX TWO**) or, in the sole discretion of University, terms and conditions substantially similar to those contained in the Agreement, will constitute and govern any agreement that results from this RFP. If Proposer takes exception to any terms or conditions set forth in the Agreement, Proposer will submit a list of the exceptions as part of its proposal in accordance with **Section 5.3.1** of this RFP. Proposer's exceptions will be reviewed by University and may result in disqualification of Proposer's proposal as non-responsive to this RFP. If Proposer's exceptions do not result in disqualification of Proposer's proposal, then University may consider Proposer's exceptions when University evaluates the Proposer's proposal.

**** NOTE: Exceptions cannot be taken to the RFP document itself, nor can it be redlined. These actions may result in Proposer's disqualification.****

SECTION 5

SPECIFICATIONS AND ADDITIONAL QUESTIONS**5.1 General**

The specifications for the Services, as well as certain requests for information to be provided by Proposer as part of its proposal, are set forth below. As indicated in **Section 2.3** of this RFP, the successful Proposer is referred to as the “**Contractor.**”

5.2 Additional Questions Specific to this RFP

Proposer must submit the following information as part of Proposer’s proposal:

5.2.1 If Proposer takes exception to any terms or conditions set forth in the Agreement (ref. **APPENDIX ONE**), Proposer must submit a list of the exceptions.

5.2.2 By signing the Execution of Offer (ref. **Section 2** of **APPENDIX ONE**), Proposer agrees to comply with [Section 2252.908, Government Code](#) (“**Disclosure of Interested Parties Statute**”), and [1 Texas Administration Code Sections 46.1 through 46.5](#) (“**Disclosure of Interested Parties Regulations**”), as implemented by the Texas Ethics Commission (“**TEC**”), including, among other things, providing the TEC and University with the information required on the form promulgated by the TEC and set forth in **APPENDIX FIVE**. **Proposers may learn more about these disclosure requirements, including the use of the TEC electronic filing system, by reviewing the information on the TEC website at https://www.ethics.state.tx.us/whatsnew/FAQ_Form1295.html.**

5.2.4 Proposer will briefly, yet specifically, describe its expertise and knowledge in each of the following headings and bullet points, and as pertains to the Scope of Work (**Section 5.3** of this RFP):

5.2.4.1 **Technical Criteria:** to include, but not be limited to, proposed site suitability, proposed technology, and Project specifications:

Site Suitability

- Describe the anticipated site-specific solar insolation levels
- What are the surface grade requirements for project construction?
- Describe the substation capacity and its proximity to the project site
- Describe the anticipated environmental land use impact and mitigation measures to minimize adverse impact to resources associated with construction and operations
- Describe any environmental regulatory permits or compliance requirements
- Describe the facility design and plan for potential lease agreements between the solar developers and possible mineral operators to allow for future mineral development

Proposed Technology

- Describe the existing transmission infrastructure and the company's interconnection plans to maximize development
- Describe the PV system's panel technology, the lifetime weighted efficiency of panels and accompanying vendor warranties for the facility
- Will the PV system be a fixed or tracking?

Project Specifications

- Describe the net A/C and D/C output capacity
- What is the anticipated megawatt capacity per acre?
- Describe the design and construction timeline/duration and variables that might affect the timeline
- Describe the maintenance program to minimize downtime due to infrastructure components (transformers, inverters, etc.) damage or failures

5.2.4.2 **Cost Criteria:** to include, but not be limited to proposed property lease terms, Project financing arrangements, and Project ownership/operation scenarios:

Property Lease

- What is the proposed payment/acre/year schedule?
- What portion of the payments are fixed vs. variable?
- Describe the payment phases and duration (Design/Construction/Operation)
- Describe any proposed payment escalator

Project Financing

- Provide the latest annual and quarterly audited financial statements for the Respondent's parent entity and any applicable subsidiaries
- Describe the Respondent's proposed debt and equity financing structure for the Project
- What is the Power Purchase Agreement structure and who are the likely purchasers?
- Describe the company's Investment Tax Credit monetization approach
- What is the company's grid interconnect agreement status?
- Describe any grid congestion analysis performed by the company that could affect this Project

Project Ownership and Operations

- Who will be the Project developer?

- Who will be the owner of the Project after construction is completed and placed into service?
- Who will be the facility operator?
- How many employees are expected to be required for operation and maintenance of the facility?

5.2.4.3 **Proposer Prior Performance Criteria:** to include, but not be limited to, Proposer's history of projects of similar size and characteristics, Proposer's financial health and history, and Proposer's principal employees qualifications and experience:

Projects of Similar Size and Characteristics

- How many projects of similar type and size have been developed and what is their current status?
- How many projects are under development and what is the current status?
- Describe the company's performance on previous projects developed and owned

5.3 Scope of Work

The Successful Respondent will provide the following services: Respondent will propose acreage to be used and will design, develop, construct, operate, maintain, and eventually decommission, a solar PV project ("Project") capable of producing a minimum of 50 megawatts (AC) of electricity on PUF Lands located within any of the following counties: Culberson, El Paso, Hudspeth, Pecos and Upton.

Eligible Generation Technology

The Project must utilize proven, reliable forms of solar technology; including solar thermal, concentrated solar or PV systems. The facilities must utilize either crystalline or thin-film (CdTe only) solar PV technology in a fixed, single axis or multiple axis tracking configuration.

The type of technology to be used for the proposed facilities and key components must have a minimum of twelve (12) months of established production and use history at a scale equal to the capacity of the facility to be built, or larger, at a single plant location in order to be considered.

Regulatory Approvals

Successful Respondents are responsible for acquiring and maintaining all applicable present and future federal, state and local approvals, licenses, permits or variances, and applicable environmental rules and regulations to meet specific requirements to construct and/or operate any generation facility and associated interconnection facilities.

Interconnection Requirements

Successful Respondents are responsible for any interconnection costs and arrangements associated with the points of interconnection to the Electric Reliability Council of Texas (ERCOT), the Western Electricity Coordinating Council (WECC) or the Southwest Power Pool (SPP) system. The related interconnection design, permitting and installation of the Project must be addressed in the initial Proposal. One or more meetings might be scheduled with Proposers to discuss the interconnection requirements. The Successful Respondent will be responsible for initiating and completing interconnections.

Revenue and Costs

Respondents shall specify the proposed revenue to UTS and generally address all costs to the Respondent necessary to deliver capacity and energy from the facility to the ERCOT, WECC or SPP system including, but not limited to, construction of the Project and interconnection. All Proposal terms, conditions, and pricing are binding through the final selection, notification, subsequent negotiations, and regulatory approvals.

Inspection of Land

Upon request, UTS will provide access agreements to potential respondents to allow site visits to identify areas of interest. Site deficiencies and restrictions and all mitigation requirements must be identified.

Additional Considerations

UTS intends to offer PUF acreage for lease for this Project but will also entertain proposals which incorporate the option of UTS providing some level of equity or debt financing for the Project. Any financing by UTS would be subject to approval by the UTS Board of Regents, based on market terms, and would depend heavily on the financial capacity and company history of the Successful Respondent. UTS will entertain proposals which incorporate the possibility of one or more of UTS institutions serving as a purchaser of some or all of the generated power. UTS will also entertain proposals which incorporate an in-kind donation of easements or other assets by UTS if there is perceived financial benefit to UTS.

APPENDIX ONE
PROPOSAL REQUIREMENTS

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SECTION 1

GENERAL INFORMATION**1.1 Purpose**

University is soliciting competitive sealed proposals from Proposers having suitable qualifications and experience providing services in accordance with the terms, conditions and requirements set forth in this RFP. This RFP provides sufficient information for interested parties to prepare and submit proposals for consideration by University.

By submitting a proposal, Proposer certifies that it understands this RFP and has full knowledge of the scope, nature, quality, and quantity of the services to be performed, the detailed requirements of the services to be provided, and the conditions under which such services are to be performed. Proposer also certifies that it understands that all costs relating to preparing a response to this RFP will be the sole responsibility of the Proposer.

PROPOSER IS CAUTIONED TO READ THE INFORMATION CONTAINED IN THIS RFP CAREFULLY AND TO SUBMIT A COMPLETE RESPONSE TO ALL REQUIREMENTS AND QUESTIONS AS DIRECTED.

1.2 Inquiries and Interpretations

University may in its sole discretion respond in writing to written inquiries concerning this RFP and mail its response as an Addendum to all parties recorded by University as having received a copy of this RFP. Only University's responses that are made by formal written Addenda will be binding on University. Any verbal responses, written interpretations or clarifications other than Addenda to this RFP will be without legal effect. All Addenda issued by University prior to the Submittal Deadline will be and are hereby incorporated as a part of this RFP for all purposes.

Proposers are required to acknowledge receipt of each Addendum as specified in this Section. The Proposer must acknowledge all Addenda by completing, signing and returning the Addenda Checklist (ref. **Section 4 of APPENDIX ONE**). The Addenda Checklist must be received by University prior to the Submittal Deadline and should accompany the Proposer's proposal.

Any interested party that receives this RFP by means other than directly from University is responsible for notifying University that it has received an RFP package, and should provide its name, address, telephone number and FAX number to University, so that if University issues Addenda to this RFP or provides written answers to questions, that information can be provided to such party.

1.3 Public Information

Proposer is hereby notified that University strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information.

University may seek to protect from disclosure all information submitted in response to this RFP until such time as a final agreement is executed.

Upon execution of a final agreement, University will consider all information, documentation, and other materials requested to be submitted in response to this RFP, to be of a non-confidential and non-proprietary nature and, therefore, subject to public disclosure under the *Texas Public Information Act* (*Government Code*, Chapter 552.001, et seq.). Proposer will be advised of a request for public information that implicates their materials and will have the opportunity to raise any objections to disclosure to the Texas Attorney General. Certain information may be protected from release under Sections 552.101, 552.110, 552.113, and 552.131, *Government Code*.

1.4 Type of Agreement

Contractor, if any, will be required to enter into a contract with University in a form substantially similar to the Agreement between University and Contractor (the "**Agreement**") attached to this RFP as **APPENDIX TWO** and incorporated for all purposes.

1.5 Proposal Evaluation Process

University will select Contractor by using the competitive sealed proposal process described in this Section. University will open the HSP Envelope submitted by a Proposer prior to opening the Proposer's proposal in order to ensure that the Proposer has submitted the number of completed and signed originals of the Proposer's HUB Subcontracting Plan (also called the HSP) that are required by this RFP (ref. **Section 2.5.4** of the RFP.) All proposals submitted by the Submittal Deadline accompanied by the number of completed and signed originals of the HSP that are required by this RFP will be opened publicly to identify the name of each Proposer submitting a proposal. Any proposals that are not submitted by the Submittal Date or that are not accompanied by the number of completed and signed originals of the HSP that are required by this RFP will be rejected by University as non-responsive due to material failure to comply with advertised specifications. After the opening of the proposals and upon completion of the initial review and evaluation of the proposals, University may invite one or more selected Proposers to participate in oral presentations. University will use commercially reasonable efforts to avoid public disclosure of the contents of a proposal prior to selection of Contractor.

University may make the selection of Contractor on the basis of the proposals initially submitted, without discussion, clarification or modification. In the alternative, University may make the selection of Contractor on the basis of negotiation

with any of the Proposers. In conducting such negotiations, University will use commercially reasonable efforts to avoid disclosing the contents of competing proposals.

At University's sole option and discretion, University may discuss and negotiate all elements of the proposals submitted by selected Proposers within a specified competitive range. For purposes of negotiation, University may establish, after an initial review of the proposals, a competitive range of acceptable or potentially acceptable proposals composed of the highest rated proposal(s). In that event, University will defer further action on proposals not included within the competitive range pending the selection of Contractor; provided, however, University reserves the right to include additional proposals in the competitive range if deemed to be in the best interests of University.

After submission of a proposal but before final selection of Contractor is made, University may permit a Proposer to revise its proposal in order to obtain the Proposer's best and final offer. In that event, representations made by Proposer in its revised proposal, including price and fee quotes, will be binding on Proposer. University will provide each Proposer within the competitive range with an equal opportunity for discussion and revision of its proposal. University is not obligated to select the Proposer offering the most attractive economic terms if that Proposer is not the most advantageous to University overall, as determined by University.

University reserves the right to (a) enter into an agreement for all or any portion of the requirements and specifications set forth in this RFP with one or more Proposers, (b) reject any and all proposals and re-solicit proposals, or (c) reject any and all proposals and temporarily or permanently abandon this selection process, if deemed to be in the best interests of University. Proposer is hereby notified that University will maintain in its files concerning this RFP a written record of the basis upon which a selection, if any, is made by University.

1.6 Proposer's Acceptance of Evaluation Methodology

By submitting a proposal, Proposer acknowledges (1) Proposer's acceptance of [a] the Proposal Evaluation Process (ref. **Section 1.5** of **APPENDIX ONE**), [b] the Criteria for Selection (ref. **2.3** of this RFP), [c] the Specifications and Additional Questions (ref. **Section 5** of this RFP), [d] the terms and conditions of the Agreement (ref. **APPENDIX TWO**), and [e] all other requirements and specifications set forth in this RFP; and (2) Proposer's recognition that some subjective judgments must be made by University during this RFP process.

1.7 Solicitation for Proposal and Proposal Preparation Costs

Proposer understands and agrees that (1) this RFP is a solicitation for proposals and University has made no representation written or oral that one or more agreements with University will be awarded under this RFP; (2) University issues this RFP predicated on University's anticipated requirements for the Services, and University has made no representation, written or oral, that any particular scope of services will actually be required by University; and (3) Proposer will bear, as its sole risk and responsibility, any cost that arises from Proposer's preparation of a proposal in response to this RFP.

1.8 Proposal Requirements and General Instructions

- 1.8.1 Proposer should carefully read the information contained herein and submit a complete proposal in response to all requirements and questions as directed.
- 1.8.2 Proposals and any other information submitted by Proposer in response to this RFP will become the property of University.
- 1.8.3 University will not provide compensation to Proposer for any expenses incurred by the Proposer for proposal preparation or for demonstrations or oral presentations that may be made by Proposer. Proposer submits its proposal at its own risk and expense.
- 1.8.4 Proposals that (i) are qualified with conditional clauses; (ii) alter, modify, or revise this RFP in any way; or (iii) contain irregularities of any kind, are subject to disqualification by University, at University's sole discretion.
- 1.8.5 Proposals should be prepared simply and economically, providing a straightforward, concise description of Proposer's ability to meet the requirements and specifications of this RFP. Emphasis should be on completeness, clarity of content, and responsiveness to the requirements and specifications of this RFP.
- 1.8.6 University makes no warranty or guarantee that an award will be made as a result of this RFP. University reserves the right to accept or reject any or all proposals, waive any formalities, procedural requirements, or minor technical inconsistencies, and delete any requirement or specification from this RFP or the Agreement when deemed to be in University's best interest. University reserves the right to seek clarification from any Proposer concerning any item contained in its proposal prior to final selection. Such clarification may be provided by telephone conference or personal meeting with or writing to University, at University's sole discretion. Representations made by Proposer within its proposal will be binding on Proposer.
- 1.8.7 Any proposal that fails to comply with the requirements contained in this RFP may be rejected by University, in University's sole discretion.

1.9 Preparation and Submittal Instructions

1.9.1 Specifications and Additional Questions

Proposals must include responses to the questions in Specifications and Additional Questions (ref. **Section 5** of this RFP). Proposer should reference the item number and repeat the question in its response. In cases where a question does not apply or if unable to respond, Proposer should refer to the item number, repeat the question, and indicate N/A (Not Applicable) or N/R (No Response), as appropriate. Proposer should explain the reason when responding N/A or N/R.

1.9.2 Execution of Offer

Proposer must complete, sign and return the attached Execution of Offer (ref. **Section 2** of **APPENDIX ONE**) as part of its proposal. The Execution of Offer must be signed by a representative of Proposer duly authorized to bind the Proposer to its proposal. Any proposal received without a completed and signed Execution of Offer may be rejected by University, in its sole discretion.

1.9.3 Pricing and Delivery Schedule

Proposer must complete and return the Pricing and Delivery Schedule (ref. **Section 6** of this RFP), as part of its proposal. In the Pricing and Delivery Schedule, the Proposer should describe in detail (a) the total fees for the entire scope of the Services; and (b) the method by which the fees are calculated. The fees must be inclusive of all associated costs for delivery, labor, insurance, taxes, overhead, and profit.

University will not recognize or accept any charges or fees to perform the Services that are not specifically stated in the Pricing and Delivery Schedule.

In the Pricing and Delivery Schedule, Proposer should describe each significant phase in the process of providing the Services to University, and the time period within which Proposer proposes to be able to complete each such phase.

1.9.4 Proposer's General Questionnaire

Proposals must include responses to the questions in Proposer's General Questionnaire (ref. **Section 3** of **APPENDIX ONE**). Proposer should reference the item number and repeat the question in its response. In cases where a question does not apply or if unable to respond, Proposer should refer to the item number, repeat the question, and indicate N/A (Not Applicable) or N/R (No Response), as appropriate. Proposer should explain the reason when responding N/A or N/R.

1.9.5 Addenda Checklist

Proposer should acknowledge all Addenda to this RFP (if any) by completing, signing and returning the Addenda Checklist (ref. **Section 4** of **APPENDIX ONE**) as part of its proposal. Any proposal received without a completed and signed Addenda Checklist may be rejected by University, in its sole discretion.

1.9.6 Submission

Proposer should submit all proposal materials enclosed in a sealed envelope, box, or container. The RFP No. (ref. **Section 1.3** of this RFP) and the Submittal Deadline (ref. **Section 2.1** of this RFP) should be clearly shown in the lower left-hand corner on the top surface of the container. In addition, the name and the return address of the Proposer should be clearly visible.

Proposer must also submit the number of originals of the HUB Subcontracting Plan (also called the HSP) as required by this RFP (ref. **Section 2.5** of the RFP.)

Upon Proposer's request and at Proposer's expense, University will return to a Proposer its proposal received after the Submittal Deadline if the proposal is properly identified. University will not under any circumstances consider a proposal that is received after the Submittal Deadline or which is not accompanied by the number of completed and signed originals of the HSP that are required by this RFP.

University will not accept proposals submitted by telephone, proposals submitted by Facsimile ("FAX") transmission, or proposals submitted by electronic transmission (i.e., e-mail) in response to this RFP.

Except as otherwise provided in this RFP, no proposal may be changed, amended, or modified after it has been submitted to University. However, a proposal may be withdrawn and resubmitted at any time prior to the Submittal Deadline. No proposal may be withdrawn after the Submittal Deadline without University's consent, which will be based on Proposer's submittal of a written explanation and documentation evidencing a reason acceptable to University, in University's sole discretion.

By signing the Execution of Offer (ref. **Section 2** of **APPENDIX ONE**) and submitting a proposal, Proposer certifies that any terms, conditions, or documents attached to or referenced in its proposal are applicable to this procurement only to the extent that they (a) do not conflict with the laws of the State of Texas or this RFP and (b) do not place any requirements on University that are not set forth in this RFP or in the Appendices to this

RFP. Proposer further certifies that the submission of a proposal is Proposer's good faith intent to enter into the Agreement with University as specified herein and that such intent is not contingent upon University's acceptance or execution of any terms, conditions, or other documents attached to or referenced in Proposer's proposal.

1.9.7 Page Size, Binders, and Dividers

Proposals must be typed on letter-size (8-1/2" x 11") paper, and must be submitted in a binder. Preprinted material should be referenced in the proposal and included as labeled attachments. Sections within a proposal should be divided by tabs for ease of reference.

1.9.8 Table of Contents

Proposals must include a Table of Contents with page number references. The Table of Contents must contain sufficient detail and be organized according to the same format as presented in this RFP, to allow easy reference to the sections of the proposal as well as to any separate attachments (which should be identified in the main Table of Contents). If a Proposer includes supplemental information or non-required attachments with its proposal, this material should be clearly identified in the Table of Contents and organized as a separate section of the proposal.

1.9.9 Pagination

All pages of the proposal should be numbered sequentially in Arabic numerals (1, 2, 3, etc.). Attachments should be numbered or referenced separately.

SECTION 2

EXECUTION OF OFFER

THIS EXECUTION OF OFFER MUST BE COMPLETED, SIGNED AND RETURNED WITH PROPOSER'S PROPOSAL. FAILURE TO COMPLETE, SIGN AND RETURN THIS EXECUTION OF OFFER WITH THE PROPOSER'S PROPOSAL MAY RESULT IN THE REJECTION OF THE PROPOSAL.

- 2.1 By signature hereon, Proposer represents and warrants the following:
- 2.1.1 Proposer acknowledges and agrees that (1) this RFP is a solicitation for a proposal and is not a contract or an offer to contract; (2) the submission of a proposal by Proposer in response to this RFP will not create a contract between University and Proposer; (3) University has made no representation or warranty, written or oral, that one or more contracts with University will be awarded under this RFP; and (4) Proposer will bear, as its sole risk and responsibility, any cost arising from Proposer's preparation of a response to this RFP.
 - 2.1.2 Proposer is a reputable company that is lawfully and regularly engaged in providing the Services.
 - 2.1.3 Proposer has the necessary experience, knowledge, abilities, skills, and resources to perform the Services.
 - 2.1.4 Proposer is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances.
 - 2.1.5 Proposer understands (i) the requirements and specifications set forth in this RFP and (ii) the terms and conditions set forth in the Agreement under which Proposer will be required to operate.
 - 2.1.6 If selected by University, Proposer will not delegate any of its duties or responsibilities under this RFP or the Agreement to any sub-contractor, except as expressly provided in the Agreement.
 - 2.1.7 If selected by University, Proposer will maintain any insurance coverage as required by the Agreement during the term thereof.
 - 2.1.8 All statements, information and representations prepared and submitted in response to this RFP are current, complete, true and accurate. Proposer acknowledges that University will rely on such statements, information and representations in selecting Contractor. If selected by University, Proposer will notify University immediately of any material change in any matters with regard to which Proposer has made a statement or representation or provided information.
 - 2.1.9 PROPOSER WILL DEFEND WITH COUNSEL APPROVED BY UNIVERSITY, INDEMNIFY, AND HOLD HARMLESS UNIVERSITY, THE UNIVERSITY OF TEXAS SYSTEM, THE STATE OF TEXAS, AND ALL OF THEIR REGENTS, OFFICERS, AGENTS AND EMPLOYEES, FROM AND AGAINST ALL ACTIONS, SUITS, DEMANDS, COSTS, DAMAGES, LIABILITIES AND OTHER CLAIMS OF ANY NATURE, KIND OR DESCRIPTION, INCLUDING REASONABLE ATTORNEYS' FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY OF THE FOREGOING, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY NEGLIGENT ACTS OR OMISSIONS OR WILLFUL MISCONDUCT OF PROPOSER OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF PROPOSER IN THE EXECUTION OR PERFORMANCE OF ANY CONTRACT OR AGREEMENT RESULTING FROM THIS RFP.
 - 2.1.10 Pursuant to Sections 2107.008 and 2252.903, *Government Code*, any payments owing to Proposer under any contract or agreement resulting from this RFP may be applied directly to any debt or delinquency that Proposer owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.
- 2.2 By signature hereon, Proposer offers and agrees to furnish the Services to University and comply with all terms, conditions, requirements and specifications set forth in this RFP.
- 2.3 By signature hereon, Proposer affirms that it has not given or offered to give, nor does Proposer intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with its submitted proposal. Failure to sign this Execution of Offer, or signing with a false statement, may void the submitted proposal or any resulting contracts, and the Proposer may be removed from all proposal lists at University.
- 2.4 By signature hereon, Proposer certifies that it is not currently delinquent in the payment of any taxes due under Chapter 171, *Tax Code*, or that Proposer is exempt from the payment of those taxes, or that Proposer is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable. A false certification will be deemed a material breach of any resulting contract or agreement and, at University's option, may result in termination of any resulting contract or agreement.
- 2.5 By signature hereon, Proposer hereby certifies that neither Proposer nor any firm, corporation, partnership or institution represented by Proposer, or anyone acting for such firm, corporation or institution, has violated the antitrust laws of the State of Texas, codified in Section 15.01, et seq., *Business and Commerce Code*, or the Federal antitrust laws, nor communicated directly or indirectly the proposal made to any competitor or any other person engaged in such line of business.

- 2.6 By signature hereon, Proposer certifies that the individual signing this document and the documents made a part of this RFP, is authorized to sign such documents on behalf of Proposer and to bind Proposer under any agreements and other contractual arrangements that may result from the submission of Proposer's proposal.
- 2.7 By signature hereon, Proposer certifies as follows:
 "Under Section 231.006, *Family Code*, relating to child support, Proposer certifies that the individual or business entity named in the Proposer's proposal is not ineligible to receive the specified contract award and acknowledges that any agreements or other contractual arrangements resulting from this RFP may be terminated if this certification is inaccurate."
- 2.8 By signature hereon, Proposer certifies that (i) no relationship, whether by blood, marriage, business association, capital funding agreement or by any other such kinship or connection exists between the owner of any Proposer that is a sole proprietorship, the officers or directors of any Proposer that is a corporation, the partners of any Proposer that is a partnership, the joint venturers of any Proposer that is a joint venture or the members or managers of any Proposer that is a limited liability company, on one hand, and an employee of any component of The University of Texas System, on the other hand, other than the relationships which have been previously disclosed to University in writing; (ii) Proposer has not been an employee of any component institution of The University of Texas System within the immediate twelve (12) months prior to the Submittal Deadline; and (iii) no person who, in the past four (4) years served as an executive of a state agency was involved with or has any interest in Proposer's proposal or any contract resulting from this RFP (ref. Section 669.003, *Government Code*). All disclosures by Proposer in connection with this certification will be subject to administrative review and approval before University enters into a contract or agreement with Proposer.
- 29 By signature hereon, Proposer certifies its compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.
- 210 By signature hereon, Proposer represents and warrants that all products and services offered to University in response to this RFP meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law (Public Law 91-596) and the *Texas Hazard Communication Act*, Chapter 502, *Health and Safety Code*, and all related regulations in effect or proposed as of the date of this RFP.
- 211 Proposer will and has disclosed, as part of its proposal, any exceptions to the certifications stated in this Execution of Offer. All such disclosures will be subject to administrative review and approval prior to the time University makes an award or enters into any contract or agreement with Proposer.
- 2.12 If Proposer will sell or lease computer equipment to the University under any agreements or other contractual arrangements that may result from the submission of Proposer's proposal then, pursuant to Section 361.965(c), *Health & Safety Code*, Proposer certifies that it is in compliance with the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act set forth in Chapter 361, Subchapter Y, *Health & Safety Code* and the rules adopted by the Texas Commission on Environmental Quality under that Act as set forth in Title 30, Chapter 328, Subchapter I, *Texas Administrative Code*. Section 361.952(2), *Health & Safety Code*, states that, for purposes of the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act, the term "computer equipment" means a desktop or notebook computer and includes a computer monitor or other display device that does not contain a tuner.
- 213 **Proposer should complete the following information:**
 If Proposer is a Corporation, then State of Incorporation: _____
 If Proposer is a Corporation then Proposer's Corporate Charter Number: _____
 RFP No.: UL-SOLAR-2016-1

NOTICE: WITH FEW EXCEPTIONS, INDIVIDUALS ARE ENTITLED ON REQUEST TO BE INFORMED ABOUT THE INFORMATION THAT GOVERNMENTAL BODIES OF THE STATE OF TEXAS COLLECT ABOUT SUCH INDIVIDUALS. UNDER SECTIONS 552.021 AND 552.023, *GOVERNMENT CODE*, INDIVIDUALS ARE ENTITLED TO RECEIVE AND REVIEW SUCH INFORMATION. UNDER SECTION 559.004, *GOVERNMENT CODE*, INDIVIDUALS ARE ENTITLED TO HAVE GOVERNMENTAL BODIES OF THE STATE OF TEXAS CORRECT INFORMATION ABOUT SUCH INDIVIDUALS THAT IS INCORRECT.

Submitted and Certified By:

(Proposer Institution's Name)

(Signature of Duly Authorized Representative)

(Printed Name/Title)

(Date Signed)

(Proposer's Street Address)

(City, State, Zip Code)

(Telephone Number)

(FAX Number)

SECTION 3

PROPOSER'S GENERAL QUESTIONNAIRE

NOTICE: WITH FEW EXCEPTIONS, INDIVIDUALS ARE ENTITLED ON REQUEST TO BE INFORMED ABOUT THE INFORMATION THAT GOVERNMENTAL BODIES OF THE STATE OF TEXAS COLLECT ABOUT SUCH INDIVIDUALS. UNDER SECTIONS 552.021 AND 552.023, GOVERNMENT CODE, INDIVIDUALS ARE ENTITLED TO RECEIVE AND REVIEW SUCH INFORMATION. UNDER SECTION 559.004, GOVERNMENT CODE, INDIVIDUALS ARE ENTITLED TO HAVE GOVERNMENTAL BODIES OF THE STATE OF TEXAS CORRECT INFORMATION ABOUT SUCH INDIVIDUALS THAT IS INCORRECT.

Proposals must include responses to the questions contained in this Proposer's General Questionnaire. Proposer should reference the item number and repeat the question in its response. In cases where a question does not apply or if unable to respond, Proposer should refer to the item number, repeat the question, and indicate N/A (Not Applicable) or N/R (No Response), as appropriate. Proposer will explain the reason when responding N/A or N/R.

3.1 Proposer Profile

3.1.1 Legal name of Proposer company:

Address of principal place of business:

Address of office that would be providing service under the Agreement:

Number of years in Business: _____

State of incorporation: _____

Number of Employees: _____

Annual Revenues Volume: _____

Name of Parent Corporation, if any _____

NOTE: If Proposer is a subsidiary, University prefers to enter into a contract or agreement with the Parent Corporation or to receive assurances of performance from the Parent Corporation.

3.1.2 State whether Proposer will provide a copy of its financial statements for the past two (2) years, if requested by University.

3.1.3 Proposer will provide a financial rating of the Proposer entity and any related documentation (such as a Dunn and Bradstreet analysis) that indicates the financial stability of Proposer.

3.1.4 Is Proposer currently for sale or involved in any transaction to expand or to become acquired by another business entity? If yes, Proposer will explain the expected impact, both in organizational and directional terms.

3.1.5 Proposer will provide any details of all past or pending litigation or claims filed against Proposer that would affect its performance under the Agreement with University (if any).

3.1.6 Is Proposer currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity? If yes, Proposer will specify the pertinent date(s), details, circumstances, and describe the current prospects for resolution.

3.1.7 Proposer will provide a customer reference list of no less than three (3) organizations with which Proposer currently has contracts and/or to which Proposer has previously provided services (within the past five (5) years) of a type and scope similar to those required by University's RFP. Proposer will include in its customer reference list the customer's company name, contact person, telephone number, project description, length of business relationship, and background of services provided by Proposer.

- 3.1.8 Does any relationship exist (whether by family kinship, business association, capital funding agreement, or any other such relationship) between Proposer and any employee of University? If yes, Proposer will explain.
- 3.1.9 Proposer will provide the name and Social Security Number for each person having at least 25% ownership interest in Proposer. This disclosure is mandatory pursuant to Section 231.006, *Family Code*, and will be used for the purpose of determining whether an owner of Proposer with an ownership interest of at least 25% is more than 30 days delinquent in paying child support. Further disclosure of this information is governed by the *Texas Public Information Act*, Chapter 552, *Government Code*, and other applicable law.

3.2 Approach to Project Services

- 3.2.1 Proposer will provide a statement of the Proposer's service approach and will describe any unique benefits to University from doing business with Proposer. Proposer will briefly describe its approach for each of the required services identified in **Section 5.3** Scope of Work of this RFP.
- 3.2.2 Proposer will provide an estimate of the earliest starting date for services following execution of the Agreement.
- 3.2.3 Proposer will submit a work plan with key dates and milestones. The work plan should include:
- 3.2.3.1 Identification of tasks to be performed;
 - 3.2.3.2 Time frames to perform the identified tasks;
 - 3.2.3.3 Project management methodology;
 - 3.2.3.4 Implementation strategy; and
 - 3.2.3.5 The expected time frame in which the services would be implemented.
- 3.2.4 Proposer will describe the types of reports or other written documents Proposer will provide (if any) and the frequency of reporting, if more frequent than required in the RFP. Proposer will include samples of reports and documents if appropriate.

3.3 General Requirements

- 3.3.1 Proposer will provide summary resumes for its proposed key personnel who will be providing services under the Agreement with University, including their specific experiences with similar service projects, and number of years of employment with Proposer.
- 3.3.2 Proposer will describe any difficulties it anticipates in performing its duties under the Agreement with University and how Proposer plans to manage these difficulties. Proposer will describe the assistance it will require from University.

3.4 Service Support

Proposer will describe its service support philosophy, how it is implemented, and how Proposer measures its success in maintaining this philosophy.

3.5 Quality Assurance

Proposer will describe its quality assurance program, its quality requirements, and how they are measured.

3.6 Miscellaneous

- 3.6.1 Proposer will provide a list of any additional services or benefits not otherwise identified in this RFP that Proposer would propose to provide to University. Additional services or benefits must be directly related to the goods and services solicited under this RFP.
- 3.6.2 Proposer will provide details describing any unique or special services or benefits offered or advantages to be gained by University from doing business with Proposer. Additional services or benefits must be directly related to the goods and services solicited under this RFP.
- 3.6.3 Does Proposer have a contingency plan or disaster recovery plan in the event of a disaster? If so, then Proposer will provide a copy of the plan.

SECTION 4

ADDENDA CHECKLIST

Proposal of: _____
(Proposer Company Name)

To: The University of Texas System Administration

Ref.: Services Related to the Development, Construction, Operation, Maintenance and Decommissioning of a Solar Energy Resources Project on the Permanent University Fund (PUF) Lands

RFP No.: UL-SOLAR-2016-1

Ladies and Gentlemen:

The undersigned Proposer hereby acknowledges receipt of the following Addenda to the captioned RFP (initial if applicable).

No. 1 _____ No. 2 _____ No. 3 _____ No. 4 _____ No. 5 _____

Respectfully submitted,

Proposer: _____

By: _____
(Authorized Signature for Proposer)

Name: _____

Title: _____

Date: _____

Single Period/Prepaid

Revised 05/2016

THE UNIVERSITY OF TEXAS SYSTEM

COMMERCIAL LEASE NO. **0000**

This COMMERCIAL LEASE NO. **0000** (this "Lease") is made and entered into effective as of **00/00/0000** (the "Effective Date") by and between **THE UNIVERSITY OF TEXAS SYSTEM BOARD OF REGENTS** ("Owner") and **Company Name** ("Lessee").

1. **Basic Lease Information**

Premises: **0.000** acres of land, more or less, lying in the _____ of Section **00**, Block **00**, University Lands, _____ County, Texas, as more fully described on **Exhibit "A"** attached to the Lease and incorporated therein for location.

Lease Term: The period commencing on the Effective Date and continuing for ten (10) years through **00/00/0000**. The term "Lease Term," as used herein, shall include all renewals or extensions hereof unless the context clearly indicates to the contrary.

Rental (prepaid): **\$0,000.00** for the **Ten**-year term of the Lease.

Permitted Use: Lessee shall continuously use and occupy the Premises for the purpose of a(n) _____ and for purposes incidental thereto, and for no other purpose. Lessee shall be entitled to, ingress and egress and to use any improvements, if any, now located on the Premises solely for the purposes herein intended. **If regulated fluids are present, including but not limited to hydrocarbons and produced water, they shall be stored or contained above-grade, not in below-grade sumps or tanks.**

Owner's Address: ***For Correspondence and Notices:***

University Lands
P.O. Box 553
Midland, Texas 79702
Attention: James R. Buice
Telephone: (432) 684-4404
Fax: (432) 682-7456

For the payment of Rental and other sums due to Owner:

The University of Texas System
P.O. Box 553
Midland, Texas 79702
Attention: Associate Director Accounting

Owner's Contact Person: Mr. James R. Buice
Telephone: (432) 684-4404
Fax: (432) 682-7456

or such other person as Owner may designate in writing.

Lessee's Address: Company Name
Company Address
Company Address
Telephone: (123) _____
Fax: (123) _____

Lessee's Contact Person: Contact Name
Telephone: (123) _____
Cell: (123) _____

or such other person as Lessee may designate in writing.

2. **Granting Clause.** Owner, for and in consideration of the rent and other charges to be paid hereunder and the other covenants and agreements to be performed by Lessee, hereby demises and leases the Premises to Lessee, and Lessee hereby leases the Premises from Owner on the terms and conditions set forth herein, commencing on the Effective Date and ending on the last day of the Lease Term unless sooner terminated as herein provided.

3. **Rental.** Lessee shall pay to Owner in advance, at Owner's Address or at such other address as Owner may designate by notice in writing to Lessee, Rental in the amount specified in the Basic Lease Information, without deduction or setoff, for the Lease Term. The Rental for the Lease Term is due and payable by Lessee to Owner on or before the Effective Date. Lessee shall have no rights under this Lease until payment of Rental is made in full to Owner.

4. **Late Payments.** If Lessee should fail to pay Owner any sum to be paid by Lessee to Owner hereunder within five (5) days after such payment is due, interest on the unpaid amount shall accrue at a rate of fifteen percent (15%) per annum or the maximum rate allowed by law, whichever is lesser, from the date payment was due until the date payment is made. Owner may also impose a late charge of Twenty-Five Dollars (\$25.00) or five percent (5%) of the unpaid amount, whichever is greater, to defray Owner's administrative costs incurred as a result of Lessee's failure to timely make such payment, the amount of such costs not being readily ascertainable. Any such late charge shall be in addition to all other rights and remedies available to Owner hereunder or at law or in equity and shall not be construed as liquidated damages or limiting Owner's remedies in any manner. Failure to pay such interest or late charge within ten (10) days after demand shall be an event of default hereunder. Following the dishonor of any check presented for payment, Owner shall have the right, at Owner's option, to require all further payments to be made by certified check or money order.

5. **Renewal and Extension.** Should Lessee wish to renew this Lease or enter into a lease agreement with regard to the Premises following the expiration of the Lease Term, Lessee should advise Owner in writing of Lessee's desire not later than one hundred eighty (180) days prior to the expiration of this Lease. Owner and Lessee may then enter into negotiations with regard to the terms and conditions on which Lessee may lease the Premises for an additional term; provided, however, that Owner shall not be obligated to renew or extend the term of this Lease on any terms and conditions.

6. **Use of the Premises.**

a. **Permitted Use Only.** Lessee may use the Premises only for the Permitted Use specified in the Basic Lease Information (the "Project"), and for no other purpose or purposes without the prior written consent of Owner. Lessee shall operate its business in a reputable manner.

b. **No Unlawful or Disreputable Use.** Lessee shall observe, perform, and comply with all laws, statutes, ordinances, rules, and regulations promulgated by any governmental agency and applicable to Lessee's use of the Premises. Owner shall not occupy or use the Premises or permit any portion of the Premises to be occupied or used for any use or purpose which is unlawful, in part or in whole, or deemed by Owner to be disreputable in any manner or extra hazardous on account of fire.

7. **Repair, Maintenance, and Improvements.**

a. **DISCLAIMER OF WARRANTIES.** Lessee is fully familiar with the Premises, its condition, state of repair and everything connected therewith from Lessee's own investigation of same. Lessee acknowledges that OWNER HAS MADE NO EXPRESS WARRANTIES WITH REGARD TO THE PREMISES and TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, OWNER HEREBY DISCLAIMS, AND LESSEE WAIVES THE BENEFIT OF, ANY AND ALL IMPLIED WARRANTIES, INCLUDING IMPLIED WARRANTIES OF HABITABILITY, OR FITNESS OR SUITABILITY FOR LESSEE'S PURPOSE.

b. **Maintenance of the Premises.** Owner shall not be required to make any repairs to or improvements on the Premises during the Lease Term. Lessee shall, at Lessee's sole cost and expense, make all repairs and replacements necessary to keep and maintain the Premises, including improvements thereon, if any, in good condition. If any repairs required to be made by Lessee hereunder are not made within thirty (30) days after written notice delivered to Lessee by Owner, Owner may, at its option, make such repairs without liability to Lessee for any loss or damage which may result by reason of such repairs, and Lessee shall pay to Owner within seven (7) days after demand as additional rent hereunder the cost of such repairs plus ten percent (10%) of the amount thereof. At the expiration or other termination of this Lease, Lessee shall surrender the Premises in a condition at least as good as its condition and state of repair as of the Lessee's first possession of the premises, normal wear and tear and natural deterioration excepted. Lessee shall fill all excavations, level and restore the terrain to as nearly its original condition on the Effective Date of this Lease as is reasonably possible, and remove all debris, equipment, and personal property.

c. **Installation of Improvements.** Lessee shall not cause any improvements to be installed on the Premises, except for the installation of unattached, movable trade fixtures, without the prior written consent of Owner, which consent shall not be unreasonably withheld. At Owner's request, Lessee shall provide drawings and other information reasonably requested by Owner regarding any proposed improvements. All construction work done by Lessee on the Premises shall be performed in a good and workmanlike manner, and in compliance with all governmental requirements. Lessee agrees to indemnify Owner and hold Owner harmless against any loss, liability or damage resulting from any such construction work. All improvements installed by Lessee shall be and remain the property of Lessee until the termination or expiration of this Lease, as extended, renewed, or replaced, so long as Lessee remains in possession as a lessee of the Premises. At the end of the Lease, Lessee shall remove improvements, whether installed by Lessee or existing on the Premises at the inception of this Lease, if so directed by Owner. If Owner does not direct Lessee to remove installed improvements, such improvements shall become the property of Owner and such improvements shall remain on the

Premises and shall be surrendered as part thereof upon the expiration or termination of this Lease without credit or compensation to Lessee.

d. Personal Property. Following termination of this Lease, Owner shall have the right to (i) remove from the Premises (without the necessity of obtaining a distress warrant, writ of sequestration or other legal process) all or any portion of Lessee's furniture, fixtures, equipment, and other personal property left on the Premises and place same in storage at any premises within the county in which the Premises is located; (ii) after sixty (60) days' notice to Lessee, sell in any manner deemed reasonable by Owner all or any portion of Lessee's furniture, fixtures, equipment, and other personal property left on the Premises and apply the proceeds first to amounts due and owing to Owner under this Lease and returning the remainder, if any, to Lessee; or (iii) after ten (10) days' notice to Lessee, dispose of all or any portion of Lessee's furniture, fixtures, equipment, and other personal property left on the Premises. In any such event Lessee shall be liable to Owner for costs incurred by Owner in connection with such action and shall indemnify and hold Owner harmless from all loss, damage, cost, expense and liability in connection with such action. Owner shall also have the right to relinquish possession of all or any portion of such furniture, fixtures, equipment, and other property to any person ("Claimant") claiming to be entitled to possession thereof who presents to Owner a copy of any instrument represented to Owner by Claimant to have been executed by Lessee (or any predecessor of Lessee) granting Claimant the right under various circumstances to take possession of such furniture, fixtures, equipment, or other property, without the necessity on the part of Owner to inquire into the authenticity of said instrument's copy of Lessee's or Lessee's predecessor's signature thereon and without the necessity of Owner making any nature of investigation or inquiry as to the validity of the factual or legal basis upon which Claimant purports to act; and Lessee agrees to indemnify and hold Owner harmless from all cost, expense, loss, damage and liability incidental to Owner's relinquishment of possession of all or any portion of such furniture, fixtures, equipment, or other property to Claimant. The rights of Owner herein stated shall be in addition to any and all other rights which Owner has or may hereafter have at law or in equity. Lessee stipulates and agrees that the rights herein granted Owner are commercially reasonable.

e. Fences. At the request of Owner, Lessee shall fence the Premises with a fence constructed in accordance with specifications to be determined by Owner. Such fence shall be completed within thirty (30) days after Owner's request and Lessee shall maintain the fence in good condition throughout the Lease Term.

f. Keeping the Premises Clean. Lessee shall take good care of the Premises and keep the same free from debris and waste at all times. Lessee shall keep the Premises neat and clean at all times, and shall remove all refuse, litter and debris from the Premises. Lessee shall not remove or damage any existing improvements on the Premises without the consent of Owner; commit or permit any waste; or allow any nuisance to exist on the Premises.

g. Locks. Lessee may, at Lessee's expense, replace any lock on any gate or building, if any, on the Premises; provided, however, that in such event Lessee shall immediately provide to Owner's Contact Person, a key to any lock installed by Lessee on or about the Premises.

h. Utilities. Lessee shall pay promptly before same is due, all electrical and other utility charges, if any, relating to the Premises, and any improvements thereon. Lessee shall cause all accounts for utilities, if any, to be placed in Lessee's name. Owner makes no representation with regard to utility services available to the Premises and shall not be liable for any interruption or failure in utility services arising from any cause whatsoever.

i. Vegetation. Lessee shall not remove or destroy any vegetation on the Premises, including trees of any variety, without the written consent of Owner or Owner's Contact Person, except as otherwise expressly permitted herein. Lessee shall comply with all ordinances of applicable governmental entities in connection with the removal of all such vegetation.

j. Fires. Lessee shall restrict any fires built on the Premises to areas that will not pose fire hazards and to take every reasonable precaution to ensure that Lessee will not cause grass fires or other mishaps.

k. Water Wells. Lessee shall not remove any casing or otherwise interfere with any water well or wells that may exist on the Premises without the prior written consent of Owner and any regulatory agency with jurisdiction. The water from any well or wells located on the Premises may only be used on the Premises and may not be used in any manner or for any purpose off the Premises without the prior written consent of the Owner.

8. Compliance with Environmental Laws. By its exercise of its rights hereunder, Lessee will not (i) cause or permit the Premises, any other property of Owner, or Owner to be in violation of Applicable Environmental Laws (as hereinafter defined); or (ii) do anything or permit anything to be done by Lessee, its contractors, subcontractors, agents or employees that will result in any contamination of soils, ground water, surface water, or natural resources on or adjacent to the Premises resulting from any cause, including but not limited to spills or leaks of oil, gasoline, hazardous materials, hazardous wastes, or other chemical compounds, or will subject the Premises, any other property of Owner, or Owner to any remedial obligations under applicable laws pertaining to health or the environment (such laws as they now exist or are hereafter enacted and/or amended are hereinafter sometimes collectively called "Applicable Environmental Laws"), including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (as amended, hereinafter called "CERCLA"), the Resource Conservation and Recovery Act of 1976, as amended by the Used Oil Recycling Act of 1980, the Solid Waste Disposal Act Amendments of 1980, and the Hazardous and Solid Waste Amendments of 1984 (as amended, hereinafter called "RCRA"), the Texas Water Code and the Texas Solid Waste Disposal Act, as each of said laws may be amended from time to time, assuming disclosure to the applicable governmental authorities of all relevant facts, conditions and circumstances, if any, pertaining to Lessee's exercise of its rights hereunder. Lessee agrees to obtain any permits, licenses or similar authorizations for the Project by reason of any Applicable Environmental Laws that concern or result from the use of the Premises. Lessee will promptly notify Owner in writing of any existing, pending or, to the best knowledge of Lessee, threatened, investigation or inquiry by any governmental authority in connection with any Applicable Environmental Laws concerning the Project and/or Lessee's use of the Premises. In connection with the Project, Lessee will not cause or permit the disposal or other release of any hazardous substance or solid waste on or to the Premises or any other property of Owner. In connection with the Project, Lessee covenants and agrees to keep or cause the Premises and any other property of Owner to be kept free of such hazardous substance or solid waste and to remove the same (or if removal is prohibited by law, to take whatever action is required by law) promptly upon discovery, at Lessee's sole cost and expense. If Lessee fails to comply with or perform any of the foregoing covenants and obligations, Owner may (without any obligation, express or implied) remove any hazardous substance or solid waste from the Premises or any other property of Owner (or if removal is prohibited by law, take whatever action is required by law) and the cost of the removal or such other action shall be reimbursed by Lessee to Owner. Lessee grants to Owner and its agents, employees, contractors and consultants access to the Premises and the license (which is coupled with an interest and irrevocable) to remove such hazardous substance or solid waste (or if removal is prohibited by law, to take whatever action is required by law) and agrees to reimburse Owner for and to hold Owner harmless from all costs and

expenses involved therewith. The terms "hazardous substance" and "release" as used in this Lease have the meanings specified in CERCLA, and the terms "solid waste" and "disposal" (or "disposed") shall have the meanings specified in RCRA; provided, that if either CERCLA or RCRA is amended so as to broaden the meaning of any term defined thereby, such broader meaning shall apply hereunder subsequent to the effective date of such amendment and provided further, to the extent that any other federal or state law establishes a meaning for "hazardous substance," "release," "solid waste," or "disposal" that is broader than that specified in either CERCLA or RCRA, such broader meaning shall apply.

9. Environmental Indemnity. Lessee agrees to release Owner from, and to reimburse Owner with respect to, any and all claims, demands, losses, damages (including consequential damages claimed by a person or entity other than Owner), liabilities, causes of action, judgment, penalties, costs and expenses (including attorneys' fees and court costs) of any and every kind or character, known or unknown, fixed or contingent, imposed on, asserted against or incurred by Owner at any time and from time to time by reason of, in connection with or arising out of (a) the failure of Lessee to perform any obligation herein required to be performed by Lessee regarding Applicable Environmental Laws, (b) any violation of Applicable Environmental Laws by Lessee, its contractors, subcontractors, agents or employees occurring after Lessee's acquisition of the Lease, (c) the removal of hazardous substances or solid wastes that result from the use by Lessee, its contractors, subcontractors, agents or employees, from the Premises or any other property of Owner (or if removal is prohibited by law, the taking of whatever action is required by law), and (d) any act, omission or event occurring after Lessee's original occupancy/acquisition of this Lease (including, without limitation, the presence on the Premises or release from the Premises of hazardous substances or solid wastes disposed of or otherwise released after Lessee's original occupancy/acquisition of the Premises, resulting from or in connection with the Project), or otherwise, regardless of whether the act, omission, event or circumstance constituted a violation of any Applicable Environmental Law at the time of its existence or occurrence. Any amount to be paid under this paragraph by Lessee to Owner shall be paid within thirty (30) days of Lessee's receipt of demand therefor from Owner. Nothing in this paragraph or elsewhere in this Lease shall limit or impair any rights or remedies of Owner against Lessee or any third party under Applicable Environmental Laws, including without limitation, any rights of contribution available thereunder.

10. **Access.** Owner and authorized representatives of Owner shall have the right to enter upon the Premises at any reasonable time to inspect same or make repairs or improvements as Owner may deem necessary, but without any obligation to do so. Owner shall have the right to enter upon the Premises at any time in the case of emergency or in the event immediate action should be taken to avert an emergency or damage to the Premises.

11. **Assignment and Subletting.** Lessee shall not sublet the Premises or any part thereof, or assign this Lease or any interest therein without the prior written consent of Owner and the payment of the required fee. Any such sublease or assignment attempted without Owner's written consent shall be void and of no force and effect, at the option of Owner.

12. **Holding Over.** In the event Lessee occupies the Premises or any part thereof after the expiration or earlier termination of this Lease, unless otherwise agreed in writing by Owner, Lessee shall hold the Premises as a tenant-at-will only at a daily rental equal to two (2) multiplied by the Rental

calculated on a per diem basis. In no event shall such holding over constitute or be construed as a renewal or extension of this Lease and, upon the expiration of the Lease Term or the earlier termination of this Lease, Lessee shall immediately surrender the Premises to Owner on demand by Owner.

13. **Indemnity and Insurance.**

a. **Tenant's Insurance.** Lessee, at its sole expense, shall maintain in effect at all times insurance coverages with limits not less than those set forth below with financially responsible insurers licensed to do business in the State of Texas and acceptable to Owner and under forms of policies satisfactory to Owner. The requirements contained herein as to types, limits or Owner's approval of insurance coverage to be maintained by Lessee are not intended to and shall not in any manner limit, qualify or quantify the liabilities and obligations assumed by Lessee under this Lease or otherwise provided by law. The amounts of insurance required to be maintained by Lessee may be reasonably increased from time to time by Owner at its sole discretion:

Commercial General Liability

Coverage	Minimum Amounts and Limits
Bodily Injury/ Property Damage (Occurrence Basis)	\$1,000,000.00 each occurrence, or equivalent, subject to a \$1,000,000.00 aggregate

This policy shall be on a form acceptable to Owner, endorsed to include the Owner as additional insureds, not modify the separation of insured language in the policy, contain waiver of subrogation language in favor of the Owner, delete the exclusions for liability assumed under the Lease, and contain no modification that would make Lessee's policy excess over or contributory with Owner's liability insurance, and include the following coverages:

- (1) Premises/Operations;
- (2) Independent Contractors;
- (3) Broad Form Contractual Liability specifically in support of, but not limited to, Lessee's indemnity obligations under this Lease;
- (4) Broad Form Property Damage; and
- (5) Personal Injury Liability with employee and contractual exclusions removed.

All of Lessee's insurance policies shall be endorsed to be primary, with the policies of all of the Owner being excess, secondary and noncontributing. Lessee shall deliver proof of the insurance coverage required to be maintained by Lessee under this Paragraph 13, represented by evidence of insurance issued by the insurance carrier(s), to Owner prior to Lessee taking possession of the Premises. The evidence of insurance shall specify the additional insured status mentioned above as well as the waiver of subrogation. Such evidence of insurance shall state that Owner will be notified in writing thirty (30) days prior to cancellation, material change, or non-renewal of insurance. Lessee shall provide to Owner a certified copy of any and all applicable insurance policies upon request of Owner. In addition, Lessee shall deliver evidence of insurance to Owner as the coverage renews and not less than ten (10) days before the expiration date of any policies.

b. **Waiver of Subrogation.** To the extent authorized by the laws and Constitution of the State of Texas, each of Owner and Lessee waives any and every claim in its favor against the other during the Lease Term for any and all loss of, or damage to, any of its property located within or on, or constituting a part of, the Premises, which loss or damage is covered by valid and

collectible fire and extended coverage insurance policies. These mutual waivers are in addition to, and not in limitation or derogation of, any other waiver or release contained in this Lease with respect to any loss of, or damage to, property of Lessee. Each party shall immediately give to each insurance company that has issued to it policies of fire and extended coverage insurance, written notice of the terms of the waiver, and shall cause those insurance policies to be properly endorsed, if necessary, to prevent the invalidation of insurance coverages by reason of the waiver.

c. Lessee's Failure to Maintain Insurance. If Lessee fails to comply with the foregoing insurance requirements, then Owner may (in addition to having available to it all other remedies provided herein on the occurrence of a default) obtain such insurance, and Lessee shall pay to Owner on demand, as additional rent hereunder, the premium cost thereof plus interest at the lesser of eighteen percent (18%) per annum or the highest lawful rate, from the date of payment by Owner until payment by Lessee.

d. INDEMNITY. LESSEE ACCEPTS THE PREMISES IN THEIR "AS IS" CONDITION ON THE DATE THE LEASE TERM BEGINS. OWNER SHALL NOT BE LIABLE TO LESSEE, OR TO LESSEE'S AGENTS, SERVANTS, EMPLOYEES, CUSTOMERS, CONTRACTORS, VISITORS, LICENSEES, SUBLESSEES, OR INVITEES, AND LESSEE SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS FROM AND AGAINST ANY AND ALL FINES, SUITS, CLAIMS, DEMANDS, LOSSES, LIABILITIES, ACTIONS, AND COSTS (INCLUDING COURT COSTS AND ATTORNEYS'FEES) ARISING FROM:

(i) ANY INJURY TO PERSON OR DAMAGE TO PROPERTY CAUSED BY ANY ACT, OMISSION, OR NEGLECT OF LESSEE, LESSEE'S AGENTS, SERVANTS, EMPLOYEES, CUSTOMERS, CONTRACTORS, VISITORS, LICENSEES, SUBLESSEES OR INVITEES,

(ii) LESSEE'S USE OF THE PREMISES OR THE CONDUCT OF LESSEE'S BUSINESS,

(iii) ANY ACTIVITY, WORK, OR THING DONE, PERMITTED, OR SUFFERED BY LESSEE IN OR ABOUT THE PROJECT, OR

(iv) ANY BREACH OR DEFAULT IN THE PERFORMANCE OF ANY OBLIGATION ON LESSEE'S PART TO BE PERFORMED UNDER THE TERMS OF THIS LEASE.

e. NON-LIABILITY FOR CERTAIN DAMAGES. OWNER AND OWNER'S AGENTS, CONTRACTORS AND EMPLOYEES SHALL NOT BE LIABLE TO LESSEE OR ANY OTHER PERSON OR ENTITY WHOMSOEVER FOR ANY INJURY TO PERSONS OR DAMAGE TO PROPERTY CAUSED BY THE PROJECT OR ANY PORTION THEREOF MALFUNCTIONING OR BEING OUT OF REPAIR, OR BY DEFECT IN OR FAILURE OF EQUIPMENT, PIPES, OR WIRING, OR BY BROKEN GLASS, OR BY THE BACKING UP OF DRAINS, OR BY GAS, WATER, STEAM, ELECTRICITY OR OIL LEAKING, ESCAPING, OR FLOWING INTO THE PROJECT OR ANY PORTION THEREOF, OR BY THEFT, ACT OF GOD, PUBLIC ENEMY, INJUNCTION, RIOT, STRIKE, INSURRECTION, WAR, COURT ORDER, REQUISITION OR ORDER OF A GOVERNMENTAL BODY OR AUTHORITY OR ANY SIMILAR MATTER.

f. CRIMINAL ACTIVITY. OWNER HAS NO OBLIGATION TO PROVIDE SECURITY GUARDS OR SECURITY SYSTEMS FOR THE PREMISES LESSEE, TO THE FULL

EXTENT ALLOWED BY LAW, HEREBY WAIVES ANY DUTY OF OWNER TO PROTECT LESSEE FROM THE CRIMINAL ACTS OF THIRD PARTIES.

g. Reconstruction in the Event of Casualty. In the event of damage to or destruction of improvements on the Premises caused by fire or other casualty, Lessee shall restore the improvements promptly. All insurance proceeds relating to such damage or destruction shall be used to restore the Premises to its condition prior to the casualty or, if for any reason the Premises will not be so restored, then such insurance proceeds will be the property of Owner.

h. Self Insurance. Lessee may satisfy its obligation to maintain general liability insurance under this paragraph 13 by means of self-insurance, provided that Lessee submits annually to Owner its published annual report and such report reflects that Lessee has a net worth of no less than FIFTY MILLION DOLLARS (\$50,000,000).

14. Condemnation. In the event the Premises or any part thereof is taken for any public or quasi-public use under any law or by right of eminent domain, or by private purchase in lieu thereof, this Lease shall terminate, the rent shall abate during the unexpired portion of this Lease commencing on the date physical possession is taken by the condemning authority, and the entirety of the compensation award or payment in lieu thereof shall be the property of Owner.

15. Taxes and Assessments. Lessee shall pay all taxes, assessments and charges, general and specific, that may be levied or assessed by reason of Lessee's use of the Premises and improvements and equipment situated thereon, including, without limitation, any and all taxes, assessments, and charges of any nature levied or assessed against Lessee's leasehold interest hereunder or any improvements on the Premises constructed by or belonging to Lessee. Lessee shall provide Owner with evidence from the assessing authority of such payments within thirty (30) days after Lessee makes any such payment.

16. Default and Remedies.

a. Events of Default. The following events shall be deemed to be events of default by Lessee under this Lease:

i. Lessee shall fail to pay when due any rent or any other sum payable by Lessee under this Lease;

ii. Lessee shall fail to comply with any other term, provision or covenant of this Lease within thirty (30) days after notice from Owner to Lessee specifying wherein Lessee has failed to comply; provided, however, that if the nature of Lessee's obligation is of such a nature that it cannot reasonably be cured within such 30-day period, Lessee shall not be deemed to be in default so long as Lessee commences curing such failure within such 30-day period and diligently prosecutes same to completion;

iii. Lessee shall do or permit to be done anything that creates a lien upon the Premises and such lien is not removed or bonded around within thirty (30) days after written notice thereof from Owner to Lessee.

b. Remedies. Upon occurrence of any event of default by Lessee, Owner may enforce the provisions of this Lease in any manner provided by law or in equity, including, without limitation, any one or more of the following, in each case, without further notice or demand whatsoever:

i. Termination of the Lease. At Owner's option, Owner may terminate this Lease and re-enter upon the Premises and, in such event, Lessee shall immediately surrender the Premises to Owner. If Lessee fails to immediately surrender the Premises, Owner may enter upon and take possession of the Premises by any lawful means, and lock out, expel, or remove Lessee without being guilty of any manner of trespass, without liability for any damage or loss occasioned thereby, and without prejudice to any remedies available to Owner for possession of the Premises, collection of amounts due, breach of contract, or otherwise. Lessee agrees to pay to Owner on demand the amount of all loss and damage which Owner may suffer by reason of such termination, whether through inability to relet the Premises on satisfactory terms or otherwise, including the following: any unpaid Rental and other sums payable under this Lease that accrued prior to the termination of the Lease; plus the worth at the time of the award (calculated based on the rate of interest set out in Paragraph 4) of the amount by which the unpaid Rental which would have been earned after termination exceeds the amount of such rental loss Lessee proves could have been avoided; plus all other damages suffered by Owner, including without limitation court costs, reasonable attorneys' fees and other costs incurred in connection with the termination of this Lease, expenses of repossession, and expenses of restoring the Premises to a good condition of repair, and interest on all such amounts at the rate set out in Paragraph 4. In no event shall Owner be obligated to reimburse Lessee for any prepaid Rental.

ii. Re-entry and Reletting. At Owner's option, Owner may, without terminating this Lease, enter upon and take possession of the Premises by any lawful means, and lock out, expel, or remove Lessee without being guilty of any manner of trespass, without liability for any damage or loss occasioned thereby, and without prejudice to any remedies available to Owner for possession of the Premises, collection of amounts due, breach of contract, or otherwise. If Owner so elects, Owner may relet all or any part of the Premises on such terms as Owner shall deem advisable and receive the rent therefor, and Lessee agrees to pay to Owner on demand any deficiency that may arise by reason of such reletting for the remainder of the Lease Term or extension thereof (if the event of default occurs during such extension term). Lessee shall be liable to Owner for all costs Owner incurs in repossessing and reletting the Premises. In no event shall Lessee be entitled to receive a refund of any prepaid Rental or any excess in the rents received by Owner following a reletting over the amounts owed by Lessee to Owner hereunder.

iii. Entry to Carry out Lessee's Obligations. At Owner's option, Owner may carry out Lessee's obligations under this Lease, including without limitation Lessee's obligations under Paragraph 7, and, if necessary, without terminating this Lease, enter upon the Premises by any lawful means, including by picking or changing locks if necessary, without being guilty of any manner of trespass and without liability for any damage or loss occasioned thereby, and without prejudice to any of Owner's remedies, to carry out such obligations. Lessee agrees to reimburse to Owner on demand amounts expended by Owner, including reasonable attorneys' fees, in effecting compliance with Lessee's obligations under this Lease.

With respect to any amounts due to Owner hereunder and collected by an attorney after default or through judicial, bankruptcy, or probate proceedings, Lessee shall pay all costs of collection, including reasonable attorneys' fees and all court costs.

No re-entry or taking possession of the Premises by Owner shall be construed as an election on Owner's part to terminate this Lease unless a written notice of such intention is given to Lessee. Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedy provided by law, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any Rental or other sums due to Owner hereunder or of any damages accruing to Owner by reason of the violation of any of the terms, provision, and covenants herein contained. Owner's acceptance of Rental following an event of default hereunder shall not be construed as

Owner's waiver of such event of default. No waiver by Owner of any violation or breach of any of the terms, provisions, and covenants herein contained shall be deemed or construed to constitute a waiver of any other violation or default. No payment by Lessee or receipt by Owner of any amount less than the amounts due by Lessee hereunder shall be deemed to be other than on account of the amounts due by lessee, nor shall any endorsement or statement on any check or document accompanying any payment be deemed an accord and satisfaction.

17. **Landlord's Lien.** In consideration of the mutual benefits arising under this Lease, Lessee hereby grants to Owner a lien and security interest in all property of Lessee (including, but not limited, to all fixtures, machinery, equipment, furnishings, and other articles of personal property now or hereafter placed in or on the Premises by Lessee, together with the proceeds from the disposition of those items) (the "Collateral"), now or hereafter placed in or upon the Premises, as security for payment of all Rental and other sums agreed to be paid by Lessee herein. The provisions of this Paragraph constitute a security agreement under the Texas Uniform Commercial Code, and Owner has and may enforce a security interest in the Collateral. The Collateral shall not be removed without the consent of Owner until all arrearages in rent and other sums of money then due to Owner hereunder have been paid and discharged. On the request of Owner, Lessee shall execute, as debtor, any and all financing statements deemed necessary by Owner, to perfect this security interest pursuant to the Texas Uniform Commercial Code. Owner may at its election at any time file a copy of this Lease as financing statement. Owner, as secured party, has all of the rights and remedies afforded a secured party under the Texas Uniform Commercial Code in addition to and cumulative of the Owner's liens and rights provided by law or by the other terms and provisions of this Lease.

18. **Surface Lease Only.** This Lease covers only the surface of the Premises and does not include any part of the mineral estate. This Lease is subject to any and all existing or future pipeline, road or utility easements and oil, gas or mineral leases covering the Premises or any part thereof, and the rights of the parties thereunder. Lessee shall not be entitled to any monies from operations on the Premises related to the mineral estate.

19. **Mechanic's Liens.** Lessee shall not permit any mechanic's or materialman's lien or liens to be placed upon the Premises, or any portion thereof, caused by or resulting from any work performed, materials furnished or obligation incurred by or at the request of Lessee, and in the case of the filing of any such lien, Lessee will promptly pay, bond off or obtain the release of same to the satisfaction of Owner. If Lessee's failure to comply with the provisions of this subparagraph shall continue for thirty (30) days, Owner may, but shall not be obligated to, pay the same or any portion thereof without inquiry as to the validity thereof, and Lessee shall repay any amounts so paid, plus expenses to Owner immediately on demand.

20. **Notices.**

a. **Payments.** All Rental and other payments required to be made by Lessee to Owner hereunder shall be payable to Owner at the address set forth in the Basic Lease Information or at such other address as Owner may designate in writing.

b. **Notices.** All notices required by this Lease shall be delivered by hand or sent by United States mail, postage prepaid, certified or registered mail, addressed as set forth in the Basic Lease Information, or at such other address as any of said parties have theretofore specified by written notice delivered in accordance herewith. Any notice or document (excluding Rental and other payments) required to be delivered hereunder shall be deemed to be delivered upon receipt if personally delivered, and whether or not received, when deposited in the United States mail, postage

prepaid, certified or registered mail (with or without return receipt requested), addressed as indicated above.

21. **Miscellaneous.**

a. **Right to Mortgage Interest.** Notwithstanding anything herein to the contrary, Lessee may mortgage, pledge or otherwise encumber Lessee's leasehold interest in the Premises and any improvements constructed on the Premises by Lessee; provided, however, that any such mortgage, pledge, or encumbrance shall in no event be construed to attach to or encumber in any manner Owner's interest in the Premises under this Lease or Owner's fee interest in the Premises.

b. **Net Lease.** Owner shall not be required to make any expenditure, incur any obligation, or incur any liability of any kind whatsoever in connection with this Lease or the financing, ownership, construction, reconstruction, maintenance, operation, or repair of the Premises or the improvements thereon.

c. **Board Approval.** This Lease is subject to the approval of the Board of Regents of The University of Texas System.

d. **Compliance with Laws.** Lessee shall, at Lessee's cost and expense, obtain any necessary licenses, permits or other necessary authorizations, and shall comply with all governmental laws, ordinances and regulations applicable to the Premises and Lessee's use thereof, including without limitation the following:

i. the Antiquities Code of Texas (Texas Natural Resources Code, Chapter 191) and applicable rules promulgated thereunder by the Antiquities Committee, or its successor. Lessee shall undertake its activities on the Premises in a manner consistent with public policy relating to the location and preservation of archeological sites and other cultural resources in, on, or under public lands, including University Lands. Lessee shall use the highest degree of care and all reasonable safeguards to prevent the taking, alteration, damage, destruction, salvage, or excavation of cultural resources and/or landmarks on University Lands. Upon discovery of an archeological site, Lessee shall immediately give written notice of such discovery to Owner and to the Texas Antiquities Committee, as set out in the Committee's rules. Lessee, its contractors and employees, shall have no right, title, or interest in or to any archaeological articles, objects, or artifacts, or other cultural resources located or discovered on University Lands.

ii. all federal, state, and local laws, regulations, and ordinances relating to Hazardous Materials and all other applicable environmental laws, regulations, and ordinances.

e. **Applicable Law.** This Lease shall be construed and interpreted in accordance with the laws of the State of Texas.

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

g. **Entire Agreement.** This Lease constitutes the sole and entire agreement between the parties and cannot be amended except by written instrument signed by both parties.

h. Binding Nature. This Lease shall be binding upon and shall inure to the benefit of Owner and Lessee, and their respective heirs, successors, assigns, and legal representatives. This provision does not constitute consent by Owner to any assignment or subletting by Lessee.

i. No Merger. If this Lease is a replacement or renewal between the parties, it is the intent of the parties that no merger take place, and that all obligations of the parties with respect to the previous lease will continue and not be affected by the execution of this Lease.

j. Relationship of the Parties. The relationship created hereby shall be the relationship of landlord and tenant and shall not be construed in any manner to constitute a partnership, joint venture, or principal-agent relationship between the parties hereto, and neither party shall have authority to bind the other, except as expressly provided herein.

k. Captions. The captions used herein are for convenience only and do not limit or amplify the provisions hereof.

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

22. Exhibits. All exhibits referred to in this Lease or in the Basic Lease Information are listed below and attached hereto and incorporated herein. If there are conflicts between any Exhibit and the body of this document, the document will control.

Exhibit A - Legal Description

IN WITNESS WHEREOF, the parties have executed this Lease to be effective as of the Effective Date shown in the Basic Lease Information.

OWNER:

THE UNIVERSITY OF TEXAS SYSTEM
BOARD OF REGENTS

Date: _____

By: _____
Richard Brantley
Executive Director of University Lands

Approved as to Content:

James R. Buice
University Lands

LESSEE:

Date: _____

By: _____

Name: _____

Title: _____

ACKNOWLEDGEMENTS

STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

This instrument was acknowledged before me on the ____ day of _____, 2016, by Richard Brantley, Executive Director of University Lands, University Lands, The University of Texas System, on behalf of The University of Texas System Board of Regents.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2016,
by _____, _____ on behalf of
said company.

Notary Public, State of Texas

EXHIBIT "A"

Description of the Premises



THE UNIVERSITY OF TEXAS AT AUSTIN

University Lands Solar Resource Discussion

Thomas F. Edgar, PhD

March 24, 2016

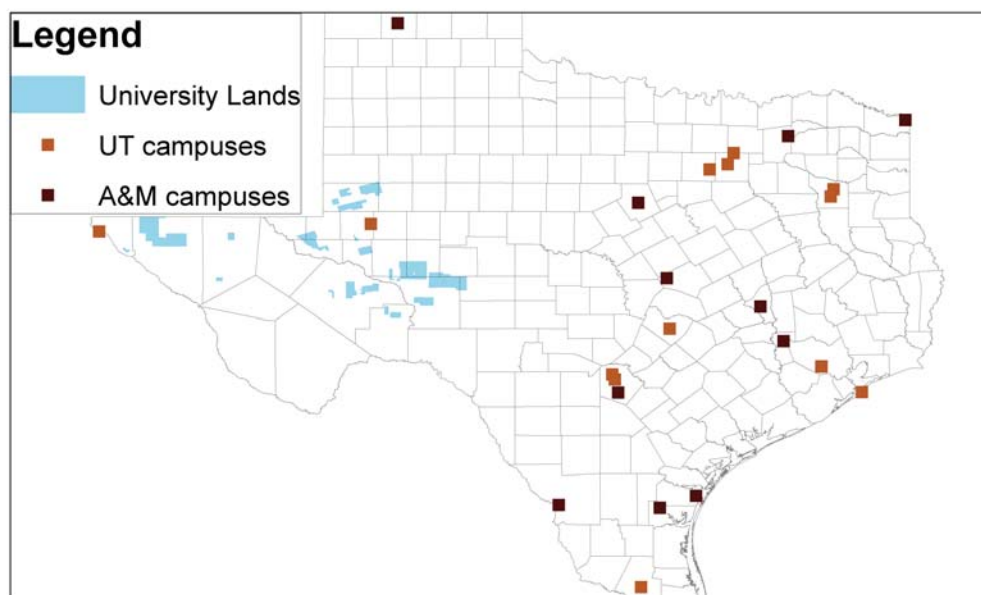
Austin, TX

University lands quick stats

- There are almost 3200 sections of UL lands.
 - 3,654 total square miles or 2,338,171 acres.
 - 1,709 blocks have Oil and Gas leases.
- The average block is 1.14 square miles or 732 acres.
- The average distance to a substation is 7 miles (many are less).
 - The higher the kVA rating, the better.
- You can build about 1 MW of solar capacity on 8-10 acres.
 - The average section could support a 70-90 MW array.
 - Multiple sections could be used for a bigger array.

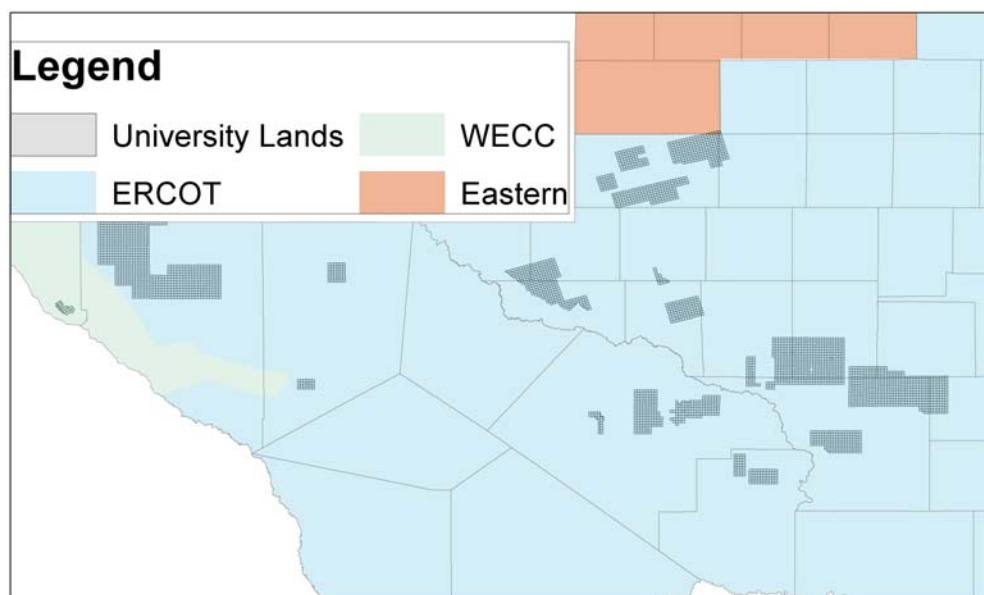
University lands are not co-located with campuses

- Most campuses are in Central, East, and South Texas.
- University lands are in West Texas.
- Location is not critical to business model.
- Most campuses purchase power through General Land Office.



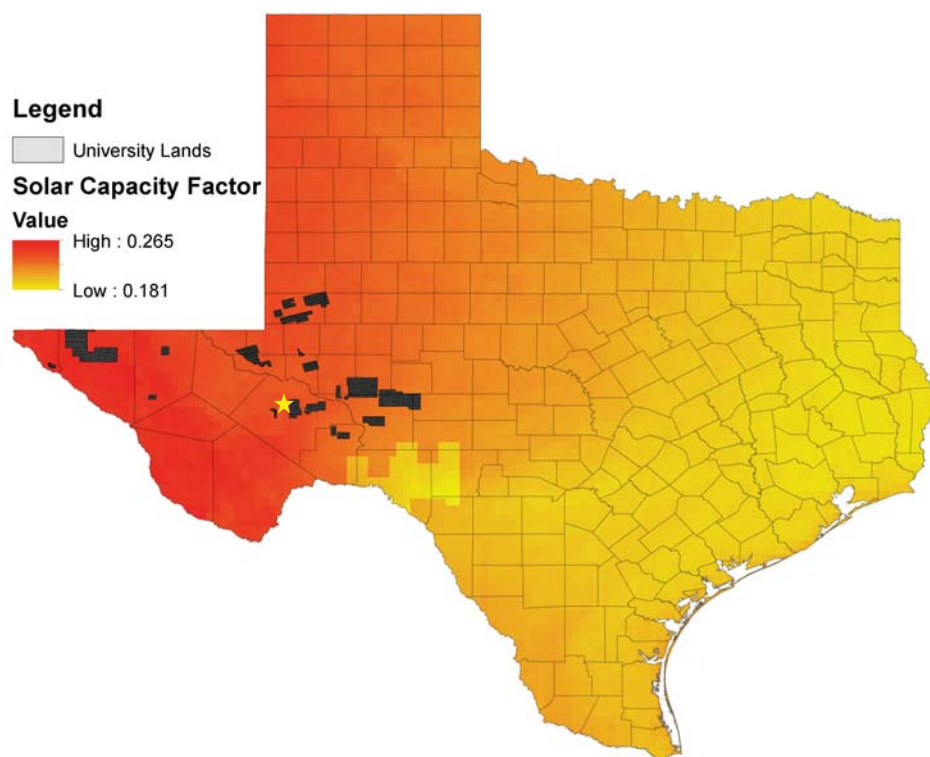
University lands can potentially explore development in all three interconnects

- Assets do not have to physically be in an interconnect to sell to it.
- Multiple options toward getting the maximum return.



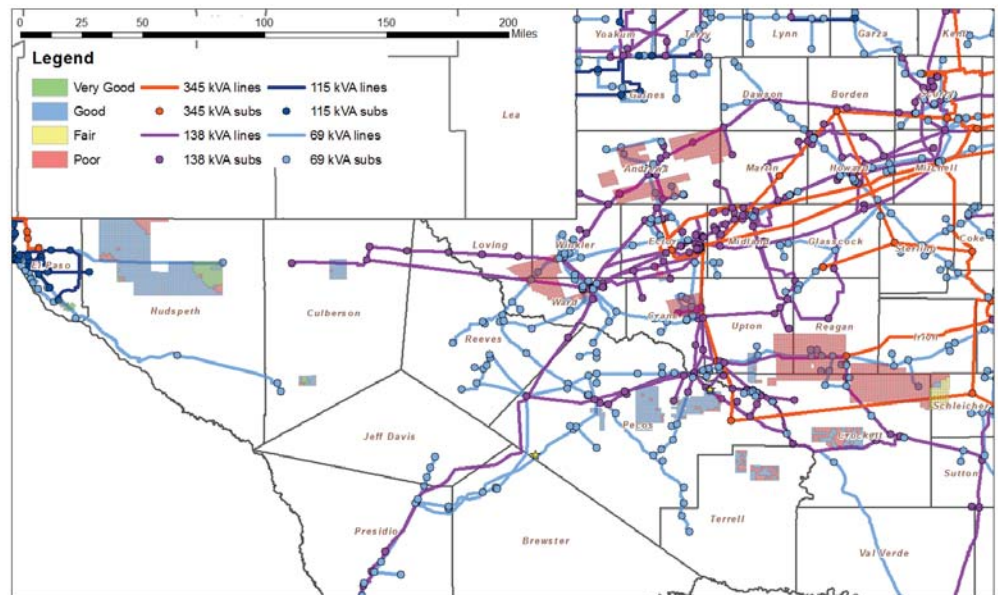
The two most important variables for good solar sites are 1) solar radiation

- Most of University lands are in excellent solar resources.
- The further west, the better.
- Lately installations are reporting better than modeled results for capacity factor:
First Solar Barilla: 30%



And 2) available transmission infrastructure

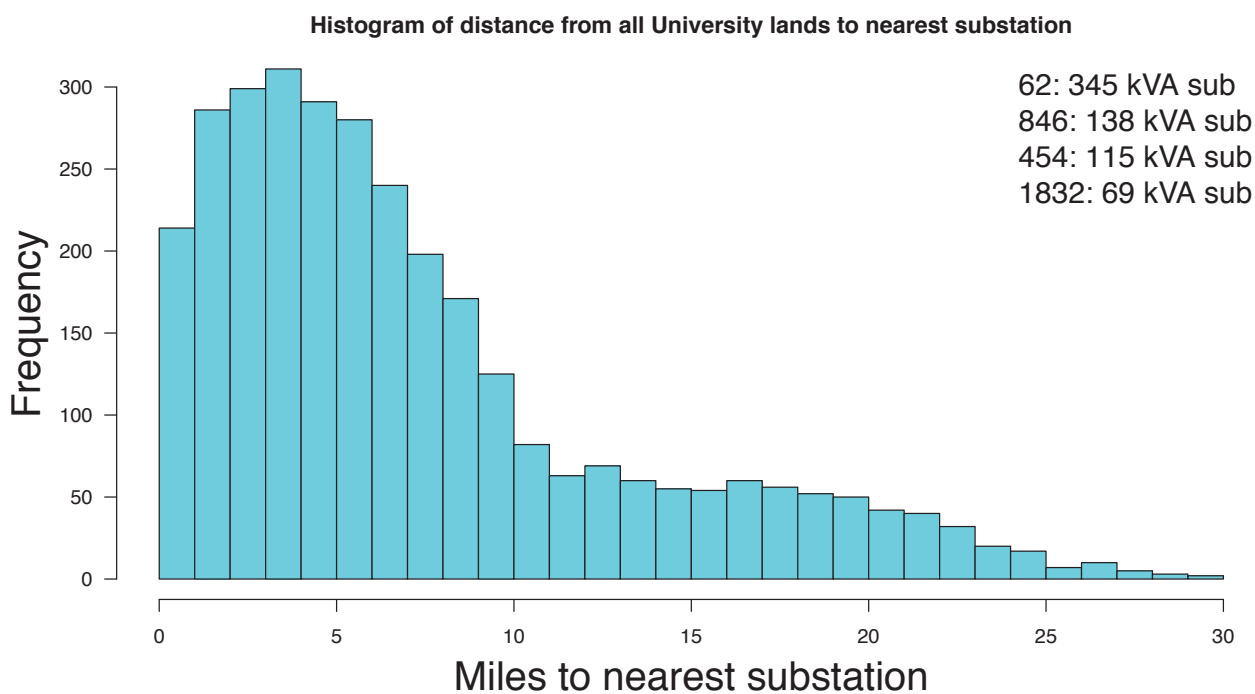
- Closeness to transmission line substations is preferred.
- Lines become more sparse further west.
 - A single 345 kVA circuit can carry about 850 MW
 - A single 138kVA circuit can carry about 175 MW
 - A single 69kVA circuit can carry about 75 MW



Summary of our University land grades

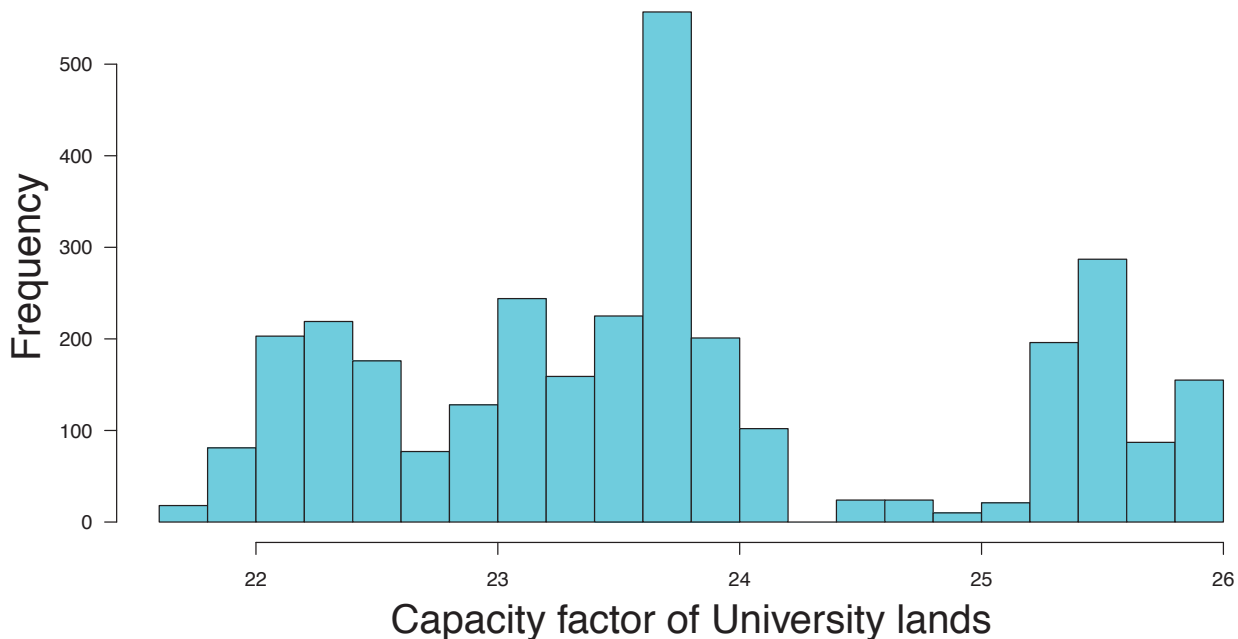
- We summarize the University lands attractiveness for solar development as follows:
 - **Very Good**
 - > 25% solar capacity factor, < 10 miles to a substation, and < 2 degree average slope of land, no Oil & Gas lease
 - **Good**
 - > 22% solar capacity factor, < 25 miles to a substation, and < 5 degree average slope of land, no Oil & Gas lease
 - **Fair**
 - < 25 miles to a substation, and < 5 degree average slope of land, no Oil & Gas lease
 - **Poor**
 - > 25 miles to a substation, > 5 degree average slope, Oil & Gas lease

All University lands are less than 30 miles from a substation



Most University lands are in areas with good solar resources

Histogram of average capacity factors of all University lands

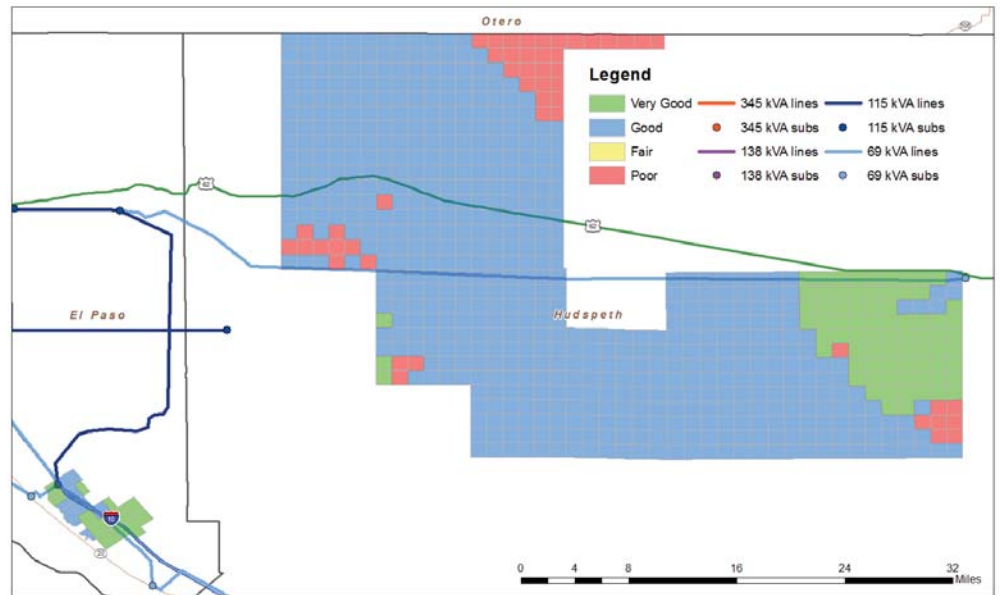


Each region of University land has different attributes

- El Paso and Hudspeth County
- Culberson County
- Loving, Ward, and Winkler County
- Pecos County
- Terrell County
- Crockett, Reagan, Schleicher, and Upton County
- Crane and Ector County
- Andrews, Gaines, and Martin County

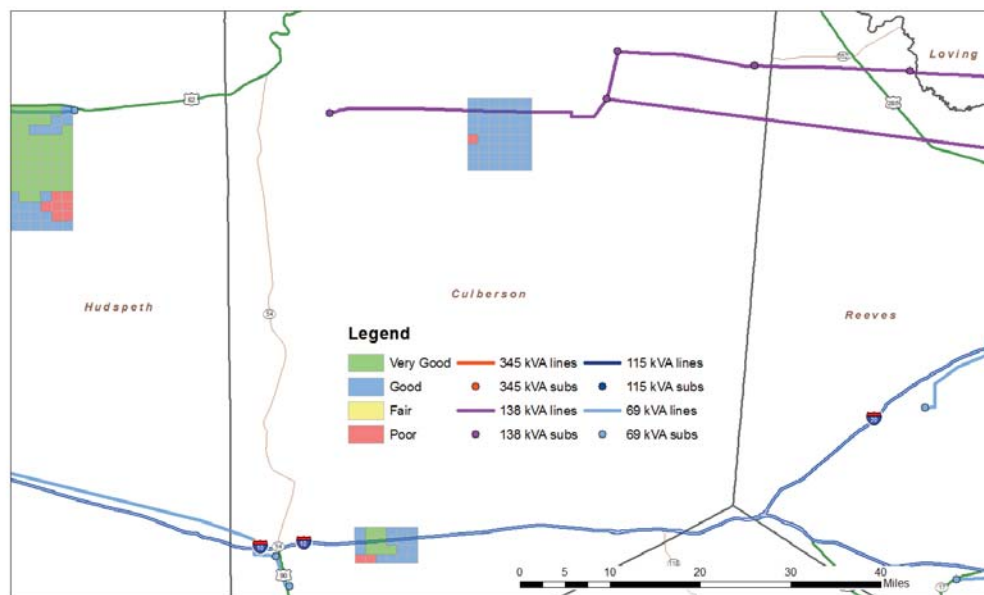
El Paso and Hudspeth County

- Total acres: 577,109
- Total sections: 732
 - Very good: 90
 - Good: 593
 - Fair: 0
 - Poor: 49
- Closest to 69 and 115 kVA transformers
- Mostly in WECC
 - El Paso Electric
- Oil & Gas activity: No



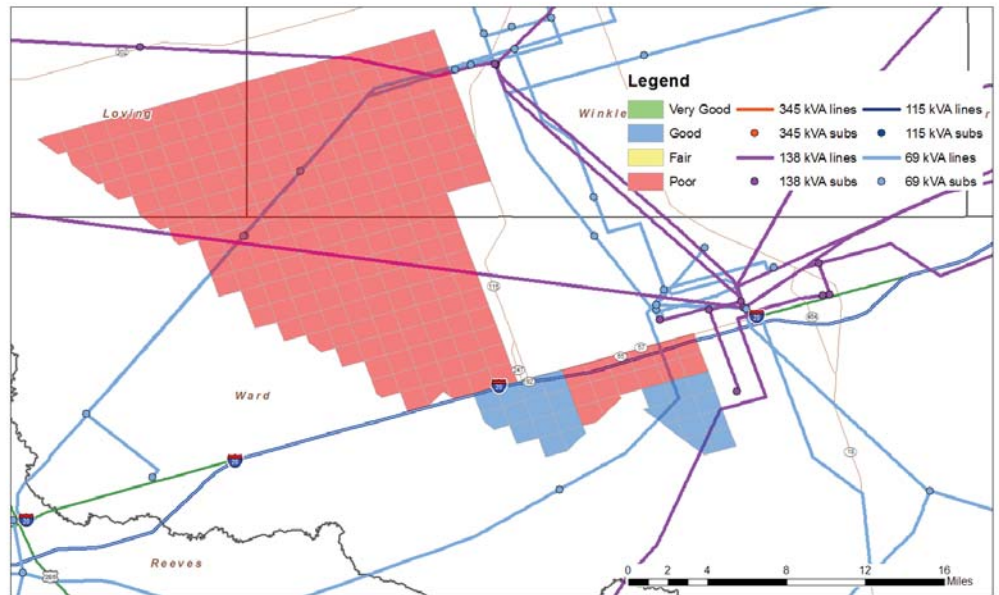
Culberson County

- Total acres: 52,502
- Total sections: 72
 - Very good: 7
 - Good: 62
 - Fair: 0
 - Poor: 3
- Closest to 69 and 138 kVA transformers
- Mostly in ERCOT
 - El Paso Electric (WECC)
 - TXU Energy
- Oil & Gas: No



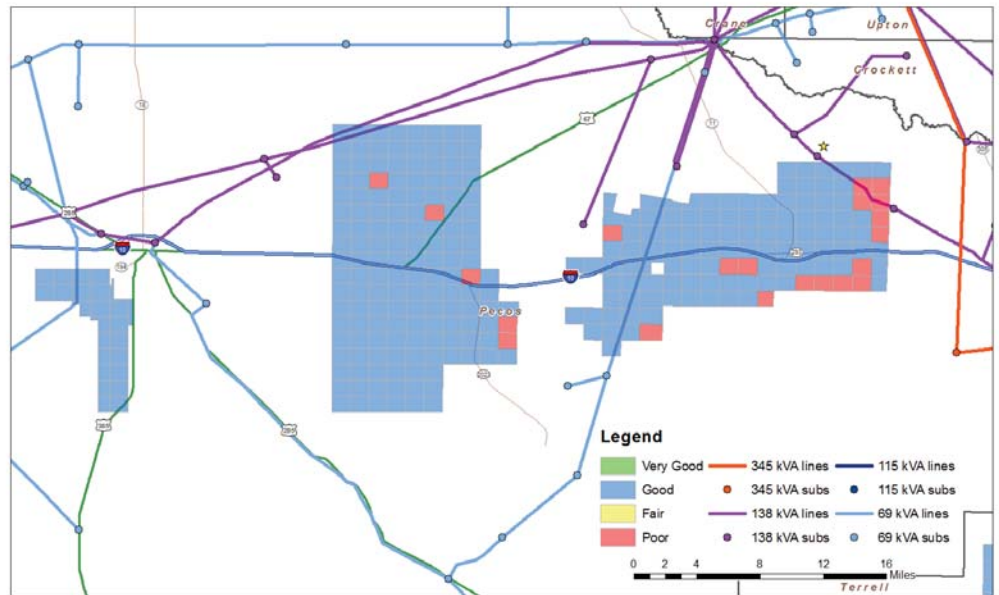
Loving, Ward, and Winkler County

- Total acres: 173,433
- Total sections: 245
 - Very good: 0
 - Good: 23
 - Fair: 0
 - Poor: 222
- Closest to 69 and 138 kVA transformers
- ERCOT
 - TXU Energy
 - TNP Enterprises
- Oil & Gas: Yes



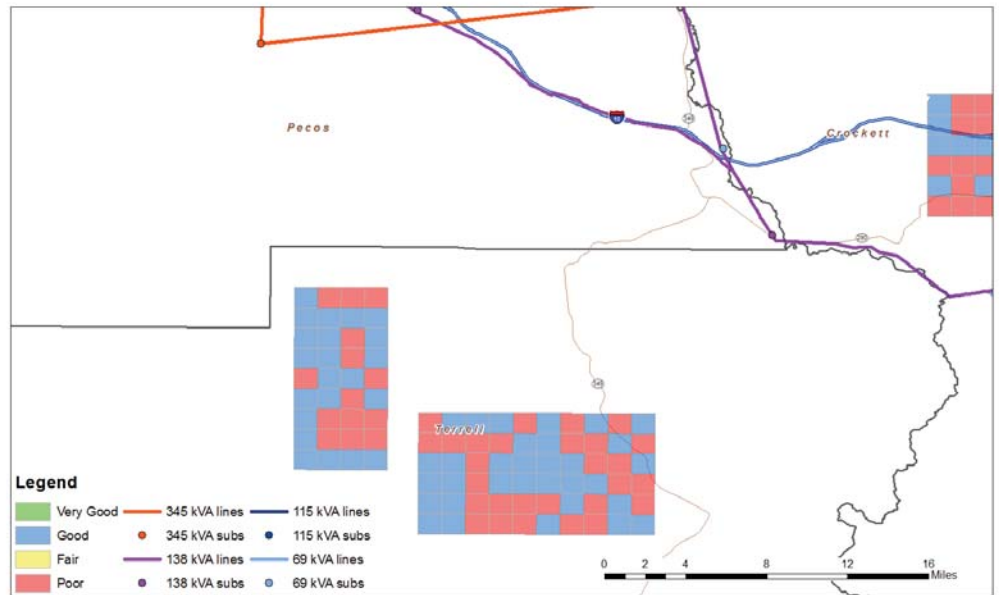
Pecos County

- Total acres: 209,173
- Total sections: 295
 - Very good: 0
 - Good: 274
 - Fair: 0
 - Poor: 21
- Closest to 69 and 138 kVA transformers
- ERCOT
 - TNP Enterprises
 - AEP Texas North
- Oil & Gas: No



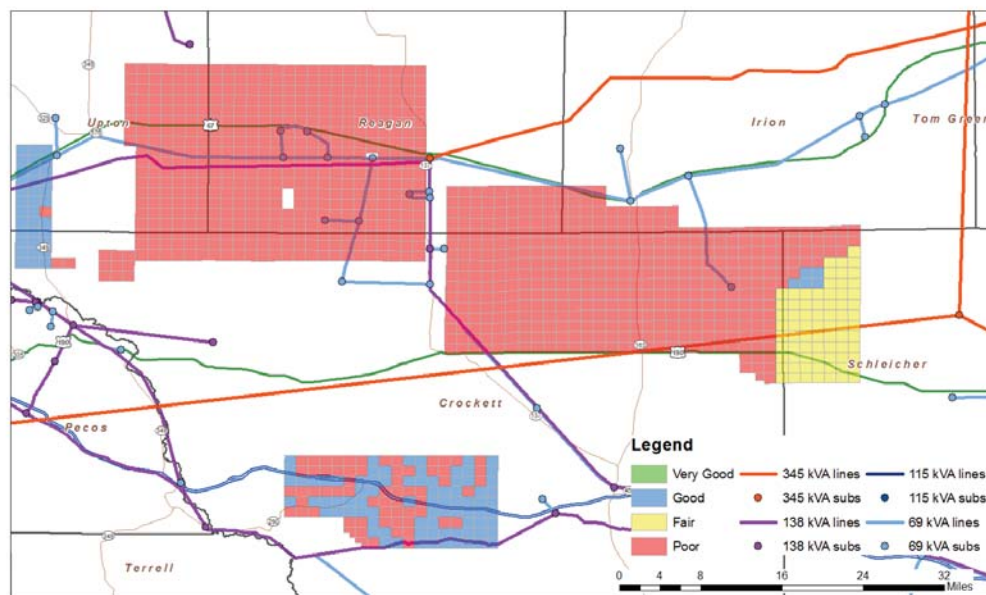
Terrell County

- Total acres: 68,381
- Total sections: 96
 - Very good: 0
 - Good: 54
 - Fair: 0
 - Poor: 42
- Closest to 69, 138, and 345 kVA transformers
- ERCOT
 - AEP North
 - ETT
 - TNP
- Oil & Gas: No



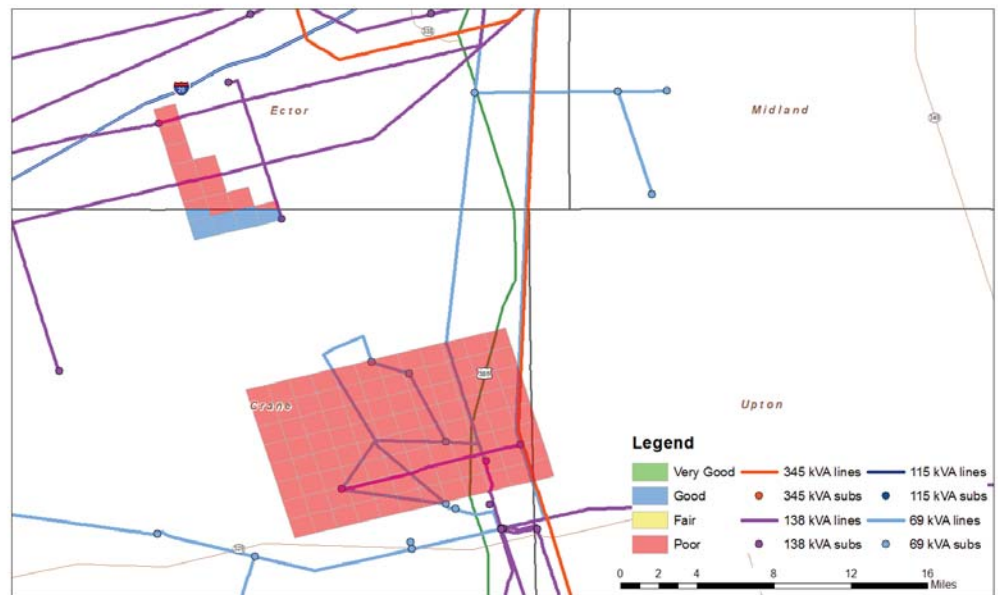
Crockett, Reagan, Schleicher, and Upton County

- Total acres: 806,395
- Total sections: 1,118
 - Very good: 0
 - Good: 122
 - Fair: 73
 - Poor: 923
- Closest to 69, 138, and 345 kVA transformers
- ERCOT
 - LCRA, TXU, Oncor, Cap Rock, AEP, ETT
- Oil & Gas: Yes



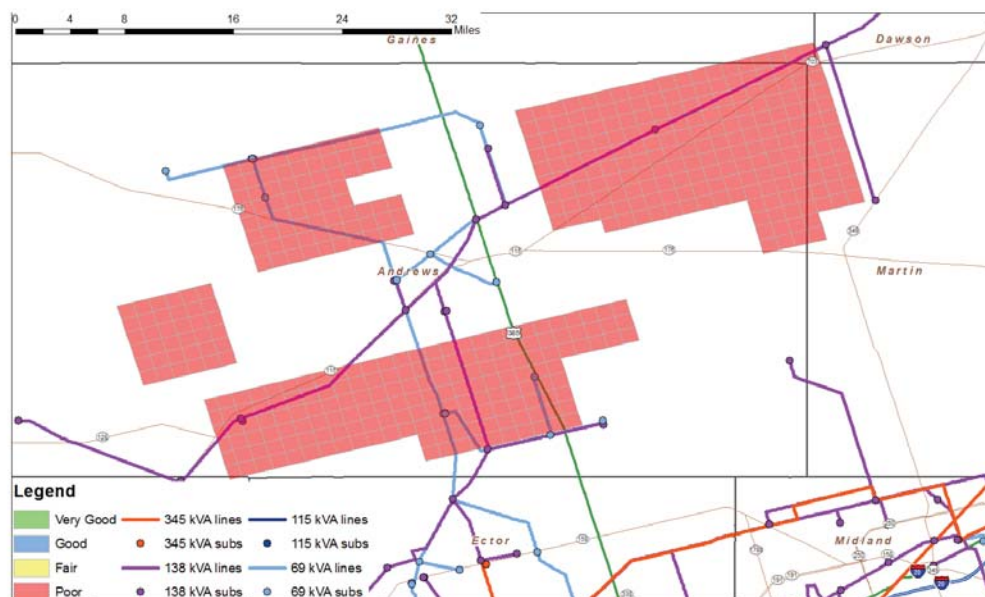
Crane and Ector County

- Total acres: 77,573
- Total sections: 111
 - Very good: 0
 - Good: 5
 - Fair: 0
 - Poor: 106
- Closest to 69 and 138 kVA transformers
- ERCOT
 - TXU, AEP North
- Oil & Gas: Yes



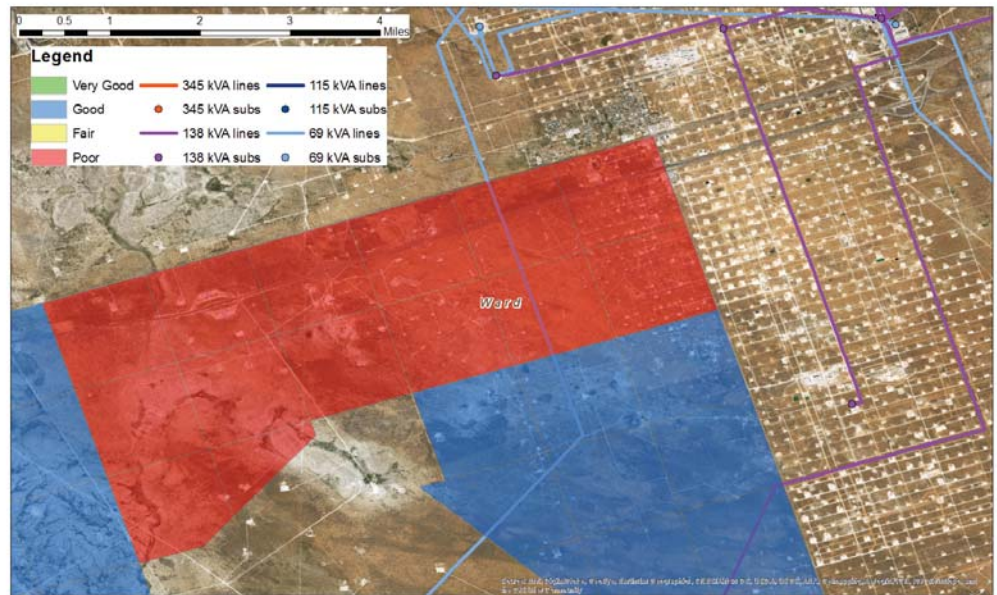
Andrews, Gaines, and Martin County

- Total acres: 345,900
- Total sections: 486
 - Very good: 0
 - Good: 0
 - Fair: 0
 - Poor: 486
- Closest to 69 and 138 kVA transformers
- Mostly ERCOT, but possible to Eastern Interconnect (SPP)
 - TXU
- Oil & Gas: Yes



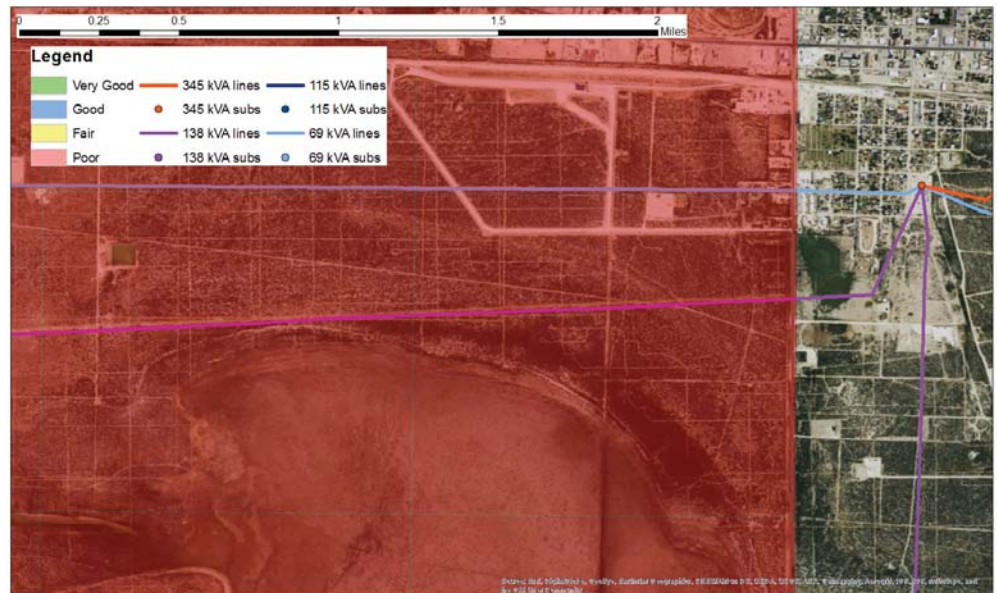
There might be some leased land w/o much oil & gas activity we could consider

- Ward County
- < 1 mile to multiple 138 kVA substations
- Even highly-developed sections could have room for development.
- Imagery from Google Maps



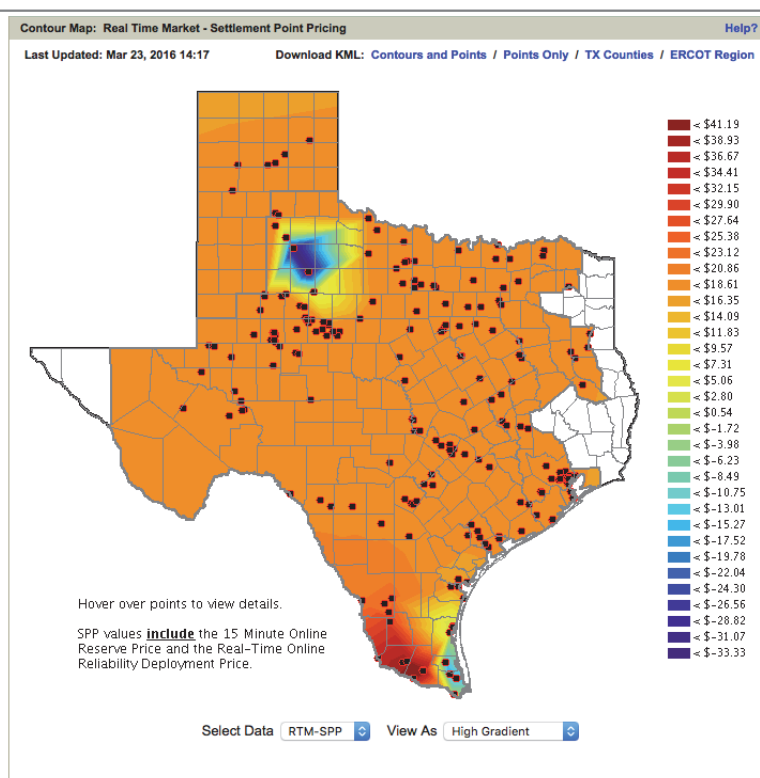
Some are close to CREZ (red) lines

- Reagan County - Big Lake, TX
- Not much activity on leased land
- Few miles to CREZ lines
 - Competitive Renewable Energy Zones
 - Higher capacity lines (345 kVA)



Spatial pricing will also need to be taken into account for revenue projections

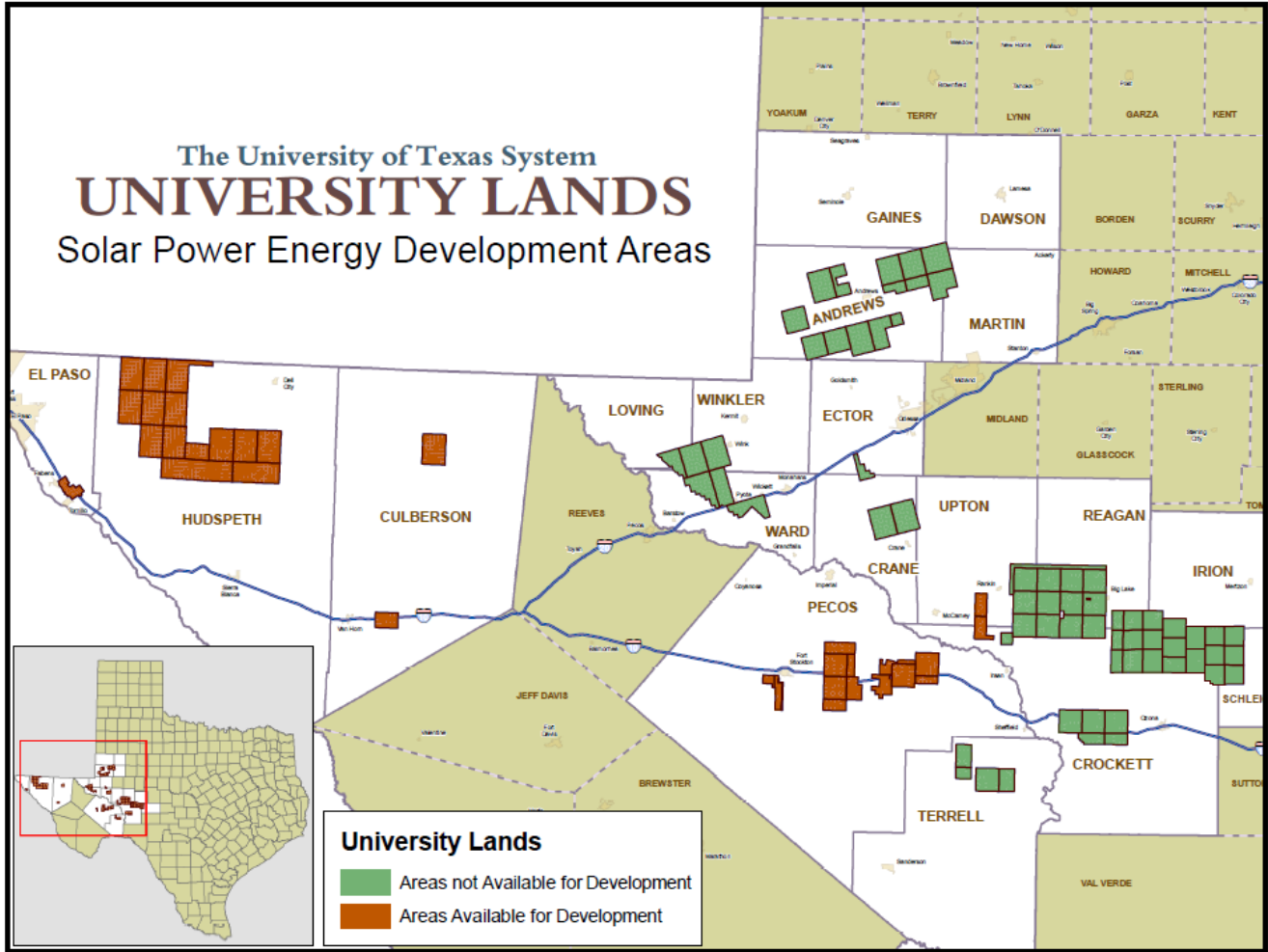
- Power plants are compensated based on the price at their location at a given time.
 - Power Purchase Agreements (PPAs) can create price floors and/or ceilings
- Future congestion studies of potential sites will be needed.



There are many factors that go into considering siting solar

1. There are multiple sites that offer placements rated very good and good.
2. The price of electricity paid by each campus is decoupled from prices for selling to the grid.
3. Recent costs to generate solar power are 3.8-5.5 cents/kWh.
4. Revenue is a function of *local grid* prices, driven by congestion. Locations further east likely will have less congestion.
5. Solar can produce multiple revenue streams, bulk power, trading Renewable Energy Certificates (RECS), and the Investment Tax Credit.
6. Financing will require a site study to predict local hub prices for 5 years or more.
7. UL might want to first pursue a land lease with a solar developer to learn how the project works.
8. If UL wants to own capital, partnering with a taxable entity for at least the first 6 years will be necessary to take advantage of the Investment Tax Credit (ITC).
9. Rice and SMU have recently entered into agreements for acquiring solar power.

APPENDIX FOUR
AVAILABLE PUF ACREAGE MAP



APPENDIX FIVE

**DISCLOSURE OF INTERESTED PARTIES
(Texas Ethics Commission Form 1295)**

This is a sample of the Texas Ethics Commission's FORM 1295 – DISCLOSURE OF INTERESTED PARTIES. Please use the Texas Ethics Commission electronic filing web page (at https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm) to complete the most current Disclosure of Interested Parties form and submit the form as instructed to the Texas Ethics Commission and University.

CERTIFICATE OF INTERESTED PARTIES		FORM 1295	
Complete Nos. 1 - 4 and 6 if there are interested parties. Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.		OFFICE USE ONLY	
1 Name of business entity filing form, and the city, state and country of the business entity's place of business.			
2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.			
3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the goods or services to be provided under the contract.			
4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary
5 Check only if there is NO Interested Party. <input type="checkbox"/>			
6 AFFIDAVIT I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.			
_____ Signature of authorized agent of contracting business entity			
AFFIX NOTARY STAMP / SEAL ABOVE			
Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20____, to certify which, witness my hand and seal of office.			
_____ Signature of officer administering oath		_____ Printed name of officer administering oath	
_____ Title of officer administering oath			
ADD ADDITIONAL PAGES AS NECESSARY			

Questions and Answers – RFP #UL-SOLAR-2016-1 – Updated 08/01/2016

1. Is the University planning on purchasing the power produced by the projects or is the University assuming only land lease for solar projects?

Please see **Additional Considerations** section in RFP under 5.3 Scope of Work.

Additional Considerations

UTS intends to offer PUF acreage for lease for this Project but will also entertain proposals which incorporate the option of UTS providing some level of equity or debt financing for the Project. Any financing by UTS would be subject to approval by the UTS Board of Regents, based on market terms, and would depend heavily on the financial capacity and company history of the Successful Respondent.

UTS will entertain proposals which incorporate the possibility of one or more of UTS institutions serving as a purchaser of some or all of the generated power.

UTS will also entertain proposals which incorporate an in-kind donation of easements or other assets by UTS if there is perceived financial benefit to UTS.

To further what is stated in the RFP, UT System has the ability to add renewables to its portfolio, will consider proposals that incorporate this option, and is interested in doing so provided that UT System determines that the proposed scenario makes financial sense for it to do so. However, it is unlikely that UT System would commit to being the sole purchaser of power generated from any proposed project given that UT System institutions are spread across multiple municipalities and grids, and that UT System's energy demand is somewhat seasonal in nature.

2. We noticed that the bidder documents do not include a Pro Forma PPA, nor are bidders asked to submit a form agreement or term sheet. Will there be a PPA or term sheet requested later on in the process?

Further information may be requested by UT System as the process continues, but PPAs and term sheets are not required from respondents in their initial applications. However, more information is generally good information.

3. Is the off-taker of the proposed system? I assumed it would be the University of Texas but there is a question in the Project Financing section that asks "what is the Power Purchase Agreement and who are the likely purchasers?"

Are we expected to find our own off-takers?

Yes, generally. Please see response to Question #1 above and language around Additional Considerations under 5.3 Scope of Work as it relates to UT System's participation in this type of project beyond a land lease.

Section 1.9.3 of Appendix 1 talks about Pricing and Delivery Schedule requirements that are mentioned in Section 6 of the RFP but I don't see a Section 6 of the RFP?

This was an error on our part. Please ignore any reference to Pricing and Delivery Schedule.

Should we offer PPA pricing, as well as lease pricing to the University of Texas as part of this RFP?

Questions and Answers – RFP #UL-SOLAR-2016-1 – Updated 08/01/2016

Please see response to Question #1 above and language around Additional Considerations under 5.3 Scope of Work as it relates to UT System's participation in this type of project beyond a land lease.

We assume most responses will include a proposed schedule of lease payments.

Section 5.3 of the RFP states that "Respondents shall specify the proposed revenue to UTS"...is this implying PPA pricing and lease payments?

Please see response to Question #1 above and language around Additional Considerations under 5.3 Scope of Work as it relates to UT System's participation in this type of project beyond a land lease.

We assume most responses will include a proposed schedule of lease payments.

4. Are we expected to have started the interconnection process and have conducted congestion analysis prior to submitting for this RFP? These are questions in Section 5.2.4.2

Based on the proposed site selection, some level of these types of analyses would be important to assessment of the project.

5. The University Land Solar Resource Discussion document lists suitable areas in many counties...should we only focus on the lands in the 5 counties mentioned in the RFP.

The map provided in Appendix Four of the RFP titled "The University of Texas System-University Lands-Solar Power Energy Development Areas" correctly represents the PUF acreage available for solar development.

PUF acreage in 6 counties is available for solar development: El Paso, Hudspeth, Culberson, Pecos, Upton and Crockett.

It was an error on our part to not mention Crockett County in the list of counties spelled out in the RFP.

The UT Energy Institute's Resource Discussion document was provided as supplemental information and was an assessment of all of PUF acreage, not just the areas currently available for development.

6. Are there KMZ or ArcGIS shapefiles available for the lands available for solar development? If so, could these be provided as soon as possible?

Yes, these can be provided upon request by contacting grp-rfpvq@utsystem.edu and they will be sent to you.

7. Is there any chance that UT System would be a financier/investor in the project? What about UT System or A&M Systems as the offtaker(s)? (We received a lot of questions along these lines and have just posted one response.)

Yes, there is a chance that UT System would be a financier/investor, but it would have to make economic sense. One or both of the school systems could be the offtaker as well. The appetite for adding renewables to our portfolios is there, but any proposed arrangement needs to be one that works to our benefit. We can't just do it to do it. There is a desire to be green, but the economics and greenness need to demonstrate equal benefit..

Questions and Answers – RFP #UL-SOLAR-2016-1 – Updated 08/01/2016

We are looking to developers to propose creative ways to take advantage of the large blocks of contiguous acreage with one single landowner, the investment tax credit opportunities, the grid proximities, and the potential option of the school systems as purchasers of the power and maybe even investors in the project.

Ideas that incorporate use of stranded natural gas; desalination of water; energy storage; designs that easily allow for o&g development alongside solar; designs that include single, large swaths of panels or multiple, smaller swaths of panels are all welcome and encouraged.

It should be noted that we are not looking for one “winner.” We are not committed to necessarily selecting just one project or even any project at all. Bidders are somewhat competing against each other but are more competing with the economic viability of their own proposed project.

8. Can we submit more than one proposal?

Yes. They would, however, still need to be submitted as one (1) single PDF with each separate proposal bookmarked within the pdf. Please contact the email address in Section 2 of the RFP for any clarification around formatting.

9. Has UT System/UL ever participated in financing anything like this before?

Yes. We recently took a 10% carried equity interest in a midstream gathering project.

10. Does the minimum 50 MW project have any correlation with demand of UT System?

No, we chose 50 MW because we deemed that the threshold for a “good sized” project. If we are going to do this, we want something somewhat substantial. In comparison with UT System’s total power use, 50 MW is low.

11. Is there any info that could be shared in terms of demand/power use at UT System?

It’s very complicated. We have 14 institutions spread across ERCOT and WECC, some self-generate (UT Austin, for example), some are in municipally owned utilities and some in unregulated ones. Any specific questions on this topic can be sent to the email address in the RFP and will be directed to the right person.

12. Are there any surface, or other, leases that UL is contractually obligated to that might affect development in specific areas within the counties available for development?

Most of the land available for solar development is currently leased out for grazing leases. Those leases, however, can be altered at our request/demand. We are willing to make arrangements to accommodate solar development. For example, if there is a cell tower on your selected development site and that’s a project we decided to go with, we could have the cell tower relocated. Oil and gas development is currently pretty minimal in the areas available for solar development, so we don’t anticipate that type of conflict; however it should be noted that oil and gas royalties are our main source of revenue so projects that conflict with oil and gas development would unlikely to be accommodated/selected.

13. What is the composition of the Evaluation Team?

A mix of UL management, UT System finance/business development, and energy experts from the UT Energy Institute.

Questions and Answers – RFP #UL-SOLAR-2016-1 – Updated 08/01/2016

14. What The Lease Agreement included in the RFP is a ten year agreement. Is UL willing to accommodate terms beyond ten years?

In some cases, we are statutorily limited to ten years, so ten years is our standard lease. In this case, we would be able to go beyond ten years and would be willing to extend this to 40 or maybe even 50 years. We, however, don't know what the future will bring and would expect periodic assessments of the lease agreement.

15. Could you please elaborate on paragraph 2 in section 2.3, especially definition of and/or examples of "services to the University" and "discounts that may be available to the University in a contract for services?"

This section is general UT System RFP language. Please see Section 5.2 for a more detailed list of the evaluation criteria, as well as Section 5.3, specifically under Additional Considerations.

16. Could the University confirm that there are no active operating mineral leases in the offered sections? If there are active operating mineral leases, could the University provide details in offered section?

University Lands has an online oil and gas lease map available (<http://gis.utlands.utsystem.edu/webmapjs/index.htm>) that should help with locating leases.

17. Will the University be open to extending the statutory easement term length? If so, what's the maximum term and structure for extension?

Please see response to question #14 above.

18. In the .kmz provided, we noticed in the initial deck that ~2million acres were up for lease. In the shapefile there seems to be approximately 750k acres. Were certain parcels already removed from consideration for leasing?

Total University Lands (UL) acreage is ~2.1 million acres. For this solar development RFP, UL has opened up only the acreage indicated on the map in Appendix Four of the RFP, which includes all of its acreage holdings in El Paso, Hudspeth, Culberson, Pecos and Upton counties, as well as a small portion of its acreage in Crockett County. The area available for solar development spans approximately 766,300 acres.