

2007-0408

INTRODUCED BY: ALBERT D. LAQUE, PARISH PRESIDENT

ORDINANCE NO. 08-1-1

An ordinance to approve a Lease between St. Charles Parish and The United States of America, Department of Transportation, Federal Aviation Administration, for the Terminal Doppler Weather Radar in Norco, Lease No. DTFASW-08-L-00090.

WHEREAS, the Federal Aviation Administration constructed a Terminal Doppler Weather Radar at the site of the Norco Sewer Treatment Plant in accordance with Ordinance No. 93-11-7 adopted November 1, 1993 which leased said property to the FAA; and,

WHEREAS, this radar is used to detect hazardous windshear conditions allowing air traffic controllers to warn pilots of these conditions and to make needed runway changes at the Lous Armstrong New Orleans International Airport; and,

WHEREAS, the current Lease expires on September 30, 2008, and due to the benefits of increased safety to air traffic, it is the desire of the Parish Council to approve the new lease

THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:

SECTION I. That Lease No. DTFASW-08-L-00090 between St. Charles Parish and The United States of America, Department of Transportation, Federal Aviation Administration is hereby approved.

SECTION II. That the Parish President is hereby authorized to execute said Lease on behalf of St. Charles Parish.

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

YEAS: SCHEXNAYDRE, AUTHEMENT, RAYMOND, TASTET, BENEDETTO, HOGAN, COCHRAN, LAMBERT, NUSS

NAYS: NONE

ABSENT: NONE

And the ordinance was declared adopted this 14th day of January, 2008, to become effective five (5) days after publication in the Official Journal.

Terminal Doppler Weather Radar

CHAIRMAN *[Signature]*

SECRETARY *[Signature]*

DLVD/PARISH PRESIDENT January 15, 2008

APPROVED _____ DISAPPROVED _____

PARISH PRESIDENT *[Signature]*

RETD/SECRETARY January 16, 2008

AT 8:37 AM RECD BY *[Signature]*

Lease DTFASW-08-L-00090
Terminal Doppler Weather Radar (TDWR)
Facility Site and Access Easement
New Orleans, Louisiana

LEASE

Between

**THE UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

and

SAINT CHARLES PARISH

THIS LEASE is hereby entered into by SAINT CHARLES PARISH, whose address is P. O. Box 302, Hahnville, Louisiana 70057, hereinafter referred to as the Lessor and the UNITED STATES OF AMERICA, hereinafter referred to as the Government. This lease shall be effective when it is fully executed by all parties. The terms and provisions of this lease, and the conditions herein, bind the Lessor and the Lessor's heirs, executors, administrators, successors, and assigns.

WITNESSETH The parties hereto for the consideration hereinafter mentioned covenant and agree as follows:

1. PREMISES:

The Lessor hereby leases to the Government the following described property, hereinafter referred to as the premises, VIZ:

TERMINAL DOPPLER WEATHER RADAR SITE

All that certain lot or parcel of land lying and being situated in a portion of Lots 8 and 9 of Good Hope Plantation Subdivision, Section 6, Township 12 South, Range 8 East, Saint Charles Parish, Louisiana, more fully described as follows:

Commencing at the Southeast corner of Lot 8 of said subdivision go N 17° 13' 17"E, 912.49 feet along the property line common to Lots 8 and 9 to the Point of Beginning. From the Point of Beginning go N 77° 55' 56"W, 8.96 feet to a point; thence N 12° 04' 04"E, 150.00 feet to a point; thence S 77° 55' 56"E, 150.00 feet to a point; thence S 12° 04' 04" W,

Lease No. DTFASW-08-L-00090
Terminal Doppler Weather Radar (TDWR) Facility Site
And Access Easement
New Orleans, Louisiana

150.00 feet to a point; thence N 77°55'56"W, 141.04 feet back to a Point of Beginning. Said parcel contains 22,500.00 square feet.

ACCESS EASEMENT

All that certain lot or parcel of land lying and being situated in a portion of Lots 8 and 9 of Good Hope Plantation Subdivision, Section 6, Township 12 South, Range 8 East, St. Charles Parish, Louisiana, more fully described as follows:

Commencing at the southeast corner of Lot 8 of said subdivision go N17°13'37"E, 871.57 feet along the property line common to Lots 8 and 9 to the POINT OF BEGINNING:

From the point of beginning go N76°45'21"W, 177.44 feet to a point on the east edge of an access road: thence along said road N18°17'48"E, 14.05 feet to a point; thence S76°45'21"E, 244.87 feet to the intersection of a tangent curve; thence in a northeasterly direction along a curve to the left having a radius of 33.00 feet a distance of 47.66 feet to a point having a southerly line of the proposed TDWR parcel, thence S77°55'56"E, along the southerly line of the TDWR parcel, a distance of 14.11 feet to the intersection of a non-tangent curve; thence in a southeasterly direction along a curve to the right having a radius of 47 00 feet a distance of 69.95 feet; thence N76°45'21"W, a distance of 68.67 feet back to the point of beginning, said parcel contains 4260.121 square feet.

Said leased site and the access easement being more fully described on survey drawing labeled as Exhibit "A", attached hereto and made a part hereof.

A. Together with a right-of-way for ingress to and egress from the premises; a right-of-way for establishing and maintaining a pole line or pole lines for extending electric power and/or telecommunication lines to the premises; and a right-of-way for subsurface power, communication and/or water lines to the premises; all rights-of-way to be over the said lands and adjoining lands of the Lessor, and unless herein described otherwise, to be by routes reasonably determined to be the most convenient to the Government.

B. And the right of grading, conditioning, and installing drainage facilities, and seeding the soil of the premises, and the removal of all obstructions from the premises which may constitute a hindrance to the establishment and maintenance of Government facilities.

C. And the right to make alterations, attach fixtures, and erect additions, structures, or signs, in or upon the premises hereby leased, which alterations, fixtures, additions, structures or

Lease No. DTFASW-08-L-00090
Terminal Doppler Weather Radar (TDWR) Facility Site
And Access Easement
New Orleans, Louisiana

signs so placed in or upon, or attached to the said premises shall be and remain the property of the Government.

2. TERM:

To have and to hold, for the term commencing on October 1, 2008, and continuing through September 30, 2018, inclusive, PROVIDED, that adequate appropriations are available from year to year for the payment of rentals.

3. CONSIDERATION:

The Government shall pay the Lessor rental for the premises in the amount of \$3000.00 per annum during the lease period. Payments shall be made in arrears on September 30, at the end of each Government fiscal year without the submission of invoices or vouchers. The payments shall be directly deposited in accordance with the Electronic Funds Transfer (EFT) Payment clause in this lease. Payments shall be considered paid on the day a check is dated or an electronic funds transfer is made.

4. PAYMENT BY ELECTRONIC FUND TRANSFER:

(Oct-06)

(a) Method of payment:

1. All payments by the Government under this contract will be made by electronic funds transfer (EFT), except as provided in paragraph (a)(2) or (a)(3) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer. Payment information transfer refers to the payment information normally sent with a payment to assist the contractor in associating the payment to specific contracts.
2. In the event the Government is unable to release one or more payments by EFT, the Lessor agrees to either;
 - a. Accept payment by check or
 - b. Request the Government to extend the payment due date until time as the Government can make payment by EFT (but see paragraph (d) of this clause).
3. In the event that the Lessor is granted a waiver from EFT under the exceptions as provided for in FAA AMS Section T3.3.1.A-7, the Government payments will be made by check. A waiver from EFT is permanent, and the Lessor must register for EFT when the circumstances that justified the waiver change.

Lease No. DTFASW-08-L-00090
Terminal Doppler Weather Radar (TDWR) Facility Site
And Access Easement
New Orleans, Louisiana

(b) Lessor's EFT information: The Government will make payment to the Lessor using the EFT information contained in the Central Contractor Registration (CCR) database. In the event that the EFT information changes, the Lessor will be responsible for providing the updated information to the CCR database (Reference Clause, "Central Contractor Registration-Real Property"). If the Lessor is granted an exemption from CCR, the Lessor will follow the requirements of alternate clause "Contractor Payment Information – Non-CCR".

(c) Mechanisms for EFT Payment: The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR Part 210.

(d) Suspension of Payment: If the Lessor's EFT information in the CCR database is incorrect, then the Government is not required to make payments to the Lessor under this contract until correct EFT information is entered into the CCR database, and any invoice or contract financing request submitted during this period of noncompliance will be deemed not a proper invoice for the purpose of prompt payment under this contract. In such instances, the late interest payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(e) Liability for incomplete or erroneous transfers:

1. If an incomplete or erroneous transfer occurs because the Government used the Lessor's EFT information incorrectly, the Government remains responsible for:
 - (i) Making a correct payment;
 - (ii) Paying any late payment penalty due; and
 - (iii) Recovering any erroneously directed funds.

2. If an incomplete or erroneous transfer occurs because the Lessor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and
 - (i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Lessor is responsible for recovery of any erroneously directed funds; or
 - (ii) If the funds remain under the control of the payment office, the Government will make payments under the provisions of paragraph (d) "Suspension of Payment".

Lease No. DTFASW-08-L-00090
Terminal Doppler Weather Radar (TDWR) Facility Site
And Access Easement
New Orleans, Louisiana

(f) EFT and payment terms: A payment will be deemed to have been made in a timely manner in accordance with the payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the payment due date, provided the specific payment date is a valid date under the rules of the Federal Reserve System.

(g) EFT and assignment of claims: If the Lessor assigns the proceeds of this contract, as provided for in the assignment of claims terms of this contract, the Lessor will require that the assignee register separately in the CCR database and that the assignee agree that payments will be made by EFT in accordance with the terms of this clause. The requirements of this clause will apply to the assignee as if it were the Lessor. EFT information that shows the ultimate recipient of the transfer to be other than the Lessor or the CCR registered assignee is incorrect EFT information within the meaning of paragraph (d) "Suspension of Payment" clause.

(h) EFT and change of Name or Ownership Changes: If the Lessor transfers ownership of the property under lease or changes its business name, it will follow the requirement of section (g) of clause, "Central Contractor Registration – Real Property".

(i) Liability for change of EFT information by financial agent: The Government is not liable for errors resulting from changes to EFT information made by the Lessor's financial agent.

(j) Payment information: The accounting office will forward to the Lessor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Lessor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. The Lessor can obtain detailed payment information by registering for the US Treasury PAID system. This can be done on the Internet by logging onto the website: <https://fmsapps.treas.gov/paid/>. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government will mail the payment information to the remittance address contained in the contract and CCR database.

5. CONTRACTOR PAYMENT INFORMATION-NON CCR:

(Oct-06)

The Central Contractor Registration system is the FAA's required method to receive vendor information. However, Lessor has been granted an exception to CCR and therefore must

Lease No. DTFASW-08-L-00090
Terminal Doppler Weather Radar (TDWR) Facility Site
And Access Easement
New Orleans, Louisiana

provide initial payment information and any future changes to payment information to the Real Estate Contracting Officer on a completed and signed "Vendor Miscellaneous Payment Information" form, together with any other required notice under this contract.

The Lessor is responsible to maintain correct payment information with the FAA, and for any liability that may result from the Government's reliance on incomplete or inaccurate information provided by the Lessor. Failure to provide accurate information or adequate notice of changes to vendor payment information can result in a determination of "incorrect information" as defined in paragraph (d), "Suspension of Payment" of clause "Electronic Fund Transfer (EFT) Payment."

6. INTEREST FOR LATE PAYMENTS:

(Oct-06)

An interest penalty will be paid by the Government, if payment is not made within 30 days of the due date.

Payment shall be considered as being made on the day a check is dated or an electronic funds transfer is made. All days referred to in this clause are calendar days, unless otherwise specified. Rent shall be paid in arrears and will be due on September 30, at the end of each Government fiscal year.

The interest penalty shall be at the rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date. This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the Federal Register semiannually on or about January 1 and July 1. Interest penalties of less than \$1.00 shall not be paid.

Interest penalties will not be paid on delays due to disagreement between the Government and Lessor over the payment amount, requests for additional information or other issues involving contract compliance or on amounts temporally withheld or retained in accordance with the terms of the contract.

7. CANCELLATION:

The Government may terminate this lease, in whole or in part, if the Real Estate Contracting Officer (RECO) determines that a termination is in the best interest of the Government. The RECO shall terminate by delivering to the Lessor a written notice specifying the effective date of the termination. The termination notice shall be delivered by registered mail, return receipt requested and mailed at least 30 days before the effective termination date.

Lease No. DTFASW-08-L-00090
Terminal Doppler Weather Radar (TDWR) Facility Site
And Access Easement
New Orleans, Louisiana

8. NON-RESTORATION

It is hereby agreed between the parties, that upon termination of its occupancy, (due to termination or expiration of the lease), the Government shall have no obligation to restore and/or rehabilitate, either wholly or partially, the property which is the subject matter of this lease. It is further agreed the Government may abandon in place any or all of the structures and equipment installed in or located upon said property by the Government during its tenure. Such abandoned equipment shall become the property of the Lessor. Notice of abandonment will be conveyed by the Government to the Lessor in writing.

9. CONTRACT DISPUTES:

All contract disputes and arising under or related to this lease contract shall be resolved through the Federal Aviation Administration (FAA) dispute resolution system at the Office of Dispute Resolution for Acquisition (ODRA) and shall be governed by the procedures set forth in 14 C.F.R. Parts 14 and 17, which are hereby incorporated by reference. Judicial review, where available, will be in accordance with 49 U.S.C. 46110 and shall apply only to final agency decisions. A Lessor may seek review of a final FAA decision only after its administrative remedies have been exhausted.

All Contract Disputes shall be in writing and shall be filed at the following address: Office of Dispute Resolution for Acquisition, AGC-70, Federal Aviation Administration, 800 Independence Ave., S.W., Room 323, Washington, DC 20591. Telephone: (202) 267-3290, Facsimile: (202) 267-3720;

A contract dispute against the FAA shall be filed with the ODRA within two (2) years of the accrual of the lease contract claim involved. A contract dispute is considered to be filed on the date it is received by the ODRA.

The full text of the Contract Disputes clause is incorporated by reference. The full text can be found via Internet at Contract Dispute Full Clause.

10. OFFICIALS NOT TO BENEFIT:

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit arising from it. However, this clause does not apply to this contract to the extent that this contract is made with a corporation for the corporation's general benefit.

Lease No. DTFASW-08-L-00090
Terminal Doppler Weather Radar (TDWR) Facility Site
And Access Easement
New Orleans, Louisiana

11. COVENANT AGAINST CONTINGENT FEES.

The Lessor warrants that no person or agency has been employed or retained to solicit or obtain this lease upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this lease without liability or, in its discretion, to deduct from the lease consideration, or otherwise recover the full amount of the contingent fee.

12. QUIET ENJOYMENT:

The Lessor warrants that they have good and valid title to the premises, and rights of ingress and egress, and warrants and covenants to defend the Government's use and enjoyment of said premises against third party claims.

13. HOLDOVER:

If after the expiration of the lease, the Government shall retain possession of the premises, the lease shall continue in force and effect on a month-to-month basis. Rent shall be paid in accordance with the terms of the lease, in arrears on a prorated basis, at the rate paid during the lease term. This period shall continue until the Government shall have signed a new lease with the Lessor, acquired the property in fee or vacated the leased premises.

14. ANTI-KICKBACK:

The Anti-Kickback Act of 1986 (41 U.S.C. *et seq.*) prohibits any person from (1) Providing or attempting to provide or offering to provide any kickback; (2) Soliciting, accepting, or attempting to accept any kickback; or (3) Including, directly or indirectly, the amount of any kickback in the lease price charged by a Lessor to the United States or in the lease price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

15. ASSIGNMENT OF CLAIMS:

Pursuant to the Assignment of Claims Act, as amended, 31 U.S.C. 3727, the Lessor may assign their rights to be paid under this lease.

16. NOTIFICATION OF CHANGE OF LAND TITLE:

If the Lessor sells or otherwise conveys to another party or parties any interest in the aforesaid land, rights of way thereto, and any areas affecting said demised premises, they shall

Lease No. DTFASW-08-L-00090
Terminal Doppler Weather Radar (TDWR) Facility Site
And Access Easement
New Orleans, Louisiana

immediately notify the Government, in writing, of any such transfer or conveyance affecting the demised premises within 30 calendar days after completion of the "change in property rights." Concurrent with the written notification, the Lessor shall provide the Government copies of the legal document(s) (acceptable to local authorities) for transferring and or conveying the property rights.

17. SUBORDINATION, NONDISTURBANCE AND ATTORNMENT

The FAA agrees, in consideration of the warranties herein expressed, that this lease is subject and subordinate to any and all recorded deeds of trust, mortgages, and other security instruments now or hereafter imposed upon the premises, so long as such subordination shall not interfere with any right of the Government under this lease. It is mutually agreed that this subordination shall be self-operative and that no further instrument shall be required to effect said subordination.

In the event of any sale of the premises, or any portion thereof, or any such transfer of ownership, by foreclosure of the lien of any such security instrument, or deed provided in lieu of foreclosure, the FAA will be deemed to have attorned to any purchaser, successor, assigns, or transferee. The succeeding owner will be deemed to have assumed all rights and obligations of the Lessor under this lease, establishing direct privity of estate and contract between the Government and said purchasers/transferees, with the same force, effect and relative priority in time and right as if the lease had initially been entered into between such purchasers or transferees and the Government; provided that such transferees shall promptly provide, following such sale or transfer, appropriate documentation deemed necessary by the RECO, and shall promptly execute any instrument, or other writings, as shall be deemed necessary to document the change in ownership.

18. EXAMINATION OF RECORDS:

The Comptroller General of the United States, the Administrator of the FAA or a duly authorized representative of either shall, until three years after final payment under this contract have access to and the right to examine any of the Lessor's directly pertinent books, documents, paper, or other records involving transactions related to this contract.

19. LEASE SUCCESSION:

This lease succeeds Lease DTFA07-94-L-01043 and all other previous agreements between the parties for the leased property described in this document.

Lease No. DTFASW-08-L-00090
Terminal Doppler Weather Radar (TDWR) Facility Site
And Access Easement
New Orleans, Louisiana

20. FOLIAGE REMOVAL:

The Government shall have the right to remove any foliage on the leased premises that would impair the operation of the Terminal Doppler Weather Radar (TDWR).

21. NOTICES:

All notices/correspondence shall be in writing, reference the lease number, and be addressed as follows:

TO LESSOR: Mr. Timothy Vial, Chief Administrative Officer
Saint Charles Parish, Louisiana
P. O. Box 302
Hahnville, Louisiana 70057

TO GOVERNMENT: Department of Transportation
Federal Aviation Administration
Real Estate and Utilities Group, ASW-53
Fort Worth, TX 76193

Lease No. DTFASW-08-L-00090
Terminal Doppler Weather Radar (TDWR) Facility Site
And Access Easement
New Orleans, Louisiana

IN WITNESS WHEREOF, the parties have signed their names:

ST. CHARLES PARISH

BY: Went DATE: 1-16-08

TITLE: Parish President

THE UNITED STATES OF AMERICA

BY: Glen D. Batts DATE: 2-21-08

Glen D. Batts
TITLE: Contracting Officer

Lease No. DTFASW-08-L-00090
Terminal Doppler Weather Radar (TDWR) Facility Site
And Access Easement
New Orleans, Louisiana

CORPORATE CERTIFICATE

I, Barbara Jacob Tucker, certify that I am the Council Secretary
of the Corporation named in the foregoing agreement, that V.J. St. Pierre, Jr.
who signed said agreement on behalf of said corporation, was then Perish President
thereof, that said agreement was duly signed for and in behalf of said corporation by authority
of its governing body, and is within the scope of its corporate powers.

Dated this 18th day of January, in the year 2008.

Signed by Barbara Jacob Tucker

CORPORATE SEAL

