

Fm90912

**INTERLOCAL LEASE AGREEMENT
FORT BEND COUNTY AND TEXAS ALCOHOLIC BEVERAGE COMMISSION**

1. PARTIES AND AUTHORITY

This Agreement is made and entered into by Fort Bend County, Texas, a governmental entity under the laws of the State of Texas (Lessor) and the State of Texas, acting by and through the Texas Alcoholic Beverages Commission (TABC).

TABC is authorized to enter into this Lease Agreement by Government Code, Chapters 791 and 2167. Lessor is authorized to enter into this Lease Agreement under Local Government Code, Chapter 272 and Government Code, Chapter 791.

2. "LEASED PREMISES"

This Lease Agreement is for 1916 Total Square Feet of office space in the Gus George Law Enforcement Academy, 1521 Eugene Heimann Circle, Richmond, Texas 77469. TABC, its employees and visitors also have the nonexclusive right to use Common Areas.

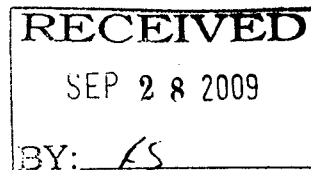
3. TERM OF LEASE

The Initial Term of this Lease Agreement shall be for a period of 12 months commencing on the 1st day of October, 2009, and ending on the 30th day of September 2010, unless terminated according to the terms of this Lease Agreement.

4. MONTHLY RENTAL

The TABC agrees to pay Lessor a base Monthly Rent during the term of this Lease Agreement of \$2874.00. The base monthly rent includes TABC's prorate share of utilities and services provided at the Leased Premises. The rental payments are due and payable by the TABC in advance on the first day of the month for the month being paid. The Monthly Rent shall be paid to Fort Bend County, 301 Jackson, Richmond, Texas 77469. Any amounts due under this Lease Agreement that are not received by Lessor within five (5) calendar days after the first (1st) day of each month are subject to a ten percent (10%) late payment services charge, payable on demand. The Monthly Rent shall be subject to an increase after the expiration of the initial term, subject to a written amendment to this Lease Agreement.

This Lease Agreement is subject to the provisions of the Texas Constitution and the Texas Government Code, Title 10, Subtitle D, and is contingent upon the availability of money appropriated by the legislature to pay for the Lease Agreement. If money is not appropriated to continue the Lease Agreement, TABC will provide Lessor with advance written notice of not less than 30 days of its intent to terminate the Lease Agreement.



5. RENEWAL OPTION

This Lease Agreement may be renewed by written amendment for an additional 12 month term under the same or negotiated changes to terms and conditions. The TABC shall give Lessor written notice of intention to exercise this option at least 60 days prior to expiration of this Lease Agreement or subsequent amendment.

6. GENERAL TERMS AND CONDITIONS

(a) TABC shall use the Leased Premises solely for office space. TABC shall not use the Leased Premises under any circumstance for the purposes of storing, manufacturing or selling any explosives, flammables or other inherently dangerous substance, chemical, thing or device. TABC shall keep the Leased Premises in good repair and free from waste. TABC shall never leave the Leased Premises vacant, but shall in good faith continuously conduct and carry on the type of business for which the Leased Premises are leased on all days, and during such hours, as are usual and customary in the geographic area in which the premises are located for that type of business. Any property kept, stored or maintained within the Leased Premises by TABC shall be at TABC's sole risk. TABC shall not take any action that would constitute a nuisance or would disturb or endanger Lessor or other tenants or unreasonably interfere with their use of their respective premises; nor use, occupy or permit any portion of the Leased Premises to be occupied or used for any unlawful business purpose.

(b) Maintenance. Lessor agrees to maintain the property and Leased Premises in good repair and condition during the term of this Lease Agreement. Maintenance is to include the following services: repair or replace worn floor surfaces; painting as needed; replacement of broken window glass; repair of roof and ceiling leaks; building exterior, interior; plumbing, heating, air conditioning and ventilating equipment and filters; fire protection equipment; miscellaneous valves; woodwork, locks, floor surfaces and coverings; lighting fixtures, and the replacement of all defective or burned-out light bulbs, fluorescent tubes, ballasts and starters. If TABC causes damages to the Leased Premises, requiring above-listed maintenance services, that go beyond "normal wear and tear", TABC is responsible for paying to have the damages repaired.

(c) Lessor will not rent, lease or otherwise furnish space in this or adjacent buildings under its control to an enterprise which, in the usual exercise of its business, could be expected to create noise or odors injurious or disruptive to TABC's normal governmental activity.

(d) Lessor warrants that the lease of the premises to the TABC is authorized by the Lessor's governing body.

(e) Lessor may, after giving reasonable notice to TABC (except in cases of emergency when no notice shall be required), enter the Leased Premises to (a) inspect the general condition and state of repair, (b) to make repairs required or permitted under this Lease Agreement, or (c) for any other reasonable purpose. During the final six (6) months of the term, Lessor may erect and maintain on the Leased Premises signs advertising the premises for lease.

(f) Lessor agrees that the TABC may bring any and all furniture, fixtures and equipment reasonably necessary for the efficient exercise of the TABC's governmental responsibilities and the parties agree that all property will remain property of the TABC. Any physical additions or improvements to the Leased Premises made by TABC, and approved in writing by Lessor, will become the property of Lessor. Lessor may require TABC, at the end of any term and at TABC's expense, remove any physical additions and improvements, repair any alterations, and restore the Leased Premises to the condition existing at the commencement of the Initial Term, normal wear and tear excepted.

(g) Following Lessor's consent, TABC shall have the right to place on the Lease Premises, signs which are permitted by applicable ordinances and Lessor's restrictions. Lessor may refuse consent to any proposed signage that is in Lessor's opinion too large, deceptive, unattractive or otherwise inconsistent with or inappropriate to the Leased Premises or use of any other tenant. TABC shall repair all damage to the Leased Premises resulting from the removal of signs installed by TABC.

(h) On termination of this Lease Agreement the TABC may, within a reasonable time and at its option and expense, remove any and all equipment or appliances placed or owned by TABC. TABC shall deliver the Leased Premises to Lessor in good order and condition given reasonable use and ordinary wear and tear. TABC shall repair any and all damage to the Leased Premises caused by the removal of any equipment and/or appliances, including holes to any walls, normal wear excepted.

(i) If during the term of this Lease Agreement the Leased Premises is condemned for any public purpose, the TABC may elect to terminate and cancel this lease upon thirty (30) days written notice to the Lessor.

(j) In the event of minor damage to any part of the Leased Premises, and if such damage does not render the Leased Premises unusable for TABC's purposes, Lessor shall promptly repair such damage subject to the terms of Paragraph 6(b). In making the repairs called for in this paragraph, Lessor shall not be liable for any delays resulting from strikes, governmental restrictions, acts of nature or inability to obtain necessary materials or labor or other matters which are beyond the reasonable control of Lessor.. If the Leased Premises cannot be occupied by the TABC, lease payments otherwise due will be either reduced or withheld for a prorated share of the Leased Premises that cannot be occupied. If the Leased Premises are damaged to a degree that it is unfit for occupancy, this lease will terminate and any rent and other obligations will be prorated from the date the Leased Premises could no longer be occupied. The determination of whether the Leased Premises are damaged to a degree to render them unfit for occupancy will be made by the City of Richmond authority. If the Lessor has available space which will meet the TABC's needs and offers same to the TABC, the TABC may at its option, occupy that space under the same terms and conditions as this Lease Agreement.

(k) During the term of this Lease Agreement, TABC shall have the non-exclusive use in common with Lessor, other tenants of the building, their guests and invitees, of the non-reserved common automobile parking areas, driveways, and footways, subject to rules and regulations for the use thereof as prescribed from time to time by Lessor.

(l) Lessor may retain, destroy, or dispose of any property left on the Leased Premises at the end of the term.

7. BREACH, DEFAULT and REMEDIES.

(a) Breach by Lessor. Lessor is in breach or default of this Lease Agreement if it fails to perform any of duties or obligations of this lease. The TABC must give Lessor written notice of the breach or default. If Lessor fails or refuses to remedy the condition of the breach or default for a period of thirty days the TABC may at its option:

- 1) Withhold lease payments until the breach or default is cured or corrected;
- 2) Terminate the Lease Agreement by providing written notice of intent to terminate and the effective date of termination;
- 3) Take reasonable action necessary to correct the breach or default and deduct the costs incurred by TABC from payments due or to become due under this lease.
- 4) Take other legal action as provided by law for breach or default of this Lease Agreement.

(b) Breach by TABC. TABC is in breach and default under this Lease Agreement if TABC fails to make payments when due or fails to timely perform its duties and obligations under this lease. Lessor must give the TABC written notice of the breach or default. If TABC fails or refuses to remedy the condition of the breach or default for a period of thirty (30) days Lessor may at its option:

- 1) Terminate the lease by providing written notice of intent to terminate and the effective date of termination.
- 2) Take other legal action as provided by law for breach or default of this lease.
- 3) No provision, remedy or agreement contained in this Lease Agreement shall be deemed a waiver of sovereign immunity of the State of Texas.

(c) No waiver. The failure of either party to enforce rights provided by this Lease Agreement or by for breach or default will not act as a waiver of the right to demand compliance in the future.

8. VOLUNTARY TERMINATION. This Lease Agreement may be terminated by either party, if neither party is currently in default, by providing the non-terminating party with sixty (60) days written notice of intent to terminate.

9. ASSIGNMENT. This Lease Agreement may not be assigned.

10. LAW GOVERNING. This Lease Agreement is governed by the laws of the state of Texas.

11. AUDIT. This Lease Agreement and state funds expended for lease payments are subject to the oversight and authority of the State Auditor's Office, to perform audits and

investigations in connection with the use of state funds. Lessor is required to cooperate fully with the State Auditor's Office in the conduct of the audit or investigation, including providing all records requested.

12. HAZARDOUS SUBSTANCES. Lessor warrants and represents that any use, storage, treatment, or transportation of Hazardous Substances that has occurred in or on the premises prior to Commencement Date of this Lease Agreement has been in compliance with all applicable federal, state, and local laws, regulations, and ordinances. Lessor additionally warrants and represents that no release, leak, discharge, spill, disposal, or emission of Hazardous Substances has occurred in, on, or under the premises, and that they are free of Hazardous Substances.

13. INSURANCE. At all times during the lease term, Lessor must maintain a policy of all-risk property insurance, issued by and bonded upon an insurance company licensed in the State of Texas, covering the Leased Premises and leasehold improvements (exclusive of contents), in an amount equal to not less than 80% percent of the replacement cost thereof. The TABC shall have no interest in the policy or policy proceeds and Lessor shall not be obligated to insure any furnishings, equipment, trade fixtures, or other personal property that the TABC may place or cause to be placed upon the Leased Premises. Lessor must also maintain a policy or policies of comprehensive general liability insurance insuring Lessor against loss of life, bodily injury and/or property damage with respect to Common Areas, operation of the Building, parking lots and other improvements associated with the land upon which the Leased Premises are located, and any other losses caused by or related to the duties and obligations of Lessor under this Lease Agreement. Any obligation by the TABC under this Lease Agreement to obtain insurance is expressly made subject to the the TABC's authority under state law to obtain such insurance. No insurance carrier of either party shall have a right of subrogation against the other party to this Lease Agreement.

14. LIMITATION OF LIABILITY. The liability for acts or omissions of the agents and employees of either party or for injuries caused by conditions of tangible state or county property is provided for solely by the provisions of the Texas Civil Practice and Remedies Code, Chapters 75, 101, 102 and 104), and that Workers' Compensation Insurance coverage for state and county employees is provided as mandated by the provisions of Texas Labor Code, Chapters 503 and 504.

15. OTHER TERMS AND CONDITIONS

(a) Entire agreement. This Lease Agreement, and its amendments and attachments represent the entire agreement of the parties.

(b) Effective date. This Lease Agreement is effective on the date executed by Lessor.

(c) Amendment. Amendments to this contract must be in writing and signed by both parties.

(d) Notices. All notices required by this Lease Agreement must be sent to the following addresses:

Texas Alcoholic Beverages Commission
5806 Mesa Drive, Suite 111
Austin, Texas 78731
Facsimile Number: (512) 206-3248
Attention: Charlie Kerr

Fort Bend County
517 Eugene Heimann Circle, Suite 500
Richmond, Texas 77469
Facsimile Number: (281) 633-7022
Attention: Donald G. Brandy

16. EXECUTION

The parties have executed this Agreement on the dates indicated below. The effective date of this Lease Agreement is October 1, 2009.

FORT BEND COUNTY, TEXAS, LESSOR

By:  Date signed: 10-6-09
Robert E. Hebert, County Judge

Attest: 
Dianne Wilson, County Clerk

Approved: 
Don Brady, Director
Facilities Management & Planning Department

TEXAS ALCOHOLIC BEVERAGE COMMISSION, TABC

By:  Date signed: 9/24/09
Charlie Kerr, Director of Business Services