

THE STATE OF TEXAS

COUNTY OF POLK

INTERGOVERNMENTAL LEASE AGREEMENT

THIS AGREEMENT is entered into on this ____ day of _____, 2009, by and between Polk County, and the STATE OF TEXAS, acting by and through the Texas Building and Procurement Commission (TBPC), pursuant to the authority granted and in compliance with the provisions of the Interlocal Cooperation Act, Texas Government Code Chapter 791, section 791.011; the Lease of Space for State Agencies, Texas Government Code Chapter 2167, section 2167.051; and the Elimination of Architectural Barriers, Texas Government Code Chapter 469.

I. PURPOSE:

This contract and agreement is entered into for the purpose of leasing real property owned by the County of Polk, hereinafter the LESSOR, to the STATE OF TEXAS, acting by and through TBPC, hereinafter the LESSEE.

The real property to be leased shall be

1,000 Total Square Feet, occupied by the Texas Health & Human Services Commission (HHSC) for Department of Assistive and Rehabilitative Services (DARS) at 410 East Church in Livingston, Texas 77351 in Polk County, Texas, hereinafter the Leased Premises.

LESSOR promises, in return for the consideration described herein to be paid by the LESSEE and the covenants set out herein to be kept by LESSEE, to hereby lease, unto the LESSEE, the Property and Premises described herein.

LESSEE promises, in return for the consideration described herein to pay the LESSOR from current revenues available to the LESSEE .

II. GENERAL TERMS AND CONDITIONS:

- (a) TERMS OF LEASE. This lease shall be for a period of 60 months commencing on the 1st day of October, 2009, _____ and ending on the 30th day of September, 2014, unless sooner terminated as hereinafter provided. **This lease is contingent upon the approval of the Commissioners. If the Commissioners do not approve the lease, it may be terminated by TBPC without liability upon 30 days notice to the LESSOR.**
- (b) RENEWAL OPTION. By mutual agreement between LESSEE and LESSOR, this lease may be renewed up to 5 times for a period up to 60 months each, under the same terms and conditions. LESSEE shall give LESSOR written notice of intention to exercise this option at least 180 days prior to expiration of this lease.
- (c) MONTHLY RENTAL. LESSEE agrees to pay LESSOR 0 Dollars (\$) per month or \$ 0 annual rate during the term of this lease. The monthly rentals provided for herein shall be due and payable by LESSEE in advance on the first day of the month for which said rentals are due.

This lease contract is made and entered into in accordance with and subject to the provisions of the Texas Constitution and the Texas Government Code, Title 10, Subtitle D, and is made contingent upon the continuation of the availability of money appropriated by the Legislature to pay for the lease. In the event the Legislature or the Executive Branch of the State of Texas cease to fund the lease, or the agency ceases to exist as a result of legislative action, then TBPC may assign another state agency to the space, or a part thereof, covered by this lease. Should TBPC be unable to find another state agency or agencies to fill, or partially fill the space, TBPC, upon written notice to the LESSOR, may terminate this lease.

- (d) PAYMENT OF TAXES. LESSOR will be responsible to pay all taxes of whatever nature, levied and assessed and to be levied or assessed, on or against the Leased Premises and improvements during the term of the lease.

- (e) MAINTENANCE OF PROPERTY. LESSOR will be responsible for keeping the Leased Premises, property and buildings in good repair and condition during the continuance of the term of this lease. During the continuance of the term of this lease, the contractor agrees to provide major building maintenance services to the building at 410 East Church Street, Livingston, Texas. If the occupying entity, or its agents, cause damage to said property that goes beyond "normal wear and tear," the occupying entity is responsible to pay for those repairs.
- (f) SUITABILITY OF SURROUNDINGS. LESSOR hereby covenants and agrees that hereafter and during the term of this lease, it will not rent, lease or otherwise furnish space in this or any adjacent buildings under its control to any enterprise which, in the usual exercise of its business, could be expected to create noise or odors injurious or disruptive to the occupying entity's normal governmental activity. LESSOR covenants and agrees it will not lease space that would locate or collocate any regulated parties which have an interest in the occupying entity or whose occupation of these premises would cause the occupying entity to be in violation of a state statute.
- (g) CONDITION OF PREMISES. LESSOR warrants that the Leased Premises is not in violation of any city, state or local ordinance or statute or any restriction imposed against the Leased Premises.
- (h) FURNISHINGS. LESSOR hereby covenants and agrees that the LESSEE may bring on the Leased Premises any and all furniture, fixtures and equipment reasonably necessary for the efficient exercise of LESSEE's governmental responsibilities and the parties agree that all such Property shall remain the Property of the LESSEE.
- (i) ALTERATIONS AND IMPROVEMENTS. LESSEE will have authority to make alterations and improvements to the Leased Premises necessary for the continued effective operation of assigned programs; however, notification of such alterations and improvements shall be made to the LESSOR in writing at least fourteen (14) days prior to commencement of work. Any and all improvements or alterations made to the Leased Premises shall remain the property of the LESSOR at the termination of this agreement. LESSEE hereby agrees to bear all costs and assume all risk associated with said alterations or improvements.
- (j) SIGNAGE. Any signs necessary to indicate the LESSEE's name, location and governmental purpose shall be prepared and installed consistent with signage for other lessees in the property and in keeping with building décor. Any special requirements of LESSEE contrary to the above must be stated in writing and made a part of this lease. Any cost of compliance with this paragraph in excess of the amount that would be required for the LESSOR's standard signage shall be borne by the LESSEE.
- (k) PROPERTY OF LESSEE. On termination of this lease, by lapse of time or otherwise, the LESSEE may, within a reasonable time thereafter, at its option and expense, remove from said Leased Premises any and all equipment, appliances or other property placed or owned by it thereon except as provided by subsection (i) hereinabove. LESSEE shall deliver the Leased Premises to LESSOR in good order and condition, provided however, the reasonable use and ordinary wear and tear are expected.
- (l) CONDEMNATION. If during the term of this lease, said Leased Premises, or any portion thereof, shall be condemned for any public purpose, LESSEE hereto shall have the option of terminating and canceling the lease upon 30 days notice to the LESSOR of its election to do so.
- (m) SUBSTANTIAL PROPERTY DAMAGE. In the event the building, of which the space occupied by the LESSEE is a part, suffers substantial damage or is destroyed by fire or the elements during the term of this lease, the LESSOR will have the option to rebuild or repair the building in substantially as good a condition as it was before such fire or other event occurred, or to declare the lease contract canceled.
- (n) COMMENCEMENT OF OCCUPANCY. LESSEE is not obligated to pay rent and other sums under this lease until the Leased Premises is available to LESSEE for full occupancy and is suitable for use as office space for a governmental entity. LESSOR shall provide access to Leased Premises 30 days prior to date when rental obligation commences. If LESSOR is unable to give LESSEE full possession of the Leased Premises on Commencement Date for any reason, LESSOR shall give LESSEE immediate written notice of the cause for the delay and the date the Leased Premises will be ready for occupancy, LESSEE may terminate this lease without liability to the State of Texas and seek other leased space.

LESSEE may not terminate the lease if the delay of occupancy is caused by LESSEE, or by conditions beyond LESSOR's control, such as strikes, fire, unavoidable casualties or other unusual circumstances that constitutes a justifiable delay.

If the LESSEE so elects, the LESSEE may continue to treat this lease as if in full force and effect for a period of no more than 120 days after the lease Commencement Date. During this time, or for as long as possession does not commence, the rent shall not be paid.

- (o) ABANDONMENT. The LESSEE will not, without first obtaining the written consent of the LESSOR, abandon the Leased Premises, or allow the Leased Premises to become vacant or deserted. In the event the LESSEE's need for such space terminates, the LESSEE will make every attempt to notify the LESSOR 120 days before vacating the Leased Premises, but will accrue no liability if such notice cannot be given due to circumstances beyond the LESSEE's control.
- (p) DEFAULT BY LESSOR. In the event the LESSOR shall breach or be in default in the performance of any of the covenants or obligations imposed upon the LESSOR by this lease, and shall remain in default for a period of 30 days after written notice from the LESSEE to the LESSOR of such default, the LESSEE shall have the right and privilege of terminating this lease and declaring the same at an end, and shall have the remedies now or hereafter provided by law for the recovery of damages occasioned by such default. LESSEE specifically shall be entitled to deduct amounts expended on repairs necessary to maintain the suitability of Leased Premises.
- (q) DEFAULT BY LESSEE. If LESSEE fails to pay rentals or other charges hereunder or otherwise fails to perform its obligations hereunder and this failure is not cured within 30 days after written notice from LESSOR to LESSEE of such failure, then LESSEE is in default, and LESSOR may terminate this lease immediately and may enter and take possession of Leased Premises, and shall have the remedies now or hereafter provided by law for the recovery of damages occasioned by such default.
- (r) STATE AUDITOR'S OFFICE. LESSOR understands that acceptance of funds under this contract acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. LESSOR further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested. LESSOR will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through LESSOR and the requirement to cooperate is included in any subcontract it awards.
- (s) TEXAS ACCESSIBILITY STANDARDS. Throughout the term of the lease and any additional tenancy, LESSEE and LESSOR shall comply with the following provisions:
- (1) This lease shall comply with the architectural barriers law, Texas Government Code Chapter 469.
 - (2) Prior to occupancy in whole or in part by the LESSEE, if the rental amount for the leased premises is more than \$12,000 annually, a person described by Texas Government Code Section 469.105(b) must perform an on-site inspection of the building or facility to determine whether it complies with all accessibility standards and specifications adopted under Texas Government Code Chapter 469.
 - (3) If the building or facility fails to pass inspection as described in subsection (2), the TBPC shall cancel the lease unless the LESSOR brings the building or facility into compliance not later than the 60th day after the date the inspection results are delivered to the LESSOR or a later date established by the Texas Commission of Licensing and Regulation if circumstances justify a later date.
 - (4) All renovations or modifications of the Leased Premises, building or facility will conform with the provisions of Texas Government Code Chapter 469.
- (t) TERMINATION. Except as otherwise provided herein, LESSEE / LESSOR shall each have the right to cancel and terminate this lease at anytime and for any reason whatsoever by giving the other party written notice 120 days prior to the desired cancellation date.
- (u) EFFECTIVE DATE. This lease shall be effective as of the date that all parties execute this lease contract. All proposals, negotiations, notices, and representations with reference to matters covered by this lease are merged in this instrument and no amendment or modification thereof shall be valid unless evidenced in writing and signed by all parties as identified below.

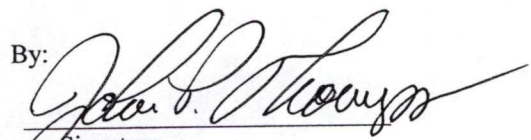
(v) SEVERABILITY: This written contract constitutes the entire agreement of the parties hereto, and the finding that any part or section of this contract is unenforceable shall not affect the enforceability of the remaining parts or sections.

II. SPECIFIC TERMS AND CONDITIONS:

- (a) PAYMENT OF UTILITIES. The / LESSEE will be responsible to pay for utilities for the Leased Premises.
- (b) JANITORIAL SERVICES. The LESSEE will be responsible for janitorial services for the Leased Premises.
- (c) PEST CONTROL. The LESSEE will be responsible for pest control for the Leased Premises.
- (d) BURGLAR ALARM SYSTEM. The LESSEE will be responsible for the maintenance of a burglar alarm system and locking systems in the Leased Premises.
- (e) MAINTENANCE OF EXTERIOR- The LEESEE will pay Polk County \$200.00 per month for services performed upon receipt of a properly prepared invoice sent to HHSC, 285 Liberty St., ATTN: Stephanie Felts, Accounts Payable, Beaumont, TX 77701. Estimated amount for contract period is \$12,000.00

LESSOR:

Polk County _____
 Polk County- Judge John Thompson
 Polk County Courthouse
 101 West Church Street, Suite 300
 Livingston, Texas 77351
 (936) 327-6813 Telephone Number
 (936) 327-6891 Fax Number

By: 

 Signature
 John P. Thompson
 County Judge

05-24-09

 Date

LESSEE:

TX Health & Human Services,
 Acting by and through the
 Regional Administrative Services
 285 Liberty
 Beaumont, TX 77701

By: _____

Janice Kelley
 Regional Director Administrative Services

 Date