



Contract Number: C.T. PW. 14 # 426
Effective Date : 5-6-14
Term Date 4 : 5-6-15
Cost : 100,000.-
Revenue : _____
Total : _____ NTE: _____
Action
Renewal By : 2-1-15
Term : 5-6-15
Reviewed by: [Signature]

BOARD OF SUPERVISORS AGENDA ITEM SUMMARY

Requested Board Meeting Date: May 6, 2014-Addendum

ITEM SUMMARY, JUSTIFICATION &/or SPECIAL CONSIDERATIONS:

1. Listing Agreement with PICOR Commercial Real Estate Services, Inc., an Arizona corporation

To provide commercial real estate brokerage services for leasing and disposition of County property, and services related to real property acquisitions, relocation, or property management.

PICOR will have a 1 year term, and properties covered under this agreement are as follows:

1) Courts Complex Retail Space

- Location – Southeast corner of Stone Ave and Toole
- Space: Approximately 7,448 sq. ft. of retail space which is part of the parking structure
- Specific terms and conditions
 - Minimum 2600 sq. ft. for restaurant
 - Minimum 3 year lease

2) B of A Building: Surplus space as designed by County Real Property Services Manager

3) 69 E. Broadway Blvd.

- Long term ground lease
- Commitment to build improvements including a grocery store, plus retail, office and/or residential

STAFF RECOMMENDATION(S): It is recommended that the Board of Supervisors approve and authorize and the Chair to execute the Listing Agreement to PICOR Commercial Real Estate Services.

Page 1 of 2
Ver - 1
Vendor - 1
Pgs. 12

To: CHH - 4.30.14 By Dep.
CoB - 5.1.14
Agenda 5.6.14
Addendum 6

Procure Dept 04/30/14 PM 04:15

PIMA COUNTY COST: \$100,000.00 and/or REVENUE TO PIMA COUNTY: \$ _____

FUNDING SOURCE(S): Facilities Management General Fund/ Parking Garage
(i.e. General Fund, State Grant Fund, Federal Fund, Stadium D. Fund, etc.)

Advertised Public Hearing:

☐ YES ☒ NO

Board of Supervisors District:

1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☒ All ☐

IMPACT:

IF APPROVED: Pima County will be able to utilize the services of a commercial real estate brokerage service which will greatly enhance the development, leasing and management of County properties.

IF DENIED: The County will not be able to utilize the services of a commercial real estate brokerage service which would greatly enhance the development, leasing and management of County properties.

DEPARTMENT NAME: Public Works Real Property Services

CONTACT PERSON: Rita Leon TELEPHONE NO.: 724-6462

**PIMA COUNTY DEPARTMENT OF REAL PROPERTY
SERVICES**

PROJECT: LEASING OF COUNTY PROPERTY

**CONTRACTOR: PICOR COMMERCIAL REAL ESTATE
SERVICES2**

AMOUNT: Not to exceed \$100,000.00

CONTRACT

NO. *CT. PW-140000000000000000 426*

AMENDMENT NO. _____

This number must appear on all
invoices, correspondence and
documents pertaining to this
contract.

(STAMP HERE)

PROFESSIONAL SERVICES CONTRACT - Board of Supervisors

THIS CONTRACT entered between Pima County, a body politic and corporate of the State of Arizona, hereinafter called COUNTY; and PICOR Commercial Real Estate Services, Inc., an Arizona corporation, hereinafter called CONTRACTOR.

WITNESSETH

WHEREAS, COUNTY requires the services of a CONTRACTOR to provide commercial real estate brokerage services for leasing or disposition of County property, and

WHEREAS, services related to real property acquisitions, relocation, or property management authorized under ARS Title 11, 28 or 48 are exempt from the procurement code, and

WHEREAS, PICOR desires to provide commercial real estate brokerage services in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I - TERM AND EXTENSION/RENEWAL/CHANGES

This Contract, as awarded by the Board Of Supervisors, shall commence on the date it is executed (the "Effective Date"), and shall terminate one (1) year after the Effective Date, unless sooner terminated or further extended pursuant to the provisions of this Contract.

Any modification, or extension of the contract termination date, shall be by formal written amendment executed by the parties hereto.

Amendments to the Contract must be approved by the Board of Supervisors or the Procurement Director, as required by the Pima County Procurement code, before any work or deliveries under the Amendment commences.

ARTICLE II – SCOPE OF SERVICES

This Contract establishes the agreement under which the CONTRACTOR will provide COUNTY with products and services in accordance with the attached Exhibit A: Scope of Services (2 pages).

The property covered by this Contract is identified on Exhibit B: Properties Covered. Additional property may from time to time be added to this Contract by amendment signed by the Procurement Director.

CONTRACTOR shall provide COUNTY the goods and services as defined in this Contract.

CONTRACTOR shall employ suitably trained and skilled professional personnel to perform all consultant services under this Contract. Prior to changing any key personnel, especially those key personnel COUNTY

relied upon in making this Contract, CONTRACTOR shall obtain the approval of COUNTY. The key personnel include the following staff: **Rob Tomlinson and Thomas J. Nieman**

ARTICLE III – COMPENSATION AND PAYMENT

In consideration for the goods and services specified in this Contract, the COUNTY agrees to pay CONTRACTOR the amount on Exhibit C: Schedule of Sale and Lease Commissions.

For the period of record retention required under Article XXII, COUNTY reserves the right to question any payment made under this Article and to require reimbursement therefore by setoff or otherwise for payments determined to be improper or contrary to the contract or law.

ARTICLE IV - INSURANCE

The CONTRACTOR'S insurance shall be primary insurance and non-contributory with respect to all other available sources. CONTRACTOR shall obtain and maintain at its own expense, during the entire term of this Contract the following type(s) and amounts of insurance:

- a) Commercial General Liability in the amount of \$1,000,000.00 combined single limit Bodily Injury and Property Damage. Pima County is to be named as an additional insured for all operations performed within the scope of the Contract between Pima County and CONTRACTOR;
- b) Commercial or Business automobile liability coverage for owned, non-owned and hired vehicles used in the performance of this Contract with limits in the amount of \$1,000,000.00 combined single limit or \$1,000,000.00 Bodily Injury, \$1,000,000.00 Property Damage;
- c) If this Contract involves professional services, professional liability insurance in the amount of \$1,000,000.00; and,
- d) If required by law, workers' compensation coverage including employees' liability coverage.

CONTRACTOR shall provide COUNTY with current certificates of insurance. All certificates of insurance must provide for guaranteed thirty (30) days written notice to the COUNTY of cancellation, non-renewal or material change.

ARTICLE V - INDEMNIFICATION

CONTRACTOR shall indemnify, defend, and hold harmless COUNTY, its officers, employees and agents from and against any and all suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, arising out of any act, omission, fault or negligence by the CONTRACTOR, its agents, employees or anyone under its direction or control or on its behalf in connection with performance of this Contract.

CONTRACTOR warrants that all products and services provided under this contract are non-infringing. CONTRACTOR will indemnify, defend and hold COUNTY harmless from any claim of infringement arising from services provided under this contract or from the provision, license, transfer or use for their intended purpose of any products provided under this Contract.

ARTICLE VI - COMPLIANCE WITH LAWS

CONTRACTOR shall comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders, without limitation. In the event any services provided under this contract require a license issued by the Arizona Department of Real Estate, Contractor certifies that those services will be provided by a contractor licensed to perform those services in Arizona. The laws and regulations of the State of Arizona shall govern the rights, performance and disputes of and between the parties. Any action relating to this Contract shall be brought in a court of the State of Arizona in Pima County.

Any changes in the governing laws, rules, and regulations during an agreement shall apply, but do not require an amendment/revisions.

ARTICLE VII - INDEPENDENT CONTRACTOR

The status of the CONTRACTOR shall be that of an independent contractor. Neither CONTRACTOR, nor CONTRACTOR'S officer's agents or employees shall be considered an employee of Pima County or be entitled to receive any employment-related fringe benefits under the Pima County Merit System. CONTRACTOR shall be responsible for payment of all federal, state and local taxes associated with the compensation received pursuant to this Contract and shall indemnify and hold COUNTY harmless from any and all liability which COUNTY may incur because of CONTRACTOR'S failure to pay such taxes. CONTRACTOR shall be solely responsible for program development and operation.

ARTICLE VIII - SUBCONTRACTOR

CONTRACTOR shall not subcontract any of the services under this Agreement.

ARTICLE IX - ASSIGNMENT

CONTRACTOR shall not assign its rights to this Contract, in whole or in part, without prior written approval of the COUNTY. Approval may be withheld at the sole discretion of COUNTY, provided that such approval shall not be unreasonably withheld.

ARTICLE X - NON-DISCRIMINATION

CONTRACTOR agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09 **including flow down of all provisions and requirements to any subcontractors**. Executive Order 2009-09 supersedes Executive order 99-4 and amends Executive order 75-5 and may be viewed and downloaded at the Governor of the State of Arizona's website http://www.azgovernor.gov/dms/upload/EO_2009_09.pdf which is hereby incorporated into this contract as if set forth in full herein. During the performance of this contract, CONTRACTOR shall not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.

ARTICLE XI - AMERICANS WITH DISABILITIES ACT

CONTRACTOR shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

ARTICLE XII - AUTHORITY TO CONTRACT

CONTRACTOR warrants its right and power to enter into this Contract. If any court or administrative agency determines that COUNTY does not have authority to enter into this Contract, COUNTY shall not be liable to CONTRACTOR or any third party by reason of such determination or by reason of this Contract.

ARTICLE XIII - FULL AND COMPLETE PERFORMANCE

The failure of either party to insist on one or more instances upon the full and complete performance with any of the terms or conditions of this Contract to be performed on the part of the other, or to take any action permitted as a result thereof, shall not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same, or any other covenant or condition, either in the past or in the future. The acceptance by either party of sums less than may be due and owing it at any time shall not be construed as an accord and satisfaction.

ARTICLE XIV - CANCELLATION FOR CONFLICT OF INTEREST

This Contract is subject to cancellation for conflict of interest pursuant to ARS § 38-511, the pertinent provisions of which are incorporated into this Contract by reference.

ARTICLE XV – TERMINATION OF CONTRACT FOR DEFAULT

A. Upon a failure by CONTRACTOR to cure a default under this Contract within 10 days of receipt of notice from COUNTY of the default, COUNTY may, in its sole discretion, terminate this Contract for default by written notice to CONTRACTOR. In this event, COUNTY may take over the work and complete it by contract or otherwise. In such event, CONTRACTOR shall be liable for any damage to the COUNTY resulting from CONTRACTOR's default, including any increased costs incurred by COUNTY in completing the work.

B. The occurrence of any of the following, without limitation to the named events, shall constitute an event of default:

1. Abandonment of or failure by CONTRACTOR to observe, perform or comply with any material term, covenant, agreement or condition of this Contract, or to prosecute the work or any separable part thereof with the diligence that will insure completion within the time specified in this contract, including any extension, or a failure to complete the work (or the separable part of the work) within the specified time;
2. Persistent or repeated refusal or failure to supply adequate staff, resources or direction to perform the work on schedule or at an acceptable level of quality;
3. Refusal or failure to remedy defective or deficient work within a reasonable time;
4. Loss of professional registration or business or other required license or authority, or any curtailment or cessation for any reason of business or business operations that would substantially impair or preclude CONTRACTOR's performance of this Contract;
5. Disregard of laws, ordinances, or the instructions of COUNTY or its representatives, or any otherwise substantial violation of any provision of the contract;
6. Performance of work hereunder by personnel that are not qualified or permitted under state law or local law to perform such services;
7. Commission of any act of fraud, misrepresentation, willful misconduct, or intentional breach of any provision of this Contract; or
8. If a voluntary or involuntary action for bankruptcy is commenced with respect to CONTRACTOR, or CONTRACTOR becomes insolvent, makes a general assignment for the benefit of creditors, or has a receiver or liquidator appointed in respect of its assets.

C. In the event of a termination for default:

1. All finished and unfinished drawings, specifications, documents, data, studies, surveys, drawings, photographs, reports and other information in whatever form, including electronic, acquired or prepared by CONTRACTOR for this project shall become COUNTY's property and shall be delivered to COUNTY not later than five (5) business days after the effective date of the termination;
2. COUNTY may withhold payments to CONTRACTOR arising under this or any other Contract for the purpose of set-off until such time as the exact amount of damage due COUNTY from CONTRACTOR is determined; and
3. Subject to the immediately preceding subparagraph (2), COUNTY's liability to CONTRACTOR shall not exceed the Contract value of work satisfactorily performed prior to the date of termination for which payment has not been previously made.

D. The Contract will not be terminated for default nor the CONTRACTOR charged with damages under this Article, if:

(1) Excepting item (8) in paragraph B above, the event of default or delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of CONTRACTOR. Examples of such causes include—

- (i) Acts of God or of the public enemy,
- (ii) Acts of the COUNTY in either its sovereign or contractual capacity,
- (iii) Acts of another Contractor in the performance of a contract with the COUNTY,
- (iv) Fires,
- (v) Floods,
- (vi) Epidemics,
- (vii) Quarantine restrictions,
- (viii) Strikes,
- (ix) Freight embargoes,
- (x) Unusually severe weather, or
- (xi) Delays of subcontractors at any tier arising from unforeseeable causes beyond the

control and without the fault or negligence of both CONTRACTOR and the subcontractor(s); and

(2) The CONTRACTOR, within seven (7) days from the beginning of any event of default or delay (unless extended by COUNTY), notifies the COUNTY in writing of the cause(s) therefore. In this circumstance, the COUNTY shall ascertain the facts and the extent of the resulting delay. If, in the reasonable judgment of COUNTY, the findings warrant such action, the time for completing the work may be extended.

E. For the purposes of paragraph A above, "receipt of notice" shall include receipt by hand by CONTRACTOR's designated representative, by facsimile transmission with notice of receipt, or under the Notices clause of this Contract.

F. If, after termination of the Contract for default, it is determined that the CONTRACTOR was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the COUNTY.

G. The rights and remedies of COUNTY in this Article are cumulative and in addition to any other rights and remedies provided by law or under this contract.

ARTICLE XVI – TERMINATION FOR CONVENIENCE

COUNTY reserves the right to terminate this Contract at any time and without cause by serving upon CONTRACTOR 30 days advance written notice of such intent to terminate. In the event of such termination, the COUNTY'S only obligation to CONTRACTOR shall be payment for services rendered prior to the date of termination. In the event that such services rendered prior to the date of termination shall result in commissions payable at a date subsequent to such termination, then County shall pay said commissions when due.

Notwithstanding any other provision in this Contract, this Contract may be terminated if for any reason, there are not sufficient appropriated and available monies for the purpose of maintaining COUNTY or other public entity obligations under this Contract. In the event of such termination, COUNTY shall have no further obligation to CONTRACTOR, other than to pay for services rendered prior to termination.

ARTICLE XVII - NOTICE

Any notice required or permitted to be given under this Contract shall be in writing and shall be served by personal delivery or by certified mail upon the other party as follows:

COUNTY:
Neil J. Konigsberg
Manager, Pima County Real Property Services
201 N. Stone Ave, 6th Floor
Tucson, AZ 85701-1215

CONTRACTOR:
Thomas J. Nieman
Principal, Commercial Properties
Cushman & Wakefield / PICOR
1100 N. Wilmot Rd., Suite 200
Tucson, AZ 85749

ARTICLE XVIII - EXCLUSIVE CONTRACT

See Exhibit A, section 1.

ARTICLE XIX - OTHER DOCUMENTS

Not Applicable.

ARTICLE XX - REMEDIES

Either party may pursue any remedies provided by law for the breach of this Contract. No right or remedy is intended to be exclusive of any other right or remedy and each shall be cumulative and in addition to any other right or remedy existing at law or at equity or by virtue of this Contract.

ARTICLE XXI - SEVERABILITY

Each provision of this Contract stands alone, and any provision of this Contract found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of this Contract.

ARTICLE XXII - BOOKS AND RECORDS

CONTRACTOR shall keep and maintain proper and complete books, records and accounts, which shall be open at all reasonable times for inspection and audit by duly authorized representatives of COUNTY.

In addition, CONTRACTOR shall retain all records relating to this contract at least 5 years after its termination or cancellation or, if later, until any related pending proceeding or litigation has been closed.

ARTICLE XXIII- PUBLIC INFORMATION

Not Applicable

ARTICLE XXIV – LEGAL ARIZONA WORKERS ACT COMPLIANCE

CONTRACTOR hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to CONTRACTOR'S employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). CONTRACTOR shall further ensure that each subcontractor who performs any work for CONTRACTOR under this contract likewise complies with the State and Federal Immigration Laws.

COUNTY shall have the right at any time to inspect the books and records of CONTRACTOR and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of CONTRACTOR'S or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Contract subjecting CONTRACTOR to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, CONTRACTOR shall be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, as soon as possible so as not to delay project completion.

CONTRACTOR shall advise each subcontractor of COUNTY'S rights, and the subcontractor's obligations, under this Article by including a provision in each subcontract substantially in the following form:

"SUBCONTRACTOR hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to SUBCONTRACTOR's employees, and with the requirements of A.R.S. § 23-214 (A). SUBCONTRACTOR further agrees that COUNTY may inspect the SUBCONTRACTOR'S books and records to insure that SUBCONTRACTOR is in compliance with these requirements. Any breach of this paragraph by SUBCONTRACTOR will be deemed to be a material breach of this contract subjecting SUBCONTRACTOR to penalties up to and including suspension or termination of this contract."

Any additional costs attributable directly or indirectly to remedial action under this Article shall be the responsibility of CONTRACTOR. In the event that remedial action under this Article results in delay to one or more tasks on the critical path of CONTRACTOR's approved construction or critical milestones schedule, such period of delay shall be deemed excusable delay for which CONTRACTOR shall be entitled to an extension of time, but not costs.

ARTICLE XXV- GRANT COMPLIANCE

Not Applicable

ARTICLE XXVI - ENTIRE AGREEMENT

This document constitutes the entire agreement between the parties pertaining to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. This Contract may be modified, amended, altered or extended only by a written amendment signed by the parties.

IN WITNESS THEREOF, the parties have affixed their signatures to this Contract on the date written below.

PIMA COUNTY

Chair, Board of Supervisors

Date

CONTRACTOR

Authorized Officer Signature

Michael C. Hammond Pres
Printed Name and Title

4 Apr 14
Date

ATTEST

Clerk of Board

Date

APPROVED AS TO FORM

Deputy County Attorney

TOBIN ROSEN

Print DCA Name

4/21/14
Date

APPROVED AS TO CONTENT

Neil J. Konigsberg, Manager, Pima County Real Property Services

Date _____

EXHIBIT A

SCOPE OF SERVICES

1. **Property Listing.** In consideration of the listing for lease by CONTRACTOR of the property listed on Exhibit B (the "**Property**"), and its agreement to use its best efforts to effect a lease or leases covering the Property, COUNTY grants to CONTRACTOR the exclusive right to negotiate a lease or lease on the Property during the term of this Contract, subject to the terms and conditions set forth in this Contract, including but not limited to this Exhibit A.

2. **Lease Auction.** The parties acknowledge and agree that:

2.1. Statutory Requirements. Pursuant to A.R.S. §11-256, the Property or any portion of the Property must be leased to the highest bidder at public auction (the "Auction"). The rental value of the Property must be established by an experienced appraiser (the "Appraiser"). The Property must be leased at the Auction to the highest responsible bidder, provided that the amount of bid is at least ninety per cent of the rental valuation as determined by the Appraiser (the "**Minimum Bid**"), and subject to such other terms and conditions as COUNTY's Board of Supervisors may prescribe, including those set forth on Exhibit B (collectively the "**Minimum Bid Requirements**"). Notice of the proposed lease shall be given by publication, once each week for four consecutive weeks, in a newspaper of general circulation in Pima COUNTY. The notice shall state the period and all material conditions of the proposed lease, and the day on which the Auction will be held, which shall be not less than thirty days after the last publication of the notice.

2.2. Auction. COUNTY will notice and set the date of the Auction. COUNTY will provide CONTRACTOR with notice of the date of the Auction.

2.3. Opening Bid. The Opening Bid at the Auction shall start at not less than the Minimum Bid, and shall satisfy all terms and conditions of the Contract, including any terms and conditions on Exhibit B relating to the Property.

3. **COMMISSIONS.** COUNTY agrees to pay CONTRACTOR a leasing commission as set forth in Exhibit C: Schedule of Lease Commissions for services rendered if:

3.1. the Property or a portion thereof is leased to a tenant pursuant to section 2 above, whether procured by CONTRACTOR or by COUNTY, or by or through anyone else prior to the expiration of this Agreement or any extension thereof; or

3.2. a satisfactory tenant is procured who is ready, willing and able to lease said property which satisfies the Minimum Bid Requirements, prior to the termination of this Contract, whether procured by CONTRACTOR or COUNTY; or

3.3. within ninety (90) days after the expiration of this Agreement or any extension thereof, the Property or any portion thereof is leased, pursuant to section 2, to any person or entity with whom CONTRACTOR has negotiated or to whom the Property has been submitted

by CONTRACTOR prior to such expiration in an effort to effect a lease of the Property and whose name appears on any list of such persons or entities which CONTRACTOR shall have mailed to COUNTY at the address stated below at any time within fifteen (15) days immediately following such expiration, provided, however, if CONTRACTOR has submitted a written offer to lease that satisfies the Minimum Bid Requirements then it shall not be necessary to include the offerer's name on the list.

4. **Split Commission.** If the successful bidder at an auction pursuant to section 2.1 above is made by a person or entity represented by an agent other than CONTRACTOR, then a commission shall be paid to CONTRACTOR pursuant to Exhibit C, provided that the commission shall be shared by CONTRACTOR and the agent representing the successful bidder in accordance with local custom.

5. **Signs.** CONTRACTOR is further authorized to place a sign or signs about the Property provided any such signs are in compliance with all applicable laws, rules and regulations, if in CONTRACTOR's opinion such would facilitate the leasing of the Property. COUNTY may reasonably control the size, content and placement of such signage to avoid interference with or disruption to judicial or other governmental functions that COUNTY will conduct on or about the Property.

EXHIBIT B
PROPERTIES

1. Public Services Complex Retail Space
 - a. Location – southeast corner of Stone Ave and Toole
 - b. Space: approximately 7,448 sq. ft. of retail space which is part of the parking structure
 - c. Specific terms and conditions
 - i. Minimum 2,400 sq ft for restaurant or food service
 - ii. Minimum 3 year lease
2. B of A Building: surplus space as designated by the Director of Pima County Facilities Management
3. 69 E. Broadway Blvd.
 - a. Long term ground lease
 - b. Commitment from a primary new employer to build and occupy improvements, and provide parking for site needs and those of 97 E Congress

EXHIBIT C

SCHEDULE OF LEASE COMMISSIONS

Total Rent. For purposes of this Exhibit C, the term "Total Rent" shall mean: (i) for retail space, the net rental rate excluding operating expenses, property taxes and insurance, and (ii) for office space, the full service lease rate, excluding any increases in operating and maintenance expenses over the base year.

1. **LEASE TERM OF LESS THAN OR EQUAL TO FIVE YEARS.** Six percent (6%) of the Total Rent for the full lease term.
2. **LEASE TERM OVER FIVE YEARS.** Six percent (6%) of the Total Rent for the first five (5) years of the lease term. Four percent (4%) of the total rent for the 6th through 10th year. One and one-half percent (1½%) of the total rent for any portion of the term beyond ten (10) years.
3. **GROUND LEASE.** Ground Lease Commissions shall be six percent (6%) of the first (1st) year's NNN rent capitalized at a rate of 10%. For example, if land is leased for \$150,000 per year (NNN) then the rent calculation would be $\$150,000 / .10 = \$1,500,000 \times 6\% = \$90,000$.
4. **ADDITIONAL TERMS AND CONDITIONS**
 - a. **Payment of Lease Commissions.** COUNTY will pay commissions to CONTRACTOR upon occupancy of the leased premises by Tenant.
 - b. **Term of More Than Twenty-Five Years.** If a lease term including any renewal term is in excess of twenty-five years, commissions shall be payable only upon the rent paid for the first twenty-five years of the lease term.
 - c. **Month-to-Month Tenancy.** The commission for a month-to month tenancy shall be one-hundred percent (100%) of the first month's rent only.
 - d. **Tenant Expansion.** Should the Tenant occupy additional space and pay additional rent to COUNTY by virtue of provisions in the lease, or through subsequent modification of such provisions, then increased leasing commissions shall be payable at such time as said additional space is occupied in accordance with the schedule described above.
 - e. **Extension of Lease.** Should the term of the lease be extended by virtue of provisions in the lease, or through subsequent modification of such provisions, then a leasing commission shall be payable at such time as said term is extended. Said leasing commission shall be three percent (3%) of the total consideration during the extension period.