

Ord.
2004-0373

INTRODUCED BY: ALBERT D. LAQUE, PARISH PRESIDENT
(DEPARTMENT OF ECONOMIC DEVELOPMENT & TOURISM)

ORDINANCE NO. 04-9-14

An ordinance approving and authorizing a movable property Lease Agreement between Bollinger Shipyards, Inc. and the Parish of St. Charles.

WHEREAS, the Parish of St. Charles, State of Louisiana, is authorized and empowered under the laws of the State of Louisiana, including particularly Section 4717.2 of Title 33 of the Louisiana Revised Statutes of 1950 to lease property to further its purposes of promoting and encouraging industrial and commercial development; and,

WHEREAS, pursuant to and in accordance with the provisions of the Act and a Lease Agreement to be dated as of September 21, 2004 (the "Lease Agreement"), by and between the Parish of St. Charles (the "Parish") and Bollinger Shipyards, Inc., a Louisiana Corporation, (the "Company"), the Parish will acquire and rent certain movable property, more fully described in the Lease Agreement, for the Company's research and development engineering office facility (the "Project"), which facility will be located in the Parish of St. Charles; and,

WHEREAS, the Project has created or will create additional employment opportunities for residents of the Parish and the surrounding area, as well as generate additional revenues for all of the Parish's taxing authorities.

THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:

SECTION I. That the Lease Agreement between the Parish of St. Charles and Bollinger Shipyards, Inc. is hereby approved.

SECTION II. That the Parish President is hereby authorized to execute said Lease Agreement.

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

YEAS: MARINO, FAUCHEUX, HILAIRE, RAMCHANDRAN, WALLS, BLACK, DUHE
NAYS: NONE
ABSENT: FABRE, MINNICH

And the ordinance was declared adopted this 20th day of September, 2004, to become effective five (5) days after publication in the Official Journal.

CHAIRMAN: Laura J. Mann

SECRETARY: Christina Just Tucker

DLVD/PARISH PRESIDENT: September 21, 2004

APPROVED: _____ DISAPPROVED: _____

PARISH PRESIDENT: Albert D. Laque

RETD/SECRETARY: September 21, 2004

AT: 11:45 AM

RECD BY: B92

MOVABLE PROPERTY LEASE

STATE OF LOUISIANA

PARISH OF ST. CHARLES

THIS AGREEMENT made and entered on Sept 28, 2004, by and between

PARISH OF ST. CHARLES (the "Lessor") a political subdivision of the State of Louisiana, whose present mailing address is P. O. Box 302, Hahnville, Louisiana, 70057, and which appearer is represented in this agreement by Albert D. Laque, Parish President, duly authorized as shown by the Ordinance attached to and made a part of this agreement, and marked for identification purposes as Attachment "A";

and

Bollinger Shipyards, Inc. (the "Lessee"), a Louisiana corporation authorized to do and doing business in this State and Parish, herein represented by Craig P. Roussel, duly authorized by Resolution of the Corporation attached hereto and made a part hereof, and marked for identification purposes as Attachment "B"

For the consideration set forth and expressed below and the covenants and agreements contained in this agreement to be kept and performed, the parties have agreed and do agree as follows:

1. Lessor, for the price and consideration, and on the terms and conditions set forth and expressed in this agreement, without warranty of any kind, has leased to Lessee the following described property (the "Property"):

Office furniture, fixtures and equipment, which includes desks, credenzas, book shelves, tables, chairs, partitions and computer equipment.

2. The Property described above are to be used by Lessee for the purpose of and in connection with the location of its office facilities in James Business Park, St. Rose, St. Charles Parish, LA (the "Premises") and are to not to be removed therefrom without express written permission of Lessor.

3. Lessee shall not make a sublease of any transfer of this lease in whole or in part, or give or grant to anyone the use or possession the leased Property.

4. Subject to the provisions of this agreement this lease is made and accepted for a primary term or period of **five (5)** years commencing on the 1st day of October 1, 2004 ("Commencement Date") and ending on October 1, 2009, at annual rental in an amount equal to \$1, payable on the first day of each Lease Year. As used herein, "Lease Year" shall mean each one (1) year period commencing on the Commencement Date and expiring twelve (12) calendar months thereafter. Each subsequent Lease Year shall be twelve (12) calendar months in duration and commence at the end of the last Lease Year.

5. Should the Lessee fail to pay the rent or previous charges arising under this lease promptly as stipulated, or should voluntary or involuntary bankruptcy proceedings be commenced by or against Lessee, or should Lessee make an assignment for the benefit of creditors, then in any of said events, Lessee shall be ipso facto in default. Similarly, in the event of any such default, Lessor retains the option to cancel the lease and obtain possession of the property by giving Lessee written notice to return the leased property in accordance with all applicable provisions of the Louisiana Code of Civil Procedure. In the event of such cancellation, Lessee is obligated to pay any and all rent due and owing through the last day said leased property is used by the Lessee.

6. Should the Lessee at any time violate any of the conditions of this lease, other than the conditions provided for in the immediately preceding paragraph or should the Lessee discontinue the use of the property for the purposes for which it is rented or failure to abide by the rules and regulations specified below, and should such violation either continue for a period of five (5) days after written notice has been given to Lessee or should such violation occur again after written notice has been given to Lessee or should such violation occur again after written notice to cease and desist from such activity of disturbance, then Lessee shall be ipso facto in default and Lessor may immediately cancel this lease and obtain possession of the property by giving Lessee written notice.

7. Lessee must certify to the Lessor quarterly, with reasonable verification data including, but not limited to, copies of Lessee's Louisiana Department of Labor ES-4 Forms, no later than January 31, April 30, July 31 and October 31 of each Lease Year, the average number of employees employed and working on a full time basis at the Premises and the total payroll of the operation, during the quarter. If the quarterly average number of jobs at the Premises is less than sixteen (16) and the quarterly total payroll at the Premises is less than \$250,000 during any quarterly reporting period, the Lessee shall pay to the Lessor a payment in an amount equal to one-twentieth of the purchase value of the Property.

8. Lessor shall have the right, at all reasonable times, to enter upon the Premises to inspect the Property.

9. During the Lease Term, Lessee shall, at its sole cost and expense, maintain the Property in good order and repair and shall be responsible for, and upon demand by Lessor shall promptly reimburse Lessor for, any damage to any portion of the Property while on the Premises.

10. Lessee shall at all times during the full term of this lease and during the full term of any holdovers or other rental agreements, carry and maintain at its own costs and expense, General Public Liability insurance against claims for personal injury or death and property damage caused by the leased property, such insurance to afford protection to both Lessor and its employees and Lessee, as their interests may appear, including coverage for the contractual liability of Lessee to Lessor assumed hereunder, and is to be maintained in amounts not less than \$500,000, with respect to bodily injury or death to anyone person, \$500,000, with respect to any one accident, and for property damage not less than \$500,000. Lessee shall deliver to Lessor evidence of such insurance and all renewals thereof.

All of the aforementioned policies of insurance shall be written and maintained in responsible insurance companies duly authorized and licensed to do business in and to issue policies in the State of Louisiana and rated not less than A-VII in Best's Insurance Guide and a Standard and Poor's claims paying ability rating of not less than AA. The policies providing for the protection required in the paragraph above may remain in the possession of Lessee, provided, however, that Lessee furnish satisfactory evidence to Lessor that such policy or policies fulfill the requirements of this Section.

Lessee shall and will forever indemnify and save harmless Lessor from and against any and all liability, penalties, causes of action, suits, claims or judgments for death, injury, or damages to persons or property during the term of this lease arising out of the use or control of the leased property or repair of any components therein, in any case without regard to whether such death, damage or injury resulted from the negligence of Lessee or its subsidiaries or affiliates or their respective agents or employees or otherwise, and including without limitation such death, damage or injury as may have resulted from the sole or contributing negligence, act or omission of Lessor or his agents or employees or for which Lessor may have any liability without fault. Lessee shall and will, at its own expense, defend any and all suits that may be brought against Lessor, or any of them, or in which Lessor, or any of them may be imp leaded with others, upon any such above mentioned claim or claims, and shall and will satisfy, pay and discharge any and all judgments that may be recovered against Lessor, or any of them, in any such action or actions in which Lessor, or any of them, may be a party defendant.

11. Failure of Lessor to declare immediately upon occurrence thereof or delay in taking any action in connection therewith shall not waive such default, but Lessor shall have the right to declare any such default at anytime; no waiver of any default shall alter Lessee's obligation under the lease with respect to any other existing or subsequent default.

12. All notices, demands and correspondence made necessary by the provisions of this agreement shall be deemed to be properly given, served or addressed if and when delivered or sent by mail or telegram, directed to Lessor and Lessee at the addresses as follows:

St. Charles Parish
P. O. Box 302
Hahnville, LA 70057

With copies to:

Department of Economic Development & Tourism
St. Charles Parish
P. O. Box 302
Hahnville, LA 70057

and

Director of Legal Services
St. Charles Parish
P. O. Box 302
Hahnville, LA 70057

and

Bollinger Shipyards, Inc.
P.O. Box 250
Lockport, LA 70374

The address of either party may be changed by giving written notice of that change to the other party.

13. It is understood that the terms of "Lessor" and "Lessee" are used in this agreement, and they shall include the plural and shall apply to persons, both male and female, and entities.

14. The failure of Lessor to insist upon the strict performance of the terms, covenants, agreements and conditions hereby contained, or any of them, shall not constitute or be construed as a waiver or relinquishment of the Lessor's right thereafter to enforce any such terms, covenants, agreements and conditions, but shall continue in full force and effect.

15. This Agreement shall be deemed a Cooperative Endeavor Agreement, the purpose of which is to promote commerce and economic development within St. Charles Parish, Louisiana, by inducing the Lessee to relocate and equip its research and development engineering office facility in St. Charles Parish and hire new employees, increase use of local labor, suppliers and services, resulting in an increase in local tax revenues, and to attract kindred and satellite industries, as an economic benefit to the local economy.

IN WITNESS WHEREOF, the parties have signed this lease in the presence of the undersigned, good and competent witnesses, as of the day and date first above written.

LESSEE

WITNESSES:

Cory Leche

Benoit G. Carpentier

BOLLINGER SHIPYARDS, INC.

C.P. Roussel
Craig P. Roussel
Vice President

LESSOR

WITNESSES:

Barbara Joseph Tucker

John Berthelot

ST. CHARLES PARISH

Albert D. Laque
Albert D. Laque
Parish President