



GALVESTON COUNTY, TEXAS

COMMISSIONERS COURT 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge Ryan Dennard Commissioner, Precinct 1 Kevin O'Brien Commissioner, Precinct 2 Stephen Holmes Commissioner, Precinct 3 Ken Clark Commissioner, Precinct 4

SPECIAL MEETING-AGENDA March 26, 2013 -9:30 AM

CONSENT AGENDA: ALL ITEMS MARKED WITH A SINGLE ASTERISK (*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

1. Call to Order Specially Scheduled Meeting –9:30 a.m.
2. **County Legal**
 - a. Consideration of execution of an amended lease for Senator Larry Taylor in the Calder Road Annex building submitted by County Legal.
 - b. **Break into Executive Session.**
 - c. **The Commissioners Court will enter into executive session as permitted under the Texas Open Meetings Act, Texas Government Code, Chapter 551, Section 551.072, Deliberations Regarding Real Property, to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person relating to deliberations on the purchase of real property to house a Road and Bridge facility.**
 - d. **Adjourn Executive Session.**
 - e. **Reconvene Specially Scheduled Meeting.**
 - f. Consideration of approval to enter into negotiations with a third party for the purchase of real property to house a Road and Bridge facility.
 - g. **Break into Executive Session.**
 - h. **The Commissioners Court will enter into executive session as permitted under provisions of the Texas Open Meetings Act, Texas Government Code, Chapter 551, Sections 551.071(a)(1) & (2) (legal advice about contemplated**

litigation and settlement offer) and 551.072 (deliberations about the lease of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person) related to the Fat Boys' Fishing Paradise Concession Agreement.

- i. **Adjourn Executive Session.**
 - j. **Reconvene Specially Scheduled Meeting.**
 - k. Deliberations about response to settlement proposal by Robert Pike and Fat Boys' Fishing Paradise and action regarding termination of the holdover term for the Fat Boys' Fishing Paradise Concession Agreement.
3. Adjourn Special Meeting.

**WORKSHOP WILL BEGIN IMMEDIATELY AFTER
COMMISSIONERS COURT ADJOURNS**

WORKSHOP AGENDA

- 1. Convene Workshop Meeting.
- 2. **Break into Executive Session.**
 - a. **The Commissioners' Court will enter into executive session as permitted under the Texas Open Meetings Act, Texas Government Code, Chapter 551, Section 551.071, Consultation with Attorney: rendering legal advice on a matter in which the duty of the attorney to the County under the Texas Disciplinary Rules of Professional Conduct clearly conflicts with the Open Meetings Act relating to tax abatement in conjunction with request from Praxair for tax abatement.**
- 3. **Adjourn Executive Session.**
- 4. **Reconvene Workshop.**
- 5. Adjourn Workshop.

Appearances before Commissioners Court

A speaker whose subject matter as submitted relates to an identifiable item of business on this agenda will be requested by the County Judge or other presiding court members to come to the podium where they will be limited to three minutes (3). A speaker whose subject matter as submitted does not relate to an identifiable item of business on this agenda will be limited to three minutes (3) and

will be allowed to speak before the meeting is adjourned. Please arrive prior to the meeting and sign in with the County Clerk.

AGENDA ITEM #2.a.



**Galveston County
Legal Department**
COUNTY COURTHOUSE
722 MOODY, 5th FLOOR
GALVESTON, TEXAS 77550-2317

ROBERT B. BOEMER
Director

Donald Glywasky
Barry C. Willey
Myrna S. Reingold

HARVEY BAZAMAN
Director Emeritus

Houston Line
(409) 770-5562

Fax Line
(409) 770-5560

April 8, 2013

Brandy Chapman
County Clerk's Office

Re: Galveston County Commissioners' Court, 03/26/2013 #2a

Ms. Chapman,

Enclosed please find one original executed document.

Thank You,

A handwritten signature in black ink, appearing to read "Veronica Van Horn".

Veronica Van Horn
Executive Administrative Assistant

TEXAS SENATE OFFICE SPACE LEASE CONTRACT - AMENDED LEASE

1. PARTIES

This lease contract is made and entered into this 14th day of March, 2013, by and between (a) Galveston County herein referred to as LESSOR, and (b) THE TEXAS STATE SENATE, herein referred to as LESSEE, on behalf of Senator Taylor.

2. PROPERTY LEASED

Lessor promises, in return for the consideration and mutual promises described herein to lease Lessee, the following property and premises, to wit:

252.00	square feet of net usable space, located in the
Calder Road Building	Building, at
174 Calder Road	[street address]
County Clerk's Scanning Room	[suite number], in
League City	[city]
Galveston County, Texas	[county, Texas]
77573	[zip]

Lessor also agrees to furnish any and all requirements, if any, to such property and premises as set out in LEASE SPECIFICATIONS. Any LEASE SPECIFICATIONS shall be attached hereto and incorporated herein by reference and made a part hereof for all purposes.

3. MONTHLY RENTAL

Lessee agrees to pay Lessor Galveston County Dollars (\$634.00) per month for period of 5/1/13-12/31/14 with a final payment of (211.35) for period 1/1-1/13/15 which shall be paid solely from the funds of the Texas State Senate during the term of this lease. (All additions or deletions of net usable space to this lease shall increase or reduce the stated amount by 2.52 cents per square foot per month.) Lessor agrees to submit monthly statements for rent to Lessee. The monthly rentals provided for herein shall be due and payable by Lessee in advance on the first day of the month and paid no later than the tenth day of the month for which said rentals are due. Any and all payments pursuant to this lease are governed by Chapter 2251 of the Government Code, as applicable.

4. TERM OF LEASE

The primary term of this lease shall be for 20 months and 13 days commencing on the 1st day of May, 2013, and ending on the 13th day of January, 2015, but Lessor understands and agrees that Lessee may cancel this lease without penalty if Lessee for whose benefit this lease is made ceases to be a member of the Texas Senate for any reason or if the leased property ceases to be a part of the district Lessee member represents, or for any other reason as hereinafter provided.

(a) Lessee has the option to renew this lease for an additional period of N/A months for the same rental and under the same terms, conditions, covenants, and provisions applicable under this lease during the primary term. To exercise the option, Lessee must give written notice of election to do so to Lessor not later than 30 days before the expiration of the primary term of the lease.

(b) This lease contract is made and entered into contingent upon the availability of state funds appropriated by the Texas Legislature to cover the full term and cost of this lease. In the event state appropriated funds are not available, upon written notice to Lessor, Lessee may terminate this lease or adjust it in accordance with the provisions of this lease.

(c) If Lessor shall be unable to give possession of the demised premises on the date of commencement of the term hereof by reason of the fact that the premises are located in a building which is being constructed and which has not been sufficiently completed to make such premises ready for occupancy or if repairs, alterations, improvements, or decorations of the demised premises are not ready for occupancy by Lessee on the date of commencement of the term hereof, Lessee may terminate the lease by giving written notice. Lessee may not terminate the lease if the delayed occupancy is the responsibility of the state. Should termination occur under this paragraph, Lessor will be liable in damages for any additional rent Lessee is required to pay for facilities substantially equal to the demised premises. If Lessee so elects, Lessee may continue to treat this lease as in force and effect for a period of no more than 120 days after the stated date of commencement. During this time, or for as long as possession does not commence, Lessee shall not be liable for the rent reserved and covenanted to be paid and Lessor shall be liable for all costs necessary to house Lessee during this term. Payment hereunder shall not begin until the possession of the premises is given or the premises are available for full occupancy by Lessee, and Lessee is liable only for rent for those months beginning on and after such date. If Lessee takes possession of the premises or the premises are available for full occupancy other than on the first of the month, the rent for that month shall be prorated from the date Lessee takes possession or the premises become available.

5. GENERAL TERMS AND CONDITIONS

(a) Lessor further agrees that should Lessee request additional space during the term of this lease, Lessor may furnish such space as is requested by Lessee, if available, adjacent to space covered by this lease at a rental not more than the monthly cost per square foot shown in paragraph 3 above, and to be concurrent with the balance of the period covered by this lease. If it is determined and agreed by both Lessor and Lessee that market conditions have changed since the start of this lease, or the start of any option period currently in effect, the monthly cost per square foot applicable to the space to be added may be adjusted to reflect present market conditions. Lessor shall also furnish any and all services provided in this lease. The lease of additional space shall not be valid, however, unless evidenced in writing and signed by both parties.

(b) Lessor covenants and agrees to pay all taxes of whatever nature, levied and assessed, on or against the lease property and improvements during the term of the lease; and to keep the leased premises, property and buildings in good repair and condition during the term of this lease and any extension thereof, said maintenance to include, but is not limited to, the following services: repair and patch walls, ceiling and floor surfaces; painting as needed; replacement of broken glass; repair of window shades, blinds and/or drapes, fasteners and sash cord or chains; roof and ceiling leaks; building exterior, interior, plumbing, heating, air conditioning and ventilating equipment; fire protection equipment; miscellaneous valves; woodwork, locks, floor surface and coverings; and lighting fixtures, and the replacement of all defective or burned-out bulbs, fluorescent tubes, ballasts, and starters. In the event of the forecast of a flood, hurricane, or other natural disaster, Lessor shall take all reasonable and necessary actions to secure and protect the premises.

(c) It is further understood and agreed that if Lessor does not maintain the premises and all appurtenances thereto, as heretofore specified, in good repair, reasonable wear and tear excepted, Lessee shall notify Lessor in writing in reference thereto by certified mail, return receipt requested. If, within thirty (30) days after receipt of such notice Lessor fails to take steps to remedy the grievances specified in said notice, Lessee may take any and all actions in accordance with paragraph 5(n) below.

(d) Lessor hereby covenants and agrees that hereafter and during the term of this lease or any extension thereof, 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 Lessee's normal governmental activity.

(e) Lessor further covenants that it has good and sufficient title to the said premises, and has full power and authority to execute this lease and to place Lessee in possession of the premises in full satisfaction of and compliance with the terms and conditions herein. Lessor also agrees that it will not attempt to impose upon Lessee any requirements of other legal instruments related to these premises not referred to herein or made a part hereof. Lessor warrants and defends unto Lessee against the claims of all persons to be leasehold

interests of Lessee. Any person or entity executing this lease as agent for Lessor shall attach to this lease sufficient evidence or authority to act in the capacity shown.

(f) Lessor warrants that the operation of Lessee on the demised premises is not in violation of any city ordinance or statute or any restriction imposed against the demised premises and that Lessor will indemnify Lessee for any direct or indirect loss sustained by Lessee as a result of the existence of such restriction, ordinance, or statute.

(g) Lessor hereby covenants and agrees that Lessee may bring on to the leased premises any and all equipment and improvements reasonably necessary for the efficient exercise of Lessee's governmental responsibilities. Any and all improvements made by Lessee that will be permanently affixed to the property shall be agreed to and adopted by the parties hereto and shall become the property of the Lessor.

(h) Lessor acknowledges that it is an absolute necessity for Lessee to post signs indicating Lessee's name, location, and governmental purpose and grants Lessee permission to post all such necessary signs. Lessee shall make a good faith effort to ensure that such signs shall be prepared and installed in accord with Lessor's applicable rules and regulations, and in keeping with building decor, but in no event shall the total cost of such signs to Lessee exceed \$200.00. Any special requirements of Lessee contrary to the above must be stated in the specifications and made a part of this lease.

(i) On termination of this lease, by lapse of time or otherwise, Lessee may, within reasonable time thereafter, at its option and expense, remove from said premises any and all improvements, equipment, appliances, or other property placed or owned by it thereon; and shall deliver up said premises and property to Lessor in as good order and condition as they now are, or may be put by the Lessor, provided, however, that reasonable use, ordinary wear and tear, depreciation, damages, or destruction by fire or the elements or unavoidable casualty and repairs, and replacements, for which Lessor is obligated, are excepted.

(j) If, during the term of this lease, said premises, or any portion thereof, shall be condemned for any public purpose, either party hereto shall have the option of terminating and canceling this lease upon thirty (30) days' notice to the other party of its election to do so. Lessee, at its option, may elect to continue this lease and in such event the lease payments due hereunder shall be either reduced or withheld in proportion with the degree the space cannot be fully utilized by Lessee during remainder of this lease or any extension thereof.

(k) It is mutually agreed between Lessor and Lessee that if said building and premises shall, during the term of this lease or previous thereto, be slightly damaged by fire or any other such cause or causes, the same shall be promptly repaired by the Lessor. During the time of such repair, if the space cannot be fully utilized by Lessee, lease payments due hereunder shall be either reduced or withheld in accord with the degree of non-use. But, if said building and premises be so damaged as to render said premises unfit for occupancy, then, and from the date of such damage, this lease shall cease and be void; and any and all rent and other obligations hereunder due and payable on or after the date of such damage shall be null and void. Lessee shall remain liable only for rent and obligations, or any portion thereof, accruing prior to said date of damage; if Lessee has made any advance of rent or other obligations, Lessor shall promptly refund to Lessee that portion of such advance applicable to the period on and after that date. If Lessor has available under his control space which will meet Lessee's needs and offers same to Lessee, Lessee may, at its option, occupy that space under the same terms and conditions of this lease. Any and all reasonable and necessary costs incurred by Lessee in occupying such new lease space may be deducted from any subsequent rent payments by Lessee.

(l) Lessee reserves the right to assign any agency of state government to occupy all or part of the space described herein, but covenants and agrees that it will not assign or sublet all or any part of the leased premises to any private parties (persons or corporations).

(m) In the event Lessee shall be in default in the payment of rentals or other charges hereunder, or shall otherwise breach its covenants or obligations hereunder, and shall be and remain in default for a period of thirty (30) days after the receipt of written notice from Lessor to it of such default, Lessor shall have the right and privilege of terminating this lease and declaring the same at an end, and of entering upon and taking possession of said premises, and shall have the remedies now or hereafter provided by law for recovery of rent, repossession of the premises, and damages occasioned by such default. The resolution of any claim by the Lessor under this lease is subject to the dispute resolution process set out in Chapter 2260 of the Texas Government Code and any rules adopted by the Texas Senate pursuant to that chapter, as applicable.

(n) In the event Lessor shall breach or be in default in the performance of any of the covenants or obligations imposed upon Lessor by this lease, and shall remain in default for a period of thirty (30) days after receipt of written notice from Lessee to it of such default, 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 recovery of damages occasioned by such default. In lieu of a formal declaration of default and resulting termination as provided above and in special cases urged by the occupying state agency, Lessee may withhold payment of rent from Lessor until such time as the violations have been corrected. If violations of this lease create an emergency situation and threaten the occupying agency's ability to use the premises, Lessee may correct all or any part of the violations and deduct the cost from rentals due Lessor. Such extraordinary remedies will only be undertaken in the best interest of the State when a move following termination would be highly disruptive to Lessee or the occupying agency and detrimental to its functions.

(o) The failure of Lessee or Lessor to insist in any one or more instances on a strict performance of any of the covenants of this lease shall not be construed as a waiver or relinquishment of such covenants in future instances, but the same shall continue and remain in full force and effect.

(p) This agreement and each and all of its covenants, obligations, and conditions hereof shall inure to the benefit of and be binding upon the heirs, personal representatives, successors, and assigns of Lessor.

(q) Lessee covenants and agrees to abide by any and all rules promulgated subsequent to commencement of this lease provided that such rules do not conflict with any provisions of this lease and do not impose any additional payments, costs, or obligations on Lessee or interfere with Lessee's quiet enjoyment of the premises. Such rules shall be submitted to Lessee for consideration and comment at least thirty (30) days prior to implementation.

(r) All written notice shall be delivered in person only to an authorized representative of the Lessor or Lessee or mailed via the United States Postal Service, Certified Mail, Return Receipt Requested, to the address of the Lessor or Lessee set out in this lease. Notice will be deemed to have been received three (3) business days after the date of mailing.

(s) Nothing in this lease shall be deemed to waive, annul, or modify the Lessee's sovereign immunity, except as otherwise provided by statute or legislation.

6. APPLICATION OF THE ADA AND ARCHITECTURAL ACCESSIBILITY REQUIREMENTS

Lessor hereby certifies that at the time the leased premises become occupied by Lessee and throughout the term of the lease and any additional tenancy, Lessor will comply with all applicable provisions of the Americans with Disabilities Act of 1990, Public Law 1001-336 (42 U.S.C. Section 12101 et seq.), the Texas Architectural Barriers Act (Chapter 469 of the Texas Government Code, formerly Article 9102 of the Texas Revised Statutes) and with all other applicable state and federal architectural and structural requirements intended to allow individuals with disabilities access to all governmental programs and services offered by Lessee. Lessor is solely responsible for ensuring that the premises meet all such structural requirements, including scheduling and submitting to any required inspections, paying any fees, and acquiring any licenses or permits, as applicable.

7. SPECIAL TERMS AND CONDITIONS (As needed)

In the event of any conflict between the terms, provisions, duties, or obligations contained in the Texas Senate Office Space Lease and any attachments or exhibits hereto, the Texas Senate Office Space Lease shall govern absolutely and unconditionally.

LESSOR:

Galveston County

By: *Mark A. Henry*
Signature

Mark A. Henry, County Judge
Title

March 26, 2013
Date

Attest: Dwight D. Sullivan
County Clerk

Contact Person:

Harvey Bazaman

Lessor Address:

722 Moody (21st)

Galveston, TX 77550-2318

409 770-5565

Area Code Telephone number

409 770-5560 (Office Fax)

409 765-3161 (Right Fax)

Area Code Fax number

76-60000908
Tax ID (who the check will be made out to)

Galveston County
Name Tax ID belongs to

LESSEE:

THE TEXAS STATE SENATE

By: *Patsy Daw*
Signature
Secretary of the Senate
Title - Secretary of the Senate and/or
Chairman, Administration Committee

4-4-13
Date

By: *Brandy Chapman* Deputy
Brandy Chapman

Contact Person:

Sharon Dill

Address:

Senate Purchasing
P.O. Box 12068
Room 525
Austin, Texas 78711
(512) 463-0222 Phone
(512) 475-3740 Fax

email: sharon.dill@senate.state.tx.us