

EXECUTIVE SUMMARY

ITEM NAME: Second Amendment to the Project Master Lease between the Arizona Board of Regents and the Campus Research Corporation for Portions of The University of Arizona Science and Technology Park (UA)

Action Item Discussion Item Information Item

Issue: The University of Arizona is requesting approval of a Second Amendment to the Campus Research Corporation (CRC) Project Master Lease with the Arizona Board of Regents (Board) for land and improvements within portion of the University of Arizona Science and Technology Park (Tech Park).

Previous Board Actions:

- ▶ The Board approved a Master Lease with the Campus Research Corporation, formerly known as the Rita Road Campus Corporation, for land and improvements within portions of the Tech Park known as the "Project", August 1994.
- ▶ The Board approved amendments to the Project Master Lease, August 2006.
- ▶ The Board approved master leases with the CRC for the land outside the Project area of the Tech Park and for the land within the Arizona Bioscience Park (Bio Park), June 2009.

Statutory/Policy Requirements:

- ▶ Board Policy 7-207 requires Capital Committee review and Board approval of all lease agreements and amendments.

Project Justification/Strategic Implications:

- ▶ The Tech Park is located on 1,345 acres of land in the southeastern portion of the Tucson metropolitan area.
- ▶ The mission of the Tech Park is to support the education, research and public service mission of the University, facilitate and accelerate University technology development and commercialization, contribute to the economic development of the region and state, and generate economic value and return to the University.

Contact Information:

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- ▶ CRC is an independent, Arizona non-profit corporation organized solely to assist the Board on behalf of The University of Arizona in the acquisition, financing, improvement and operation of campus, research parks and related properties, including the design and development, construction, marketing and leasing of commercial land and space.
- ▶ The “Project” encompasses the developed portion of the Tech Park. It includes 345 acres of land and 2 million square feet of leasable office, research and production space.
- ▶ The proposed amendments are designed to bring the Project Master Lease into conformance with the two other master leases for the Tech Park and Bio Park that the Board approved in June of 2009.
- ▶ The amendments also conform the lease to current state statute regarding “Unlimited Manufacturing.”
- ▶ Raytheon Missile Systems is one of the largest tenants at the Tech Park, occupying more than 550,000 square feet of space. The company has requested an amendment to the “Unlimited Manufacturing” clause in the Project Master Lease. This change would recognize that Raytheon conducts limited manufacturing and testing on site.

Project Description and Scope:

- ▶ The Board is being asked to approve five amendments to the Project Master Lease: (1) Additional Rent provision, (2) Annual Report requirement, (3) Unlimited Manufacturing provision, (4) modifications to the Repair and Fire Insurance provision, and (5) current address for CRC.
- ▶ The current “Additional Rent” provision requires payment by CRC of net proceeds from the development and operations of the Project at the Tech Park on a quarterly basis. The lease amendment changes this to an annual payment based on the annual financial audit.
- ▶ The “Annual Report” provision is modified to change the deadline for reporting to the Board from February 15 to September 15 to be consistent with the Bio Park Master Lease and to correspond with the end of CRC’s fiscal year.
- ▶ The current lease prohibits “Unlimited Manufacturing.” State law permits “Unlimited Manufacturing” for leases executed prior to July 31, 1996. This amendment brings the lease into conformance with state law and responds to Raytheon’s request. Per the request of the Capital Committee, legal counsel will develop terminology for the manufacturing component of the lease.

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- ▶ The provision for “Repairs and Fire Insurance” is modified to allow CRC to meet its insurance requirements as long as ABOR and CRC are named as additional insureds. Fire insurance within the “Project” is covered under the Project Operation Agreement (POA) through an insurance policy purchased by IBM as the Managing Operator.
- ▶ The address for CRC is revised to reflect its new location at the Tech Park.

Project Status & Schedule:

- ▶ The lease amendments will be executed immediately on approval of the Board.

Appendix:

- ▶ Exhibit 1: Second Amendment to CRC Lease

Committee Review and Recommendation:

- ▶ The Capital Committee reviewed this item at its September 9, 2009 meeting and recommended Board approval with the provision that legal counsel develop terminology for the manufacturing component of the lease.

Recommendation:

- ▶ That the Board grant approval to the Second Amendment to the Project Master Lease between the Arizona Board of Regents and the Campus Research Corporation for Portions of The University of Arizona Science and Technology Park, as presented in the Executive Summary, and with the provision that legal counsel develop terminology for the manufacturing component of the lease.

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[Exhibit 1: Second Amendment to CRC Lease]

SECOND AMENDMENT TO LEASE

This SECOND AMENDMENT TO LEASE (the "Amendment") is made as of September ____, 2009, by and between the Arizona Board of Regents for and on behalf of the University of Arizona ("Lessor") and Campus Research Corporation, an Arizona nonprofit corporation formerly known as Rita Road Campus Corporation ("Lessee").

Recitals:

A. Lessor and Lessee are parties to a lease dated as of August 5, 1994, as amended by the First Amendment to Lease dated July 30, 2007, with respect to the Premises described therein (collectively, the "Lease").

B. Lessor and Lessee desire to further amend the Lease on the terms and conditions set forth herein.

Terms:

Accordingly, Lessor and Lessee agree as follows:

1) Additional Rent. The second full paragraph under Section 5(b) of the Lease is deleted in its entirety and replaced with the following:

"Additional rent shall be payable annually on or before the fifteenth (15th) day of July, in an amount equal to the amount by which the Lessee's total gross receipts for the fiscal year (July 1 – June 30) then ended exceed the total amount of authorized retentions for expenses of operations, improvements, and development for said fiscal year."

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2. Annual Reports. The first full paragraph under Section 5(c) of the Lease is deleted in its entirety and replaced with the following:

"On or before September 15th of each year, the Lessee shall provide the Executive Director of the Arizona Board of Regents with financial statements for the immediately preceding calendar year, prepared according to generally accepted accounting principles. The financial statements shall include a certified statement attesting to all net proceeds received by the Lessee from any source related to the Property and this Lease. If requested by the Lessor, the Lessee will provide the financial statements along with the audit report thereon of a firm of independent certified public accountants acceptable to the Lessor."

3. Unlimited Manufacturing. Section 6(e) of the Lease is deleted in its entirety and replaced with the following:

" (e) [Intentionally Omitted.]"

4. Repairs and Fire Insurance. The second sentence of the second paragraph of Section 13 is deleted in its entirety and replaced with the following:

"Notwithstanding the foregoing, with respect to buildings constructed on the Premises, the Lessee shall be deemed to have satisfied the insurance requirements of this Section if the required insurance is provided by sublessees or by the Managing Operator under the POA, with the Lessor and the Lessee as additional named insureds or accompanied by an assignment of proceeds therefrom, as their respective interest may appear."

5. The address for the Lessee set forth in Section 18 of the Lease is revised in its entirety as follows:

"Campus Research Corporation
9070 S. Rita Road, Suite 1750
Tucson, Arizona 85747
Attention: Park Director

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With a copy to:

"Haralson, Miller, Pitt, Feldman & McAnally, P.L.C.
One South Church Avenue, Suite 900
Tucson, Arizona 85701
Attention: T. Patrick Griffin"

7. Counterparts. This Amendment may be executed in counterparts, and shall not be effective until each party has executed and delivered a counterpart hereof to the other party.

8. Ratification. Except as specifically modified by this Amendment, all terms and conditions of the Lease are hereby ratified and confirmed.

IN WITNESS WHEREOF, the parties have executed this Second Amendment to Lease as of the day and year first above written.

CAMPUS RESEARCH CORPORATION,
REGENTS,

ARIZONA BOARD OF

an Arizona nonprofit corporation

for and on behalf of the University of
Arizona

By: _____

By: _____

Its: _____

Its: _____

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State of Arizona)
) ss.
County of Pima)

The foregoing instrument was acknowledged before me this _____ day of
September, 2009, by _____, the
_____ of Campus Research Corporation, an Arizona nonprofit
corporation, on behalf of the corporation.

Notary Public

My commission expires:

State of Arizona)
ABOR CRC 2nd amend to lease

