

Renewal of Lease No.
DA-11-032-ENG-2281

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS

Omaha District
Lease No. DACA45-5-79-00482
Using Service: Army Reserve

LAND LEASE
BETWEEN
THE CITY OF MENASHA, WISCONSIN
AND
THE UNITED STATES OF AMERICA

THIS LEASE, made and entered into this 18th day of April in the year one thousand nine hundred and seventy nine (1979) by and between the CITY OF MENASHA, WISCONSIN, whose address is City Office Building, 175 Main Street, Menasha, Wisconsin, and whose interest in the property hereinafter described is that of owner for itself, its successors, and assigns, hereinafter called Lessor, and THE UNITED STATES OF AMERICA, hereinafter called the Government:

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

1. The Lessor hereby leases to the Government the following described premises, viz:

Commencing at the intersection of the North right-of-way line of Brighton Road (Third Street extended) and the East line of Section Fourteen (14), Township Twenty (20) North, Range Seventeen (17) East of the Fourth (4) Principal Meridian, City of Menasha, County of Winnebago, State of Wisconsin; thence Southwesterly along said right-of-way line a distance of Seventy (70) feet to a point; thence Southeasterly at right angles to said North right-of-way line a distance of Sixty-six (66) feet to a point on the South right-of-way line of said Brighton Road which is the point of beginning; thence Southwesterly along the South right-of-way line a distance of Four Hundred (400) feet to a point; thence Southeasterly at right angles to said South right-of-way line a distance of Two Hundred Seventy-five (275) feet to a point; thence Northeasterly along a line parallel to and Two Hundred Seventy-five (275) feet Southerly of said South right-of-way line a distance of Three Hundred Forty-five (345) feet to a point; thence Northeasterly a distance of Eighty-five and Fifteen One-hundredths (85.15) feet to a

point on a line at right angles with said South right-of-way line through the point of beginning; thence Northwesterly at right angles to said South right-of-way line a distance of Two Hundred Ten (210) feet to the point of beginning, containing Two and Forty-eight Hundredths (2.48) acres, more or less, as outlined in red on the map attached hereto, marked Exhibit "A", and made a part hereof.

to be used for the construction of Army Reserve Corps Armory buildings and appurtenances.

2. TO HAVE AND TO HOLD THE said premises for the term beginning 1 May 1979 through 30 April 2004, unless and until the Government shall give notice of termination in accordance with provision 7 hereof, and provided that the Government at its option shall have the right to renew this lease for an additional twenty-five (25) year period, extending through 30 April 2029.

3. The Government shall pay the Lessor as rent the sum of ONE DOLLAR (\$1.00), the receipt and sufficiency of which is hereby acknowledged, for the full term of this lease and any renewal period thereof.

4. The Government shall have the right, during the existence of this lease to attach fixtures, and erect structures or signs, in or upon the premises hereby leased, which fixtures and structures or signs, so placed in, upon or attached to said premises shall be and remain the property of the Government and may be removed or otherwise disposed of by the Government. The Government shall, prior to commencement of construction of the Armory, furnish a complete set of final plans and specifications thereof to the Lessor, with the understanding that the Government will comply with building codes as to safety, sanitation and building lines.

5. The Government shall have all necessary convenient rights of ingress and egress to and from the leased premises, and the right to construct such ingress and egress road or roads or driveway or driveways as is necessary from the improved portion of Brighton Road to the northerly boundary of the leased premises.

6. The Government shall have the right to construct and install connecting lines and connect to such utility facilities as shall be available and necessary to serve the leased premises.

7. The Government may terminate this lease at any time by giving Sixty (60) days notice in writing to the Lessor, and no rental shall accrue after the effective date of termination.

8. Any notice under the terms of this lease shall be in writing signed by a duly authorized representative of the party giving such notice, and if given by the Government shall be addressed to the Lessor at City Office Building, 175 Main Street, Menasha, Wisconsin, and if given by the Lessor shall be addressed to District Engineer, Omaha District, Corps of Engineers, 6014 U.S.P.O. and Courthouse, Omaha, NE 68102.

9. The Government shall surrender possession of the premises upon the expiration or termination of this lease and, if required by the Lessor, shall within 90 days thereafter, or within such additional time as may be mutually agreed upon, return the premises in as good

condition as that existing at the time of entering upon the same under this lease, reasonable and ordinary wear and tear and damages by the elements or by circumstances over which the Government has no control, excepted; provided that, if the Lessor requires the return of the premises in such condition, the Lessor shall give written notice thereof to the Government at least 30 days before the expiration or termination of the lease; and provided further, that should the Lessor give such notice within the time specified above, the Government shall have the right and privilege of making a cash settlement with the Lessor in lieu of performance of its obligation, if any, to restore the real estate, personal property (if any be demised herein), or both Real and Personal Property. Should a mutually acceptable settlement be made hereunder, the parties shall enter into a supplemental agreement hereto effectuating such settlement.

10. It is further understood and agreed by and between the parties hereto that restoration of the premises, if required by the Lessor, as contemplated by paragraph 9 above, will extend only to the Government's installations to be placed on the said premises, and will not, in any event, include restoration of the topography or surface features of the lands, excepting, however, that in case of removal of the Government's installations requiring excavating, or excavations, such as might be required for foundation removal, the area so excavated by such removal, or removals, will be backfilled to the approximate elevation or elevations, of the adjacent lands.

11. The Lessor in performing the work required by this lease or any supplements thereto, shall not discriminate against any employee or applicant for employment because of race, creed, color or national origin.

12. The Lessor 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 bona fide established commercial or selling agencies maintained by the Lessor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this lease with liability or in its discretion to deduct from the lease price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

13. The Lessor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall until the expiration of three years after final payment of the agreed rental, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Lessor involving transactions related to this lease.

14. No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this lease or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this lease if made with a corporation for its general benefit.

15. GRATUITIES: (a) The Government may, by written notice to the Lessor, terminate the right of the Lessor to proceed under this Lease if it is found, after notice and hearing, by the Secretary or his duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Lessor, or any agent or representative of the Lessor, to any Officer or employee of the Government with a view toward securing a Lease or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing, of such Lease; provided, that the existence of the facts upon which the Secretary or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

(b) In the event this Lease is terminated as provided in paragraph (a) hereof, the Government shall be entitled (I) to pursue the same remedies against the Lessor as it would pursue in the event of a breach of the Lease by the Lessor and (II) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Secretary or his duly authorized representative) which shall be not less than three nor more than ten times the costs incurred by the Lessor in providing any such gratuities to any such officer or employee.

(c) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this lease.

18. DEFINITIONS: The term "Secretary" means the Secretary, the Under Secretary, or any Assistant Secretary of the Department and the head or any assistant head of the executive agency; and the term "his duly authorized representative" means any person or persons or board (other than the Contracting Officer) authorized to act for the Secretary. The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer.

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

Signed and sealed in the presence of:

CITY OF MENASHA, WISCONSIN

John D. Smith
(Witness)

Victor V. Weacke
(Lessor)

912 London St.
Address of Witness

THE UNITED STATES OF AMERICA

(Witness)

By Kenneth W. Chelf
4 MAY 1979
KENNETH W. CHELF
Chief, Real Estate Division
Omaha District, Corps of Engineers

Address of Witness

CERTIFICATE

I, *Raymond C. Zulinski* certify that I am the City Clerk of the corporation named as Lessor in the attached lease; that VICTOR V. WIECKI who signed said lease on behalf of the Lessor, was then Mayor of said corporation; that said lease was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

Raymond C. Zulinski (Corporate)
(Seal)