



**RESOLUTION NO. 20160322-04**

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR/CEO TO EXECUTE A  
LEASE FOR SPACE AT BB-12, HOOKS, TEXAS 75561  
WITH LONE STAR RAILCAR STORAGE CO.**

**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**, on or about August 31, 2010, Red River Redevelopment Authority and Lone Star Railcar Storage Co. entered into a Rail Lease Agreement providing for Lone Star Railcar Storage Co. to lease substantially all of the rail lines and associated property located upon that part of the former Lone Star Army Ammunition Plant received by Red River Redevelopment Authority from the United States Department of the Army; and

**WHEREAS**, Lone Star Railcar Storage Co. contacted TexAmericas Center to seek a lease arrangement for a railcar and locomotive maintenance building at BB-12, 150 Cass Street, Hooks, Texas 75561; and

**WHEREAS**, TexAmericas Center, formerly Red River Redevelopment Authority, believes that it is in the best interest of the Authority to come to the attached terms of agreement for said lease;

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Directors of TexAmericas Center, that TexAmericas Center enter into a New Lease Agreement with Lone Star Railcar Storage Co. upon the terms as set forth in the attached BB-12 Railcar Maintenance Building Lease Agreement; and

**BE IT FURTHER RESOLVED** that Scott Norton, Executive Director/CEO is hereby authorized to execute the BB-12 Railcar Maintenance Building Lease Agreement in substantially the form attached hereto.

**PASSED and APPROVED** this 22<sup>nd</sup> day of March, 2016.

  
Denis Washington, Chairman of the Board

**ATTEST:**

  
Boyd Sartin, Secretary/Treasurer

Attached: Lease Agreement



**INDUSTRIAL LEASE  
Tex Americas Center - East**

**LEASE SUMMARY**

**Lessor:** TexAmericas Center  
107 Chapel Lane  
New Boston, Texas 75570

**Lessee:** Lone Star Rail Storage Co.  
916 West Ave A  
Hooks, TX 75561

**Guarantor:** N/A

**Premises Leased Address:** Building BB-12 having a street address of 150 Cass Street, Hooks, Texas 75561 and the adjoining 4.38 acres as described in Exhibit "A" attached.

**Primary Term:** 54 months; From April 1, 2016 to September 30, 2020

**Option Terms:** Two option(s) of Five years each

**Base Rent:** \$5,689.98 for the Period of April 1, 2016 through September 30, 2016

\$11,721.40 for the Period October 1, 2016 through September 30, 2017

\$12,073.04 for the Period October 1, 2017 through September 30, 2018

\$12,435.23 for the Period October 1, 2018 through September 30, 2019

\$12,808.29 for the Period October 1, 2019 through September 30, 2020

**Option Rent (1<sup>st</sup> Option):**

\$13,192.53 for the Period October 1, 2020 through September 30, 2021

\$13,588.31 for the Period October 1, 2021 through September 30, 2022

\$13,995.96 for the Period October 1, 2022 through September 30, 2023

\$14,415.84 for the Period October 1, 2023 through September 30, 2024

\$14,848.32 for the Period October 1, 2024 through September 30, 2025

**Option Rent (2<sup>nd</sup> Option):**

\$15,293.77 for the Period October 1, 2025 through September 30, 2026

\$15,752.58 for the Period October 1, 2026 through September 30, 2027

\$16,225.16 for the Period October 1, 2027 through September 30, 2028

\$16,711.91 for the Period October 1, 2028 through September 30, 2029  
\$17,213.27 for the Period October 1, 2029 through September 30, 2030

**Security Deposit:** \$950.00

**Ad Valorem Tax Deposit:** \$2,000.00

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## LEASE

This Lease is entered into between TexAmericas Center ("Landlord"), a political subdivision of the State of Texas, and Lone Star Railcar Storage Co. ("Tenant"), a Texas Corporation.

In consideration of the mutual covenants and agreements of this lease, and other good and valuable consideration, Landlord demises and leases to Tenant, and Tenant leases a 4,000 square foot structure for \$1.75 per square foot annual from Landlord, the premises situated at 150 Cass Street, Hooks, Bowie County, Texas, described as Building BB-12 and associated 4.38 acres, at \$1,000 per acre annual, described on Exhibit A attached to this lease, and made a part of this lease for all purposes (collectively referred to as "the premises" or "the leased premises" in this lease).

Landlord reserves the right to harvest any and/or all timber located upon the leased premises together with the right of ingress and egress to and from the leased premises for said harvesting by Landlord and/or its contractors, but only in a manner that does not unreasonably interfere with Tenant's use of the premises.

### ARTICLE 1 . TERM

**§ 1.01. Term of Lease.** The term of this lease is 54 months, beginning on April 1, 2016, and ending on September 30, 2020, unless terminated sooner as provided in this lease.

**§ 1.02. Option to Extend Term.** Tenant may extend the term of this lease beyond the expiration date provided in § 1.01 on the following conditions:

a. Tenant may, if it is not in default beyond applicable notice and cure periods either on the date required for the notice or on the date such extension commences, extend the lease term for two additional periods of five year(s) each. The extended term will begin on the day following the expiration date of the lease term specified in § 1.01, or on the day following the expiration date of the immediately preceding extended term, as applicable. If, at the date the original term or any extended term expires, Tenant is in default beyond any grace period provided in this lease in performing any of the terms of this lease, the remaining option or options are void. All of the terms and covenants of this lease apply to all extended lease terms except for the rent which shall be as set forth in paragraph 2.01.

b. Tenant may exercise each option to extend this lease by giving Landlord notice of its intention to do so not earlier than one hundred eighty (180) days before and not later than ninety (90) days before the then current lease term expires, in the case of the initial option to extend, or the extended lease term, in the case of successive options to extend. Notice of an intention to exercise an option under this lease must, to be effective, be sent by mail or fax to Landlord at the address provided in § 15.01 and must be postmarked no later than the latest date provided in this section for Tenant's exercising the option.

**§ 1.03. Holdover.** If Tenant holds over and continues in possession of the premises after the lease term (or any extension) expires, other than as provided in § 1.02, Tenant will be considered to be occupying the premises on a month-to-month tenancy, subject to all the



terms of this lease. Landlord may terminate the tenancy upon ten (10) days written notice to Tenant.

## **ARTICLE 2 . RENT/SECURITY DEPOSIT AND AD VALOREM TAX DEPOSITS**

### **§ 2.01. Fixed Rent.**

a. Tenant will pay Landlord \$5,689.98 for the period of April 1, 2016 through September 30, 2016; thereafter the annual rent shall be as follows:

\$11,721.40 for the Period October 1, 2016 through September 30, 2017  
\$12,073.04 for the Period October 1, 2017 through September 30, 2018  
\$12,435.23 for the Period October 1, 2018 through September 30, 2019  
\$12,808.29 for the Period October 1, 2019 through September 30, 2020

b. Tenant will pay this fixed rent to Landlord at Landlord's office, located at 107 Chapel Lane, New Boston, Texas 75570, or at such other location or locations that Landlord may from time to time designate by written notice to Tenant. The first partial year's rent shall be paid on April 1, 2016; thereafter the annual rent shall be payable on October 1 of each year. If this Lease shall terminate for any reason other than Tenant's default prior to its scheduled expiration date, then Tenant shall be refunded any Fixed Rent or other amount paid in advance of such termination date for periods after the termination date.

c. The fixed rent will increase for each extended lease term, so that the fixed rent shall be as follows.

#### **Option Rent (1<sup>st</sup> Option):**

\$13,192.53 for the Period October 1, 2020 through September 30, 2021  
\$13,588.31 for the Period October 1, 2021 through September 30, 2022  
\$13,995.96 for the Period October 1, 2022 through September 30, 2023  
\$14,415.84 for the Period October 1, 2023 through September 30, 2024  
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\$15,752.58 for the Period October 1, 2026 through September 30, 2027  
\$16,225.16 for the Period October 1, 2027 through September 30, 2028  
\$16,711.91 for the Period October 1, 2028 through September 30, 2029  
\$17,213.27 for the Period October 1, 2029 through September 30, 2030

### **§ 2.02. Taxes and Assessments as Additional Rent.**

a. In addition to the fixed rent specified in § 2.01, Tenant will pay in full all real-property taxes, special assessments, and governmental charges of any kind imposed on the premises or leasehold interest in the Premises commencing on the first day of the lease term and continuing through the end of the calendar year in which the term ends, including any special assessments imposed on or against the premises for constructing or improving public works. This additional rent is payable directly to the entity imposing the tax,

assessment, or charge at least 30 days before the date payment is due. Tenant will provide Landlord with a receipt or other evidence of payment for each tax, assessment, or charge paid as soon as a receipt or other evidence is available to Tenant, but not later than the date payment is due. Tenant shall pay any and all interest, late charges and penalties for failure to timely pay the taxes.

b. Tenant may, at its own expense, contest any tax or assessment for which it is responsible under subparagraph a. Except as provided in subparagraph c, Tenant need not pay the tax, assessment, or charge while the contest is pending. Except as provided in subparagraph c, Tenant may prevent Landlord from paying any tax, assessment, or charge that Tenant is contesting under this subparagraph, pending resolution of the contest, by depositing with Landlord the full amount of the tax or assessment, plus the amount of any penalty that might be imposed for failing to make timely payment and one year of interest at the rate imposed by the entity levying the tax or assessment. When the contest is resolved, Tenant may use the money deposited with Landlord to pay any tax or assessment, plus any penalty or interest, due under the final resolution and keep any balance of the deposit. If the deposit is insufficient to pay these amounts, Tenant must immediately pay the balance due to the entity imposing the tax, assessment, or charge.

c. Notwithstanding subparagraph b, Landlord may pay, or require Tenant to pay, any tax, assessment, or charge for which Tenant is responsible under subparagraph a, pending resolution of Tenant's contest of the tax, assessment, or charge, if payment is demanded by a holder of a mortgage on the premises or if failing to pay will subject all or part of the premises to forfeiture or loss.

**§2.03. Late Charges.** Tenant shall pay a late charge of five percent (5%) of any rent not received by Landlord by the tenth day of the month in which said rent is due.

**§2.04. Security and Ad Valorem Tax Deposits.**

A. **Security Deposit.** Upon execution of this Lease, Tenant shall deposit the sum of \$950.00 with Landlord as a deposit. Said deposit shall not accrue interest. Landlord may use the deposit to pay arrears of rent, to repair any damage or injury to the Premises, or to pay any expense or liability incurred by Landlord as a result of any default by Tenant under this Lease including but not limited to payment of ad valorem taxes upon the premises or the leasehold interest in the premises. If Landlord uses the deposit, or any portion thereof as authorized above, Tenant shall restore the deposit to its original amount within ten (10) days after notice from Landlord. Failure to restore the deposit to its original amount within the required time shall constitute a default under the Lease. Within 30 days after Tenant surrenders the Premises, or completion of repairs or replacement of damaged or destroyed property, whichever is later, Landlord shall return to Tenant any remaining portion of the deposit, after any lawful deductions, provided Tenant has given to Landlord an address specifically for that purpose. IT IS SPECIFICALLY PROVIDED, HOWEVER, THAT TENANT SHALL NOT BE ENTITLED TO ANY PORTION OF THE SECURITY DEPOSIT AS A REFUND UNLESS TENANT GIVES LANDLORD SIXTY (60) DAYS NOTICE OF SURRENDERING THE PREMISES.

B. **Ad Valorem Tax Deposit.** Upon execution of this Lease Tenant shall deposit the sum of \$2,000.00 with Landlord as an Ad Valorem Tax Deposit. Said deposit shall not accrue interest. Landlord may upon expiration or termination of this Lease use the deposit to pay the taxes actually due, or hold for payment of, estimated ad valorem taxes due or to

become due upon the leased premises and for which Tenant is responsible under the Terms of this Lease. Provided Tenant pays all ad valorem taxes for which Tenant is responsible under this Lease, the deposit shall be refunded to Tenant at the address Tenant has given to Landlord for this specific purpose. If taxes have not been assessed and levied for the year in which this Lease expires or is terminated, Landlord may hold the deposit until said taxes have been determined; and, if Tenant does not pay said taxes at least 30 days before delinquency, Landlord may apply the deposit to the taxes due. Nothing in this subsection shall relieve Tenant of its obligation to pay ad valorem taxes upon the leased premises prior to delinquency as provided elsewhere in this Lease.

### **ARTICLE 3 . USE OF PREMISES**

**§ 3.01. Tenant's Warranty Regarding Use.** Tenant represents and warrants to Landlord that Tenant intends to use the premises for storage, inspection, service and repair of railcars and locomotives, and that Tenant's use of the property is restricted to those purposes specified in this section unless Tenant obtains Landlord's prior written consent to any change in use. Before Tenant commences its business operations in the premises, Tenant must give Landlord an affidavit of an officer of Tenant, referred to as the "Officer's Affidavit," setting forth a detailed description of the operations that Tenant will conduct on the premises and stating any applicable permit numbers. The Officer's Affidavit must be organized and prepared in a narrative form, including a description and quantification of all hazardous materials to be generated, manufactured, refined, transported, treated, stored, handled, or disposed of on the premises. After the lease term begins, Tenant must notify Landlord as to any substantial changes in Tenant's operation or use or generation of hazardous materials by way of a supplemental Officer's Affidavit. Tenant may not begin or alter any operations on the property before (a) obtaining all required operating and discharge permits or approvals, including but not limited to air pollution control permits and pollution discharge elimination system permits, from all governmental or public authorities having jurisdiction over the Tenant's operations or the property, and (b) providing copies of such permits and approvals to the Landlord.

#### **§ 3.02. Compliance With Laws.**

a. Tenant may not use, or permit using, the premises in any manner that results in waste of premises or constitutes a nuisance or for any illegal purpose. Tenant, at its own expense, will comply, and will cause its officers, employees, agents, and invitees to comply, with all applicable laws, ordinances, and governmental rules and regulations concerning the use of the premises, including Hazardous Materials Laws, fire and safety regulations and explosives regulations, including but not limited to Title 27, Chapter 11, Subchapter C, Part 555 of the Code of Federal Regulations regarding commerce in explosives.

b. Tenant, at its sole cost, must comply with all Hazardous Materials Laws in connection with Tenant's use of the premises.

c. "Hazardous Materials" means any substance, material, or waste that is or becomes regulated by any local governmental agency, the State of Texas, or the federal government, including, but not limited to, any material or substance that is upon commencement of the term or at any time during the term, (1) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, [33 U.S.C. § 1251 et seq.](#), or listed pursuant to Section 307 of the Clean Water Act, [33 U.S.C. § 1317](#), (2) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and

Liability Act, [42 U.S.C. § 9601 et seq.](#), (3) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, [42 U.S.C. § 6901 et seq.](#), (4) petroleum, (5) asbestos, and (6) polychlorinated biphenyls.

d. "Hazardous Materials Laws" means any federal, state, or local statute, ordinance, order, rule, or regulation of any type relating to the storage, handling, use, or disposal of any Hazardous Materials, the contamination of the environment, or any removal of such contamination, including, without limitation, those statutes referred to in subparagraph c.

e. Tenant shall coordinate with Landlord and the U.S. Army regarding environmental issues related to the leased premises as provided in Section 15.15.

f. Tenant shall obtain any and all permits and/or licenses required to conduct its business on the Premises and provide a copy of same to Landlord.

g. Tenant shall provide an annual report to Landlord of all materials manufactured and/or stored in the Premises which constitute hazardous materials, explosives, petrochemicals, alcohols and any other materials which constitute a danger due to their fire, explosive or environmental hazard.

h. Tenant shall clearly indicate on the outside of each igloo/warehouse the type of materials manufactured or stored therein.

i. Tenant shall furnish, install, and maintain during the term such safety devices, such as fire suppression systems, spark arresters, lightning rods and static electricity suppressors, as are required by applicable law in facilities manufacturing or storing explosives, hazardous materials, petrochemicals, alcohols and other materials constituting a danger due to explosives or fire.

j. Tenant shall construct a secure perimeter fence around the building located on the Leased Premises sufficient to deter persons not affiliated with Tenant from gaining access to storage facilities in which explosives, hazardous materials, petrochemicals, alcohols and other materials constituting a danger due to explosions or fire are kept or stored.

**§ 3.03. Rights of Inspection.** Tenant must permit Landlord and Landlord's agents, servants, and employees, including but not limited to legal counsel and environmental consultants and engineers, access to the premises for the purpose of conducting environmental inspections and sampling during regular business hours, and during other hours either by agreement of the parties or in the event of an environmental emergency. Tenant may not restrict access to any part of the premises, and Tenant may not impose any conditions to access, except that Landlord shall be required to provide prior reasonable notice to Tenant as a condition to such access. Landlord must use its best efforts to avoid interfering with Tenant's use of the premises, and on completion of any sampling and testing must repair and restore the affected areas of the premises as made necessary by any sampling and testing.

#### **§ 3.04. Environmental Reporting Requirements.**

a. Tenant must promptly supply Landlord with copies of all notices, reports, correspondence, and submissions made by Tenant to the Texas Commission on Environmental Quality, the United States Environmental Protection Agency, the United

States Occupational Safety and Health Administration, or any other local, state, or federal authority that requires submission of any information concerning environmental matters or hazardous materials pursuant to hazardous materials laws. Tenant shall provide to Landlord copies of all permits and/or licenses issued to Tenant for operation of its business on the leased premises and all modifications, amendments and other changes within 30 days after issuance of same.

b. Tenant must promptly notify Landlord in advance of any scheduled meeting between Tenant and any of the agencies specified in subparagraph a. In the case of regulatory inspections for which the Tenant has not received advance notice, Tenant shall notify Landlord within 48 hours of the visit and the corrective actions, if any, required by the Agency.

c. Tenant must promptly notify Landlord as to any liens threatened or attached against the premises pursuant to any environmental law. If an environmental lien is filed against the premises, Tenant must, within 30 days from the date on which the lien is placed against the premises, and at any rate before the date on which any governmental authority begins proceedings to sell the premises pursuant to a lien, either: (1) pay the claim and remove the lien from the premises; or (2) furnish either (a) a bond satisfactory to the Landlord in the amount of the claim on which the lien is based, or (b) other security satisfactory to the Landlord in an amount sufficient to discharge the claim on which the lien is based.

**§ 3.05. Condition of Premises.** Tenant accepts the Premises in their present condition "AS IS" and acknowledges that the Premises are, or will be repaired by Tenant to be, suitable for Tenant's intended use.

**§ 3.06. Delivery of Premises at End of Term.** Tenant shall remove all personal property, Tenant owned equipment and stored items from the leased premises at the end of the term or extended term of this Lease. The leased premises shall be returned to Landlord in clean, empty and good condition reasonable wear and tear excepted. Under no circumstances shall stored items be left on or in the premises.

**§ 3.07. Blast Arcs.** Tenant shall not use the leased premises for any purpose or in a way that allows or requires that blast safety arcs extend outside the leased premises or encroach upon or overlap on or across the adjoining roadways known as Cass Street and Oak Street.

**§ 3.08. Information to Be Provided to Landlord.** On or before the tenth day of each calendar year during the Lease Term, Tenant shall provide to Landlord a report indicting the type and quantity of each explosive material stored in or on one of the leased premises (including individual bunkers/igloos) as of the first day of said month.

#### **ARTICLE 4 . REPAIRS AND MAINTENANCE**

**§ 4.01. Repairs and Maintenance by Tenant.** Tenant will throughout the lease term and any extensions of it, at its own expense and risk, repair, replace and maintain the premises and all improvements on them in good order and condition, including but not limited to making all repairs and replacements necessary to keep the premises and improvements in that condition. All maintenance, repairs, and replacements required by this section must be performed promptly when required.

**§ 4.02. Tenant's Failure to Repair or Maintain.** If Tenant fails to perform its obligation to repair, replace, or maintain, as set forth in § 4.01, within a reasonable time after notice

from Landlord of the need for the repair, replacement, or maintenance, Landlord may enter the premises and make the repairs or replacements, or perform the maintenance, or have the repairs or replacements made or maintenance performed, at its own expense. On Landlord's notice to Tenant of the performance and cost of any maintenance, repairs, or replacements under this section, Tenant must immediately reimburse Landlord for any reasonable costs incurred by Landlord under this section, together with interest on the sum at the highest legal rate from the date of the notice until the date paid by Tenant to Landlord.

**§ 4.03. Allocation of Environmental Cleanup Costs.** Tenant is responsible only for the payment of that portion of any cleanup costs necessary for compliance with Hazardous Materials Laws that arise as a result of Tenant's discharge of hazardous materials on the premises during the Tenant's occupancy of the premises and/or as a result of Tenant's violation of any restrictive covenants relating to the Premises which are of Record in Bowie County, Texas.

**§ 4.04. Repairs and Maintenance by Landlord.** Except as provided in Section 5.04, Landlord shall have no responsibility or obligation to repair, replace and/or maintain the Premises.

## **ARTICLE 5 . UTILITIES AND GARBAGE REMOVAL**

**§ 5.01. Utility Charges.** Tenant will pay all utility and connection charges for water, sewer, electricity, heat, gas, cable, fiber optic and telephone service used in and about the premises during the lease term. Tenant will pay the charges directly to the utility company or governmental agency furnishing the service before the charges are delinquent.

**§ 5.02. Meters and Pretreatment Requirements.** Landlord shall pay for the cost for individual meters for utility services and installation of them if individual meters to the Premises are not in place at the time of execution of this Lease. Tenant agrees to pretreat at its cost any waste streams which require pretreatment as reasonably determined by Landlord or the respective utility provider prior to discharge of such waste into the sanitary sewer system.

**§ 5.03. Garbage Removal.** Tenant will pay for all garbage removal from the premises during the lease term.

**§ 5.04. Landlord's Extension of Utilities.** Landlord agrees to extend water service and electrical distribution line service and to install an aerobic septic system to provide utility services to the Premises. Said extension shall be in accordance with Plans and Specifications prepared by MTG Engineers and Surveyors, Texarkana, Texas, as described in Exhibit "C" attached to this Lease Agreement. Tenant acknowledges that the extended lines are not solely for the use of Tenant but to also serve other property in the area owned by Landlord, but Landlord shall cause the water and electric services to be separately metered to the premises.

## **ARTICLE 6 . ALTERATIONS, ADDITIONS, AND IMPROVEMENTS**

**§ 6.01. Consent of Landlord.** Tenant may not make any alterations, additions, or improvements to the premises without Landlord's prior written consent. Landlord may not unreasonably withhold consent for nonstructural alterations, additions, or improvements.

unreasonably withhold consent for nonstructural alterations, additions, or improvements. Landlord hereby approves of the alterations, additions and improvements to the premises set forth in the plans and specifications attached hereto as Exhibit D (the "Tenant's Improvements").

**§ 6.02. Property of Landlord.** All alterations, additions, or improvements made by Tenant will become Landlord's property when the lease terminates. However, Landlord may, when the lease terminates, remove any alterations, additions, and improvements made by Tenant without Landlord's approval (but excluding the Tenant Improvements) and any other property it placed in the premises, and charge Tenant the cost of removal plus interest which amount shall be paid within 50 days of Landlord's notice to Tenant of the amount due.

**§ 6.03. Alterations Required by Accessibility Laws.** If any alterations, additions, or improvements to the premises are mandated by legal requirements related to accessibility by persons with disabilities ("accessibility alterations"), Tenant is responsible for making them. This allocation of responsibility for compliance with such legal requirements is a material inducement for the parties to enter this lease.

## **ARTICLE 7 . TRADE FIXTURES AND SIGNS**

**§ 7.01. Trade Fixtures.** Tenant may, at all times, erect or install shelves, bins, machinery, equipment, or other trade fixtures, in, on, or about the premises, if Tenant complies with all applicable governmental laws, ordinances, and regulations regarding the fixtures. Tenant may remove all trade fixtures when this lease terminates, if Tenant is not in default under the lease and the fixtures can be removed without structural damage to the building. Tenant must repair any damage to the premises caused by removing trade fixtures, and all the repairs must be completed before the lease terminates. Any trade fixtures not removed by Tenant when this lease terminates are considered abandoned by Tenant and will automatically become Landlord's property. If any trade fixture installed by Tenant is abandoned when the lease terminates, Tenant must pay Landlord any reasonable expense actually incurred by Landlord to remove the fixture from the premises, which amount shall be paid within 15 days of Landlord's notice to Tenant of the amount due.

**§ 7.02. Signs.** Tenant may erect signs on any portion of the premises, including but not limited to the exterior walls, subject to applicable laws, ordinances, and regulations, and after approval of the proposed signage by Landlord. Tenant must remove all signs when this lease terminates and repair any damage resulting from erecting or removing the signs.

## **ARTICLE 8 . MECHANIC'S LIEN**

Tenant will not permit any mechanic's lien to be placed on the premises or improvements on the premises. Tenant will promptly pay or bond over any mechanic's lien that is filed on the premises or on improvements located on the premises. If default in payment or bonding over of the lien continues for 20 days after Landlord's written notice to Tenant, Landlord may, at its option, pay the lien or any portion of it without inquiring into its validity. Any amounts Landlord pays to remove a mechanic's lien caused by Tenant to be filed against the premises or improvements on them, including expenses and interest, are due from Tenant to Landlord and must be repaid to Landlord immediately on rendition of notice, together with interest at eighteen (18) percent annually until repaid.

**§ 9.01. Tenant's Property Insurance.** Tenant must, at its own expense during the lease term, maintain insurance on Tenant's personal property, furniture, fixtures and equipment in such amounts as Tenant deems necessary.

**§ 9.02. Landlord's Property Insurance.** Landlord shall, at its expense, keep all buildings on the Premises insured against loss or damage in an amount determined by Landlord in its sole discretion. Tenant will have no claim to any proceeds of Landlord's insurance policies.

**§ 9.03. Tenant's Liability Insurance.** Tenant, at its own expense, must provide and maintain in force during the lease term (a) a policy of commercial liability insurance with a single limit each occurrence of not less than \$1,000,000.00 and general aggregate of not less than \$2,000,000.00, and (b) a policy of Worker's Compensation Insurance as required by applicable law. This insurance is to be carried by one or more insurance companies authorized or admitted to transact business in Texas. The liability policy must cover Landlord as well as Tenant, for any liability for property damage or personal injury arising from Tenant's occupying or Landlord's owning the premises.

**§ 9.04. Remedy for Failure to Provide Insurance.** Tenant must furnish Landlord with certificates of all insurance required by this article. If Tenant does not provide the certificates when Landlord delivers possession to Tenant and within ten days prior to any renewal date, or if Tenant allows any insurance required under this article to lapse, Landlord may, at its option, take out and pay the premiums on the necessary insurance to comply with Tenant's obligations under this article. Landlord is entitled to reimbursement from Tenant for all amounts spent to procure and maintain the insurance, with interest at the rate of eighteen (18) percent annually from the date Tenant receives Landlord's notice of payment until reimbursement.

**§ 9.05. Tenant's Environmental Indemnity; Tenant's Right To Terminate.** Tenant agrees to indemnify, defend, and hold harmless Landlord from and against all claims, liabilities, losses, damages, and costs, foreseen or unforeseen, including without limitation counsel, engineering, and other professional or expert fees, that Landlord may incur by reason of Tenant's breach of Tenant's obligations under Articles 3 and 4 of this lease. This section survives the expiration or earlier termination of this lease.

Landlord shall not make any claim or demand against Tenant or any of its affiliates with respect to any Hazardous Materials present within the premises or surrounding areas as of the date of this Lease, except claims arising out of Tenant's violation of any Hazardous Materials Laws, or Tenant's violation of any restrictive covenants relating to the Premises which are of record in Bowie County, Texas.

In the event that Tenant discovers any adverse environmental condition with respect to the premises not caused by Tenant, Tenant shall have the absolute right to terminate this Lease by delivering written notice to Landlord, in which case this Lease shall terminate effective as of the date set forth in Tenant's termination notice and both parties shall be released from any obligations or liabilities accruing under this Lease from and after such termination date.

**§ 9.06. Hold-Harmless Clause** Tenant will indemnify and hold Landlord harmless against any claims, demands, damages, costs, and expenses, including reasonable attorney's fees for defending claims and demands, arising from the conduct or management of Tenant's



business on the premises or its use of them; from any breach by Tenant of any conditions of this lease; or from any act of negligence of Tenant, its agents, contractors, employees, subtenants, concessionaires, or licensees in or about the premises, except to the extent arising out of the negligent or willful acts or omissions of Landlord, its agents, contractors or employees. If any action or proceeding is brought against Landlord by reason of any such claim, Tenant, on notice from Landlord, will defend the action or proceeding by counsel acceptable to Landlord.

**§ 9.07. Release of Claims/Subrogation.** Landlord and Tenant release each other from any claim, by subrogation or otherwise, for any damage to the Premises, the building, or personal property within the building, regardless of cause, including negligence of Landlord or Tenant, however, the release applies only to the extent it is permitted by law, the damage is covered by insurance proceeds, and the release does not adversely affect any insurance coverage. Landlord and Tenant will notify their insurance companies of the release set forth herein and will have the insurance policies, endorsed, if necessary, to prevent invalidation of the insurance coverage.

**§ 9.08. Pollution Legal Liability Insurance.** Tenant shall carry and provide during the term of this Lease Pollution Legal Liability insurance providing the following coverages:

- a. On-site cleanup of new conditions triggered by first-party discovery or third-party claim
- b. Third-party claims for on-site bodily injury, property damage or cleanup costs arising from new or pre-existing conditions;
- c. Pollution conditions resulting from transported cargo (third-party carrier or owned vehicle) while on TAC properties or adjacent entrances or exits;
- d. Coverage for punitive damages, fines and penalties, if insurable in this jurisdiction

The policy shall provide coverages of not less than \$1,000,000.00 per loss and not less than \$2,000,000.00 in the aggregate.

The deductible on the policy shall not be greater than \$25,000.00 per occurrence.

## **ARTICLE 10 . DAMAGE OR DESTRUCTION OF PREMISES**

**§ 10.01. Notice to Landlord.** If the premises, or any structures or improvements on them, are damaged or destroyed by fire, tornado, or other casualty, Tenant must immediately give Landlord written notice of the damage or destruction, including a general description of the damage and, as far as known to Tenant, the cause of the damage.

**§ 10.02. Total Destruction.** If the building on the premises is totally destroyed by fire, tornado, or other casualty or if it is so damaged that rebuilding or repairs cannot reasonably be completed within one hundred eighty (180) working days at a cost not to exceed the insurance recovery proceeds, this lease will terminate, and rent will be abated for the unexpired portion of this lease, effective as of the date of written notification as provided in § 10.01.

**§ 10.03. Partial Destruction.** If the building or other improvements on the premises are partially damaged by fire, tornado, or other casualty but not to such an extent that rebuilding or repairs cannot reasonably be completed within one hundred eighty (180) working days and at a cost not to exceed the insurance recovery proceeds, this lease will not terminate except as follows:

a. If the premises are partially destroyed before the final twelve (12) months of the lease term, Landlord must, at its sole cost and risk, proceed immediately to rebuild or repair the damaged buildings and improvements to substantially the condition they were in before the damage. If the damage renders the premises untenantable in whole or in part, the rent payable during the period in which they are untenantable will be adjusted equitably. If Landlord fails to complete the rebuilding or repairs within one-hundred eighty (180) working days from the date of Tenant's written notification to Landlord of the damage, Tenant may terminate this lease by written notification to Landlord. On the notification, all rights and obligations under this lease will cease.

b. If the premises are partially destroyed during the final twelve (12) months of the lease term, Landlord need not rebuild or repair them. If Landlord elects not to rebuild or repair and the damage rendered the premises untenantable in whole or in part, Tenant may (a) terminate the lease, (b) continue it with the rent for the remainder of the lease period adjusted equitably, or (c) notify Landlord that Tenant elects to extend the term of the Lease for any remaining Option Terms. If Tenant shall elect clause (c) above, then this Lease shall not terminate and Landlord shall proceed to immediately rebuild and repair the premises to the extent of the available insurance proceeds; provided, however, that if Landlord shall fail to fully restore the premises within one-hundred eighty (180) working days from the date of Tenant's written notification to Landlord or if Landlord notifies Tenant that there are insufficient insurance proceeds to fully complete the restoration, then, in either event, Tenant may terminate this Lease by written notification to Landlord.

## **ARTICLE 11 . CONDEMNATION**

**§ 11.01. Total Condemnation.** If, during the lease term or any extension or renewal of it, all of the premises are taken for any public or quasi-public use under any governmental law, ordinance, or regulation, or by right of eminent domain, or are sold to the condemning authority under threat of condemnation, this lease will terminate, and the rent will be abated during the unexpired portion of this lease, effective as of the date the condemning authority takes the premises.

**§ 11.02. Partial Condemnation.** If less than all, but more than twenty-five percent (25%), of the premises is taken for any public or quasi-public use under any governmental law, ordinance, or regulation, or by right of eminent domain, or is sold to the condemning authority under threat of condemnation, Tenant may terminate the lease by giving Landlord written notice within 30 days after the entity exercising the power of condemnation takes possession of the condemned portion. In addition, if twenty-five percent (25%) of the parking area, or all of the signage, of the premises is taken for any public or quasi-public use under any governmental law, ordinance, or regulation or by right of eminent domain, or is sold to the condemning authority under threat of condemnation, Tenant may terminate the lease by giving Landlord written notice within 30 days after the entity exercising the power of condemnation takes possession of the condemned portion.

If the premises are partially condemned and Tenant fails to exercise the option to terminate

the lease under this section, or if less than twenty five percent (25%) of the premises is condemned, this lease will not terminate, but Tenant may, at its sole expense (but Landlord shall pay all available condemnation and other proceeds to Tenant), restore and reconstruct the building and other improvements situated on the premises to make them reasonably tenantable and suitable for the uses for which the premises are leased. The fixed rent payable under § 2.01 of this lease will be adjusted equitably during the unexpired portion of this lease.

§ 11.03. **Condemnation Award.** Landlord is entitled to receive and retain the entire award in any condemnation proceedings, except for any portion attributable to trade fixtures and relocation costs, which Tenant is entitled to receive and retain. The termination of this lease will not affect the right to this award.

## **ARTICLE 12 . DEFAULT**

§ 12.01. **Tenant's Default.** If Tenant fails to pay the rent when due under this Lease and such default shall continue for a period of 10 days, or remains in default under any other condition of this lease for 30 days after written notice from Landlord (or such longer period as may be reasonably necessary to cure such default with reasonable diligence), Landlord may, at its option, without notice to Tenant, terminate this lease, or, in the alternative, Landlord may reenter and take possession of the premises and remove all persons and property without being considered guilty of any manner of trespass and may (but is not required to) relet the premises (or any part of them) for all or any part of the remainder of the lease term, to a party satisfactory to Landlord and at the monthly rental as Landlord can secure with reasonable diligence. If Landlord cannot relet after reasonable efforts to do so or if the monthly rental is less than the rental Tenant was obligated to pay under this lease (or any renewal of it) plus the expense of reletting, then Tenant must pay Landlord the amount of the deficiency.

§ 12.02. **Landlord's Lien.** Landlord hereby waives any statutory or other lien rights, security interest or rights of distraint in and to Tenant's personal property.

§ 12.03. **Landlord's Default.** If Landlord defaults in performing any term or covenant that Landlord must perform under this agreement, Tenant may, after not fewer than thirty (30) days' notice to Landlord, remedy the default by any necessary action and, in connection with the remedy, may pay expenses and employ counsel. Landlord must, on demand, pay Tenant all sums expended, or obligations incurred, by Tenant in connection with remedying Landlord's default. It is agreed, however, that if Landlord commences action within 30 days after receipt of notice to remedy any default and diligently pursue such action to conclusion, Tenant's rights under this section shall not apply.

§ 12.04. **Cumulative Remedies.** All Landlord's and Tenant's rights and remedies under this Article are cumulative, and none will exclude any other right or remedy provided by law or any other provision of this lease. All the consistent rights and remedies may be exercised and enforced concurrently and whenever occasion for their exercise arises.

§ 12.05. **Waiver of Breach.** All Landlord's or Tenant's waiving a breach of this lease by the other party does not constitute a continuing waiver or a waiver of any subsequent breach.

**§ 12.06. Indemnities in Event of Termination.** In the event that this Lease Agreement is terminated by either party as provided in this Agreement, and upon expiration of the Term, or extended term of this Lease Agreement, the Tenant's obligations to indemnify and hold harmless Landlord shall not terminate or expire and shall survive such termination and/or expiration and shall be fully binding upon Tenant.

**§ 12.07. Limitation of Landlord's Liability.** Notwithstanding anything to the contrary contained herein, no personal or individual liability of any kind or character whatsoever shall now or at any time hereafter attach to Landlord or its property other than leased premises for the payment of any amount payable under this Lease. The exclusive remedy of Tenant for the failure of Landlord to perform any of its obligations under this Lease shall be to proceed against the interest of Landlord in and to the leased premises.

### **ARTICLE 13 . INSPECTION BY LANDLORD**

Tenant will permit Landlord and its agents, representatives, and employees to enter the premises at all reasonable times and upon prior reasonable notice for the purpose of inspection or any other purpose necessary to protect Landlord's interest in the premises or to perform Landlord's duties under this lease, or to show the Premises to prospective purchasers or future tenants.

### **ARTICLE 14 . ASSIGNMENT AND SUBLEASE**

#### **§ 14.01. Assignment and Subletting by Tenant.**

a. Tenant may not sublet, assign, encumber, or otherwise transfer this lease, or any right or interest in it or in the premises or the improvements on them, without Landlord's written consent. If Tenant sublets, assigns, encumbers, or otherwise transfers its rights or interests in this lease or in the premises or the improvements on them without Landlord's written consent, Landlord may, at its option, declare this lease terminated. If Landlord consents in writing to an assignment, sublease, or other transfer of all or any of Tenant's rights under this lease, the assignee or subtenant must assume all of Tenant's obligations under this lease, and Tenant will remain liable for every obligation under the lease. Landlord may not arbitrarily or unreasonably withhold consent under this section.

b. As a condition precedent to the Tenant's right to sublease the property or to assign this lease, the Tenant must, at the Tenant's own expense, fulfill all of the Tenant's environmental obligations under Article 3 of this lease. If this condition is not satisfied, the Landlord has the right to withhold consent to any proposed sublease or assignment.

c. Notwithstanding anything contained in this Lease to the contrary, Tenant shall have the right, without Landlord's consent, to assign this Lease or sublease all or any part of the premises to any entity that (a) controls, is controlled by or is under common control with Tenant, (b) is the purchaser of all or substantially all of Tenant assets or ownership interest in Tenant, or (c) is the surviving entity in connection with any merger or consolidation involving Tenant.

**§ 14.02. Assignment by Landlord.** Landlord may assign or transfer any of its interests under this lease. On transfer, and on the transferee's assumption of its obligations, Landlord is relieved of its obligations under the lease.



lease are cumulative, and either party's using any right or remedy will not preclude or waive its right to use any other remedy. These rights and remedies are in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

§ 15.08. **Attorney's Fees and Costs.** If, as a result of either party's breaching this agreement, the other party employs an attorney to enforce its rights under this lease, then the breaching or defaulting party will pay the other party the reasonable attorney's fees and costs incurred to enforce the lease.

§ 15.09. **Force Majeure.** Neither Landlord nor Tenant is required to perform any term or covenant in this lease so long as performance is delayed or prevented by *force majeure*, which includes acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riot, floods, and any other cause not reasonably within Landlord's or Tenant's control and that Landlord or Tenant cannot, by exercising due diligence and paying money, prevent or overcome, in whole or part.

§ 15.10. **Time of Essence.** Time is of the essence of this agreement.

§ 15.11. **Alternate Dispute Resolution.** Landlord and Tenant shall submit in good faith to mediation any and all disputes before filing suit. Each party shall pay its own counsel fees in such mediations and shall each pay one-half of the mediator's charges. The parties shall mutually agree upon the mediator, and upon failure to agree within 30 days of a request by either party to mediation, shall request the County Judge of Bowie County to select a mediator whose selection shall be binding on the parties. All mediations shall take place in Bowie County, Texas.

§ 15.12. **LIMITATION OF WARRANTIES.** THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OF ANY OTHER KIND ARISING OUT OF THIS LEASE. THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE, IF ANY, EXPRESSLY STATED IN THIS LEASE.

§ 15.13. **Abandoned Property.** Landlord may retain, destroy or dispose of any property left on the Premises at the end of the Term without liability to Tenant for loss or damage.

§ 15.14. **Municipal and Emergency Services.** Tenant shall pay for all municipal services (Police, Hazardous Spill Response, Emergency Medical Response and Fire Protection) used by Tenant, its employees, guests, invitees, and any and all persons while upon the Premises. Said services may be furnished by local law enforcement agencies and by the U.S. Department of the Army as provided in that certain Municipal Services Agreement between Red River Army Depot and Red River Redevelopment Authority dated the 4<sup>th</sup> day of February, 1998, as it may be amended from time to time. Tenant shall pay to, or reimburse, Landlord for all municipal services furnished to Tenant or to persons on the Premises within ten (10) days after receipt of an invoice for said services from Landlord. Tenant shall be entitled to receive and shall handle all documentation for reimbursement by insurance companies or other third party benefit plan providers.

§ 15.15. **Army Imposed Restrictions.** Notwithstanding any other provision of this Lease, this Lease Agreement is made subject to, and Tenant agrees to be bound by those

certain exceptions, limitations, covenants, conditions and reservations set forth in the Deed Without Warranty conveying the Premises from the United States of America, acting by and through the Secretary of the Army to Red River Redevelopment Authority dated September 1, 2010, and recorded in Volume 5898, Page 1 of the Real Property Records, Bowie County, Texas, to the extent said provisions apply to the Premises. A copy of the Deed Without Warranty is available at the offices of Landlord.

§ 15.16. **Reservation of Rights.** Landlord reserves the right to include the Premises including the easement locations, if any, together with other adjoining property owned by Landlord in a subdivision plat and subject the property described in said platted subdivision to utility easements and common restrictive covenants; provided, however, that said restrictive covenants and easements shall not interfere unreasonably with Tenant's use and related uses or access to the premises or rights under this Lease, nor enlarge Tenant's obligations under this Lease. It shall not be necessary or required that Tenant join in the execution of any such plat dedication or declaration of restrictive covenants and easements.

§ 15.17. **Common Area Charges.** Tenant acknowledges and agrees that it shall be responsible for and pay its proportionate share of the "TexAmericas Center-East common area charges" based upon the square footage of the Premises as a percentage of the total area of the TexAmericas Center-East development area (excluding the "common areas"). The "common areas" are those areas of TexAmericas Center-East used by and/or for the benefit of all property owners or tenants within TexAmericas Center-East, including but not limited to parks, recreational facilities, walkways, roadways and public parking areas. "Common area charges" are those property taxes, user charges, payments in lieu of taxes, maintenance, improvement, and betterment charges, and other local, county, TexAmericas Center, or other governmental assessments on or against the Commerce Park common areas. The common area charges, other than taxes, shall not exceed ten cents (\$0.10) per \$100.00 valuation of the Premises based upon the fair market value thereof as determined by the Bowie Central Appraisal District for the year in which the assessment is made. Landlord shall notify Tenant of the amount of the assessment, and Tenant shall pay said assessment within thirty (30) days.

§ 15.18. **License for Access to Premises.** Landlord grants Tenant a license to use the roadways of Landlord for access to and from the Premises, said roadways being identified as follows (select only one by placing an X in the applicable option):

- All roadways including paved and unpaved roads;
- Only the paved roadways; or
- The following specific streets:

Cass Street  
Oak Street  
Cypress Street

This is a non-exclusive license to use said roadways which shall terminate upon the termination of this lease.

§ 15.19. **Guarantee. N/A**

The undersigned Landlord and Tenant execute this agreement on the 31<sup>st</sup> day of March, 2016.

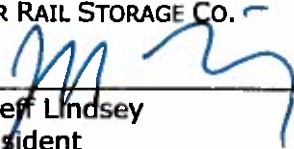
**LANDLORD**

TEXAMERICAS CENTER

By:   
Name: Scott Norton  
Title: Executive Director/CEO

**TENANT**

LONE STAR RAIL STORAGE CO.

By:   
Name: Jeff Lindsey  
Title: President

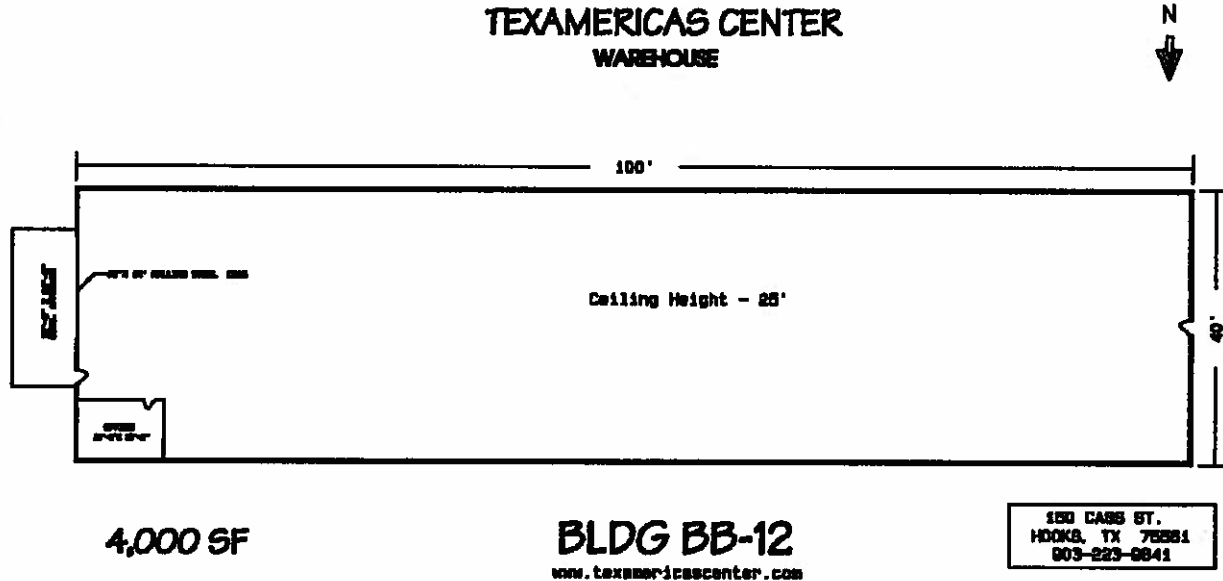
**GUARANTOR**

N/A



**EXHIBIT "A"**  
**PREMISES DESCRIPTION**

Building BB-12 having a street address of 150 Cass Street, Hooks, Texas 75561



All that certain 4.38 acres, more or less, as located in the plat attached hereto as Exhibit "B" and more particularly described as follows:

**EXHIBIT "B"**  
**PREMISES DESCRIPTION**



**TEXAMERICAS CENTER EAST CAMPUS**  
**BB-12 LEASE EXHIBIT**  
**4.38 ACRES +/-**



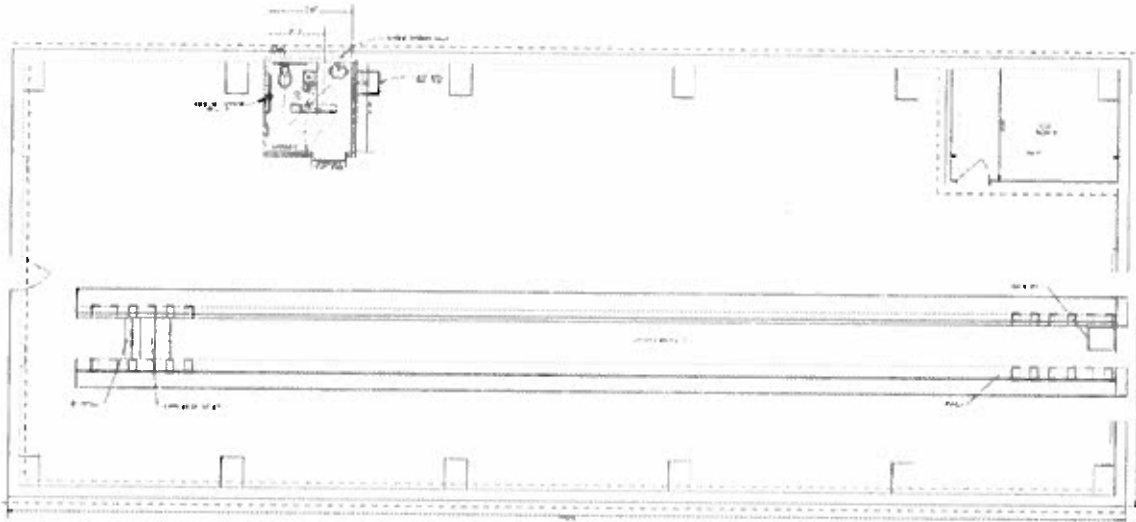
5420 SUTTON AVE. | P.O. BOX 11100 | DALLAS, TX 75261  
PHONE: 972.438-0322 | WWW.MTG-ARCHITECTS.COM  
© 2014 MTG



The Premises are a portion of the Property conveyed by the United States of America to Red River Redevelopment Authority by that certain Deed Without Warranty dated September 1, 2010, recorded in Volume 5898, Page 1 of the Real Property Records of Bowie County, Texas.



# EXHIBIT "D" TENANT'S IMPROVEMENTS



**GENERAL NOTES:**  
 1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODES AND ALL APPLICABLE LOCAL, STATE AND FEDERAL REGULATIONS.  
 2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPLICABLE AGENCIES.  
 3. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE ARCHITECT AND THE APPLICABLE AGENCIES.  
 4. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL EXISTING UTILITIES AND STRUCTURAL ELEMENTS AT ALL TIMES.  
 5. ALL DEMOLITION WORK SHALL BE DONE IN ACCORDANCE WITH ALL APPLICABLE REGULATIONS AND SAFETY PROTOCOLS.

**NOTES - RACKS:**  
 1. ALL RACKS SHALL BE CONSTRUCTED OF GALVANNEED STEEL WITH A MINIMUM THICKNESS OF 16 GA.  
 2. RACKS SHALL BE SPACED TO ALLOW FOR EASY ACCESS AND MAINTENANCE.  
 3. ALL RACKS SHALL BE ANCHORED TO THE FLOOR SLAB.  
 4. THE CONTRACTOR SHALL PROVIDE PROTECTIVE BARRIERS AT ALL RACK ENDS AND CORNERS.  
 5. ALL RACKS SHALL BE PAINTED WITH A DURABLE INDUSTRIAL PAINT.

**GENERAL NOTES:**  
 1. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.  
 2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING UTILITIES AND STRUCTURAL ELEMENTS.  
 3. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE ARCHITECT AND THE APPLICABLE AGENCIES.



<b>PROPOSED IMPROVEMENTS</b>		<b>MTG</b> <i>Engineers &amp; Architects</i>
LOGGING SHED SHELVING LONE STAR RAILCAR STORAGE		
DATE: _____		1000 WEST VALLEY FORT WORTH, TEXAS 76104 TEL: 817.335.1111 FAX: 817.335.1112
DRAWN BY: _____ CHECKED BY: _____ TITLE: _____		

