



RESOLUTION NO. 20120828-06

RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR/CEO TO EXECUTE A LEASE FOR COMMERCIAL TRUCK GATE TO UNITED STATES OF AMERICA

WHEREAS, TexAmericas Center is a political subdivision of the State of Texas with the powers and authorities specified in Chapter 3503 of the Special District Local Laws Code of the State of Texas; and

WHEREAS, U.S. Corps of Engineers contacted TexAmericas Center to seek a lease renewal for parking space on Texas Ave., New Boston, TX 75570; and

WHEREAS, TexAmericas Center Board of Directors approved Resolution Number 20120731-09 at the July 31, 2012 regular meeting of the Board of Directors and authorized the Executive Director to execute a lease agreement; and

WHEREAS, the Executive Director executed and transmitted the originally agreed-to terms to the Corps of Engineers; and

WHEREAS, the Corps of Engineers received said lease agreement and desired additional changes which are memorialized in the lease agreement attached hereto;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of TexAmericas Center that the Executive Director/CEO shall be and he is hereby authorized to execute the attached lease, which shall now supersede the lease previously approved by this Board; and

BE IT FURTHER RESOLVED, by the Board of Directors of TexAmericas Center that the Center appreciates the collaborative effort of U. S. Corp of Engineers to negotiate this lease as well as to continue its business operations, preserve existing jobs.

PASSED AND APPROVED THIS 31st day of July, 2012.



Denis Washington, Chairman of the Board

ATTEST:



Wayne Cranfill, Secretary-Treasurer

Attached: Lease Agreement

This lease is subject to annual congressional appropriations in accordance with Title 10, Section 2662, 1-year leasing authority.

LEASE NO. **DACA63-5-12-0572**

This lease supercedes Lease
DACA63-5-11-0287

FACILITY LEASE

PRIVATELY OWNED PROPERTY

LEASE

BETWEEN

TEXAMERICAS CENTER

AND

THE UNITED STATES OF AMERICA

1. This **LEASE**, made and entered into this **1st** day of **September** in the year **2012**, by TexAmericas Center, formerly known as the Red River Redevelopment Authority, whose address is 107 Chapel Lane, New Boston Texas 75570, and whose interest in the property is that of the Owner, hereinafter called the Lessor, and the **UNITED STATES OF AMERICA**, hereinafter called the Lessee, in consideration for **RENT** to be paid by the Lessee to the Lessor, the parties promise and agree follows:

2. **PROPERTY:**

A parcel of land (approximately 4.6 acres in area), located within the Building 200 series area of TexAmericas Commerce Park, and more particularly described as being bordered on the north by Texas Avenue, on the east by the railroad tracks, on the south by Red River Army Depot's north boundary, and on the west by Building 245, as shown on Exhibit "A", which is attached hereto and made a part hereof, all situated

in the City of Texarkana, Bowie County, State of Texas, to be used for the Lessee's purposes.

3. **LEASE TERM:** TO HAVE AND TO HOLD the said premises, with their appurtenances for the term beginning **01 September 2012** through **31 August 2017**, subject to termination and renewal rights as may be hereinafter set forth.

4. **RENTAL:** The Lessee shall pay the Lessor rent at the following rate: **\$2,400.00 (TWO THOUSAND FOUR HUNDRED AND NO/100 DOLLARS)** per year, in monthly payments of **\$200.00 (TWO HUNDRED AND NO/100 DOLLARS)**, in arrears. **Rent for a lesser period shall be prorated.** Payment of rent shall be made by electronic funds transfer and shall be payable by: **DIRECTORATE OF RESOURCE MANAGEMENT, RED RIVER ARMY DEPOT, 100 MAIN DRIVE, TEXARKANA, TX 75507-5000.**

5. **OWNERSHIP:** The Lessor warrants that he is the rightful and legal Lessor of the property and has the legal right to enter into this lease. If the rights of the Lessor shall fail, or it be discovered that the Lessor did not have authority to lease the property, the lease shall terminate. The Lessor, the Lessor's heirs, executors, administrators, successors, or assigns agree to refund all rentals paid.

6. **EXCLUSIVE USE:** The Lessor shall not interfere with or restrict the Lessee, or its representatives, in the use and enjoyment of the Leased Premises, nor shall the Lessee erect any fence, wall, partition or any construction upon the leased property, except as otherwise agreed to in writing by the Lessor.

7. **TERMINATION:** The Lessee may terminate this lease at any time in whole or in part, by giving THIRTY (30) days notice in writing to the Lessor and no rental shall be due for payment after the effective date of termination. Said notice shall be the day after the date of mailing, or hand delivery. Default by Lessee are (a) failing to pay the Rent when due, (b) abandoning or vacating a substantial portion of the leased premises, and (c) failing to comply within 30 days after written notice with any provision of this lease. Lessor's remedy for Lessee's default is to terminate this lease by written notice to Lessee.

8. **RENEWAL OPTIONS:** The Lessee shall have the right and option to renew this lease for THREE (3), FIVE (5)-YEAR option periods, under the same terms, conditions, and with increased rentals as follows: 1st FIVE (5)-YEAR option period, a rental rate of \$2,640.00 per annum; 2nd FIVE (5)-YEAR option period, a rental rate of \$2,904.00 per annum; and 3rd FIVE (5)-YEAR option period, a rental rate of \$3,194.40 per annum. The Lessee shall provide written notice to the Lessor of the Lessee's intent to renew this lease at least

THIRTY (30) days prior to the expiration date of the current term, provided further, that the renewal of this lease is subject to adequate appropriations being made available from year-to-year for the payment of rentals. If the Lessee does not provide written notice to the Lessor of the Lessee's intent to renew this lease at least THIRTY (30) days prior to the expiration date of the current lease term, this lease will expire, with no further notice being required from the Lessee, at the end of the current lease term.

9. ALTERATIONS/RESTORATION/RELEASE OF LIABILITY:

a. The Lessee shall have option, during the existence of this lease, to make alterations, attach fixtures, and erect additions, structures, or signs, in or upon the property hereby leased, at the Lessee's sole expense, provided such alterations are approved in writing and in advance by the Lessor, meet state and local building codes and are subject to permits and inspections required by Lessor or any state or local authority.

b. The Lessee agrees to build 1,630 linear feet of FE-6 Security Fencing, around the areas shown on attached Exhibit A, which is attached hereto and made a part hereof. The actual design specifications of the fencing shall be approved by the Lessor, prior to construction.

c. Fixtures, additions, or structures (including the aforementioned fence), so placed in, upon or attached to the said property shall become the property of the Lessor.

d. The Lessee shall surrender possession of the property upon the expiration or termination of this lease. The Lessee shall restore premises to the condition equal to or better than the condition on date of beginning of this leased term, should improvements or premises be damaged by fault of the Lessee.

10. DAMAGES:

a. The Lessee shall be liable only for damage, injury or loss resulting from negligence or misconduct of Lessee personnel; if any action of the Government's employees or agents in the exercise of this lease results in damage to the real property, the Government will, at its option, either repair such damage or make an appropriate settlement with the Lessor. In no event shall such repair or settlement exceed the fair market value of the fee interest of the real property at the time immediately preceding such damage. The Government's liability under this clause may not exceed appropriations available for such payment and nothing contained in this agreement may

be considered as implying that Congress will at a later date appropriate funds sufficient to meet deficiencies. The provisions of this clause are without prejudice to any rights the Lessor may have to make a claim under applicable laws for any other damages than provided herein.

b. Notwithstanding the limitation of damages set forth in subparagraph a. above, Lessee shall be responsible for and pay all costs and expenses for the investigation and/or remediation of the Property arising out of a release of a hazardous substance or petroleum product by Lessee, or its contractors, during the term of this Lease and any extensions of the term. The term "hazardous substance" shall mean any substance which at any time is listed as "hazardous" or "toxic" in the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), as amended, the Resource Conservation and Recovery Act (RCRA), as amended, the Federal Clean Water Act, as amended, or any other federal, state, or local environmental law, regulation, rule, or ordinance.

11. **PROPERTY INVENTORY:** As of the commencement date of this lease, a joint inventory and condition report of all personal property of the Lessor included in this lease, and also a joint physical survey and inspection report of the demised property shall be made, said reports to reflect the then present condition, and to be signed on behalf of the parties hereto.

12. **TAXES:** Lessor accepts full and sole responsibility for the payment of all taxes and other charges of a public nature which may arise in connection with this lease or which may be assessed against the property. This includes registration of the lease and payment of related charges. The Lessor shall not be liable for any taxes or charges of a public nature which may arise in any instance of any occupancy, lease or use that is not approved in writing by the Lessor.

13. **NOTICE:** Any notice given under the terms of this lease shall be in writing signed by a duly authorized representative of the party giving such notice, and if given by the Lessee shall be addressed to the Lessor at:

**TexAmericas Center
ATTN: Executive Director/CEO
107 Chapel Lane
New Boston, TX 75570**

or by hand delivery to:

**TexAmericas Center
ATTN: Executive Director/CEO
107 Chapel Lane, New Boston, TX 75570
Office Telephone: (903) 223-9841**

and if given by the Lessor shall be addressed to the Lessee at:

**US Army Corps of Engineers, Fort Worth District
ATTN: CESWF-RE-A
P.O. Box 17300
Fort Worth, TX 76102-0300**

or by hand delivery to:

**District Chief of Real Estate
U.S. Army Corps of Engineers, Fort Worth District
819 Taylor, Room 2B03
Fort Worth, TX 76102**

14. **LESSOR'S SUCCESSORS**: The terms and provisions of this lease and the conditions shall bind the Lessor, and the Lessor's heirs, executors, administrators, successors, and assigns.

15. **COVENANT AGAINST CONTINGENCY FEES**: The Lessor warrants that no person or selling agency has been employed or retained to solicit or secure this lease upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Lessor for the purpose of securing business. For breach or violation of this warranty the Lessee shall have the right to annul this lease without liability, or in its discretion, to deduct from the leased price or consideration, the full amount of such commission, percentage, brokerage, or contingent fees.

16. **OFFICIALS NOT TO BENEFIT**: No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this lease or to any benefit that may arise there from, but this provision shall not be construed to extend to this lease if made with a corporation for its general benefit.

17. **GRATUITIES:**

a. The Lessee may, by written notice to the Lessor, terminate the right of the Lessor to proceed under this lease if it is found, after notice and hearing, by the Secretary of the Army or his duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Lessor, or any agent or representative of the Lessor, to any officer, or employee of the Lessee with a view toward securing a lease or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing, of such lease; provided, that the existence of facts upon which the Secretary of the Army or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

b. In the event this lease is terminated as provided in paragraph (a) hereof, the Lessee shall be entitled to pursue the same remedies against the Lessor as it could pursue in the event of a breach of the lease by the Lessor.

c. The rights and remedies of the Lessee provided in this clause shall not be exclusive and are in addition to any other rights and remedies provide by law or under this lease.

18. **MODIFICATIONS:** No change or modification of this lease shall be effective unless it is in writing and signed by both parties to this lease.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties have subscribed their names as of the date first above written.

LESSOR:

TEXAMERICAS CENTER

BY: William V. Cork

Name: WILLIAM V. CORK

Title: Executive Director/CEO

Date: Aug 28, 2012

Witnesses:

Cyd Collins
107 Chapel Ln
New Boston, TX 75570

(PRINTED NAME/ADDRESS OF WITNESS)

LESSEE:

THE UNITED STATES OF AMERICA

Witnesses:

Robert C. Moren

Robert C. Moren
819 Taylor St
Ft Worth, TX 76102

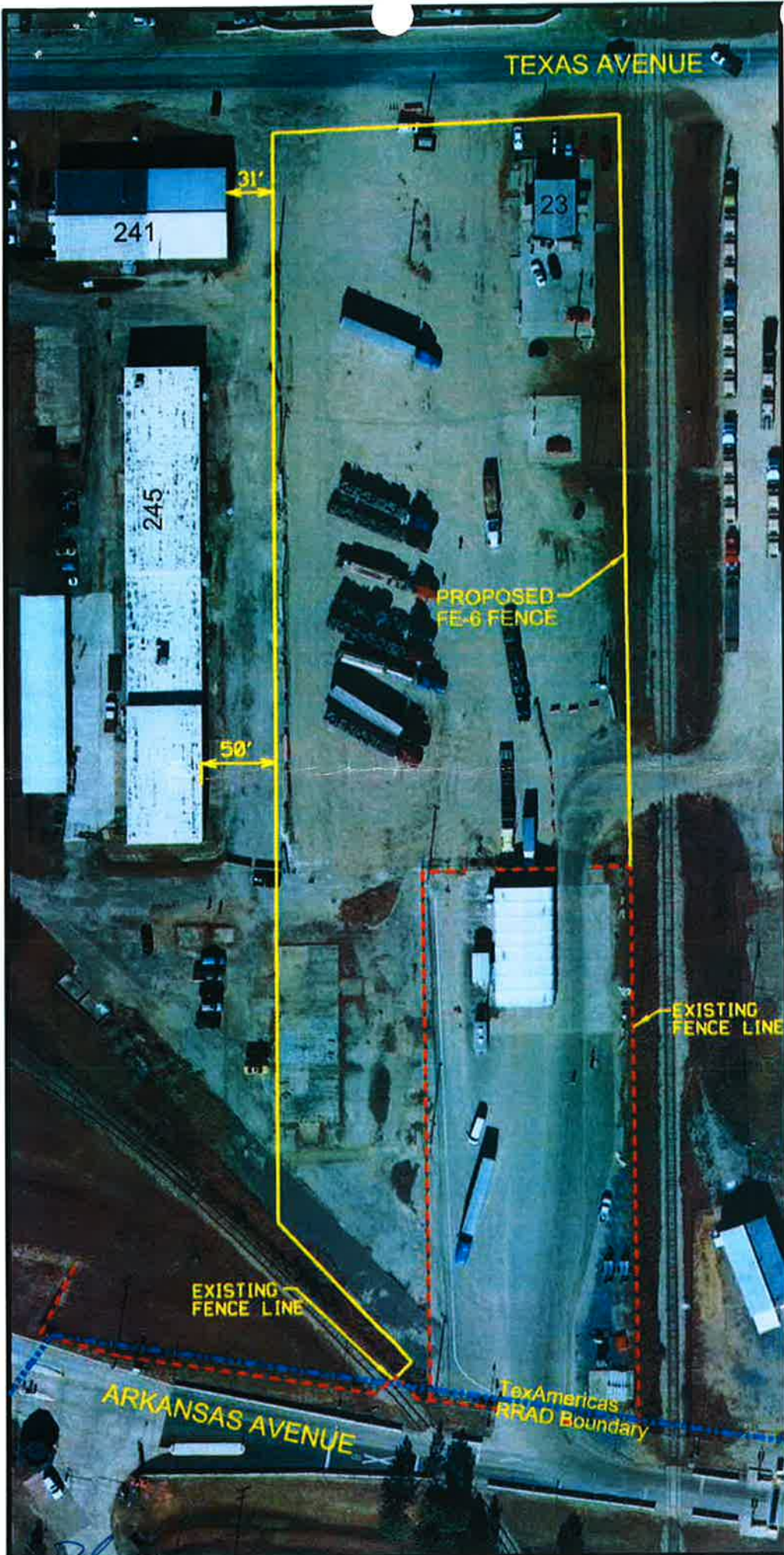
(PRINTED NAME/ADDRESS OF WITNESS)

BY: Hyla J. Head

HYLA J. HEAD

District Chief of Real Estate
Real Estate Contracting Officer
U.S. Army Corps of Engineers
ATTN: USACE-CESWF-RE-A
P.O. Box 17300
Ft. Worth, TX 76102-0300
817/886-1096

Date: 9/12 2012



SCALE IN FEET



NOTES

1. ENCLOSED AREA IS APPROXIMATELY 4.6 ACRES.
2. PROPOSED INSTALLATION OF 1,630 LINEAR FEET OF FE-6 FENCE.

Exhibit A
 DACA63-5-12-0572

**ENCLOSURE 2:
 SITE PLAN FOR
 STORAGE SPACE
 LEASE REQUEST**