

MEMORANDUM

To: Honorable KP George, County Judge and
Members of Commissioners Court
From: Christopher Breaux
County Auditor's Office
Subject: Central Appraisal District Building Lease

Background:

Fort Bend County (the "County") entered into a leasing agreement with the Fort Bend Central Appraisal District (the "CAD") for the lease of a building and grounds at 2801 FM 2218 (BF Terry Boulevard) dated March 5, 1996, and amended as follows:

Amendment 1 – April 28, 1998
Amendment 2 – June 1, 2010
Amendment 3 – May 1, 2012
Amendment 4 – August 1, 2016

Amendments 3 and 4 were priced to cover additional buildouts and land purchases needed to suit the needs of CAD operations (the "Costs") amortized over a specific time frame bearing interest at two percent per annum as well as operating costs associated with the facilities. Both amendments are still in effect.

A summary of the provisions for Amendments 3 & 4 can be found at Attachment A.

Issues:

We are currently outside the terms of the two active lease amendments (3&4) in the following ways:

- Phase 1 (Amendment 3) calls for a 15-year lease overall called for base lease pricing to be priced using the at costs amortized over a 10 year period versus the 15-year term of the lease. This has resulted in an underbilling of approximately \$1.8M to the CAD which is now past due to the County.
- The County is charging a flat \$100 a month rental to the CAD which is not contemplated in either agreement until after the Costs are reimbursed. This has resulted in an overpayment of \$1,200.00 per year over the term of the lease.

Operational Issues to Consider:

- Current practice is to gather reimbursable operating expenses after the month end and prepare an invoice for payment by the CAD. The delay caused by waiting for certain operational expenses costs can cause the payment for the invoice to be delayed by as much as two months.
- Current practice calls for Facilities Department personnel to physically collect the payment from the CAD thus causing a further delay.
- Current practice of determining the monthly payment uses a fixed principal payment and therefore flocculating interest amount which would cause the CAD to be unable to predict the amount owed until the invoice is presented.

- Current practice does not provide for lease payments sufficient to cover the interest outstanding. The balance of the interest has grown to approximately \$30K for each lease.

Suggested Remedies:

- Terminate existing leases and use the calculation of unpaid Costs to develop a new lease over the life of the Phase 2 (Amendment 4) project with an ending date of May 1, 2034 (180 months) with equal monthly payments (this would require action by both Commissioners Court and CAD Board of Directors).
- Establish an estimated payment schedule for reimbursable operating expenses at a set amount on an annual basis to be recalculated in May each year in time for the CAD's budget process. These estimated payments will be compared to actual amounts incurred or expensed and readjusted annually.
- Use ACH or other electronic means of lease payment from CAD to County to provide for payments being received on the first of each month and to avoid the need for County personnel to transport checks.

Attachment A: Summary of Terms of Leases

Terms	Amendment 3 (Phase 1 Expansion)	Amendment 4 (Phase 2 Expansion)
Rental space sqft	23,850 {10.f.(1)}	11,500
Lease term	180 months {2}	180 months {2}
Commencement date	5/1/2012 {2}	5/1/2019 ¹
Acquisition and Construction Cost ("Cost") Limit	\$5,000,000.00 {4}	\$2,491,050.00
Actual Cost	\$ 4,648,136.82	\$ 2,252,293.15
Amortization period	120 months {6.a.(1)} ²	180 months {5.c.}
Post amortization rent	\$100/month {6.a.(3)} ³	\$100/month {8.} ⁴
Pre-Commencement interest on unreimbursed improvements (UI) @ 2%	UI = \$1,251,351.12 {7} (Paid 8/2012)	
Specific operating costs	Pest control {10.e.} Custodial services {10.e.} Electricity {10.a.}	Unchanged
Monthly Maintenance Fees {10.f.}	Cost factor (Annual Facility Maintenance Department Budget divided by total square foot (sqft) of airconditioned County space) X facility sqft divided by 12.	Unchanged
Lessee responsible for (including connection and installation charges) {10.c.}	Telephone {10.a.} Internet {10.a.} Water {10.b.} Sewer {10.b.} Gas {10.b.} Garbage removal {10.b.} Alarm system {10.d.}	Unchanged

¹ Commencement date based on first "lease" payment received in May 2019.

² Amortization period for Costs and associated interest at 2% was 120 months resulting in the unamortized balance (\$1.8M) being currently due.

³ \$100 rent is being paid in addition to amortized costs versus commencing after payment (over payment).

⁴ \$100 rent is being paid in addition to amortized costs versus commencing after payment (over payment).