

**July 25, 2011  
ADDENDUM  
TO**

**REQUEST FOR PROPOSALS**

**FOR**

**PROFESSIONAL MANAGEMENT AND MAINTENANCE FOR FORT  
MONMOUTH SUNEAGLES GOLF COURSE AND ASSOCIATED  
BANQUET/RESTAURANT FACILITIES**

Issued by the  
**FORT MONMOUTH ECONOMIC REVITALIZATION AUTHORITY**

**PLEASE TAKE NOTICE: Sealed proposals are due 12:00 Noon on Monday, August 1, 2011** at the offices of the Fort Monmouth Economic Revitalization Authority (the “Authority” or “FMERA”), at 2-12 Corbett Way, Eatontown, New Jersey 07724.

This **ADDENDUM** includes Request for Proposals (the “RFP”) modifications, informational attachments, written responses to questions presented in writing via e-mail and to questions presented orally at the **Mandatory Pre-Proposal Conference held on July 19, 2011**. All firms that attended the Mandatory Pre-Proposal Conference will be notified by e-mail of the availability of the Addendum. **The Addendum will be made available only at the Authority’s website: [www.fortmonmouthredevelopment.com](http://www.fortmonmouthredevelopment.com)**

**The Authority will accept questions related to this ADDENDUM via email only until 5:00 p.m. Eastern Daylight Time on July 27, 2011. Questions should be directed via email to:**

**[rharrison@njeda.com](mailto:rharrison@njeda.com)**

**A. LIST OF INFORMATIONAL ATTACHMENTS TO THIS ADDENDUM**

1. List of Attendees at the Mandatory Pre-Proposal Conference, July 19, 2011.
2. Draft BRAC Lease Agreement
3. Suneagles Staffing Roster

**B. MODIFICATIONS ISSUED BY THE AUTHORITY**

1. Refer to Cover Page  
Change “12:00 P.M. EST” to read “12:00 P.M. EDT”
2. Refer to ATTACHMENT #5, page 49
3. Add section

**“XII Lease Agreement between FMERA and the Army**

- A.** The contract will be subject to all of the final terms and conditions of the BRAC Lease for the Suneagles Golf course (the “Lease”) that is negotiated between the Authority and the Army. A preliminary draft of the Lease is attached as ATTACHMENT 2.
  
- B.** The consultant will be required to comply with and satisfy the Authority’s obligations under its Lease with the Army for the Suneagles Golf course including but not limited to the following Lease provisions:
  - a.** Paragraph 4 a (3),
  - b.** Section 8,
  - c.** Paragraph 10 b,
  - d.** Paragraph 11 a,
  - e.** Section 12,
  - f.** Paragraph 14 a,
  - g.** Section 17,
  - h.** Section 21,
  - i.** Section 22,
  - j.** Paragraphs 24 a, b, e, f, g, h, and j,
  - k.** Section 25,
  - l.** Section 27,
  - m.** Section 30,
  - n.** Section 31, and
  - o.** Section 32.

QUESTIONS AND ANSWERS PRESENTED AT THE MANDATORY PRE-PROPOSAL  
CONFERENCE HELD ON JULY 19, 2011, OR IN WRITING VIA E-MAIL

1. **Question:** How can one obtain current financial data for the golf course which will include fee schedule, memberships (cost and number of members), operating costs, number of employees etc? (Submitted via email from Pravin H. Patel, Pravin H. Patel Associates).  
**Answer:** The financial information was distributed via email to the attendee list and in handouts at the pre-proposal conference.
2. **Question:** What type of business structure is the Revitalization Authority requesting? For example, is the business structure a lease, concession, license agreement or third party management contract? (Submitted via email by Douglas Hellman –KemperSports).  
**Answer:** This RFP is for third party management.
3. **Question:** Does the Authority expect to receive a fee from the management company? (Submitted via email by Douglas Hellman –KemperSports).  
**Answer:** Yes.
4. **Question:** Will the liquor license be available since the golf course is still federal property?  
**Answer:** There is not a liquor license currently. The bidder will need a license in accordance with state and local regulation.
5. **Question:** Can consumers use the liquor license for Sals and Banquet Hall?  
**Answer:** No – See answer to Question 4.
6. **Question:** If the golf course is located in Eatontown, can we go to Eatontown Borough for a license?  
**Answer:** Yes.
7. **Question:** Can we have access to current member roster?  
**Answer:** May be made available to successful bidder.
8. **Question:** Do you anticipate ultimate sale of the golf course be done by auction?  
**Answer:** It will be offered for sale via a Request for Proposal/Bid.
9. **Question:** Regarding the sales tax. If there is currently no sales tax, will this continue?  
**Answer:** Bidders should check with their tax professionals. We are not aware of any exemption from sales tax.
10. **Question:** What is the prevailing wage for all employees?  
**Answer:** Prevailing wage will apply for any crafts/trade persons engaged in facility/buildings repairs or maintenance.

11. **Question:** Can we get a copy of the rosters and the financial information when available?  
**Answer:** See Question 1. The staffing Roster is attached to this addendum as ATTACHMENT #3.
12. **Question:** Does someone have information regarding the golf carts and equipment?  
**Answer:** This information was provided in hardcopy at the pre-proposal conference.
13. **Question:** Can the person currently running the course provide rosters of who is working at the course?  
**Answer:** See Question 12. The Staff Roster provided does not contain names of individuals.
14. **Question:** Will the bidders be able to inspect facilities, including parts not typically open to the public, to inspect, survey and photograph? (Submitted via email from Paul Bretzger – Bretzger Design Group).  
**Answer:** Yes – by appointment as well as the tour provided at the pre-proposal conference.
15. **Question:** Can the Authority make the contact information of Proposers available to potential sub-contractors? (Submitted via email from Paul Bretzger - Bretzger Design Group).  
**Answer:** Yes – this was emailed to all pre-proposal attendees and is attachment #1 to this addendum.
16. **Question:** Will there be a potential elevation of green fees?  
**Answer:** See RFP ATTACHMENT #1 Section I.
17. **Question:** What were the previous rates and what are the current rates?  
**Answer:** This information was provided at the pre-proposal conference.
18. **Question:** Will the increase in rates be negotiable?  
**Answer:** Yes.
19. **Question:** If continuing as Federal property, why can't food and beverage continue as it does currently?  
**Answer:** BRAC Law prohibits the Army from operating this facility after 15 SEP 2011.
20. **Question:** What is the website to review the plan?  
**Answer:** <http://www.nj.gov/fmerpa/library/memoranda.html>
21. **Question:** Clarification on 10% and 20% increase in fees? .  
**Answer:** See Question 17.
22. **Question:** Will membership be credited back for next year?  
**Answer:** This is not an issue as no membership fees beyond August 31, 2011 have been collected.

23. **Question:** Do you have water meters on the golf course?  
**Answer:** The irrigation system is metered per the requirements of the Water Allocation Permit. Potable water is centrally metered for the entire Fort Monmouth property.
24. **Question:** How is the water irrigated?  
**Answer:** The water for irrigation is from the pond which is supplied via groundwater wells.
25. **Question:** How old is the irrigation system?  
**Answer:** 12 years old.
26. **Question:** Is JCP&L on or off site?  
**Answer:** The power is provided by JCP&L over distribution facilities owned and maintained by the Army.
27. **Question:** How will we work the electricity for the new owner? Would the new owner have to put in sub-meters?  
**Answer:** The operator will be required to have sub-meters installed.
28. **Question:** Does the golf course stay intact as is?  
**Answer:** Yes.
29. **Question:** Is the housing on the property included in the golf course?  
**Answer:** Yes in that it will be included in the lease to FMERA from the Army however, there is no expectation on the successful bidder to “operate” the housing.
30. **Question:** Is the property being transferred completely to Eatontown?  
**Answer:** The property remains property of the Federal Government under this RFP.
31. **Question:** Will you supply in the RFP the requirements for property taxes?  
**Answer:** There will be no requirement for the operator to pay property taxes.
32. **Question:** What kind of discharge permits do you have to irrigate?  
**Answer:** Fort Monmouth maintains a current Water Allocation Permit (see attached) for the golf course. The permit does not bar other entities from operating the golf course while the Army retains ownership of the property. It would remain the Army's responsibility to ensure all conditions outlined in said permit were complied with.
33. **Question:** Do you know how much water you pump per year?  
**Answer:** We do not have that information at this time. If and when it becomes available it will be shared with the successful bidder.
34. **Question:** Does the water go into a main sewer plant?  
**Answer:** The sanitary sewer system feeds into the Two Rivers Water Reclamation Authority via a distribution system owned and maintained by the Army.

35. **Question:** Who is responsible for the roadway improvements or damage to roadway? (Submitted via email from Ray Longobardi – Pebble Creek Golf Course).  
**Answer:** Under caretaker, Army cannot make capital improvements. If the golf course roadways are washed out from flooding, Army would repair. If the operator drives trucks over the course paths and damages them, the operator would be required to fix.
36. **Question:** Utilities – Electric, gas, sewer and water. How will such utility be billed and where will the meters be and are there any sewer and water charges? If municipal water is being used for all but irrigation, who is responsible? (Submitted via email from Ray Longobardi – Pebble Creek Golf Course).  
**Answer:** Gas has been privatized and is metered. Power and water will need to be sub-metered. Operator will be responsible to cover all utility usage.
37. **Question:** Liquor license - it is my understanding that no liquor license will be available so no liquor will be allowed to be served unless the new tenant can acquire a liquor license, please confirm. (Submitted via email from Ray Longobardi – Pebble Creek Golf Course).  
**Answer:** See Question 4.
38. **Question:** Are there any outstanding contractual obligations with outside vendors? (Submitted via email from Ray Longobardi – Pebble Creek Golf Course).  
**Answer:** No.
39. **Question:** Will there be a limit of hours of operation? (Submitted via email from Ray Longobardi – Pebble Creek Golf Course).  
**Answer:** No.
40. **Question:** Does the 9 hole rate have to stay, if so can it be adjusted to fall during certain hours? (Submitted via email from Ray Longobardi – Pebble Creek Golf Course).  
**Answer:** No and it can be adjusted.
41. **Question:** Please confirm the amount of water used annually to irrigate the golf course. Also confirm that there are no permits needed. (Submitted via email from Ray Longobardi – Pebble Creek Golf Course).  
**Answer:** See Questions 32 and 33.
42. **Question:** Insurance – Is fire and liability insurance needed for the structures, if so, who will pay and what amounts? (Submitted via email from Ray Longobardi – Pebble Creek Golf Course)  
**Answer:** Insurance will be the responsibility of the operator and it is required.
43. **Question:** Are there any obligations that the successful bidder will have to adhere to? (Submitted via email from Ray Longobardi – Pebble Creek Golf Course)  
**Answer:** Yes – See Section B 3 of this addendum.

44. **Question:** If a bidder wants to bring in a subcontractor, and the question of the liquor license is up in the air, then it will be different vs. running golf course, Sals and Gibbs Hall?  
**Answer:** Not sure we understand this question but yes – we expect that there will be sub-contractors associated with this contract and yes, the liquor license will be an issue.
45. **Question:** Are Sals and Gibbs Hall under the same operator?  
**Answer:** Currently, yes.
46. **Question:** Can the bidder submit a bid on grounds and maintenance without Sals and Gibbs Hall?  
**Answer:** No, see RFP Section 1.0.
47. **Question:** With regards to the 38 employees, what number is full-time, part-time and clerical?  
**Answer:** See the Staffing Roster, ATTACHMENT #3 to this addendum.
48. **Question:** With regards to the Rounds Report, are these the existing categories?  
**Answer:** Yes (refers to handout provided at pre-proposal conference).
49. **Question:** Can we consolidate the rounds?  
**Answer:** Yes.
50. **Question:** Will the patron visits continue?  
**Answer:** No, they are prepaid and will end.
51. **Question:** Is it possible to obtain a full set of financials for the past five years for all operations? (Submitted via email from Stephen Rice, Atlantic Golf Management, Inc.).  
**Answer:** See Question 1.
52. **Question:** Can you provide a summary of the rounds of golf for the past five year period? (Submitted via email from Stephen Rice, Atlantic Golf Management, Inc.).  
**Answer:** See Question 1.
53. **Question:** Will we be required to pay property taxes during this agreement period? (Submitted via email from Stephen Rice, Atlantic Golf Management, Inc.).  
**Answer:** See Question 31.
54. **Question:** Can we obtain staffing rosters including titles, rate of pay and annual earnings? (Submitted via email from Stephen Rice, Atlantic Golf Management, Inc.).  
**Answer:** See Question 47.

55. **Question:** There was one attachment with the RFP. Can we get the others that are referred to in the RFP? (Submitted via email from Stephen Rice, Atlantic Golf Management, Inc.).  
**Answer:** All attachments were included in the RFP.
56. **Question:** Can we receive the current rates for greens fees, carts, etc.? (Submitted via email from Stephen Rice, Atlantic Golf Management, Inc.).  
**Answer:** These were provided in hard copy at the pre-proposal conference. Cart Rentals are as follows: 9 hole cart is \$10.00 per player and 18 hole cart is \$18.00 per player.
57. **Question:** How about menus from the eating establishments? (Submitted via email from Stephen Rice, Atlantic Golf Management, Inc.).  
**Answer:** This was distributed at the pre-proposal conference.
58. **Question:** With the transfer from the Army, have a Phase 1 and a Phase 2 been done with regards to environmental issues?  
**Answer:** The Federal Government has an equivalent and no property can be transferred or leased without a Finding of Suitability to Transfer/Lease(FOST/FOSL), as such, there will be a FOSL in place prior to the operator taking over the operation.
59. **Question:** Are there any underground storage tanks under the golf course?  
**Answer:** All that have been identified have been removed. There is a small probability that there may be some underground heating oil tanks, less than 1000 gallons, under the North Parking Area.
60. **Question:** Who will obtain the water diversion permit?  
**Answer:** See Question 32.
61. **Question:** How would consultant obtain water for golf course irrigation in the short term?  
**Answer:** See Question 24.
62. **Question:** Who is responsible for the cost and arrangements for obtaining utilities to the property that was federally prior to change in management?  
**Answer:** See Question 36.
63. **Question:** Could you make the golf course master plan available and outline which holes were renovated? We understand a plan was developed and some of the work was completed.  
**Answer:** We will make this available to the successful bidder.
64. **Question:** What is the expected timing of the Finding of Suitability Study?  
**Answer:** There will be no lease to FMERA without the FOSL and we expect it to be final by September 1, 2011.

65. **Question:** Would past outing and banquet contacts be shared with the consultant?  
**Answer:** This information will be made available to the successful bidder.
66. **Question:** Would there be a letter of agreement to have access to all the equipment and for how long would the Army be willing to provide the use and access?  
**Answer:** Yes – the equipment should be available throughout the term of this contract.
67. **Question:** Who is responsible for capital repairs such as irrigation pump, roofs, structures, etc?  
**Answer:** Generally, capital repairs would be the responsibility of the Army if the repairs were the result of naturally occurring events, i.e. storm damage. If the operator causes the necessity for repair, then it would be the operators responsibility. For example, the operator punches a hole in a wall (Gibbs Hall), that would be negligence and the operator would be required to fix it.
68. **Question:** How is ending inventory (food, pro shop merchandise, grounds chemicals, etc.) handled on September 15th and does consultant have the option to purchase?  
**Answer:** Time permitting, this could be negotiated with the successful bidder.
69. **Question:** Are there any leases and/or contracts that consultant have to assume and/or honor?  
**Answer:** No existing leases or contract with the exception of the lease of the property by the Army to the Authority as reference in Section B 3 of this addendum.
70. **Question:** Can you provide employee roster, hourly wage/salary, position?  
**Answer:** See the Staffing Roster, ATTACHMENT #3 to this addendum.

**ATTACHMENY #1**  
**Pre-proposal Conference Attendee List**

Name	Firm	Address	Phone	Email
William Kinney	William Kinney, Esq.	1 Channel Drive Suite 707 Monmouth Beach, NJ	732-222-4396	<a href="mailto:reinsuresq@aol.com">reinsuresq@aol.com</a>
Richard Mulvey	Worldwide Golf Unlimited	P.O. Box 403 Colts Neck, NJ	732-539-0564	<a href="mailto:rmulvey3@msn.com">rmulvey3@msn.com</a>
Michael Attara	Applied Golf	400 Rike Drive Millstone Township, NJ	732-312-2924	<a href="mailto:mikeattara@appliedgolf.com">mikeattara@appliedgolf.com</a>
Dave Wasenda	Applied Golf	400 Rike Drive Millstone Township, NJ	609-443-4434	<a href="mailto:davew@appliedgolf.com">davew@appliedgolf.com</a>
Paul Bretzger	Paul Bretzger Design Group	335 E. 51st Street #6E N.Y., NY 10022	212-888-1404	<a href="mailto:pbretzger@yahoo.com">pbretzger@yahoo.com</a>
Raymond Longobardi	Pebble Creek Golf	401 Route 537 East Colts Neck, NJ	732-294-8899	<a href="mailto:proshop@pebblecreekgolfclub.com">proshop@pebblecreekgolfclub.com</a>
Ed Oliu	Toll Brothers	250 Gibraltar Road Horsham, PA	215-287-4324	<a href="mailto:eoliu@tollbrothersinc.com">eoliu@tollbrothersinc.com</a>
Shaun Braitling	Toll Brothers	670 Spotswood-Englishtown Road Monroe, NJ 08831	732-908-0852	<a href="mailto:sbraitling@tollbrothersinc.com">sbraitling@tollbrothersinc.com</a>
Stephen Rice	Atlantic Golf Management	4181 Atlantic Avenue Farmingdale, NJ 07727	732-449-0806	<a href="mailto:steve@linxgm.com">steve@linxgm.com</a>
Harry Leonard	Atlantic Golf Management	4181 Atlantic Avenue Farmingdale, NJ 07727	732-449-0806	

**Draft**

**BRAC ATTACHMENT #2  
Lease**

**Agreement**

Revised 07/19/11

BRAC LEASE

1. AUTHORIZED REPRESENTATIVES
2. USE OF THE LEASED PREMISES AND PERSONAL PROPERTY
3. TERM
4. TERMINATION, REVOCATION, DEFAULT AND RELINQUISHMENT
5. CONSIDERATION
6. NOTICES
7. SUPERVISION BY THE LEASED PREMISES
8. APPLICABLE LAWS AND REGULATIONS
9. CONDITION OF LEASED PREMISES
10. TRANSFERS, ASSIGNMENTS AND SUBLEASING
11. COST OF UTILITIES
12. PROTECTION OF PROPERTY
13. INSURANCE
14. RIGHT TO ENTER
15. INDEMNITY AND HOLD HARMLESS
16. RESTORATION
17. NON-DISCRIMINATION
18. SUBJECT TO EASEMENTS
19. SUBJECT TO MINERAL INTERESTS
20. RENTAL ADJUSTMENT
21. PROHIBITED USES
22. NATURAL RESOURCES
23. DISPUTES CLAUSE
24. ENVIRONMENTAL PROTECTION
25. HAZARDOUS SUBSTANCES NOTICE
26. LEAD-BASED PAINT
27. ASBESTOS
28. OTHER ENVIRONMENTAL RESTRICTIONS
29. SITE SPECIFIC RESTRICTIONS
30. HISTORIC PRESERVATION
31. SOIL AND WATER CONSERVATION
32. TAXES
33. COVENANT AGAINST CONTINGENT FEES
34. SEVERAL LESSEES
35. TITLE TO IMPROVEMENTS
36. MODIFICATIONS
37. DISCLAIMER
38. FAILURE OF LESSOR TO INSIST UPON COMPLIANCE
39. IDENTIFICATION OF GOVERNMENT AGENCIES, STATUTES, PROGRAMS AND FORMS
40. NO INDIVIDUAL LIABILITY OF GOVERNMENT OFFICIALS
41. MODIFICATIONS AND CONSENTS
42. MEMORANDUM OF LEASE

- 43. MERGER.
- 44. NO COMMITMENTS FOR FUTURE USE
- 45. AVAILABILITY OF FUNDS
- 46. SPECIAL CONDITIONS

Exhibits

- A Leased Premises (Map and/or description)
- B Reuse Plan
- C Development/Use of Premises description, if any
- D Condition Survey Report (with Environmental Baseline Survey)
- E Personal Property
- F UXO Parcels

NO \_\_\_\_\_

DEPARTMENT OF THE ARMY  
LEASE

UNDER

BASE REALIGNMENT AND CLOSURE (BRAC)

FORT MONMOUTH

TINTON FALLS, EATONTOWN, OCEANPORT  
NEW JERSEY

THIS LEASE is made on behalf of THE UNITED STATES OF AMERICA (the “United States”), between THE SECRETARY OF THE ARMY, **acting by and through the DIRECTOR OF REAL ESTATE, U.S. ARMY ENGINEER DISTRICT, <<DISTRICT>>**, hereinafter referred to as the “Lessor”, under the authority of Title 10, United States Code, Sections 2667, and the Fort Monmouth Economic Revitalization Authority, duly organized and existing under and by virtue of the laws of the State of New Jersey, with its principal address at 2 Corbett Way, Suite C, Eatontown, New Jersey 07724, hereinafter referred to as the “Lessee”.

NOW THEREFORE:

The Lessor, for good and valuable consideration set forth below, the receipt and sufficiency of all of which is hereby acknowledged, does, upon and subject to the terms, covenants and conditions set forth in this Lease, hereby:

Grant and convey to Lessee a leasehold estate, for the term as set forth below, in and to the parcels of land identified in Exhibit A, (the “Leased Premises” or “Premises”), lying and being in the Town of \_\_\_\_\_, in the State of New Jersey, together with the right to ingress and egress over existing roads and ways as required for access thereto.

Lessor has not conveyed title to standing timber located on the Premises.

THIS LEASE is granted subject to the following conditions:

1. AUTHORIZED REPRESENTATIVES

Except as otherwise specifically provided, any reference herein to “Lessor” or the “Lessee” also may act by and through duly authorized representatives. .

2. USE OF THE LEASED PREMISES AND PERSONAL PROPERTY.

a. The sole purpose(s) for which the Leased Premises and any improvements thereon may be used, in the absence of prior written approval of the Lessor for any other use, is for the use designated in or consistent with the approved Reuse Plan covering the Leased Premises, attached hereto as Exhibit B, which use of the Lease Premises has been properly evaluated by the Lessor under the National Environmental Policy Act of 1969, 42 U.S.C. 4321 to 4370d (NEPA).

b. The Lessor, in the Lessor's sole discretion, must approve any change in the use of the Lease Premises that that does not reflect uses set forth in the Reuse Plan as set forth in subcondition a. above. Prior to approval of any such changes in use requested by the Lessee, the Lessee shall furnish, at the Lessee's expense, any additional environmental analyses and documentation deemed necessary by the Lessor to comply with the National Environmental Policy Act of 1969, as amended, and implementing regulations, and other applicable environmental laws and regulations. In granting approval for the change in use, the Lessor reserves the right to impose such additional environmental protection provisions and restrictions, as the Lessor deems appropriate.

c. During the term of this Lease, the Lessee shall have the use of the personal property described in Exhibit E hereto in accordance with the terms of this Lease, which personal property shall be deemed to be a part of the Leased Premises.

### 3. TERM

a. The Leased Premises are leased for a term of \_\_\_\_\_ [The term of the Lease should be the shortest term that will meet the needs of the parties, generally five (5) years] years, commencing as provided for herein and ending \_\_\_\_\_ years thereafter or until terminated under the condition on TERMINATION, REVOCATION, DEFAULT AND RELINQUISHMENT, whichever is sooner. The term of this Lease shall commence, and the provisions of this Lease shall become effective, in accordance with the schedules and procedures set forth below:

(1) The Original Lease Term for the Leased Premises, as described in Exhibit A-1, shall commence on \_\_\_\_\_.

(2) With regard to expansion of the Leased Premises, the Lessee may request additional land and/or buildings ("Additional Leased Premises") be added to the Leased Premises hereunder by written notice to the Lessor, acting by and through the District Engineer and the Installation Commander ("Expansion Request"), which Expansion Request shall include a plan of the Additional Leased Premises requested, any recommended site or use specific lease terms related thereto, a brief description of the intended use for the Additional Leased Premises, the commencement date of the Original Lease Term for said Additional Leased Premises, and copies of any subleases or licenses that will commence on the date of the Original Lease Term.

(3) Upon receipt of an Expansion Request by the Lessor, the Lessor shall promptly prepare an amendment to this Lease ("Amendment"), which Amendment shall incorporate a plan of the Additional Leased Premises into Exhibit A, as Exhibit A-2; establish the commencement date of the Original Lease Term for the Additional Leased Premises; incorporate site or use specific terms into the Lease as may be agreed by the parties and amend the Environmental Protection Provisions below by incorporating site specific restrictions regarding the Additional Leased Premises contained in the Finding of Suitability to Lease (FOSL) for the Additional

Leased Premises. As of the date the Lessor and the Lessee sign the Amendment, the Lease shall be deemed modified and amended thereby, without the need for additional action by either party.

b. The Lessee shall have the right to extend the original term of the Lease for one (1) successive period of \_\_\_\_\_[Not to exceed five (5)] years (“Option Term”), provided that, as to this option, Lessee shall give written notice to the Lessor of its election to extend the Lease term at least eighteen (18) months prior to the time when the term expires; provided that, at the time when such notice is given, there shall not be any uncured event of default on the part of Lessee and the lease term has not been terminated or revoked by the Lessor under the Condition on TERMINATION, REVOCATION, DEFAULT AND RELINQUISHMENT. If the Lessee exercises the option under this subcondition b., the terms and conditions of this Lease shall remain in effect during the Option Term.

#### 4. TERMINATION, REVOCATION, DEFAULT AND RELINQUISHMENT

##### a. Termination.

(1) In the event of the Lessor’s decision to convey the Leased Premises or a portion thereof to the Lessee, the Lease shall terminate upon conveyance of the Leased Premises or a portion thereof to the Lessee with respect to that portion so conveyed.

(2) In the event the Lessor decides to convey the Leased Premises or a portion thereof to a third party and the Lessor executes a Finding of Suitability to Transfer (FOST), the Lessor may terminate this Lease with respect to any portion of the Leased Premises to be so conveyed, upon giving the Lessee sixty (60) days written notice of termination.

(3) The Lessor may terminate this Lease and remove the Lessee, and any sublessees, in the event of a national emergency as declared by the President or the Congress of the United States.

##### b. Default.

The following events shall be deemed to be events of default by the Lessee under this Lease:

(1) Lessee shall fail to comply with any condition, provision, covenant, or warranty made under this Lease by Lessee and shall not cure such failure, or initiate a cure and diligently pursue actions required to perfect a cure, within ninety (90) days after written notice thereof to Lessee, unless said non-compliance is the subject of a shorter notice given by a federal, state, or local governmental agency, in which case the shorter notice shall apply.

(2) Lessee shall become insolvent, or shall make a transfer in fraud of creditors, or shall make an assignment for the benefit of creditors;

(3) Lessee shall file a petition under any Section or Chapter of the United States Bankruptcy Code, as amended, or under any similar law or statute of the United States or any State thereof, or there shall be filed against the Lessee a petition for reorganization for an insolvency or a similar proceeding filed against Lessee;

(4) A receiver or trustee shall be appointed for the Leased Premises or for all or a substantially all of the assets of the Lessee.

(5) Lessee shall do or permit to be done anything which creates a lien upon the Leased Premises, unless any such lien is discharged or otherwise satisfied by a bond or other appropriate mechanism, or properly contested in a court of law by the Lessee within ninety (90) days of its imposition.

c. Revocation. The Lessee is charged at all times with full knowledge of all the conditions and requirements of this Lease, and the necessity for correction of defaults and non-compliance. Upon the occurrence of any of the aforesaid events of default, following applicable notice and cure periods and requirements, Lessor shall have the option to revoke this Lease, in which event Lessee shall immediately surrender the Leased Premises to Lessor, and if Lessee fails to do so, Lessor may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Leased Premises and expel or remove Lessee and any other person who may be occupying said Leased Premises or any part thereof, without being liable for any claim of damages therefor; Lessee hereby agreeing to pay to Lessor on demand the amount of all loss and damage which Lessor may suffer by reason of such termination. Pursuit of any of the foregoing remedies shall not preclude pursuit of any other remedy herein provided, including closure of the Leased Premises or temporary suspension of activities under the Lease, or any other remedy provided by law or at equity, nor shall pursuit of any remedy herein provided constitute an election of remedies, thereby excluding the later election of an alternate remedy. Forbearance by Lessor to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to constitute a waiver of such default. Lessee agrees to pay to Lessor all costs and expenses incurred by Lessor in the enforcement of this Lease, including, without limitation, the reasonable fees of Lessor's attorneys when such attorneys are employed by Lessor to effect collection of any sums due hereunder or to enforce any right or remedy of Lessor.

d. Sublessees. In accordance with the Condition on TRANSFERS, ASSIGNMENTS AND SUBLEASING, any sublease is to be subject to the conditions and terms of this Lease, nevertheless, should default and non-compliance described in subcondition b. above stem from the activities of a sublessee, the Lessee is responsible for ensuring compliance, either by corrective action itself or through the sublessee. If the Lessee is making diligent, good faith efforts to obtain corrective action and compliance by the sublessee, to the satisfaction of the Lessor, then the Lessor's exercise of rights under subcondition c. will only be for that part of the Leased Premises under the control of the sublessee.

e. Relinquishment. This Lease may be terminated or relinquished by the Lessee by giving thirty (30) days prior written notice to the District Engineer in the manner prescribed in the Condition on NOTICES.

## 5. CONSIDERATION

a. The consideration for this Lease is the operation and maintenance of the Leased Premises by the Lessee for the benefit of the United States and the general public in accordance with the conditions herein set forth.

b. All monies received by the Lessee from operations conducted on the Leased Premises, including, but not limited to, use fees and rental or other consideration received from its sublessees or licensees, shall be utilized by the Lessee for the protection, operation, maintenance, repair, improvement, and costs related to the premises and the installation, to include marketing and management activities of the Lessee, reasonable, necessary, and customary appraisal fees, tenant improvement costs (including capital improvements such as road construction and public buildings, storm and sanitary sewer construction, utility construction), building rehabilitation, historic property preservation, pollution prevention (including asbestos abatement); demolition and disposal of hazardous materials generated by building demolition; landscaping, grading and other site improvements, and planning for marketing, development and reuse (including real estate brokerage commissions, development advisor services, and property management and marketing expenses). . The Lessee shall provide an annual statement of receipts and expenditures to the District Engineer. The Lessor shall have the right to perform audits or to require the Lessee to audit the records and accounts of the Lessee, sublessees or licensees, in accordance with auditing standards and procedures promulgated by the American Institute of Certified Public Accountants or by the state, and furnish the Lessor with the results of such an audit.

6. NOTICES

a. All correspondence, communications and notices to be given pursuant to this Lease shall be in writing and addressed, as set out below, or as may from time to time otherwise be directed by the parties. Both Lessor and Lessee <<and Mortgagee>> have an obligation to ensure that the other party has their accurate address.

b. Notices shall be mailed by certified mail, postage prepaid, return receipt requested, addressed to the addresses below. The effective date of the notice shall be the earlier of the actual date of receipt or the date the addressee is notified of the attempted delivery of the certified mail, whether or not the addressee actually accepts delivery.

If to the Lessee:	<<LESSEE>> <<ADDRESS, CITY, STATE, ZIP>>
If to the Lessor:	U.S. Army Corps of Engineers _____ District Attn: CE____-RE <<ADDRESS, CITY, STATE, ZIP>>
With a copy to: Installation	<<INSTALLATION>> <<ADDRESS, CITY, STATE, ZIP>>

c. General correspondence and other communications do not have to be sent certified mail, return receipt requested.

## 7. SUPERVISION OF THE LEASED PREMISES

The use and occupation of the Premises incident to the exercise of the privileges and purposes hereby granted shall be subject to the supervision and approval of the Lessor and to such general rules and regulations as the Lessor may from time to time prescribe, all consistent with and in furtherance of the terms of this Lease.

## 8. APPLICABLE LAWS AND REGULATIONS

a. The Lessee shall comply with all applicable Federal, state, and local laws, ordinances, regulations and standards that are or may become applicable to their activities on the Leased Premises, including, but not limited to, those regarding the environment, construction, health, safety, food service, water supply, sanitation, use of pesticides, and licenses or permits to do business.

b. Additional compliance conditions are included in the condition on ENVIRONMENTAL PROTECTION.

## 9. CONDITION OF THE LEASED PREMISES

a. The Lessee acknowledges that it has inspected the Leased Premises, knows its condition, and understands that the same is leased in an "as is," and "where is" condition, without any representations or warranties whatsoever and without obligation on the part of the United States to make any alterations, repairs, or additions thereto, except as may be specifically provided herein.

b. The Lessor and the Lessee have jointly conducted an inventory and condition survey of the Leased Premises, to include the environmental condition, prior to lease execution by either party. The inventory and condition survey is documented in a Condition Survey report prepared by the Lessor, signed by the duly authorized representatives of both parties, and attached as Exhibit D to this Lease. The Condition Survey will refer to and incorporate by reference the Environmental Condition of Property Report ("ECP") prepared by the Lessor, as well as any other environmental conditions that may not be specifically identified in the ECP. Preceding expiration, revocation or termination of this Lease, except in the case of conveyance of the Leased Premises as the Lessee, the Lessor and the Lessee will jointly conduct a close-out survey. The Lessor will prepare a close-out report. The Lessee shall fully fund the Lessor's preparation of an updated ECP that will document the environmental condition of the property at that time as part of the close-out survey. The close-out survey and report will refer to and incorporate by reference, the updated ECP. All significant variances from the initial Condition Survey shall be clearly documented in the close-out report. This close-out report will constitute the basis for settlement by the parties for any leased property shown to be lost, damaged, contaminated, or destroyed during the lease term, in determining any environmental restoration requirements to

completed by the Lessee and restoration of the property as required in the condition on RESTORATION.

#### 10. SUCCESSORS AND SUBLESSEES

a. Successors. This Lease and the covenants and conditions herein contained shall be binding upon Lessee, its successors and assignees; and shall inure to the benefit of Lessee and only such successors or assignees of the Lessee to whom the transfer or assignment by Lessee has been consented to by Lessor in writing. No transfers or assignments shall be valid unless the successor or assignee shall, by an instrument in a form sufficient for recording and acceptable to the Lessor, enter into an assumption agreement and assume all of the Lessee's obligations under this Lease. A duplicate original of that assumption agreement will be delivered to the Lessor, and the assignment shall not take effect until delivery is made.

b. Sublease. The Lessee may sublease the Leased Premises, so long as the Lessee remains primarily liable for performance of all the obligations of Lessee hereunder. The Lessee shall neither sublease, license nor grant any interest in the Lease Premises or any part thereof or any property thereon, nor grant any other interest, privilege or license whatsoever in connection with this Lease, without prior written notice to the Lessor, as set out in the condition on NOTICES. The Lessee shall provide the Lessor a copy of every executed sublease hereunder. No sublease shall be valid unless and until the Lessee shall have delivered to the Lessor a copy of the executed sublease. Every sublease shall contain the Environmental Protection provisions set out in this Lease and shall state that it is subject to the conditions and term of this Lease and that, in case of any conflict between the instruments, this Lease will control. The Lessee shall provide each approved sublessee or licensee with a copy of this Lease.

c. Notice to the State. The Lessee further agrees that in the event of an assignment or sublease of the Leased Premises, it shall provide to the New Jersey Department of Environmental Protection ("DEP) by certified mail a copy of the agreement or sublease of the Leased Premises within 14 days after the effective date of such transaction. The Lessee may delete the financial terms and any other proprietary information from the copy of any agreement or assignment or sublease furnished pursuant to this condition.

(IF DA IS TO PROVIDE UTILITIES, DO NOT EXECUTE LEASE UNTIL A UTILITY CONTRACT IS SIGNED. DELETE THE FOLLOWING CONDITION IF NOT APPLICABLE; OR MODIFY TO STATE SITUATION.)

#### 11. COST OF UTILITIES

a. As set out in the Utility Contract, executed by the Lessee and Lessor's representative having jurisdiction over the Leased Premises, dated \_\_\_\_\_, the Lessee shall pay the cost of producing and/or supplying any utilities and other services furnished by the Lessor or through government-owned facilities for the use of the Lessee, including the Lessee's proportionate share of the cost of operation and maintenance of the government-owned facilities by which such utilities or services are produced or supplied. Payment shall be made in the manner prescribed in said Utility Contract.

b. The supplying of utilities or other services by the Lessor is not a commitment to provide utilities after Lessor activities at the installation cease. The Lessee should develop plans for assumption of the utilities by a local utility provider or other qualified entity.

## 12. PROTECTION OF PROPERTY

The Lessee shall keep the Leased Premises in good order and in a clean, safe condition by and at the expense of the Lessee. The Lessee shall be responsible for any damage that may be caused to property of the United States by the activities of the Lessee and/or its sublessees or licensees under this Lease, and shall exercise due diligence in the protection of all property located on the premises against fire or damage from any and all other causes. Any property of the United States damaged or destroyed incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the Lessee to a condition satisfactory to Lessor, or at the election of Lessor, reimbursement made therefor by the Lessee in an amount necessary to restore or replace the property, except personal property, to a condition satisfactory to the Lessor. The above requirements shall be waived by the Lessor with regard to property (real and personal) scheduled to be conveyed to the Lessee.

## 13. INSURANCE

a. At the commencement of this Lease, the Lessee shall obtain, from a reputable insurance company, or companies, comprehensive liability insurance. The insurance shall provide an amount not less than that which is prudent, reasonable and consistent with sound business practices or an amount not less than a combined single limit of \$\_\_\_(insert amount based upon risk of activities, but no less than \$1,500,000)\_\_\_ DOLLARS (\$\_\_\_\_\_), whichever is greater, for any number of persons or claims arising from any one incident with respect to bodily injuries or death resulting therefrom, property damage, or both, suffered or alleged to have been suffered by any person or persons upon the Leased Premises or arising from activities conducted under this Lease.

b. The liability insurance policy shall insure the hazards of the Leased Premises and operations conducted in and on the Leased Premises, independent contractors, contractual liability (covering the indemnity included in this Lease agreement), and shall name the United States as an insured party. Each policy will provide that any losses shall be payable notwithstanding any act or failure to act or negligence of the Lessee or the United States or any other person; provide that the insurer will have no right of subrogation against the United States; and be reasonably satisfactory to the Lessor in all respects. Under no circumstances will the Lessee be entitled to assign to any third party rights of action that it may have against the United States arising out of this Lease.

c. The Lessee shall require that the insurance company give Lessor thirty (30) days written notice of any cancellation or change in such insurance. Lessor may require closure of any or all of the Leased Premises during any period for which the Lessee does not have the required insurance coverage. The Lessee shall require its insurance company to furnish to Lessor a copy of the policy or policies, or if acceptable to the Lessor, certificates of insurance evidencing the purchase of such insurance. The minimum amount of liability insurance coverage

is subject to revision by the Lessor every two (2) years or upon renewal or modification of this Lease.

(DELETE THE FOLLOWING CONDITION IF NO GOVERNMENT STRUCTURES OR IMPROVEMENTS ARE WITHIN THE LEASED PREMISES OR IF STRUCTURES AND IMPROVEMENTS ARE INCLUDED, BUT THE DETERMINATION OF AVAILABILITY WAIVES THE REQUIREMENT FOR FIRE INSURANCE)

d. As to those structures and improvements on the Leased Premises constructed by or owned by the United States, for such periods as the Lessee is in possession of the Leased Premises pursuant to the terms and conditions of this Lease, the Lessee shall procure and maintain at the Lessee's cost a standard fire and extended coverage insurance policy or policies on the Leased Premises to the full insurable value thereof. The Lessee shall procure such insurance from a reputable company or companies. The insurance policy shall provide that in the event of loss thereunder, the proceeds of the policy or policies, at the election of the United States, shall be payable to the Lessee to be used for the repair, restoration or replacement of the property damaged or destroyed or of the Leased Premises, and any balance of the proceeds not required for such repair, restoration or replacement shall be paid to the United States. If the District Engineer does not elect by notice in writing to the insurer within sixty (60) days after the damage or destruction occurs to have the proceeds paid to the Lessee for the purposes hereinabove set forth, then such proceeds shall be paid to the United States, provided however that the insurer, after payment of any proceeds to the Lessee in accordance with the provision of the policy or policies, shall have no obligation or liability with respect to the use or disposition of the proceeds by the Lessee. Nothing herein contained shall be construed as an obligation upon the United States to repair, restore or replace the Leased Premises or any part thereof should it be diminished in value, damaged, or destroyed.

e. The Lessee may require any sublessees, assignees, transferees, or successors, as joint and several responsible parties with the Lessee for those portions of the Leased Premises under their control, to maintain and carry at their expense portions of the insurance requirement.

f. Notwithstanding anything herein to the contrary, each party hereto hereby releases the other party, its agents, sublessees and employees, to the full extent recoverable under the insurance policies of the releasing party, from any and all liability for any loss or damage which may be inflicted upon the property of such party, notwithstanding that such loss or damage shall have arisen out of the negligent or the tortious act or omission of the other party, its agents, sublessees or employees; provided, however, that this release shall be effective only with respect to loss or damage occurring during such time as the appropriate policy of insurance of the party so releasing shall contain a clause to the effect that such release shall not affect the said policy or the right of the insured to recover thereunder, and each party at the request of the other shall use reasonable efforts to have such a clause included in its said policies. Each party hereto shall notify the other in the event such a clause is not included in its said policies, or is withdrawn therefrom, in which event the release herein of the other party shall be null and void.

#### 14. RIGHT TO ENTER

a. The right is reserved to the United States, its officers, agents, and employees to enter upon the Leased Premises at any time and for any purpose necessary or convenient in connection with government purposes; to make inspections, to make any other use of the lands as may be necessary in connection with government purposes, and the Lessee shall have no claim for damages on account thereof against the United States or any officer, agent, or employee thereof, except as may be authorized under the Federal Tort Claims Act or other applicable law. Lessor will attempt to give a minimum of 24 hours notice prior to entry, but is not obligated to do so during emergencies when there is a potential threat to health, safety, loss of life, or property damage.

b. Additional rights to enter are reserved in the condition on ENVIRONMENTAL PROTECTION.

## 15. RELEASE OF CLAIMS

a. The Lessee agrees to assume all risks of loss or damage to property and injury or death to persons by reason of or incident attributable or incident to the condition or state of repair of the Leased Premises or to its possession and/or use of the Leased Premises or the activities conducted under this Lease. The Lessee expressly waives all claims against the United States of America for any such loss, damage, personal injury or death caused by or occurring as a consequence of such condition, possession and/or use of the Leased Premises by the Lessee, or the conduct of activities or the performance of responsibilities under this lease by the Lessee, except with regard to existing conditions related to munitions or explosives of concern ("MEC") or hazardous substances for which the Lessor is responsible for under applicable law.

b. Subject to the provisions of paragraph d. below, the Lessor shall not be liable for any costs, expenses, liabilities, fines, or penalties resulting from discharges, releases, emissions, spills, storage, disposal, or any other action by the Lessee giving rise to United States of America liability, civil or criminal, or responsibility under Federal, state or local environmental laws.

c. Subconditions a. and b. of this Condition and the obligations of the Lessee hereunder shall survive the expiration or termination of the Lease and the conveyance of the Leased Premises. The Lessee's obligation hereunder shall apply whenever the United States incurs costs or liabilities for the Lessee's actions giving rise to liability under this condition.

d. In leasing the Leased Premises, the United States recognizes its obligations under CERCLA and its obligation to hold harmless, defend, and indemnify the Lessee and any successor, assignee, transferee, lender, or sublessee of the Lessee as provided for in Section 330 of the Department of Defense Authorization Act of 1993, as amended, and to otherwise meet its obligations under the law.

e. Any sublessees, assignees, transferees, or successors shall be jointly and severally responsible with the Buyer/Lessee for those portions of the Leased Premises under their control.

## 16. RESTORATION

a. On or before the earlier of expiration, revocation, or termination date of this Lease, the Lessee and the Lessor shall prepare an inventory and condition report showing the improvements and related personal property located on the Premises. This report shall constitute the basis for settlement of RESTORATION obligations under this Condition.

b. The Lessee and the Lessor will negotiate which property will be removed by Lessee; which property will be surrendered to the United States, with title reverting to the United States without consideration; the restoration of the Leased Premises required; and the time allowed for compliance with such actions. The Lessee will then remove the agreed upon property; restore the Leased Premises; and vacate the Leased Premises.

c. If the Lessee shall fail or neglect to remove said agreed property, then, at the option of the Lessor, (a) title to said property shall revert to the United States without compensation therefore, or (b) the Lessor may cause the property to be removed as restoration of the Leased Premises, set out in d. below.

d. If the Lessee shall fail or neglect to restore the Leased Premises, as agreed, the Lessor may cause restoration work to be performed. The Lessee shall pay the United States on demand any sum which may be expended by the United States after the expiration, revocation, or termination of this Lease in restoring the Premises.

e. No claim for damages against the United States or its officers or agents shall be created by or made on account of such reversion, removal and restoration, except for such claims as may be authorized under the Federal Tort Claims Act or other applicable law.

f. The Lessee grants the Lessor power of attorney to execute any deed, bill of sale or other documents to clear title to the personal property and improvements whose non-removal has been agreed to by the Lessor or where title is reverting to the United States. The Lessor may provide appropriate evidence of title in the Lessee to all property being removed by Lessee.

g. This Condition shall not be applicable to any portion of the Leased Premises scheduled to be conveyed to the Lessee.

(SELECT ONE OF THE FOLLOWING CONDITIONS ON NON-DISCRIMINATION, AS APPROPRIATE BASED UPON THE CONSIDERATION)

#### 17. NON-DISCRIMINATION

a. The Lessee shall not discriminate against any person or persons or exclude them from participation in the Lessee's operations, programs or activities conducted on the Leased Premises, because of race, color, religion, sex, age, handicap, or national origin.

b. The Lessee, by acceptance of this Lease, is receiving a type of Federal assistance and, therefore, hereby gives assurance that it will comply with the provisions of Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d); the Age Discrimination Act of 1975 (42

U.S.C. § 6102); the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 CFR Part 300) issued as Department of Defense Directives 5500.11 and 1020.1, and Army Regulation 600-7. This assurance shall be binding on the Lessee, its agents, successors, transferees, sub-lessees and assignees. The Lessee will comply with Department of Justice rules on non-discrimination.

#### 18. SUBJECT TO EASEMENTS

This Lease is subject to all existing easements, or those subsequently granted as well as established access routes for roadways and utilities located, or to be located, on the premises, provided that the proposed grant of any new easement or route will be coordinated with the Lessee, and easements will not be granted which will, in the opinion of the District Engineer, interfere with the use of the premises by the Lessee.

#### 19. SUBJECT TO MINERAL INTERESTS

This Lease is subject to all outstanding mineral interests. As to federally owned mineral interests, it is understood that they may be included in present or future mineral leases issued by the Bureau of Land Management (BLM) which has responsibility for mineral development on federal lands. The Lessor will provide lease stipulations to BLM for inclusion in said mineral leases that are designed to protect the premises from activities that would interfere with the lessee's operations or would be contrary to local law.

#### 21. PROHIBITED USES

a. The Lessee shall not permit gambling, except for state lottery tickets in accordance with applicable state and local laws and regulations, on the Leased Premises or install or operate, or permit to be installed or operated thereon, any device which is illegal; or use the premises or permit them to be used for any illegal business or purpose. There shall not be conducted on or permitted upon the premises any activity which would constitute a nuisance.

b. The Lessee shall not construct or place any structure, improvement or advertising sign or allow or permit such construction or placement without prior written approval of the District Engineer.

c. The Lessee shall not sell, store or dispense, or permit the sale, storage, or dispensing of beer or other intoxicating liquors on the premises.

**(IF THE PROPOSED USE BY THE LESSEE WILL ALLOW HOTEL, RESTAURANT, OR OTHER SIMILAR FACILITIES THE FOLLOWING PARAGRAPH MAY BE USED INSTEAD OF THE ABOVE c.)**

c. In accordance with state and local laws and regulations, the Lessee may sell, store, or dispense, or permit the sale, storage, or dispensing of beer, malt beverages, light wines or other intoxicating beverages on the premises in those facilities where such service is customarily found. Bar facilities will only be permitted if offered in connection with other approved

activities. Advertising of such beverages outside of buildings is not permitted. Carry out package sales of hard liquor is prohibited.

## 22. NATURAL RESOURCES

The Lessee shall cut no timber, conduct no mining operations, remove no sand, gravel, or kindred substances from the ground, commit no waste of any kind, nor in any manner substantially change the contour or condition of the premises except as authorized in writing by the Lessor.

## 23. DISPUTES CLAUSE

a. Except as provided in the Contract Disputes Act of 1978 (41 U.S.C. 601-613) (the "CDA"), all disputes arising under or related to this Lease shall be resolved under this Condition 23 and the provisions of the CDA. However, if the Parties mutually agree, they can concurrently pursue alternative dispute resolution.

b. A monetary claim or other dispute by the Lessee shall be made in writing and submitted to the Lessor for a written decision in conformance with the CDA.

c. The Parties shall proceed diligently with performance of this Lease, pending final resolution of any request for relief, claim, appeal, or action arising under this Lease, and comply with any decision of the Lessor.

d. The Lessor's decision shall be final unless the Lessee or Lessor appeals or files a suit as provided in the Act.

## 24. ENVIRONMENTAL PROTECTION PROVISIONS

a. The Lessee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs from activities of the Lessee, the Lessee shall be liable to restore the damaged resources. (ADD IF APPLICABLE: The Lessee shall not discharge waste or effluent from the Leased Premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.) The Lessee must obtain approval in writing from said officer before any pesticides or herbicides are applied to the Leased Premises, unless a plan for such application has been approved by the Lessor and all such applications are done pursuant to that plan.

(The following provisions are based on the model EPA language. The district should closely compare the actual language in the FOSL for deviations. Use the language in the FOSL.)

b. The Lessee shall be responsible for obtaining and paying for any environmental or other permits required for its operations under the Lease, independent of any existing permits.

c. The rights of the Lessor under this Lease specifically include the right of the Lessor to inspect, upon reasonable notice, the Leased Premises for compliance with environmental, safety,

and occupational health laws and regulations, whether or not the Lessor is responsible for enforcing them. Such inspections are without prejudice to the right of duly constituted enforcement officials to make such inspections. The Lessor normally will give the Lessee twenty-four (24) hours prior notice of its intention to enter the Leased Premises unless it determines the entry is required for safety, environmental, operations, or security purposes. The Lessee shall have no claim on account of any entries against the United States or any officer, agent, employee, or contractor thereof, except as may be authorized under the Federal Tort Claims Act or other applicable law.

d. The Lessor and his officers, agents, employees, contractors and subcontractors have the right, upon reasonable notice to the Lessee, and to parties in possession, to enter upon the Leased Premises for purposes enumerated in this subparagraph:

1. to conduct investigations and surveys, including, where necessary, drilling, soil and water sampling, test pitting, soil boring tests and other activities related to the (Installation name) Installation Restoration Program (IRP);

2. to inspect field activities of the Lessor and his employees, agents, contractors and subcontractors in implementing the IRP;

3. to conduct any test or survey related to the implementation of the IRP or environmental conditions at the Leased Premises, or to verify any data submitted to the DEP by the Lessor relating to such conditions; and

4. to construct, operate, maintain or undertake any other response or remedial action as required or necessary under the (insert name of installation) IRP, including, but not limited to monitoring wells, pumping wells and treatment facilities.

e. The Lessee agrees to comply with the provisions of any health or safety plan in effect under the IRP during the course of the above-described response or remedial actions. Any inspection, survey, investigation, or other response or remedial action will, to the extent practicable, be coordinated with representatives designated by the Lessee. The Lessee shall have no claim on account of such entries against the United States or any officer, agent, employee, contractor, or subcontractor thereof, except as may be authorized under the Federal Tort Claims Act or other applicable law. In addition, the Lessee shall comply with all applicable Federal, state and local occupational safety and health regulations.

f. The Lessee shall comply with the requirements of 10 U.S.C. 2692(b)(9) to obtain the Lessor's approval for the storage, treatment or disposal of toxic or hazardous materials not owned by the Department of Defense on the Leased Premises.

g. The Lessee shall comply with the hazardous waste permit requirements under the Resource Conservation and Recovery Act (RCRA), or its (state) equivalent and any other applicable laws, rules or regulations. Except as specifically authorized by the Lessor in writing, the Lessee must provide, at its own expense, such hazardous waste management facilities, including storage, treatment or disposal facilities, complying with all applicable laws and

regulations. Hazardous waste management facilities of the Lessor will not be available to the Lessee. Any violation of the requirements of this provision shall be deemed a material breach of this Lease.

h. Any of Lessor's accumulation points for hazardous and other wastes will not be used by the Lessee. The Lessee will not permit its hazardous waste to be commingled with hazardous waste of the Lessor.

i. In conjunction with construction or remediation projects that the Lessee may undertake on the Leased Premises that may include the removal of hazardous substances or waste from the Leased Premises, the Lessee or its contractor shall have a plan approved by the Lessor for responding to hazardous waste, fuel and other chemical spills prior to commencement of such operations on the Leased Premises, which approval shall not be unreasonably withheld or delayed. The plan may be developed in phases as construction activities are identified. Sublessees shall provide to the Lessee a plan to cover their activities and portion of the Leased Premises prior to commencement of operations on the subleased portion, which will be incorporated by the Lessee into the overall plan.

j. The Lessee shall not construct or make or permit its sublessees or assigns to construct or make any substantial alterations, additions, or improvements to or installations upon or otherwise modify or alter the Leased Premises in any way which may adversely affect the cleanup, human health, or the environment without the prior written consent of the Lessor. Such consent may include a requirement to provide the Lessor with a performance and payment bond satisfactory to it in all respects and other requirements deemed necessary to protect the interests of the United States.

## 25. HAZARDOUS SUBSTANCES NOTICE

a. To the extent such information is available on the basis of a complete search of Lessor's files, notice regarding hazardous substances stored for one year or more, known to have been released, or disposed of on the Leased Premises is provided in Exhibit G. The Lessee should consult the Condition Survey and the ECP for more detailed information.

(INCLUDE THE FOLLOWING IF REQUIRED BY THE FOSL. THE FOSL IS NOT ATTACHED AS AN EXHIBIT TO THE LEASE. IT IS AN INTERNAL DECISION DOCUMENT. MODIFICATIONS MAY BE MADE TO COMPLY WITH THE FOSL.)

## 26. LEAD-BASED PAINT WARNING AND COVENANT

a. The Leased Premises do not contain residential housing and are not being leased for residential purposes. The Lessee is notified that the Leased Premises contain buildings built prior to 1978 that contain lead-based paint. Exposure to lead from lead-based paint may place young children at risk of developing lead poisoning. Lead poisoning in young children may

produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems and impaired memory. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to lease.

b. Available information concerning known lead-based paint and/or lead-based paint hazards, the location of lead-based paint and/or lead-based paint hazards in buildings or structures, and the condition of painted surfaces is contained in the ECP, referenced in the Condition Survey attached as Exhibit D, which has been provided to the Lessee. (IF APPLICABLE: Additionally, the following reports pertaining to lead-based paint and/or lead-based paint hazards have been provided to the Lessee:

\_\_\_\_\_.)  
Additionally, the Lessee has been provided with a copy of the federally-approved pamphlet on lead poisoning prevention. The Lessee hereby acknowledges receipt of all the information described in this subcondition.

c. The Lessee acknowledges that it has received the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards in buildings or structures on the Leased Premises prior to execution of this Lease.

d. The Lessee shall not permit use of any buildings or structures on the Leased Premises for residential habitation without first obtaining the written consent of the Lessor. As a condition of its consent, the Lessor may require the Lessee to: (i) inspect for the presence of lead-based paint and/or lead-based paint hazards; (ii) abate and eliminate lead-based paint hazards in buildings or structures on the Leased Premises by treating any defective lead-based paint surface in accordance with all applicable laws and regulations; and (3) comply with the notice and disclosure requirements under applicable Federal and state law. The Lessee agrees to be responsible for any future remediation of lead-based paint found to be necessary on the Leased Premises.

(ALTERNATIVE CONDITION 26 WHERE THE LEASED PREMISES CONTAIN RESIDENTIAL HOUSING:)

#### 26. NOTICE OF THE PRESENCE OF LEAD-BASED PAINT AND COVENANT

a. The Lessee is hereby informed and does acknowledge that all buildings on the Leased Premises, which were constructed or rehabilitated prior to 1978, are presumed to contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 residential housing, lessors must disclose to lessees and sublessees the presence of lead-based paint and/or lead-based paint hazards therein. "Residential housing" means any housing constructed prior to 1978, except housing for the elderly (households reserved for and composed of one or more persons 62 years of age or more at the time of initial occupancy) or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling. A risk assessment or inspection for possible lead-based paint hazards by the Lessee is recommended prior to lease.

b. Available information concerning known lead-based paint and/or lead-based paint hazards, the location of lead-based paint and/or lead-based paint hazards, and the condition of painted surfaces in buildings and structures is contained in the ECP, referenced in the Condition Survey attached as Exhibit D, which have been provided to the Lessee. (IF APPLICABLE: Additionally, the following reports pertaining to lead-based paint and/or lead-based paint hazards have been provided to the Lessee:

\_\_\_\_\_.)  
Additionally, the Lessee has been provided with a copy of the federally-approved pamphlet on lead poisoning prevention, and acknowledges that all sublessees must also receive this pamphlet. The Lessee hereby acknowledges receipt of all of the information described in this subparagraph.

c. The Lessee acknowledges that it has received the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards prior to execution of this Lease.

d. The Lessee shall not permit the occupancy or use of any buildings or structures as residential housing without complying with this section and all applicable federal, state, and local laws and regulations pertaining to lead-based paint and/or lead-based paint hazards. Prior to permitting the occupancy of residential housing, if required by law or regulation, the Lessee, at its sole expense, will abate and eliminate lead-based paint hazards by treating any defective lead-based paint surface in accordance with all applicable laws and regulations.

e. The United States, following the initiation of the term of this Lease, assumes no liability during the term of this Lease for remediation or damages for personal injury, illness, disability, or death, to the Lessee, its successors or assigns, sublessees or to any other person, including members of the general public, arising from or incident to possession and/or use of any buildings or structures on the Leased Premises containing lead-based paint as residential housing. The Lessee further agrees to the extent permitted under applicable law to indemnify and hold harmless the United States, its officers, agents and employees, from and against all suits, claims, demands or actions, liabilities, judgments, costs and attorneys' fees arising out of, or in any manner predicated upon, personal injury, death or property damage resulting from, related to, caused by or arising out of the possession and/or use of any building on the Leased Premises containing lead-based paint as residential housing during the term of this Lease. This Condition and the obligations of the Lessee hereunder shall survive the expiration or termination of this Lease and any conveyance of the Leased Premises to the Lessee. The Lessee's obligation hereunder shall apply whenever the United States of America incurs costs or liabilities for actions giving rise to liability under this section.

(INCLUDE THE FOLLOWING IF REQUIRED BY THE FOSL. Modification may be made to comply with the FOSL terms. In particular, an alternate provision, as set forth in the FOSL, will be needed where the Leased Premises contain asbestos that poses an unacceptable risk to human health and the Lessee is required to remediate prior to use or occupancy. )

## 27. NOTICE OF THE PRESENCE OF ASBESTOS AND COVENANT

a. The Lessee is hereby informed and does acknowledge that (friable and) non-friable asbestos or asbestos-containing materials (“ACM”) has been found in buildings and structures on the Leased Premises, as described in the Condition Survey attached as Exhibit D. To the best of the Lessor’s knowledge, the ACM on the Leased Premises does not currently pose a threat to human health or the environment.

The Lessee covenants and agrees that its use and occupancy of buildings and structures on the Leased Premises will be in compliance with all applicable laws relating to asbestos; and that the Lessor assumes no liability during the term of this Lease for remediation of asbestos from buildings or structures on the Leased Premises, or damages for personal injury, illness, disability, or death, to the Lessee, its successors or assigns, sublessees, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos in buildings or structures on the Leased Premises described in this Lease during the term of this Lease, whether the Lessee, its successors or assigns have properly warned or failed to properly to warn the individual(s) injured. The Lessee agrees to be responsible for any future remediation of asbestos found to be necessary on the Leased Premises.

28. OTHER ENVIRONMENTAL RESTRICTION  
(INSERT FROM THE FOSL ANY SITE SPECIFIC ENVIRONMENTAL RESTRICTIONS OR PROVISIONS, SUCH AS ENDANGERED SPECIES, UNDERGROUND STORAGE TANKS. THE FOSL IS NOT ATTACHED AS AN EXHIBIT TO THE LEASE. IT IS AN INTERNAL DECISION DOCUMENT.)

29. SITE SPECIFIC RESTRICTIONS  
(INSERT FROM THE FOSL/REPORT OF AVAILABILITY ANY SITE SPECIFIC RESTRICTIONS OR PROVISIONS, SUCH AS UXOs, RESTRICT USE OF WETLANDS, SUPPORT COASTAL ZONE MANAGEMENT PLANS, LIMIT FLOODPLAIN ACTIVITIES)

NOTE: ADDITIONAL NUMBERED CONDITIONS MAY BE INSERTED FOR CLARITY OR DUE TO LENGTH.

30. HISTORIC PRESERVATION

a. The Lessee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archeological, architectural or other cultural artifacts, relics, remains or objects of antiquity. In the event such items are discovered on the Leased Premises, the Lessee shall immediately notify said officer and protect the site and the material from further disturbance until said officer gives clearance to proceed.

b. [Include any provision required by an Memorandum of Agreement or Programmatic Agreement with the State Historic Preservation Officer and Advisory Council on Historic Preservation.]

### 31. SOIL AND WATER CONSERVATION

The Lessee shall maintain, in a manner satisfactory to said officer, all soil and water conservation structures that may be in existence upon said premises at the beginning of or that may be constructed by the Lessee during the term of this Lease, and the Lessee shall take appropriate measures to prevent or control soil erosion within the premises. Any soil erosion occurring outside the premises resulting from the activities of the Lessee shall be corrected by the Lessee as directed by the said officer.

### 32. TAXES

Any and all taxes imposed by the state or its political subdivisions upon the property or interest of the Lessee in the premises shall be paid promptly by the Lessee. If and to the extent that the property owned by the United States and hereby leased to the Lessee is later made taxable by State or local governments under an Act of Congress, the Lease shall be renegotiated.

### 33. COVENANT AGAINST CONTINGENT FEES

The Lessee warrants that no person or selling agency has been employed or retained to solicit or secure this Lease upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or established commercial or selling agencies maintained by the Lessee for the purpose of securing business. For breach or violation of this warranty, the United States shall have the right to annul this Lease without liability or, in its discretion, to require the Lessee to pay, in addition to the Lease rental or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

### 34. SEVERAL LESSEES

If more than one Lessee is named in this Lease the obligations of said Lessees herein contained shall be joint and several obligations.

### 35. TITLE TO IMPROVEMENTS

The demolition, renovation and construction of improvements by the Lessee are private undertakings, and during the term of this Lease title to all improvements vest and remain in Lessee. The improvements shall remain real property for the duration of this Lease. All structures and equipment furnished by the Lessee shall be and remain the property of the Lessee.

### 36. MODIFICATIONS

This Lease contains the entire agreement between the parties hereto, and no modification of this agreement, or waiver, or consent hereunder shall be valid unless the same be in writing, signed by the parties to be bound or by a duly authorized representative and this provision shall apply to this condition as well as all other conditions of this Lease.

### 37. NO COMMITMENTS FOR FUTURE USE

This Lease does not commit the United States to any renewals of the use authorized herein beyond the extension of the term provided for in the Condition on Term, or to any future reuse or disposal and does not create any right or expectation for the Lessee or its sublessees or tenants to acquire the Leased Premises.

### 38. DISCLAIMER

This Lease is effective only insofar as the rights of the United States in the Leased Premises are concerned; and the Lessee shall obtain any permit or license which may be required by Federal, state, or local statute in connection with the use of the premises. It is understood that the granting of this Lease does not preclude the necessity of obtaining a Department of the Army permit for activities which involve the discharge of dredge or fill material or the placement of fixed structures in the waters of the United States, pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 3 March 1899 (33 USC 403), Section 404 of the Clean Waters Act (33 USC 1344) or Section 408 (33 U.S.C. § 408) or any other permit or license which may be required by Federal, state, interstate or local laws in connection with the use of the premises.

### 38. FAILURE OF LESSOR TO INSIST UPON COMPLIANCE

a. The failure of the Lessor to insist, in any one or more instances, upon performance of any of the terms, covenants or conditions of this Lease shall not be construed as a waiver of relinquishment of the Lessor's right to the current or future performance of any such terms, covenants or conditions and the Lessee's obligations in respect to such performance shall continue in full force and effect.

b. No remedy herein or otherwise conferred upon or reserved to Lessor shall be considered to exclude or suspend any other remedy but the same shall be cumulative and shall be in addition to every other remedy given hereunder, or now or hereafter existing at or in equity, regulation or by statute, and every power and remedy given by this Lease to Lessor may be exercised from time to time and so often as occasion may arise or as may be deemed expedient.

c. In addition to the rights and obligations arising under this Lease, the Parties retain their rights and obligations under law. This Lease shall be enforceable in accordance with applicable laws and regulations in any court of competent jurisdiction in the state of New Jersey.

d. This Lease shall be construed in accordance with and governed by Federal law, as applicable; otherwise the law of the State of New Jersey shall govern.

39. IDENTIFICATION OF GOVERNMENT AGENCIES, STATUTES, PROGRAMS AND FORMS

Any reference in this Lease, by name or number, to a government department, agency, statute, regulation, program, or form shall include any successor, amendment, or similar department, agency, statute, regulation, program or form.

40. NO INDIVIDUAL LIABILITY OF GOVERNMENT OFFICIALS

No covenant or agreement contained in this Lease shall be deemed to be the covenant or agreement of any individual officer, agent, employee or representative of the Government, in his or her individual capacity and none of such persons shall be subject to any personal liability or accountability by reason of the execution of this Lease, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty, or otherwise.

41. MODIFICATIONS AND CONSENTS

a. No waiver or consent with respect to this Lease shall be valid unless in writing and signed by the Parties to be bound, or by an authorized representative but only to the extent required in accordance with this Lease.

b. The provisions of this Lease may only be superseded, modified, or repealed pursuant to a written amendment or supplemental agreement to this Lease.

c. In the event of a conflict between the specific provisions of this Lease and any other agreement, the specific provisions of this Lease shall control.

d. In the event of a conflict between the specific provisions of this Lease and any of the Lessor's rules and regulations, the specific provisions of this Lease shall control.

42. MERGER.

This Lease and any agreement shall not merge. In the event, the terms and conditions of this Lease conflict with the terms and conditions of the agreement the terms and conditions of the Lease shall prevail.

43. AVAILABILITY OF FUNDS

a. The Lessor's obligation to pay or reimburse any money under this Lease is subject to the availability of appropriated funds, and nothing in this Lease shall be interpreted to require obligations or payments by the United States in violation of the Anti-Deficiency Act; provided that the Lessor shall otherwise comply with applicable statutory requirements and its obligations under the terms of this MOA.

b. Any and all claims made or to be made against FMERA under this Lease, or related documents or actions based on tort law for damages shall be governed by and subject to

provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq. and any and all claims made or to be made against FMERA based in contract law shall be governed by and subject to the provisions of the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq.

**44.** a. The Lessee and its sublessees may make improvements to the Leased Premises, which improvements may include, without limitation, the demolition of existing buildings, improvements to existing buildings, and the construction of new buildings and facilities, provided that:

(1) the Lessee, receives prior written approval by the Lessor of plans submitted to the Lessor for review,

(2) said improvements are undertaken or constructed in a good and workmanlike manner and in accordance with all requirements of applicable federal, state and local ordinances and with the rules, regulations and requirements of all departments, boards, bureaus, officials and authorities having jurisdiction thereover,

(3) said improvements will not preclude the use of the Leased Premises for purposes anticipated by disposal-related documentation prepared to satisfy the requirements of the National Environmental Policy Act of 1969, which documentation may include, without limitation, a Record of Environmental Consideration or an Environmental Assessment, or by the Reuse Plan, and

(4) All necessary permits for such improvements shall be obtained by the Lessee.

b. If required by applicable law, the Lessor agrees to cooperate with the Lessee and to execute any documents or permits reasonably required for the undertaking by the Lessee of any such improvements, provided that the Lessee shall discharge any expense or liability of the Lessor in connection therewith.

c. The Lessee shall provide to the Lessor, at the Lessee's expense, upon receipt thereof by the Lessee, copies of all permits, certificates of occupancy, and other approvals, including copies of all plans submitted in connection therewith, obtained from governmental authorities in connection with the construction, use and occupancy of such building or improvement.

**45. SPECIAL CONDITIONS**

IN WITNESS WHEREOF, I have hereunto set my hand by authority of the Secretary of the Army, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_

THIS LEASE is also executed by the Lessee this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

\_\_\_\_\_

**ATTACHMENT #3**  
**Suneagles Staffing Roster**

GOLF

#	Posn Title	PP-Sers-Grd	Psn Activity	Basic Salary Rate
1	GOLF COURSE SUPT	NF-1601-04	GOLF	78671.00
2	RECREATION AID	NF-0189-01	GOLF	10.20
3	RECREATION AID	NF-0189-01	GOLF	8.76
4	SALES CLERK	NF-2091-01	GOLF	8.42
5	GARDENER	NA-5003-06	GOLF	14.42
6	REC EQUIP REP	NA-8610-09	GOLF	17.68
7	GOLF CART MECH	NA-5876-06	GOLF	14.98
8	BUS MGR	NF-1101-04	GOLF	96540.00
9	RECREATION AID	NF-0189-01	GOLF	8.04
10	SALES CLERK	NF-2091-01	GOLF	10.23
11	CUST WRKR	NA-3566-02	GOLF	10.95
12	TRACT OPER (GAR)	NA-5705-06	GOLF	13.87
13	TRACT OPER (LDR)	NL-5705-06	GOLF	17.09
14	SALES CLERK	NF-2091-01	GOLF	9.56
15	SALES CLERK	NF-2091-01	GOLF	8.76
16	ASST GC SUPT	NF-1601-03	GOLF	46648.00
17	RECREATION AID	NF-0189-01	GOLF	7.43
18	TRACT OPER (GAR)	NA-5705-06	GOLF	13.32
19	GARDENER	NA-5003-06	GOLF	13.87
20	SALES CLERK	NF-2091-01	GOLF	7.94
21	ADMIN ASST	NF-0344-03	GOLF	41565.00
22	RECREATION AID	NF-0189-01	GOLF	11.57
23	RECREATION AID	NF-0189-01	GOLF	9.86
24	TRACT OPER (LDR)	NL-5705-06	GOLF	17.09
25	SALES CLERK	NF-2091-02	GOLF	14.55
26	RECREATION AID	NF-0189-01	GOLF	9.18
27	RECREATION AID	NF-0189-01	GOLF	8.04
28	TRACT OPER (GAR)	NA-5705-06	GOLF	13.32
29	SALES CLERK	NF-2091-01	GOLF	9.56
30	RECREATION AID	NF-0189-01	GOLF	9.45
31	GARDENER	NA-5003-06	GOLF	13.32
32	RECREATION AID	NF-0189-01	GOLF	8.04
33	RECREATION AID	NF-0189-01	GOLF	8.24
34	SALES CLERK	NF-2091-01	GOLF	8.25
35	SALES CLERK	NF-2091-01	GOLF	9.31
36	GARDENER	NA-5003-06	GOLF	15.53