



RESOLUTION NO. 20180626-02

A RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR/CEO TO PURSUE ON BEHALF OF TEXAMERICAS CENTER A CLAIM AGAINST THE UNITED STATES GOVERNMENT FOR BREACH OF CONTRACT OF THE MEMORANDUM OF AGREEMENT WITH REGARD TO TAKING EXCESS TIMBER FROM THE WEST END PARCEL CONVEYED BY THE UNITED STATES OF AMERICA TO TEXAMERICAS CENTER BY DEED WITHOUT WARRANTY DATED SEPTEMBER 30, 2011, RECORDED IN VOLUME 6114, PAGE 1 OF THE REAL PROPERTY RECORDS OF BOWIE COUNTY, TEXAS

RECITALS

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 September 1, 2010, the United States of America, acting by and through the Secretary of the Army and Red River Redevelopment Authority entered into an Economic Development Conveyance Memorandum of Agreement (the "MOA") providing for the conveyance of certain property of the United States of America to Red River Redevelopment Authority; and

WHEREAS, a portion of the property to be conveyed by the United States of America to Red River Redevelopment Authority was that certain 2,850.665 acres of land, more or less, described as the "West End Parcel" which was conveyed by the United States of America to TexAmericas Center (formerly the Red River Redevelopment Authority) by Deed Without Warranty, dated September 30, 2011, and recorded in Volume 6114, Page 1 of the Real Property Records of Bowie County, Texas; and

WHEREAS, United States of America reserved for a period of six and one-half years commencing on September 15, 2011, the right to harvest timber pursuant to the Timber Management Plan for Red River Army Depot-Western Excess Parcel as described in the Deed Without Warranty and the Memorandum of Agreement; and

WHEREAS, the Timber Management Plan provided that the United States of America acting by and through the Department of the Army was to leave eight (8) to ten (10) seed trees per acre of the property subject to harvest; and

WHEREAS, the timber reservation period ended on March 15, 2018, at which time all harvesting of timber by the Department of the Army had been completed; and

WHEREAS, subsequent to the end of the timber reservation period, TexAmericas Center retained Kingwood Forestry Services, Inc. to evaluate the West End Parcel timber harvest results for purposes of making an evaluation of the plan versus actual residual timber value of seed tree areas and hardwood areas of concern on the West Excess Parcel; the results of the evaluation by Kingwood Forestry Services, Inc. indicated that the Army's Timber Harvest did not leave the average of eight (8) to ten (10) seed trees per acre, as provided in the Timber Management Plan, and only left an average number of 3.6 seed trees per acre; and

WHEREAS, the evaluation further showed that a number of culverts and driveways were damaged during the harvesting process; and

WHEREAS, pursuant to the provisions of the Timber Management Plan, the residual number of seed trees should have had a timber value of \$504,000.00, but because the Army left only an average of 3.6 seed trees per acre, the actual value of the seed trees is only \$158,000.00; and there is an additional missing value in the hardwood area of \$115,000.00, resulting in a total loss to TexAmericas Center of \$461,000.00 plus the damage to the culverts and driveways; and

WHEREAS, in order to recover the loss of timber value and damages, TexAmericas Center will be required to present a claim to the contracting officer under the Memorandum of Agreement and to pursue that claim, if necessary, by appealing the decision of the contracting officer to the Army Board of Contract Appeals or by bringing suit on the claim in the United States Court of Federal Claims as provided by applicable Federal Statutes;

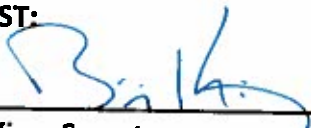
NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of TexAmericas Center that:

1. TexAmericas Center pursue a claim against the United States of America acting by and through the Department of the Army to recover its damages for violation of the terms of the Memorandum of Agreement and Deed Without Warranty by the Department of the Army in an amount not less than \$461,000.00 plus the expense to repair and replace the culverts and driveways damaged, together with interest, and attorney's fees as may be authorized by law; and
2. That Scott Norton, Executive Director/CEO shall be and he is hereby authorized to act on behalf of TexAmericas Center in pursuing the claims against the United States of America acting by and through the Department of the Army, and he is hereby authorized to taken any and all actions necessary to pursue said claims and recover the damages incurred; and
3. That Scott Norton, Executive Director/CEO shall be and he is hereby authorized to retain the services of Jordan Law Firm, L.L.P., and any other law firms which may be affiliated with Jordan Law Firm, L.L.P., to pursue the claims and any appeals thereof.

PASSED and APPROVED this 26th day of June, 2018.



Boyd Sartin, Chairman of the Board

ATTEST:


Ben King, Secretary