

AGENDA ITEM 25

Consider approving lease agreement with Capital Excavation Co. for property at 12700 Sherbourne St. for duration of Anderson Mill Rd. Project.

Moved: **Commissioner Heiligenstein**

Seconded: **Commissioner Boatright**

Motion: To approve lease agreement with Capital Excavation Co. for property at 12700 Sherbourne St. for duration of Anderson Mill Rd. Project.

Vote: **5 - 0**

< Attachment >

#25

Lease

Terms

Date: 11-29-2000

Landlord: WILLIAMSON COUNTY

Landlord's Address:

WILLIAMSON COUNTY
Judge John Doerfler
710 Main Street, Suite 201
Georgetown, Texas 78626

Tenant: ~~Capital Excavation, Inc.~~ CAPITAL EXCAVATION COMPANY

Tenant's Address:

~~Capital Excavation, Inc.~~ CAPITAL EXCAVATION COMPANY
P.O. BOX 1301
AUSTIN, TX. 78767

Premises:

Street address/suite: 12700 Sherbourne Street

City, state, zip: Austin, Texas 78729

Base Rent (monthly): \$1,000.00

Term (months): ~~24~~ Upon completion and final acceptance by Texas Department of Transportation of the Anderson Mill Rd. Project. (Project No. STP 2000 (109) MM)

Tenant's Pro Rata Share of Utilities: One hundred percent (100%)

Commencement Date: December 1, 2000

Termination Date: December 1, 2002 Upon completion and final acceptance by Texas Department of Transportation of the Anderson Mill Road Project. (Project No. STP 2000 (190) MM)

Security Deposit: \$500

Use: Local construction office

Amount of Liability Insurance

Death/bodily injury: \$500,000

Property: \$50,000

Definitions

"Rent" means Base Rent ~~plus any other amounts of money due~~
~~landlord by Tenant:~~ of \$1,000.00 per month.

"Landlord" means Landlord and its agents, employees, invitees, licensees, or visitors.

"Tenant" means Tenant and its agents, employees, invitees, licensees, or visitors.

"Essential Services" means heating, ventilating, air conditioning, water, and utility connections reasonably necessary for occupancy of the Premises for the Use.

Clauses and Covenants

A. Tenant agrees to -

1. Lease the Premises for the entire Term beginning on the Commencement Date and ending on the Termination Date.

2. Accept the Premises in their present condition "AS IS," the Premises being currently suitable for Tenant's intended Use.

3. Obey all laws, ordinances, orders, and rules and regulations applicable to the use, condition, and occupancy of the Premises, including the rules and regulations of the building adopted by Landlord.

4. Pay monthly, in advance, on the first day of the month, the Base Rent to Landlord at Landlord's Address.

5. Pay, as additional Rent, all other amounts due under this lease.

6. Pay a late charge of 5 percent of any Rent not received by Landlord by the tenth day of the month in which the Rent is due.

7. Pay for all utility services used by Tenant.

8. Pay Tenant's Pro Rata Share of any utility services provided by Landlord.

9. Allow Landlord to enter the Premises to perform Landlord's obligations, inspect the Premises, and show the Premises to prospective purchasers or tenants.

10. Repair, replace, and maintain any part of the Premises that Landlord is not obligated to repair, replace, or maintain, normal wear excepted.

11. Repair any damage to the Premises caused by Tenant.

12. Submit in writing to Landlord any request for repairs, replacement, and maintenance that are the obligations of Landlord.

13. Maintain public liability insurance for the Premises and the conduct of Tenant's business, naming Landlord as an additional insured, in the amounts stated in the lease.

14. Maintain insurance on Tenant's personal property.

15. Deliver certificates of insurance to Landlord before the Commencement Date and thereafter when requested.

16. Indemnify, defend, and hold Landlord harmless from any loss, attorney's fees, court and other costs, or claims arising out of use of the Premises.

17. If requested, deliver to Landlord a financing statement perfecting the security interest created by this lease.

18. Vacate the Premises on termination of this lease.

B. Tenant agrees not to -

1. Use the Premises for any purpose other than that stated in the lease.

2. Create a nuisance.

3. Interfere with any other tenant's normal business operations or Landlord's management of the building.

4. Permit any waste.
5. Use the Premises in any way that is extrahazardous, would increase insurance premiums, or would void insurance on the building.
6. Change Landlord's lock system.
7. Alter the Premises.
8. Allow a lien to be placed on the Premises.
9. Assign this lease or sublease any portion of the Premises without Landlord's written consent.

C. Landlord agrees to -

1. Lease to Tenant the Premises for the entire Term beginning on the Commencement Date and ending on the Termination Date.
2. Obey all laws, ordinances, orders, and rules and regulations applicable to the Use, condition, and occupancy of the building.
3. Provide normal utility service connections to the building.
4. Insure the building against all risks of direct physical loss in an amount equal to at least 90 percent of the full replacement cost of the building as of the date of the loss and liability; Tenant will have no claim to any proceeds of Landlord's insurance policy.
5. Return the Security Deposit to Tenant, less itemized deductions, if any, within thirty days after the termination of this lease.

D. Landlord agrees not to -

1. Interfere with Tenant's possession of the Premises as long as Tenant is not in default.
2. Unreasonably withhold consent to a proposed assignment or sublease.

E. Landlord and Tenant agree to the following:

1. *Alterations.* Any physical additions or improvements to the Premises made by Tenant will become the property of Landlord.

Landlord may require that Tenant, at termination of this lease and at Tenant's expense, remove any physical additions and improvements, repair any alterations, and restore the Premises to the condition existing at the Commencement Date, normal wear excepted.

2. *Abatement.* Tenant's covenant to pay Rent and Landlord's covenants are independent. Except as otherwise provided, Tenant will not be entitled to abate Rent for any reason.

3. *Release of Claims/Subrogation.* Landlord and Tenant release each other from any claim, by subrogation or otherwise, for any damage to the Premises, the building, or personal property within the building, by reason of fire or the elements, regardless of cause, including negligence of Landlord or Tenant.

This release applies only to the extent that it is permitted by law, the damage is covered by insurance proceeds, and the release does not adversely affect any insurance coverage.

4. *Notice to Insurance Companies.* Landlord and Tenant will notify the issuing insurance companies of the release set forth in the preceding paragraph and will have the insurance policies endorsed, if necessary, to prevent invalidation of the insurance coverage.

5. *Casualty/Total or Partial Destruction*

a. If the Premises are damaged by casualty and can be restored within ~~ninety~~^{thirty} days, Landlord will, at its expense, restore the Premises to substantially the same condition that existed before the casualty. If Landlord fails to complete restoration within ~~ninety~~^{thirty} days from the date of written notification by Tenant to Landlord of the casualty, Tenant may terminate this lease by written notice to Landlord.

b. If the Premises cannot be restored within ninety days, Landlord has an option to restore the Premises. If Landlord chooses not to restore, this lease will terminate. If Landlord chooses to restore, Landlord will notify Tenant of the estimated time to restore and give Tenant an option to terminate this lease by notifying Landlord within ten days. If Tenant does not terminate this lease, the lease will continue and

NOTE

Landlord will restore the Premises as provided in a. above.

c. To the extent the Premises are untenable after the casualty and the damage was not caused by Tenant, the Rent will be adjusted as may be fair and reasonable.

6. *Condemnation/Substantial or Partial Taking*

a. If the Premises cannot be used for the purposes contemplated by this lease because of condemnation or purchase in lieu of condemnation, this lease will terminate.

b. If there is a condemnation or purchase in lieu of condemnation and this lease is not terminated, Landlord will, at Landlord's expense, restore the Premises, and the Rent payable during the unexpired portion of the Term will be adjusted as may be fair and reasonable.

c. Tenant will have no claim to the condemnation award or proceeds in lieu of condemnation.

7. *Uniform Commercial Code.* Tenant grants Landlord a security interest in Tenant's personal property now or subsequently located on the Premises. This lease is a security agreement under the Uniform Commercial Code. Landlord may file a copy of this lease as a financing statement or execute and file a financing statement on behalf of Tenant.

8. *Default by Landlord/Events.* Defaults by Landlord are failing to comply with any provision of this lease within thirty days after written notice and failing to provide Essential Services to Tenant within ten days after written notice.

9. *Default by Landlord/Tenant's Remedies.* Tenant's remedies for Landlord's default are to sue for damages and, if Landlord does not provide an Essential Service for thirty days after default, terminate this lease.

10. *Default by Tenant/Events.* Defaults by Tenant are (a) failing to pay timely Rent, (b) abandoning or vacating a substantial portion of the Premises, and (c) failing to comply within ten days after written notice with any provision of this lease other than the defaults set forth in (a) and (b) above.

11. *Default by Tenant/Landlord's Remedies.* Landlord's remedies for Tenant's default are to (a) enter and take possession of the Premises, after which Landlord may relet the Premises on behalf of Tenant and receive the rent directly by reason of the reletting, and Tenant agrees to reimburse Landlord for any expenditures made in order to relet; (b) enter the Premises and perform Tenant's obligations; and (c) terminate this lease by written notice and sue for damages. Landlord may enter and take possession of the Premises by self-help, by picking or changing locks if necessary, and may lock out Tenant or any other person who may be occupying the Premises, until the default is cured, without being liable for damages.

12. *Default/Waiver/Mitigation.* It is not a waiver of default if the nondefaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this lease does not preclude pursuit of other remedies in this lease or provided by law. Landlord and Tenant have a duty to mitigate damages.

13. *Security Deposit.* If Tenant defaults, Landlord may use the Security Deposit to pay arrears of Rent, to repair any damage or injury, or to pay any expense or liability incurred by Landlord as a result of the default.

14. *Holdover.* If Tenant does not vacate the Premises following termination of this lease, Tenant will become a tenant at will and must vacate the Premises on receipt of notice from Landlord. No holding over by Tenant, whether with or without the consent of Landlord, will extend the Term.

15. *Alternative Dispute Resolution.* Landlord and Tenant agree to mediate in good faith before filing a suit for damages.

16. *Attorney's Fees.* If either party retains an attorney to enforce this lease, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.

17. *Venue.* Venue is in the county in which the Premises are located.

18. *Entire Agreement.* This lease is the entire agreement of the parties, and there are no oral representations, warranties, agreements, or promises pertaining to this lease or to any expressly mentioned exhibits and riders not incorporated in writing in this lease.

19. *Amendment of Lease.* This lease may be amended only by an instrument in writing signed by Landlord and Tenant.

20. *Limitation of Warranties.* THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OR OF ANY OTHER KIND ARISING OUT OF THIS LEASE, AND THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE EXPRESSLY STATED IN THIS LEASE.

21. *Notices.* Any notice required or permitted under this lease must be in writing. Any notice required by this lease will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this lease. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.


22. *Abandoned Property.* Landlord may retain, destroy, or dispose of any property left on the Premises at the end of the Term.

LANDLORD

WILLIAMSON COUNTY

BY:

John C. Doerfler 1-9-01
JOHN DOERFLER
County Judge



TENANT

CAPITAL EXCAVATION, INC.

BY: James E. Bradley

Name: JAMES E. BRADLEY

Title: PRESIDENT

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AGENDA ITEM 26

Juvenile Services Director Charly Skaggs discussed grant applications.

Consider approving the applications for the following grants for Juvenile Services:

- (1) Continuation of Justice of the Peace JPO - 2001
- (2) Continuation of Purchase of Juvenile Justice Alternatives
- (3) Juvenile Accountability Incentive Block Grant

Moved: **Commissioner Boatright**

Seconded: **Commissioner Hays**

Motion: To approve the applications for the following grants for Juvenile Services:

- (1) Continuation of Justice of the Peace JPO - 2001
- (2) Continuation of Purchase of Juvenile Justice Alternatives
- (3) Juvenile Accountability Incentive Block Grant

Vote: **5 - 0**

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