

THE BRACKENRIDGE TRACT: FREQUENTLY ASKED QUESTIONS

Prepared by the UT System Real Estate Office - August 2006

1. How much land is included in the Brackenridge Tract?

The 1910 deed from Colonel George W. Brackenridge conveyed 503 acres to the State of Texas “for the benefit of The University of Texas.” Ninety-five acres were located on the west bank of the Colorado River and 408 acres were located on the east bank. Since that time, however, some acreage was conveyed for streets and for similar purposes. Additionally, in 1991 and 1992, acreage on the west side of the river was sold for development as a residential subdivision. Thus, there now remain approximately 345 acres in the Brackenridge Tract, all on the east side of the river.

2. Did the deed from Colonel Brackenridge restrict the use of the Brackenridge Tract?

The deed conveyed the property “*in trust for the benefit of the University of Texas, as a part of the permanent fund of said University,*” with the stipulation that if the property was sold or conveyed before the death of the last of certain individuals named in the deed, title to the property would vest in Jackson County. Otherwise, upon the death of the last survivor of those named individuals, the property would fully vest in “*the State of Texas for the benefit of the University of Texas as a part of said permanent fund with the request merely on my part that it never be disposed of but be held permanently for such educational purposes.*” Legal actions taken by the Board of Regents in the 1960s, as detailed in the 1973 report by Regent Frank C. Erwin (included in another section of this binder), resulted in (1) a judicial determination that the Brackenridge Tract was not a part of the Permanent University Fund and (2) the removal of the contingent reversionary interest of Jackson County and vesting of fee simple title absolute in the Board of Regents. Consequently, management and control of the Brackenridge Tract rests wholly with the Board of Regents, with full authority to sell, lease, or otherwise manage the Brackenridge Tract for educational purposes.

3. How is the Brackenridge Tract currently used?

A portion of the tract is currently used by UT Austin for campus purposes and the remainder is leased for commercial and civic purposes. UT Austin owns and operates 515 student apartments on about 74 acres. The Biological Field Lab, an academic and research facility of UT Austin, occupies approximately 82 acres. The parcels used for campus purposes all have river frontage and are south (west) of Lake Austin Boulevard. The remaining approximately 189 acres of the Brackenridge Tract are leased to the following commercial and civic entities:

- City of Austin – 141.38 acres
- CVS Pharmacy, Inc. – 1.936 acres
- Heidi’s German Bakery Pastry Shop, Etc., Inc. – 0.154 acre
- Lion Gables Realty Limited Partnership – 12 acres
- Lower Colorado River Authority – 13.21 acres
- Oyster Boat Town Landing, Ltd. – 2.58 acres
- Safeway Stores, Inc. – 2.64 acres
- The Southland Corp. – 0.558 acre
- West Austin Youth Association – 14.565 acres

4. ***How much has been earned from the Brackenridge Tract?***

Since 1989, the year that the Brackenridge Development Agreement was signed, through the end of Fiscal Year 2006, total income of \$24,338,032 has been received from commercial leasing and sales activities on the Brackenridge Tract. Sources of the commercial income are:

• Annual lease payments	\$11,787,175
• Pre-paid lease payments	6,305,816
• Net sale proceeds	6,103,945
• <u>Miscellaneous income</u>	<u>141,096</u>
Total	\$24,338,032

A total of \$12.5 million of the proceeds from sales and leases was matched by \$25 million of gift funds to establish endowment funds. Other proceeds have been used by UT Austin for current campus purposes.

In addition, UT Austin receives in excess of \$3 million per year from its student housing located on the tract. The institution also receives grant funds related to the Biological Field Lab. Grant funds are also generated by the research that UT Austin conducts at a 49.5-acre site on Lake Travis. The Lower Colorado River Authority leases the Lake Travis site to UT Austin as partial compensation for UT’s lease to the LCRA of a portion of the Brackenridge Tract.

5. ***What is the Brackenridge Development Agreement?***

The Brackenridge Development Agreement (“BDA”) is an intergovernmental agreement entered into between the City of Austin and the Board of Regents of The University of Texas System on May 25, 1989. The BDA establishes development regulations for portions of the Brackenridge Tract, as described in subsequent sections of this paper. The regulations are in effect for an initial 30-year term. The agreement also provides for three five-year extensions of the term, but either party may terminate the agreement at the end of the initial term or any extension term by

giving notice as specified in the agreement. The BDA was approved by the Texas Legislature and had its genesis in a difference of opinion between the City and UT System regarding the applicability to the Brackenridge Tract of zoning and similar city ordinances. The agreement is recorded in Volume 10968, Page 0388 of the Real Property Records of Travis County, Texas.

6. ***What types of development regulations are included in the Brackenridge Development Agreement?***

The BDA is a detailed, extensive document, totaling 140 pages, plus exhibits. It establishes height restrictions, use restrictions, floor to area ratios, pervious and impervious cover requirements, mechanisms for reviewing site plans and construction plans, mechanisms for the provision of utility services to the parcels, and a variety of other matters pertaining to the non-university development of parcels of land that are subject to the BDA. The Executive Summary (included in another section of this binder) provides a synopsis of the development regulations.

7. ***Is development of the entire Brackenridge Tract covered by the BDA?***

The BDA governs non-university development of approximately 279 acres out of the original 503-acre tract. The 279 acres consist of several parcels, which are referred to in the BDA (and depicted on the map in this binder) as:

- Boat Town Tract – 2.58 acres
- Deep Eddy Tract – 14.49 acres
- Park Street Tract – 13.21 acres
- Safeway Tract – 2.64 acres
- Stratford Tract – 88.604 acres
- Town Lake Tract – 156.21 acres

The BDA does not govern development of the Brackenridge Tract for university purposes, nor does it address development of the 141 acres leased to the City of Austin for a golf course or the 14 acres leased to the West Austin Youth Association for youth sports activities. Both leases are coextensive with the term of the BDA. The BDA expressly states that the lease of the 141 acres to the City for a golf course terminates at the same time that the BDA terminates.

8. ***What non-university development on the Brackenridge Tract has occurred since the BDA was entered into?***

Several parcels have since been developed in accordance with the BDA. Approximately 76 acres out of the Stratford Tract were platted, sold to private developers, and developed as two residential subdivisions. The remaining 11 acres of the Stratford Tract were sold to the City of Austin for utility infrastructure and

conservation uses. All other development has been accomplished through leases. The Boat Town tract was developed by the ground tenant for retail, office and restaurant uses in a project known as Oyster Landing. The Park Street Tract was leased to the Lower Colorado River Authority for use as its headquarters and for parking for Oyster Landing. The Deep Eddy tract was leased in several parcels for apartments and commercial uses (CVS Pharmacy, Inc., Lion Gables Realty Limited Partnership, and Heidi's German Bakery Pastry Shop, Etc., Inc.). (A portion of the Deep Eddy tract had earlier been leased to The Southland Corp. and the Safeway Tract was also subject to an earlier lease.)

9. ***What is the status of the other parcels that are subject to the Brackenridge Development Agreement?***

The remaining tract covered by the BDA is the Town Lake Tract, which consists of three contiguous subparts that front on Town Lake: (1) the Brackenridge Apartments site (53 acres), which is closest to Red Bud Trail; (2) the Biological Field Lab site (82 acres), which is the middle parcel; and (3) the Colorado Apartments site (21 acres), which is the parcel closest to Loop 1. Under the BDA, the Colorado Apartments site became eligible for non-university development in 1999, the Brackenridge Apartments site becomes eligible for non-university development in 2009, and the Biological Field Lab site is not to be developed for non-university purposes while the BDA is in effect. All three parcels are currently used by UT Austin for campus purposes.