



RESOLUTION NO. 20180227-10

**A RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A
NONBINDING LETTER OF INTENT WITH ENGIE DEVELOPMENT, LLC**

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, TexAmericas Center and ENGIE Development, LLC have negotiated the terms of a nonbinding Letter of Intent whereby TexAmericas Center agrees to lease certain property on the TAC West Campus to ENGIE Development, LLC for the construction and operation of a Solar Energy Facility; and

WHEREAS, TexAmericas Center and ENGIE Development, LLC have specified the basic terms of the proposed lease and the requirements, including financial terms, have been fully set forth in the draft Letter of Intent attached hereto as **Exhibit "A"**; and

WHEREAS, the Board of Directors of TexAmericas Center finds that it is in the best interest of TexAmericas Center for the development of the TAC West Campus and creation of jobs available to the citizens of Bowie County, Texas, that TexAmericas Center move forward with the development of a comprehensive lease with ENGIE Development, LLC for the construction and operation of a Solar Energy Project;

NOW, THEREFORE, BE IT REVOLVED as follows:


1. That Scott Norton, Executive Director/CEO shall be and he is hereby authorized to negotiate the final terms of a nonbinding Letter of Intent in substantially the terms of the draft Letter of Intent attached hereto as **Exhibit "A"**; and
2. That Scott Norton, Executive Director/CEO shall be and he is hereby authorized to execute the nonbinding Letter of Intent with ENGIE Development, LLC for the lease of property to ENGIE Development, LLC for the construction and operation of a Solar Energy Project upon the TAC West Campus; and
3. That Scott Norton, Executive Director/CEO shall negotiate the final terms of the Lease with ENGIE Development, LLC and present the same to the Board of Directors for final approval of the lease terms.

PASSED and APPROVED this 27th day of February, 2018.



Boyd Sartin, Chairman of the Board

ATTEST:



Ben King, Secretary

Attached: Exhibit A



February 28, 2018

TexAmericas Center
107 Chapel Lane
New Boston, Texas 75570

RE: TexAmericas Center Solar Development Project – Exclusivity Letter

Ladies and Gentlemen:

1. As you are aware, ENGIE Development, LLC, a Delaware limited liability company (“EDL”), has been engaging in non-binding discussions with TexAmericas Center, a political subdivision of the State of Texas (“TexAmericas”), regarding the terms of a possible lease agreement (hereinafter the “Lease”) by and between EDL or an affiliate, as Lessee, and TexAmericas, as Lessor, which Lease would include all or a portion of that certain property more particularly described in Exhibit A, attached hereto (the “Property”). Although no definitive agreements have been entered into regarding the Lease, EDL and TexAmericas have concluded that it is in their mutual best interests to continue these discussions. Accordingly, EDL and TexAmericas hereby agree that for a period of six (6) months from the date first set forth above, or such earlier time as EDL and TexAmericas shall mutually agree (such period of time, the “Exclusivity Period”), EDL and TexAmericas shall continue to negotiate in good faith the terms of the Lease for the Property (the “Proposed Transaction”). TexAmericas acknowledges and agrees that in this Exclusivity Period EDL will do due diligence on the Property, and TexAmericas agrees to give EDL access to the Property and all data and information in the possession of TAC that may be relevant to EDL’s due diligence exercise. EDL shall restore the Property to its original condition as of the date of this letter within 30 days after completion of its due diligence testing and/or inspections, or after the end of the Exclusivity Period, whichever is earlier. Additionally, EDL shall defend, indemnify and hold TexAmericas and the Property harmless from and against all claims for personal injury and/or property damage arising out of EDL’s due diligence activities, and from and against any mechanic’s liens or claims of such liens that may be filed or asserted against TexAmericas or the Property by any contractors, subcontractors or materialman performing such inspections and testing on behalf of EDL.

2. In consideration of the time, effort and expenses to be undertaken by EDL in connection with the continued pursuit of the Proposed Transaction, and other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, TexAmericas hereby agrees that, during the Exclusivity Period, it shall not directly or indirectly: (i) solicit, initiate or take any action with the purpose of facilitating or encouraging any inquiries or the making of any proposal from a person or group of persons other than EDL and its affiliates that may constitute, or could reasonably be expected to lead to, an Alternative Transaction (as defined below); (ii) enter into or participate in any discussions or negotiations with any person or group of persons other than EDL and its affiliates regarding an Alternative Transaction; or (iii) enter into an Alternative Transaction or any agreement, arrangement or understanding, including, without limitation, any letter of intent, term sheet or other similar document, relating to or in furtherance of an Alternative Transaction. Immediately upon execution of this letter, TexAmericas shall suspend for the Exclusivity Period any and all existing discussions or negotiations with any person or group of persons other than EDL and its affiliates regarding an Alternative Transaction.

3. As used herein, the term “Alternative Transaction” means any direct or indirect sale, lease, grant, transfer, license, easement or other conveyance of right to develop the Property (except as specified in Exhibit “A”), where such transaction is to be entered into with any person or group of persons other than EDL or its affiliates.

4. The parties hereto acknowledge that a breach of this letter would cause irreparable harm for which monetary damages would be an inadequate remedy. Accordingly, TexAmericas hereby agrees that EDL may seek equitable relief in the event of any breach or threatened breach of this letter, including injunctive relief against any breach hereof and specific performance of any provision hereof as its only remedies hereunder.

5. The parties hereto acknowledge that the execution and delivery of this letter does not create any legally binding obligations between the parties relating to the Proposed Transaction except those specifically set forth herein. Each party acknowledges and agrees that this letter expresses the parties’ interests in continuing discussions regarding the Proposed Transaction and is not intended to, and does not, create any legally binding obligation on any party to consummate the Proposed Transaction. Such an obligation will arise only upon the execution and delivery of final definitive agreements relating to the Proposed Transaction, such execution and delivery to occur at the sole discretion of the parties. The term sheet attached hereto as Exhibit B is preliminary and non-binding in nature and does not (a) create any obligation on the part of any person, including EDL or TexAmericas, or (b) purport to address all of the terms that may be reflected in (and would be qualified in all respects by) the Lease.

6. This letter shall be governed by and construed in accordance with the laws of the State of Texas without giving effect to any choice or conflict of law provision or rule (whether of the State of Texas or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the

State of Texas. Jurisdiction and venue for any litigation arising from or relating to this letter shall be in the District Court of Cass County, Texas.

7. This letter may be executed by facsimile or other electronic delivery of original signatures, and in one or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement.

If this letter accurately sets forth our understanding, kindly execute this letter and return it to the undersigned.

Sincerely,

ENGIE DEVELOPMENT, LLC

By:  _____

Name: Andrea Cavigli *ACL*

Title: CFO

*Accepted and agreed,
as of the date first set forth above:*

TEXAMERICAS CENTER

By:  _____

Name: Scott Norton

Title: Executive Director/CEO

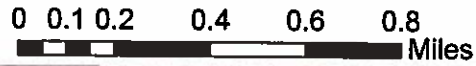
EXHIBIT A
PROPERTY DESCRIPTION

The Property shall be those certain tracts containing approximately 1,115 acres as depicted upon Exhibit A-1 attached hereto; provided, however, TexAmericas reserves the right to lease for its own benefit and profit the “Igloos”, “Bunkers” and “Storage Magazines” (together with an area extending out 50 feet surrounding said structures), the concrete, asphalt and/or gravel aprons, or access pads, adjacent to said structures, and the roads located upon the Property; and further provided, that (i) EDL shall not construct any of its facilities upon said structures or within the aprons and roadways, (ii) TexAmericas will ensure that EDL has adequate right of way and access to the Property for interconnection purposes, utilities connection, construction activities and operations and maintenance of the facilities constructed on the Property, which acreage shall be included in the calculation of the Construction Rent and the Operating Rent; and (iii) so long as TexAmericas use of the reserved areas is not detrimental to or inconsistent with EDL’s use of the Property for solar development purposes.



EXHIBIT A-1

TEXAMERICAS CENTER WEST CAMPUS



Total Development Area = 1,115 Acres
Acresages shown are approximate.

New Boston

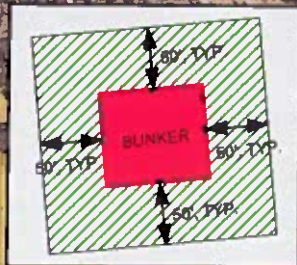
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WALNUT

**AREA A
PHASE I
579 ACRES**

**AREA C
PHASE II
536 ACRES**

TYPICAL BUNKER SETBACK



Legend

- TexAmericas Center West Campus
- Red River Army Depot

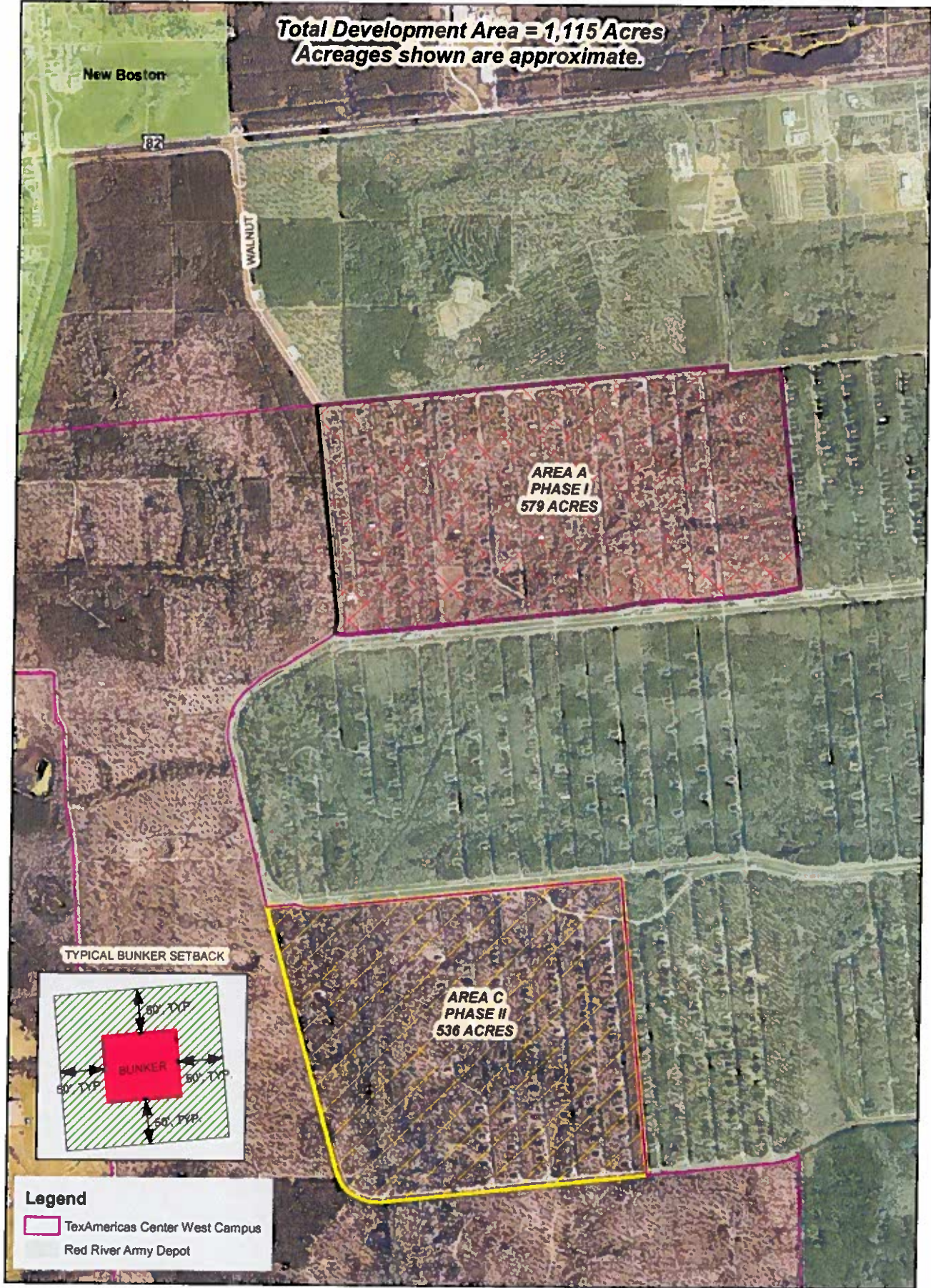


EXHIBIT A-1
PROPERTY MAP AND COORDINATES

EXHIBIT B
TERM SHEET

Lease Duration	The Lease Duration consists of (i) Development Term, (ii) Construction Term, and (iii) Operating Term. The Lease Duration may be terminated early (a) in the Development Term, when the Lessee notifies Owner of its intent to abandon the development; and (b) in other scenarios as may be set out in the Solar Lease Agreement.
Development Term:	The period commencing upon the Effective Date of the Solar Lease Agreement when executed by all parties for an initial period of three (3) years with two (2) 1-year extensions, and terminating upon the earlier of: (a) Lessee delivers written notice to Owner of its intent to abandon the development; (b) the date Lessee specifies in written notice to Owner of its intent to commence the Construction Term, (c) the commencement of construction of the solar project; or (d) the date which is five (5) years from the Effective Date. At Lessee's discretion, projects may be built incrementally, in phases, where Construction Term may be initiated for a portion of the lease property and the remaining property remains under the Development Term, but Lessee may not abandon a portion (and not the entirety) of the lease property during the Development Term without Owner's written consent.
Construction Term:	The period commencing upon the end of the Development Term, and terminating upon the earlier of: (a) the date Lessee specifies in written notice to Owner of its intent to commence the Operating Term, or (b) the date Lessee declares its Commercial Operations Date to begin delivering commercial electricity to the electrical grid under a Power Purchase Agreement; or (c) the date which is two (2) years from the commencement of the Construction Term.
Operating Term:	The period commencing upon the end of the Construction Term, and terminating thirty-five (35) years thereafter.
Right to extend Operating Term:	Lessee shall have the sole right to extend the Operating Term on two (2) occasions, each by a period of five (5) year, by providing written notice to the Lessor no less than one hundred eighty (180) days prior to the expiration of the then current Operating Term.
Development Rent:	<u>INITIAL 3-YEAR DEVELOPMENT TERM: \$10/ACRE/YEAR</u> payable upon the Effective Date and each anniversary thereof for the Initial three-year Development Term. <u>DEVELOPMENT TERM 1-YEAR EXTENSIONS: \$15/ACRE/YEAR</u> payable for each additional 1-year extension of the Development Term.
Determination of Lease Acreage for	Subject to the limitation hereinafter stated, Lessee in its sole discretion, and at any time during the Development Term upon providing written notice to Owner, after completing any of the customary geotechnical investigations, environmental studies,

Construction and Operating Terms	project design, and offtake contract negotiations, shall have the right to size and build the project incrementally, in phases, and to amend the leased acreage that is subject to the Operating Term Rent accordingly up until the expiration of the Development Term where Lessee shall either relinquish or commit to rent any remaining undeveloped acreage. The minimum lease acreage during the Operating Term shall be 400 acres.
Construction Rent:	\$50/ACRE/YEAR, to be paid in a pro-rated manner for any partial year during the Construction Term.
Operating Rent:	\$225/ ACRE/YEAR for Operating Year-1, to be paid in a pro-rated manner for any partial year during the Operating Term. On each anniversary date of the Operating Term (each a "Rent Change Date") the annual Operating Rent shall be increased at an escalation rate of 1% each year over the previous year's rent.
Property Tax Indemnity	The Solar Lease Agreement will include appropriate language that will indemnify Owner from any increase in appraised value of the land that might result from the improvements made thereupon by the proposed solar project.
Right of First Negotiation	Should Owner acquire additional real property adjacent to the property described in Exhibit "A", Owner shall notify Lessee of said fact within 90 days after recording its Deed. Lessee shall have a first right of negotiation with Owner to lease said additional property upon terms mutually agreeable to the parties for a period of 90 days after receipt of the notice by Lessee. If the parties do not reach agreement upon Lease Terms within said period, the right of first negotiation shall lapse, and neither party shall have any obligations to the other regarding said additional land.
Other Terms	<p>The Solar Lease Agreement will also include mutually-acceptable language relating to location and placement of gates and roadways, and other essential facilities leading to/from the solar lease area, terms covering restoration of any damage outside the lease area at the end of the construction period, and other matters of importance to both Owner and the Lessee.</p> <p>Not less than 6 months prior to commencement of the Construction Term, Lessee shall deliver notice to Owner to remove timber from premises designated by Lessee. Owner, at its sole expense, shall clear all timber, stumps and debris from such designated premises by or before the date specified for commencement of the Construction Term. Proceeds from sale of timber shall be retained by Owner. Lessee shall reimburse Owner for the expense to clear the stumps and debris from the Premises to the extent such expense exceeds the value of the timber proceeds received within 30 days of receipt of an invoice from Owner.</p> <p>Lessee shall within twelve (12) months of the end of the Operating Term, whether by expiration or termination due to the breach by Lessee of the Lease Terms or by mutual agreement to terminate the Lease, remove all hardware, equipment and other personal property placed or installed by Lessee from the Property and restore the surface of the property to its condition as of the start of the Construction Term.</p>

	<p>Once the Operating Term commences, Lessee shall pay to Owner, in addition to the rent, a franchise fee of five percent (5%) of the revenue derived by Lessee from operating its facility and selling at retail to the ultimate consumer of electricity, power and other goods, services and utilities from the Property, for purposes of Lessee's use of the roadways, easements and other assets of Owner.</p>
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