



RESOLUTION NO. 20160726-07

RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR/CEO TO EXECUTE A LICENSE AGREEMENT TO USE DESIGNATED ROADWAYS ON THE TAC-CENTRAL CAMPUS TO M2 SERVICES CORPORATION

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, M2 Services Corporation contacted TexAmericas Center to seek a license agreement to use designated roadways on the TAC-Central campus for purposes of testing refurbished military vehicles; and

WHEREAS, the parties have come to the attached terms of agreement for said license agreement.

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 license agreement; and

BE IT FURTHER RESOLVED, by the Board of Directors of TexAmericas Center that the Center appreciates the collaborative effort of M2 Services Corporation to negotiate this license agreement as well as to continue its business operations, preserve jobs and contribute to the tax base in Bowie County, Texas.

PASSED AND APPROVED THIS 26th day of July, 2016.



Denis Washington, Chairman of the Board

ATTEST:



Melford Pierce, Secretary

Attached: License Agreement to Use Designated Roadways



LICENSE AGREEMENT TO USE DESIGNATED ROADWAYS

This License Agreement is entered into by and between TexAmericas Center, a political subdivision of the State of Texas having its principal office at 107 Chapel Lane, New Boston, Bowie County, Texas 75570, hereinafter referred to as "TAC" and M2 Services Corporation, a Corporation having its principal office at 5900 S. Forest Lake Drive, McKinney, TX 75070 hereinafter referred to as "M2".

RECITALS

WHEREAS, TAC is the owner of property commonly known as TexAmericas Center-Central formerly a part of the Red River Army Depot located in Bowie County, Texas; and

WHEREAS, M2 is a private company which has contracts to rehabilitate military vehicles and return them to their customers; and

WHEREAS, the contracts between M2 and their customers requires that the vehicles be road tested prior to redelivery and M2 desires to use a portion of the road system of TexAmericas Center-Central Campus for purposes of testing the refurbished vehicles; and

WHEREAS, TAC and M2 have agreed to the terms of this License Agreement for the purpose of providing test roads for M2 conditioned upon the terms of the agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions set forth herein, TAC and M2 do hereby agree as follows:

1. License. TAC does hereby grant to M2 a non-exclusive License to use designated roads owned by TAC upon the TexAmericas Center-Central Campus during the term of this License Agreement which roads are described as follows:

Panther Drive, Texas Avenue and Technology Circle as depicted upon the photograph attached hereto as Exhibit "A".

2. Term of License. The term of this License is for a period of 1 year and 3 months, beginning on the 1st day of August, 2016, and ending on the 31st day of October, 2017, unless terminated earlier as provided in this Agreement.

3. Option to Extend Term. Licensee may extend the term of this agreement beyond the expiration date provided in Section 2 above on the following conditions:

A. Licensee may, if it is not in default, either on the date required for the notice or on the date such extension commences, extend the term for three (3) additional periods of one (1) year. The extended term will begin on the day following the expiration date of the term specified in Section 2. If, at the date the original term expires, Tenant is in default beyond any grace period provided in this agreement, the remaining option is void. All of the terms and covenants of this agreement apply to all extended terms.

B. Licensee may exercise the option to extend this License Agreement by giving TAC notice of its intention to do so not later than three (3) months before the then current Term expires. Notice of an intention to exercise an option under this agreement must, to be effective, be sent by mail, fax, or email to TAC at the address provided in this agreement.

4. Consideration. Licensee will pay to TAC the initial sum of \$100.00 upon execution of this License Agreement for the first year and three months of the term hereof. Said sum shall be increased by 3% each year during the remaining term of this license. Annual payments of said increasing amount shall be due on or before November 1st of each year during the term hereof.

5. Taxes. M2 shall render for taxation its equipment used in Bowie County, Texas, and shall pay any and all taxes assessed against said equipment. M2 shall hold TAC harmless and indemnify TAC against any and all claims for taxes due including but not limited to penalties, interests and attorney's fees assessed.

6. Compliance with Laws.

A. M2 may not use, or permit using, the Licensed Premises in any manner that results in waste of the premises or constitutes a nuisance or for any illegal purpose. M2, at its own expense, will comply, and will cause its officers, employees, agents, subcontractors, and invitees to comply with all applicable laws, ordinances, and governmental rules and regulations concerning the use of the Licensed Premises, including Hazardous Materials Laws.

B. 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 the Clean Water Act, 33 USC, Section 1251, et sec, listed pursuant to Section 307 of the Clean Water Act, materials defined as Hazardous Substance pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, materials defined as Hazardous Waste pursuant to Section 1004 of the Resource Conservation and Recovery Act, Petroleum, Asbestos, and Polychlorinated Biphenyls.

7. **Insurance.** M2 must, at its own expense during the term of this agreement and any extended term, maintain insurance as follows:

A. Prior to the start of work, M2 shall procure and maintain in force Workers' Compensation Insurance, Employer's Liability Insurance, Automobile Insurance and General Liability Insurance. The General Liability Insurance shall include coverage for liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, contractual liability, and broad form property damage. The General Liability Insurance shall name TAC as an additional insurance for liability arising out of the work of M2.

M2's Employer's Liability, Business Auto Liability, and General Liability Policies, will procure and maintain during the entire period of its performance under this contract the following minimum insurance:

Worker's Compensation and Employer's Liability
Comply with federal and state worker's comp and occupational disease Statutes

Employer's Liability (at least)
Bodily Injury by Accident: \$1,000,000.00
Bodily Injury by Disease: \$1,000,000.00

Auto Liability:
Bodily Injury (at least)
per person \$500,000.00
per occurrence \$1,000,000.00
Property Damage (at least)
per occurrence \$200,000.00

General Liability: (at least)
Per Occurrence: \$1,000,000.00
Aggregate: \$2,000,000.00

B. The Employer's Liability, Auto Liability and General Liability Coverages may be arranged under a single policy for the full limits required or by the combination of the underlying policies with the balance provided by excess and/or umbrella liability policies.

C. M2 shall maintain in effect all insurance coverage required at M2's sole expense with insurance companies authorized to do business in the State of Texas. If M2 fails to obtain or maintain any insurance coverage then TAC may deny the M2 access to Licensed Property.

D. The policies of insurance required shall contain a provision that the coverages afforded under the policies will not be cancelled or allowed to expire until at least 30 days prior written notice has been given to the TexAmericas Center.

8. Hold Harmless and Indemnity. M2 will indemnify and hold TAC harmless against any claims, demands, damages, costs, and expenses, including reasonable attorney's fees for defending claims and demands, arising from the conduct of M2's business on the Licenses Premises or its use of the Licenses Premises; from any breach by M2 of any conditions of this License Agreement; or from any act of negligence of M2, its agents, contractors, subcontractors, employees, or licensees, on or about the Licenses Premises. If any action or proceeding is brought against TAC by any reason of any such claim, M2, on notice from TAC, will defend the action or proceeding by counsel acceptable to TAC.

9. Operational Limitations. M2 shall at all times comply with the following operational limitations with regard to the Licensed Premises, to-wit:

A. M2 shall observe the posted speed limits upon the designated roadways. In the event there is no posted limit upon the roadway, driver shall not exceed 35 mph.

B. All drivers of motor vehicles shall have a valid commercial operator's license.

C. Only the military vehicle known as the HMMWV shall be tested under this license.

D. Testing of vehicles on the Licensed Premises shall not include a testing of brakes which result in skidding of tires upon the road surfaces.

E. M2 shall repair all damage to the roadway surfaces caused by the testing of the vehicles other than ordinary wear and tear.

F. All personnel of M2 involved in the testing of the vehicles upon the Licensed Premises shall register and obtain a badge for entry onto the TexAmericas Center-Central Campus. Registration and badging is available at the offices of TAC.

H. M2 shall use the designated roads for the purpose of testing HMMWV Vehicles refurbished by M2 for the Israeli Ministry of Defense, and for no other purpose.

10. Default. If M2 remains in default under any condition of this License Agreement for ten (10) days after written notice from TAC, TAC may, at its option, without notice to M2, terminate this License Agreement and pursue such remedies as it may have under the law.

11. Condition of Roads; Limitation of Tax Liability. M2 has had the opportunity to inspect the roads which are the subject matter of this License Agreement and accepts said

roads in their current condition as suitable for M2's use in testing the vehicles. M2 accepts the condition of the roads in their current "AS IS-WHERE IS" condition. TAC shall have no responsibility to provide other than routine maintenance to said roads during the term. M2 hereby waives any and all claims it may now have, or may hereafter have, against TAC which arise out of M2's use of the roadways designated in this agreement.

12. Assignment. M2 may not assign or otherwise transfer this License Agreement, or any right or interest in it, without TAC's written consent.

13. Notices and Addresses. All notices required or permitted under this agreement shall be delivered to the respective parties at their addresses as set forth below their signatures to this agreement.

14. Parties Bound. This agreement binds, and inures to the benefit of, the parties to this agreement and their respective successors and permitted assigns.

15. Texas Law To Apply. This agreement is to be construed under Texas law, and all obligations of the parties created by this agreement are performable in Bowie County, Texas. Any and all litigation arising out of this agreement shall be filed and maintained in the District Court of Bowie County, Texas.

16. Prior Agreements Superseded. This agreement constitutes the parties' sole agreement and supersedes any prior understandings or written or oral agreements between the parties with respect to the subject matter of this agreement.

17. Amendment. No amendment, modification or alternation of this agreement is binding unless in writing, dated subsequent to the date of this agreement, and executed by both of the parties.

18. 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 agreement, then the breaching or defaulting party will pay the other party the reasonable attorney's fees and costs incurred to enforce this agreement.

19. Time of Essence. Time is of the essence of this agreement.

20. Alternative Dispute Resolution. TAC and M2 shall submit in good faith to mediation any and all disputes before filing suit. Each party shall pay its own counsel fees in such mediation 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 thirty (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.

21. 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 AGREEMENT. THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE, IF ANY, EXPRESSLY STATED IN THIS AGREEMENT.

EXECUTED and EFFECTIVE as of the date of the second party to execute the same as indicated below.

TEXAMERICAS CENTER

By: 

Scott Norton,
Executive Director/CEO

107 Chapel Lane
New Boston, Texas 75570
Telephone: 903-223-9841
Facsimile: 903-223-8742
Email: scott.norton@texamericascenter.com

Date: 7/20/16

M2 SERVICES CORPORATION

By: 

Michael Moreno,
President

5900 S. Forest Lake Drive
McKinney, TX 75070
Telephone: 214-491-1108
Facsimile: 775-923-4653
Email: mmoreno@m2-services.com

Date: July 26, 2016