

TRACT 1, U-MED PROFESSIONAL PARK SUBDIVISION Request for Proposals for Ground Lease Anchorage, Alaska

Responses to Written Questions

- Article V, Section A. Please confirm which provisions of the lease will not be negotiable following proposal selection (e.g., ground lease only with no purchase rights; base rent rate; no period of zero or reduced rent or other irregular lease payments; periodic adjustments to rent; maximum term duration including unilateral options, etc.).

Please review the following provisions and the responses:

- A. Ground lease only with no purchase rights: [not negotiable](#)
 - B. Base rent rate: [base rents below the minimum will not be negotiable](#)
 - C. No period of zero or reduced rent or other irregular lease payments: [not negotiable other than under Force Majeure](#)
 - D. Periodic adjustments to rent: [not negotiable below the minimum](#)
 - E. Maximum term duration including unilateral options: [not negotiable above the maximum 55 years; extensions past that 55-year level will be dependent on agreement by both parties and not a unilateral option.](#)
- Developments typically are effectuated using a single purpose entity, that is under the control of an experienced development firm. Please harmonize the RFP, including but not limited to Article III, Sections 4 and 5, to meet the University's needs while still allowing for the lessee to be a single purpose entity. In other words will the qualifications of a member or manager of the bidder be considered even if it is not the actual bidder? [Single purpose entities are not prohibited from becoming Lessees, and qualifications of a member or manager of the bidder may be considered as attributable to the bidder. The University may reserve the right to have the member or manager sign appropriate guarantees.](#)
 - Questions relating to Section 9 of the Lease:
 - A. If a rezone is required for commercial development, will lease payments be due during the rezone effort? Please confirm the answer is non-negotiable per question No. 1 above. [Yes, lease payments will be due during the rezone effort. Lease payments will not be suspended during that period. This is not considered a negotiable item.](#)
 - B. Will the University permit the successful proposer to initiate rezone efforts post-award during the lease negotiation period? [Yes, the University will permit the successful proposer to initiate rezone efforts post-award during the lease negotiation period.](#)
 - C. If the rezone requires an update to the UAA master land use plan will the University obtain that update to the plan? If the revised master plan is not approved by the UAA, would the termination under Section 9 be applicable? Since the 2022 UAA campus master plan notes that this lot is being considered for disposal, it is not anticipated that an update to that master plan will be necessary. [If for some reason the rezone requires](#)

an update to the UAA campus master plan, the University will pursue Board of Regents consideration of that amendment to the campus master plan on an expedited basis in cooperation with the successful proposer. If Board disapproval of that amendment results in the successful proposer's inability to proceed, termination under section 9 will be applicable.

- D. What position does UAA take on whether the UAA Master Parking Plan requires updating in order for a rezone to B-3? UAA does not anticipate that a rezone will require a change to the UAA Master Parking Plan.
- E. If the rezone effort takes longer than one (1) year through no fault of Lessee, what is the basis for Lessor having a termination right? See Lease at Section 9(a). We propose the termination right being unilateral to Lessee, particularly if there is no abatement to rent during this period. If the University as Lessor determines that the Lessee has failed to exercise due diligence in pursuing the rezone effort, the University reserves the right to terminate. The University has an interest in having the revenue stream from the Lease start up within a reasonable period. The University understands that despite due diligence there may be unforeseen delays in a rezone effort for reasons beyond the control of the successful proposer. The University expects to be kept informed of the status of the effort and of the reasons for any delays.
- F. In the event of termination under Section 9 of the Lease will the RFP deposit and the additional security deposit under the Lease be returned to Lessee? If the successful proposer acts in good faith in terminating under Section 9 of the Lease, the RFP deposit and additional security deposit will be returned to the Lessee.
- If the selected proposer and the University are unable to finalize the lease despite good faith negotiations during the lease negotiation period, is the University still seeking to retain the deposit as liquidated damages? Yes, the University reserves the right to retain the deposit as liquidated damages. If the University is convinced of the good faith negotiations of the successful proposer, the University may propose modifying the disposition of the security deposit.
 - Please confirm we are correct in assuming that a proposal that is negotiated on a "case-by-case basis" per the RFP must still comply with the stated parameters of the RFP, including but not limited to the non-negotiable lease terms per question No. 1 above. Yes, the reference to further negotiations on a "case-by-case" is not intended to vary the parameters referred to in the response to the first question above.
 - Under Article 3, Section 2(c), what is intended as the "anticipated time frame for due diligence"? Is it contemplated that the successful proposer would have the right to conduct due diligence during the six-month lease negotiation period? If due diligence revealed environmental contamination such that under Section 9(b) would warrant termination of the lease, would the proposer be entitled to refund of its deposit? In addressing the anticipated time frame for due diligence, proposers should include any plans the proposer has for seeking a rezone and for any environmental base line study, including a reasonable estimate for completion of those steps, together with any other plans for seeking appropriate permitting or other authorizations for the type of structure contemplated. The University intends to allow the successful proposer to proceed with such due diligence during the lease negotiation period. If environmental contamination to a significant degree sufficient to lead the successful proposer to terminate the lease under section 9(b), the University would refund the deposit.
 - For the Base Term of 55 years noted in the Sample Lease and the University's goal to control the parcel development and how it dovetails into the broader UA mission, it was suggested for the language to allow further unilateral options to extend the term by an additional 25 years for as long as the Proposer's mission still aligns with UA and continues to be mutually beneficial. While the University understands the reasons why a unilateral option on the part of the Lessee to extend the lease beyond 55 years would be advantageous, the Board of Regents is not willing to commit the University to any unilateral options beyond that time frame.
 - For submitting documentation for Section V. General Terms and Conditions, B) Examination of Proposer's Financial Background, could you please clarify the process or situation whereby the financial information marked "CONFIDENTIAL" is subject to potential release to parties other than UAA. Any proposer will be

allowed to submit financial statements, or portions thereof, marked as proprietary and confidential and the University will respect that. The University is subject to the Alaska Public Records Act, and if there is a public records request made, the University will notify the proposer and will not voluntarily convey documents marked as proprietary and confidential. Ultimately, the University's public records determinations may be reviewed by a superior court.

- **With regards to Section V. General Terms and Conditions, F) Use of Deposit as Liquidated Damages, the concept is generally sound and acceptable, but we note that it fails to distinguish situations where UAA opts not to move forward to execute the lease even if the proposed Lessee accepts terms generally consistent with the submitted proposal. Is that UAA's intent? If UAA decides not to move forward with execution of the lease even though the successful proposer is willing to accept terms consistent with RFP and with its proposal, UAA does not intend to retain the deposit as liquidated damages, as long as the successful proposer has acted in good faith.**

RFP Public Notice Webpage Where Documentation is Available:

<https://www.alaska.edu/ualand/public-notice/2023/rfp-lake-otis-prov.php>