

LEASE AGREEMENT
C-03-285-08-26

This Lease Agreement is made and entered into this 26th day of August, 2003, at Hidalgo County, Texas, by and between the **COUNTY OF HIDALGO, TEXAS**, hereinafter called “Lessor”, and the **HIDALGO COUNTY ADULT PROBATION DEPARTMENT**, a governmental entity duly organized and authorized by the laws of the State of Texas, hereinafter called “Lessee”.

ARTICLE ONE

Demised, Description, Use and Term of Lease

Lessor hereby leases to Lessee certain property, hereinafter called “Leased Premises”, situated in Hidalgo County Texas, and more particularly described on Exhibit “A” attached hereto.

The described property is to be used for an adult detention facility, more commonly known as an adult “boot camp”, hereinafter referred to as the “Facility”. This lease shall be for the period of ten (10) years beginning on August 26, 2003 and continuing through August 26, 2013, unless earlier terminated as herein provided.

Title to and ownership of all furniture, equipment, and vehicles purchased with funds from the State of Texas and used in furtherance of the administration of programs and operation of the Facility as contemplated in this Agreement shall remain with the State of Texas.

ARTICLE TWO

Rent

In consideration for the use and occupancy of, and as rental for the Leased Premises, Lessee promises and agrees to pay, rent of an amount equal to \$4,500.00 per month beginning on the first

day of occupancy of said Leased Premises, with the first month to be prorated accordingly, and with the full rental amount to be paid on the first day of each and every month thereafter for the duration of this Lease Agreement.

Notwithstanding the provisions contained in Article 3 and Article 4 of this Lease Agreement, in consideration for the upkeep and repairs for the leased Premises, the Lessee agrees to pay a maintenance fee in an amount equal to \$500.00 per month beginning on the first day of occupancy of said Leased Premises, with the first month to be prorated accordingly, and with the full maintenance fee amount to be paid on the first day of each and every month thereafter for the duration of the Lease Agreement.

If there is a change in applicable court orders or decrees, federal or state laws or regulations, building or fire safety codes and regulations, or sanitary and health codes governing the Facility on the Leased Premises, each party agrees to cooperate with the other in its efforts to modify the facility in order to comply with applicable standards. If such modifications or changes increase the costs to Hidalgo County to maintain and repair the Facility, Lessor and Lessee shall negotiate in good faith an adjustment to the maintenance fee amount.

All rental and maintenance fees shall be payable to Lessor at the following address:

Hidalgo County Judge
100 E. Cano, 2nd Floor
Edinburg, Texas 78539

or at such other address as Lessor may hereafter designate in writing.

ARTICLE THREE

Lessor Repairs

Lessor shall, at its own expense, be obligated to maintain the roof, the foundation, all outside

utilities and the structural soundness of the buildings in good repair and condition, except for reasonable wear and tear. Lessor further agrees to repair and/or replace components of the buildings (i.e., heating, cooling, plumbing, electrical, etc.) That may be damaged due to any failure of any structural defect. Lessor or its designated employees, agents, vendors and/or contractors may, during the term of this Lease, at reasonable times be granted entry to the Leased Premises for the purposes of performing maintenance or making repairs.

ARTICLE FOUR

Lessee Repairs

Lessee agrees to maintain the integrity of the electrical, heating, ventilating, air conditioning and plumbing systems and to repair any failures or defects in these systems. Lessee shall also maintain all interior walls and ceilings of the buildings and also all interior windows, window glass, doors, electrical fixtures, and plumbing fixtures in good repair and condition. Lessee shall paint all interior walls as required. Lessee shall furnish and regularly replace furnace filters consistent with heating/air conditioning systems manufacturer specifications.

Lessee shall also perform usual janitorial and maintenance service, including sweeping and waxing of floors, vacuuming, trash collection and disposal, the cleaning of windows and the dusting of fixtures. Lessee shall maintain all grounds including, but not limited to, mowing, trimming, and watering of plants and lawn as to maintain a presentable appearance to the grounds.

Lessee shall make all repairs and/or replacements required by Lessor. Lessor may make inspections of the leased Premises for purposes of determining the need for repairs and/or the adequacy and/or timeliness of Lessee's repairs and maintenance of the Leased Premises.

ARTICLE FIVE

Alterations

Lessee shall not create any openings in the roof or exterior walls, nor make any alterations, additions, or improvements to the Leased Premises without prior written consent of Lessor. Any alterations made shall be at the expense of Lessee.

ARTICLE SIX

Utilities

Lessee shall be responsible for payment of all utilities furnished the Leased Premises for the term of this Lease, including, but not limited to, electricity, gas, water, sewer and telephone services.

ARTICLE SEVEN

Assignment or Sublease

Lessee agrees not to assign or sublease the Leased Premises, or any part thereof, or any right or privilege connected therewith, or to allow any other person, except Lessee's contractors, agents, employees and residents, to occupy the leased Premises or any part thereof, without first obtaining the Lessor's prior written consent.

ARTICLE EIGHT

Insurance

Lessor agrees that from the time it acquires title to the Leased Premises and for the entire term of this Lease, it shall maintain a policy or policies of insurance issued by and binding upon the insurance company or companies insuring the Leased Premises including the building(s) thereon against all risk or direct physical loss in an amount equal to their full replacement cost as of the date of the loss and such insurance shall be solely payable to Lessor.

Lessee shall be responsible for its own insurance of any improvements it makes to the Lease Premises or personal property of Lessee placed upon the Leased Premises.

ARTICLE NINE

Partial or Total Destruction of Leased Premises

In the event the buildings situated on and comprising the Facility (the "Buildings") should be totally destroyed by fire, tornado, or other casualty or in the event the Buildings should be so damaged that rebuilding or repairs cannot be completed within one hundred eighty (180) days after the date of such damages, the Lessee may at its option terminate the Lease, in which event the rent shall be abated during the unexpired portion of this Lease effective with the date of such damage. In the event the Buildings should be damaged by fire, tornado, or other casualty, but only to the extent that rebuilding or repairs can be completed within one hundred eighty (180) days after the date of such damage, or if the damage should be more serious but Lessee does not elect to terminate this Lease, Lessor shall with sixty (60) days after the date of such damage commence to rebuild or repair the Buildings and shall proceed with reasonable diligence to restore the Buildings to substantially the same condition in which they were immediately prior to the happening of the casualty. In the event that the Buildings are totally untenable, the Lessor shall abate the rent during the term the Buildings are unfit for occupancy. If the Buildings are not totally untenable the Lessor shall allow the Lessee a fair diminution of rent during the time the Buildings are partially unfit for occupancy.

ARTICLE TEN

Liability of Lessor and Lessee

During all times that this Lease is in effect, the parties agree that Lessee is and shall be deemed to be an independent contractor and operator and not an agent or employee of lessor with

respect to its acts or omissions hereunder. For all the purposes hereunder lessee is and shall be deemed an independent contractor and it is mutually agreed that nothing contained herein shall be deemed or construed to constitute a partnership or joint venture between the parties hereto.

Lessee agrees to indemnify and hold harmless Lessor and its Commissioners, officials, employees, agents and representatives from and against all liability for any and all claims, suits, demands, and/or actions arising from, based upon, or connected with intentional or negligent acts or omissions on the part of Lessee, its agents, representatives, employees, inmates, patrons, visitors, residents, contractors and subcontractors (if any), and/or sublessees, which may arise out of or result from Lessee's occupancy or use of the Facility and/or activities conducted in connection with or incidental to this Agreement. Lessee further agrees to provide Lessor the cost of defense and all costs incurred by Lessor in the defense of any claim or cause of action brought against Lessor or any of its affiliates arising out of or connected with the indemnity provisions of this Article and which claim or cause of action is the subject of any trial in any State or Federal court in which judgement is rendered against Lessee, or is settled pursuant to a written settlement agreement, the terms of which settlement agreement are approved by any officer of the Texas Department of Criminal justice. Such costs shall include but shall not be limited to attorneys fees, court costs and all other costs incurred by Lessor in defending itself against any such claims or causes of action. Lessee shall also indemnify Lessor against any and all mechanic's and materialmen's liens or any other types of liens imposed upon the Leased Premises arising as a result of or connected with lessee's conduct or activity.

This indemnity provision extends to any and all such claims, suits, demands, and/or actions regardless of the type of relief sought thereby, and whether such relief is in the form of damages,

judgments, costs and reasonable attorney's fees and expenses, or any other legal or equitable form of remedy. This indemnity provision shall apply regardless of the nature of the injury or harm alleged, whether for injury or death to persons or damage to property, and whether such claims be alleged at common law, or statutory or constitutional claims, or otherwise. This indemnity provision shall apply whether the basis for the claim, suit, demand, and/or action may be attributable in whole or in part to the Lessee, or to any of its agents, representatives, inmates, patrons, residents, employees, visitors, contractors, and subcontractors (if any), and/or sublessee, or to anyone directly or indirectly employed by any of them.

Lessee understands and agrees that this indemnity provision shall apply to any and all claims, suits, demands, and/or actions based upon or arising from any such claims asserted by or on behalf of Lessee or any of its agents, representatives, inmates, patrons, residents, employees, visitors, contractors, and subcontractors (if any), and/or sublessee.

It is expressly understood and agreed that the Lessor shall not be liable or responsible for the negligence of lessee, its agents, representatives, inmates, patrons, residents, employees, visitors, contractors, and subcontractors (if any), and/or sublessee. Lessee further agrees that it shall at all times implement and exercise reasonable safety precautions and procedures for the safety of its agents, representatives, inmates, patrons, residents, employees, visitors, contractors, and subcontractors (if any), and/or sublessees, and other persons, as well as for the protection of supplies and equipment and the property of Lessee or other persons.

Lessee further agrees to comply with all applicable provisions of Federal, State and municipal safety laws, regulations and ordinances.

ARTICLE ELEVEN

Access

Lessor may, during the term of this Lease, at reasonable times, enter the Leased Premises to view, inspect, and show to prospective purchasers.

ARTICLE TWELVE

Breach and Remedies

In addition to nonpayment of rent, or failure to perform any of the obligations as herein set forth, the following shall constitute a breach of this Lease, appointment of a receiver to take possession of Lessee's assets, Lessee's general assignment for benefit of creditors, or Lessee's insolvency or taking or suffering action under the Bankruptcy Code. If Lessee breaches this lease, Lessor shall have the following remedies in addition to its other rights and remedies in such event:

- (a) Lessor may re-enter the leased Premises immediately and remove all Lessee's personal property therefrom. Lessor may store the property in a public warehouse or at another place of his choosing at Lessee's expense or to Lessee's account.
- (b) After re-entry, Lessor may terminate the lease on giving ten (10) days written notice of such termination to Lessee. Re-entry only, without notice of termination, will not terminate the Lease.
- (c) After re-entering, Lessor may relet the leased Premises or any part thereof, for any terms, without terminating the lease, at such rent and on such terms as he may choose.
- (d) Lessee is liable to Lessor in addition to this other liability for breach of the Lease for all actual expenses of the reletting which Lessor may incur, in addition, lessee is liable to Lessor for the difference between the rent installments that are due for the same period under this Lease.
- (e) Lessor, at his option, may apply the rent received from reletting the Leased Premises as follows:

- (i) to reduce Lessee's indebtedness to lessor under the lease, not including indebtedness for rent;
- (ii) to actual expenses for the reletting;
- (iii) to rent due under this Lease;
- (iv) to pay of further rent under this Lease as it becomes due.

If the new Lessee does not pay a rent installment promptly to Lessor, and the rent installment has been credited in advance of payment of lessee's indebtedness other than rent, or if rentals provided for herein, and during, any rent installment period under this Lease, Lessee agrees to pay Lessor the deficiency separately for each rent installment deficiency period, and before the end of that period, then Lessor may at any time after such reletting, terminate the lease for the breach because of which it re-entered and relet.

Lessor may receive from Lessee on terminating the lease for Lessee's breach all damages proximately resulting from the breach, including the cost of recovering the leased Premises, and the worth of the balance of this Lease over the reasonable rental value of the Leased Premises for the remainder of the Lease term, which sum shall be immediately due Lessor from Lessee.

ARTICLE THIRTEEN

Effect of Lessor's Waiver

Lessor's waiver of breach of one covenant or condition of this Lease is not a waiver of breach of others, or of subsequent breach of the one waived. Lessor's acceptance of rent installments after breach is not a waiver of the breach, except of breach of the covenant to pay the rent installments or installments accepted.

ARTICLE FOURTEEN

Miscellaneous Provisions

Texas Law to Apply. This agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Hidalgo County, Texas.

Parties Bound. This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns except as otherwise expressly provided herein.

Legal Construction. In case any one of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Prior Agreements Superseded. This Agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understanding or written or oral agreement between the parties respecting the within subject matter.

Appropriations and Funding. The obligations of the lessee are subject to the appropriations to the Community Justice Assistance Division (CJAD) of the Texas Department of Criminal Justice by the Legislature of the State of Texas, and the award by CJAD to Lessee of funds which may be used for the rent of Leased Premises.

Notice. Unless otherwise provided herein, any notice, tender, or delivery to given hereunder by either party or the other may be effected by personal delivery in writing or by registered or certified mail, postage prepaid, return receipt requested at the addresses shown below and shall be

deemed received as of the day it was deposited in the United States Mail:

Lessee: Joe Lopez, Director - CSCD
918 E. Business Hwy 83
McAllen, TX 78501

Lessor: Ramon Garcia, County Judge
100 E. Cano, 2nd Floor Adm.Bldg.
Edinburg, Texas 78539

EXECUTED the day and year first written above

ATTEST:

Juan D. Salinas III (M)
Juan D. Salinas, III, County Clerk

LESSOR: COUNTY OF HIDALGO, TEXAS

By: [Signature]
Name: Ramon Garcia
Title: County Judge

LESSEE:
By: [Signature]
Name: Joe Lopez
Title: CSCD Director

APPROVED:

By: _____
Title: _____



Approved on Commissioners' Court August 26, 2003

APPROVED AS TO FORM
Atlas & Hall, L.L.P.

By: [Signature]

- b) **County Auditor's Report on Detention Facility Law Enforcement Center Project paid and pending payment request approval.**

NO ACTION taken on this item.

- c) **Reports by Hidalgo County Sheriff's Department and Rey Vargas (V-A Architecture), consulting architect regarding on-site projects in connection with completion, turn-over, occupancy and transition into the New Adult Detention Facility and Law Enforcement Center including, but not limited to, structures (i.e. Shooting Range Facility, Jogging Track, Driver Training Track, Parking Lot(s) and Utility Extensions, under or anticipated construction on site and preliminary information and request for clarification and direction on the possible construction options for additional pod(s) with staffing and maintenance and operations analysis and impacts including the status of the old facility;**

NO ACTION taken on this item.

Commissioner Palacios joined the meeting. Commissioner Handy left the Courtroom.

4. **Requesting approval of qualifications, requirements and scope of services as attached hereto for "Step and Grade Consulting Firm-Hidalgo County" RFQ&P.**

5. **Discussion and action on County's options:**

- a) **Initiate term of services contract will be through implementation of a step & grade program: and**
 b) **to extend contract for a specified period of time to allow for the monitoring of the program by the Consultant.**

On motion of Commissioner Palacios, seconded by Commissioner Flores, the Court made a UNANIMOUS vote to approve item 20.A.4 & 5.a and b.

6. **Presentation of discussion with, and information obtained from, Texas Department of Health regarding air quality assessment/testing services;**

Presentation made by Marty Salazar. NO ACTION taken on this item.

7. **Discussion, consideration and approval for authority to advertise for: "Air Quality Testing Services" for Hidalgo County; or in the alternative,**

On motion of Commissioner Palacios, seconded by Commissioner Flores, the Court made a UNANIMOUS vote of approval to advertise for RFO's.

8. **Requesting authority to solicit a "Request for Offer" from a state awarded vendor/contractor for: "Air Quality Testing Services"**

NO ACTION taken on this item.

9. **Requesting exemption from competitive requirements under Texas Local Gov. Code Section 262.024 (a)(7)(C) with Hidalgo County Community Supervision and Corrections Department, aka Adult Probation, a State Agency, for the lease of the Boot Camp Facility.**

On motion of Commissioner Palacios, seconded by Commissioner Flores, the Court made a UNANIMOUS vote of approval, subject to legal review.

10. **Presentation for discussion, consideration, acceptance and approval (if applicable) the final negotiated Interlocal Rental Agreement with Hidalgo County Community Supervision and Corrections Department for the boot camp, officially known as Hidalgo County Adult Detention.**

On motion of Commissioner Palacios, seconded by Commissioner Flores, the Court made a UNANIMOUS vote of approval.

**COUNTY OF HIDALGO
PURCHASING DEPARTMENT
AGENDA REQUEST FORM**

"Exhibit A"

No: _____

Date: August 21, 2003 Meeting Date Request: August 26, 2003
Deadline for Action: _____ A.S.A.P. _____ Contact Person: Martha L. Salazar
Hidalgo County Purchasing Dept. for
Department: Hidalgo County Phone: (956) 318-2626 Fax: (956) 383-2629
Martha L. Salazar, CPPB, Hidalgo County Purchasing Agent: *Martha L. Salazar*

Caption:

- A. Requesting exemption from competitive requirements under Texas Local Gov. Code Section 262.024 (a)(7)(C) with Hidalgo County Community Supervision and Corrections Department, aka as Adult Probation, a State Agency, for the lease of the Boot Camp.
- B. Presentation for discussion, consideration, acceptance and approval (if applicable) the final negotiated Interlocal Rental Lease Agreement with Hidalgo County Community Supervision and Corrections Department for the boot camp, officially known as Hidalgo County Adult Detention.

Background:

Term of Lease - 10 years

Budgetary Impact:

(Briefly summarize your request, if needed, use separate sheet(s) or attach supporting documentation)

Please initial for approval: Funds available: Acct. # 3-1297-423-00-320-008-441 as per Joe Lopez, Director
Legal Counsel: _____ Budget: _____ Human Resources: _____
Dept./Fund No. _____ Amt. Expended: \$ _____ Funds/Staffing Budgeted: Yes: _____ No: _____
Account Code: _____ Impact on Future Budget: Yes: _____ No: _____

Comments:

Action taken by Commissioner's Court:

Approved _____ Tabled _____ Denied _____ Motion made by _____ Seconded _____ Vote _____

COUNTY OF HIDALGO PURCHASING DEPARTMENT AGENDA REQUEST FORM

"Exhibit A"

No: _____

Date: August 21, 2003 Meeting Date Request: August 26, 2003
 Deadline for Action: A.S.A.P. Contact Person: Martha L. Salazar
 Hidalgo County Purchasing Dept. for
 Department: Hidalgo County Phone: (956) 318-2626 Fax: (956) 383-2629
 Martha L. Salazar, CPPB, Hidalgo County Purchasing Agent: Martha L. Salazar

Caption:

- A. Requesting exemption from competitive requirements under Texas Local Gov. Code Section 262.024 (a)(7)(C) with Hidalgo County Community Supervision and Corrections Department, aka as Adult Probation, a State Agency, for the lease of the Boot Camp.
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 Legal Counsel: _____ Budget: ✓ Human Resources: _____
 Dept./Fund No. _____ Amt. Expended: \$ _____ Funds/Staffing Budgeted: Yes: _____ No: _____
 Account Code: _____ Impact on Future Budget: Yes: _____ No: _____

Comments:

Action taken by Commissioner's Court:

Approved _____ Tabled _____ Denied _____ Motion made by _____ Seconded _____ Vote _____

RECEIVED

*OK RS
8/22/03*

BUDGET OFFICE