

**PROPOSED TERMS OF USE REGARDING THE RENOVATION OF THE FREEMAN  
AQUATIC BUILDING  
(Developed between EAA and TEXAS STATE)**

The Edwards Aquifer Authority (EAA) and Texas State University-San Marcos (TEXAS STATE) intend to enter into an agreement between these parties regarding the renovation of the Freeman Aquatic Building and surrounding area described in Attachment A (PROPERTY) and EAA's use of the renovated PROPERTY, and that: (1) the form of the agreement will be a standard Interagency Agreement; and (2) the Interagency Agreement will contain the following terms:

1. The Interagency Agreement will be for five years and allow one five-year extension upon the mutual agreement of the parties.
2. TEXAS STATE will design, and construct the turnkey renovations of the renovated PROPERTY described in Attachment A (Renovations), including but not limited to the renovation of the small concrete troughs, larger raceways and wetlab. The wetlab renovations will include the enhancements described in Attachment A for the purpose of conducting the Applied Research described in the Edwards Aquifer Habitat Conservation Plan (EAHCP).
3. The EAA will pay TEXAS STATE up to \$327,588.37 toward the cost of the renovations (Renovation Costs). The Renovation Costs shall include 15% (fifteen percent) of the total cost of the Renovations for the purpose of reimbursing TEXAS STATE's costs related to administering and overseeing the Renovations. This percentage is the standard percentage charged by Texas State for administering such construction projects as the renovation in this project.
4. In consideration of EAA's paying the Renovation Costs. TEXAS STATE agrees to allow the EAA and its contractors and subcontractors priority use of the Renovations for the Applied Research and related activities described in the EAHCP. The terms and condition of that use are described below.
  - a. TEXAS STATE will provide EAA, and its contractors and subcontractors, complete access to the renovated PROPERTY in accordance with standard university policies and procedures including keys and access to adequate parking.
  - b. EAA will have exclusive use of the enhancements added to the wet lab for the duration of the agreement. EAA will attempt to accommodate any need for the wetlab by TEXAS STATE if the wet lab during any period when the wetlab will not be used. Representatives of both EAA and TEXAS STATE shall determine the schedule and use of the wet lab during such periods of non-use.
  - c. EAA shall have priority use of the renovated troughs, raceways and ponds.
  - d. Beginning in December 2013, and in December of each subsequent year, TEXAS STATE and EAA will meet and establish a schedule for the use of the remaining renovated facilities for Applied Research in the upcoming year. The established schedule can be changed with reasonable notice.
  - e. EAA and TEXAS STATE will hold quarterly meetings regarding the use of the facility.

- f. TEXAS STATE will use its best efforts to complete the Renovations within six months of the execution of this Interagency Agreement.
5. Each year, EAA, in accordance with its procurement procedures, will issue a Request for Proposal (RFP) for all Applied Research to be conducted at the renovated PROPERTY. EAA, in its sole discretion, may issue RFPs for individual projects or a single Request for Proposal.
  - a. Any member of the TEXAS STATE faculty will be invited, along with others, to submit a proposal in response to a RFP.
  - b. Each Request for Proposal will require each bidder to include at least one faculty member from TEXAS STATE's Department of Biology on the project team. The faculty member's role in the project will be commensurate with the faculty member's qualifications, experience, and expertise. The faculty member will be a Co-Principal Investigator; provided, however, the proposal submitter will be responsible for the control and management of the project.
  - c. TEXAS STATE will make qualified students available for any prospective bidder at the standard rate paid to such students for similar work. The decision to include graduate students in a proposal or to use them on a selected project will lie in the sole discretion of the bidder or selected proposal submitter.
  - d. TEXAS STATE will not charge overhead on any proposal for which TEXAS STATE is selected or on any faculty or graduate students on a project for which TEXAS STATE is not the selected bidder.
  - e. EAA will include this Interagency Agreement as an attachment to all RFPs and will require compliance with the terms of this Interagency Agreement regarding the use of the Freeman Aquatic Building.
  - f. The final selection of the selected bidder will lie in the EAA's sole discretion.
6. Each year, EAA will pay a fixed fee for Operations and Management (O&M) to cover costs of utilities, including but not limited to, water, electricity, HVAC of interior spaces, and maintenance of the renovated facility. The O&M fees will be negotiated as part of the interagency agreement and will be based on estimates of the actual incremental cost of providing those services. For the purpose of only an estimate, historically the O&M Fees have an average unit price between \$4 to \$6 per square foot. EAA's contractors and subcontractors will not be required to pay for the use of the facility or for any utilities.

**NOTHING IN THIS TERM OF USE SHEET IS BINDING ON EAA AND TEXAS STATE. THIS DOCUMENT'S PURPOSE IS TO STATE THE INTENTION AND GENERAL UNDERSTANDINGS OF BOTH PARTIES THAT WOULD BE EMBODIED IN A CONTRACT, IF THE USE OF THE FREEMAN AQUATIC BUILDING FOR APPLIED RESEARCH, IS APPROVED BY THE IMPLEMENTING COMMITTEE, FOR CONSIDERATION BY THE EAA BOARD AND THROUGH THE TEXAS STATE APPROVAL PROCESS.**