

CONSENT AGENDA
ITEM NO. 12

**CITY OF SAN ANTONIO
INTERDEPARTMENTAL MEMORANDUM
POLICE DEPARTMENT**

TO: Mayor and City Council

FROM: Albert A. Ortiz, Chief of Police

THROUGH: Terry M. Brechtel, City Manager

COPIES: Christopher J. Brady, Assistant City Manager; File

SUBJECT: Ordinance Approving a Short Term License Agreement

DATE: April 15, 2004

SUMMARY AND RECOMMENDATIONS

This ordinance approves a Short Term License Agreement for use of Police Training Academy Classrooms, Gymnasium, Shooting Bays (Firing Range), Driving Track, and Tactical Village located at 12200 S. E. Loop 410, to outside entities; establishes License Fees for the use of each space; and authorizes the Commander of the Police Training Academy, as designee of the City Manager, to execute any and all such Short Term License Agreements, on behalf of the City, without any future action by the City Council.

Staff recommends approval.

BACKGROUND INFORMATION

City Ordinance No. 94085, dated June 14, 2001, authorized a three-year lease agreement by the Alamo Area Council of Governments (AACOG) for 750 square feet of classroom space at the San Antonio Police Department Training Academy, located at 12200 S.E. Loop 410. In addition to classroom space, AACOG utilized other portions of the Training Academy for a fee, specifically the Gymnasium, Shooting Bays (Firing Range), Driving Track, and Tactical Village on a pre-arranged schedule. The lease agreement expired on December 31, 2003 and AACOG chose not to renew the lease because they did not require all of the classroom space. Since the expiration of the lease, AACOG has been renting less space and the other portions of the Training Academy on an as needed basis.

In the interim, the Training Academy has received a request from the Texas Municipal Police Association for short-term use of classroom space at the Training Academy. On December 18, 2003, Ordinance No. 98633 was approved, establishing fees for use of the Training Academy Firing Range by law enforcement agencies. This ordinance proposes the use of a Short Term License Agreement for use of the areas listed of the Training Academy to non-law enforcement

outside entities and establishes License Fees, which are the same as those fees established by the lease agreement with AACOG. Asset Management staff has reviewed and approved the Short Term License Agreement, which was drafted by the City Attorney's Office. The use of the Training Academy will not conflict with SAPD's training requirements because SAPD has priority in its use and other agencies are made aware of this. This department has coordinated with Contract Services in Asset Management in developing and writing the policies and procedures for the use of these portions of the Training Academy; they have been found to be adequate by Contract Services Division staff. The Training Academy commander has developed appropriate procedures to address the billing process and implemented procedure steps to ensure payment is received in the rental of these facilities.

POLICY ANALYSIS

The proposed ordinance conforms to City policy of generating increased revenues to offset the costs of City operations.

FISCAL IMPACT

The funding codes for these General Fund revenues were established in the lease agreement approved by City Ordinance No. 94085, dated June 14, 2001. The fees previously established in the lease agreement as "rent" remain unchanged at the following License Fees:

Leased Area	Cost Per Day or Partial Day
Firing Range	\$150
Driving Track	\$125
Classroom Space	\$125
Tactical Village	\$100
Gymnasium	\$100

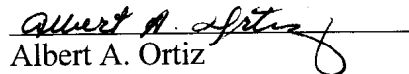
All fees are based on a per-day or portion of a day basis; it is a flat fee whether the area is used for one (1) hour or the whole day. The licensing of these areas applies to regular business hours (7:45 a.m. to 4:30 p.m.) use only. Subject to Council approval, these license fees may be increased from year to year. Since the Academy has priority at the facility, use by outside agencies is anticipated to be infrequent. Therefore, projected revenues will be less than \$500.00 annually.

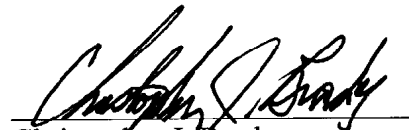
COORDINATION

This ordinance request has been coordinated with Finance, Office of Management & Budget, Asset Management, and the City Attorney's Office.

SUPPLEMENTAL COMMENTS

A copy of the Short Term License Agreement is attached.


Albert A. Ortiz
Chief of Police


Christopher J. Brady
Assistant City Manager

Approved:


Terry M. Brechtel
City Manager

**Resource Management Division
Police Academy Section
Standard Operation Procedure**

SECTION:	Operations	PROCEDURE NO: 203.10
DATE ISSUED:	January 27, 2004	PAGE: 1 of 3
SUBJECT:	Use of Firing Range- Outside Agencies	March 31, 2004

Responsibility: To establish guidelines for the use of the San Antonio Police Academy firing range by law enforcement agencies other than the San Antonio Police Department.

Task:

.01 Use of SAPD Firing Range Facilities:

- A. The City of San Antonio, through City Ordinance #98633, passed December 18, 2003, has established approval for law enforcement agencies, not a part of the San Antonio Police Department, to request and receive permission to use the firing range facilities at the Training Academy on a fee basis.
- B. All requests are submitted orally or in writing to the Range Master, Firearms Proficiency Officer, or the Academy Commander for review and approval.
- C. Requests may be received from an authorized law enforcement agency for review and approval.
- D. Primary use of the firing range facilities will be for active and retired SAPD police officers and cadets.
- E. Use of the range facility for all other requests will be based on a space-available basis.
- F. All use of the Firing Range must include the presence of a Training Academy Firearms Instructor.
- G. All training and use of the range must conform with the range design and specifications.
- H. All training and use of the range must conform with the range rules.
- I. Unauthorized training or use of the range may result in denial of future use of the range.

.02 Fee Schedule

- A. For the use of the SAPD range facilities by Airport Police and Park Police as follows:
1. Normal business hours
 - No charge.
 2. After 1630 hours (Monday – Friday) and on weekends:
 - The actual cost of SAPD firearms instructor overtime or \$50 per instructor hour (whichever is less).
- B. For the use of the SAPD range facilities by the Alamo Area Council of Governments:
1. Normal Business Hours:
 - \$150.00 per day or portion of a day.
 2. After 1630 hours and on weekends:
 - \$150.00 per day or portion of a day and,
 - \$50.00 per instructor hour for SAPD firearms instructor
 - Or as approved by the Academy Commander.
- C. For the use of the SAPD range facilities by all other outside law enforcement agencies as follows:
1. Normal business hours
 - \$75.00 per bay per four hour session (0745 – 1200 and 1200 – 1630).
 2. After 1630 hours (Monday – Friday) and on weekends:
 - \$100.00 per bay per four hour session and,
 - \$50.00 per instructor hour for SAPD firearms instructor.
- D. The Training Academy staff will maintain a log of all use of the Training Academy's range facilities by outside law enforcement agencies. The range supervisor will be responsible to send a letter to any outside law enforcement agency that uses the Training Academy's range facilities at the end of the month detailing the use of the Academy's facilities and the appropriate fees resulting from such use. Only those that utilize the Training Academy's range facilities each month will be notified of fees due.
- E. Outside law enforcement agencies will be directed to submit payment to the Training Academy on a check made payable to the City of San Antonio, and to submit such payment within 30 days of receipt.

- F. All payments will be made in the form of a check, cashier's check, or a money order made payable to the City of San Antonio. Cash will not be accepted by the Training Academy.
- G. All payments received by the Training Academy pursuant to this procedure will be turned in to the SAPD Accounting office for deposit with the City of San Antonio consistent with the Ordinance passed by City Council.
- H. Failure to submit payments as directed may result in a denial of the Academy's range use in the future, as determined by the Training Academy's Commander.

.03 Range Facilities:

- A. Use of the Firing Range Facilities include the classroom (if requested) and a range bay (10 shooting positions), or the rifle range.
- B. An SAPD firearms instructor is available to assist with logistic needs as required.
- C. An SAPD firing range instructor is required for all use of the SAPD Range facilities.
- D. All outside users of the SAPD firing range must supply their own weapons, ammunition, targets, target backers, and instructors.

**Resource Management Division
Police Academy Section
Standard Operation Procedure**

SECTION:	Operations	PROCEDURE NO: 211.00
DATE ISSUED:	March 31, 2004	PAGE: 1 of 4
SUBJECT:	Lease of Academy space- License Agreements	

Responsibility: To establish guidelines for the use of the San Antonio Police Academy facility for the purpose of conducting training, by Independent Training Providers.

Task:

.01 Use of SAPD Facilities:

- A. The primary use of the SAPD Training Academy facilities will be for active and retired SAPD police officers and cadets, and other City of San Antonio law enforcement agencies.
- B. The City of San Antonio, through City Ordinance # _____, passed _____ (Date) _____, has established approval for independent Training Providers that provide law enforcement training for a fee, to request and receive permission to use the various facilities at the SAPD Training Academy on a fee basis.
- C. Independent Training Providers include the Alamo Area Council of Governments (AACOG), the Texas Municipal Police Association, and other entities that provide training to law enforcement officers for a fee.
- D. All requests received pursuant to this procedure (fee basis) received from an independent Training Provider for use of the Training Academy's facilities, will be submitted in writing for review and approval.
- E. Use of the Training Academy facility for all requests will be based on a space-available basis, and may include a review of the proposed training to determine its appropriateness.
- F. Based upon the Training Academy Commander's review and approval of a request for the use of Training Academy facility space, Independent Training Providers may enter into a license agreement, and may be charged a fee for the requested facility utilization.
- G. The determination of when a fee applies will be based on the Training Academy Commander's review of the request.

- H. License agreements are short-term in nature and may run for a period of days, weeks, or on an annual basis. The license agreement approved by City of San Antonio City Council will outline specific requirements related to Facility Use, Indemnities, Insurance Requirements, and Fees.
- I. Additional requirements related to this procedure will be outlined in documents titled "Facility use Agreement (Rules)", "Hold Harmless Agreement", and a "Request for Facility Use." These documents are provided to Independent Training Providers upon their request for use of the SAPD Training Academy facility.,
- J. Pursuant to any annual license agreement between the City of San Antonio SAPD Training Academy and an Independent Training Provider, the Independent Training Provider will receive priority in the granting of requests for the use of the Training Academy facilities when a conflict arises pursuant to this procedure.
- K. All training and use of the Training Academy's facilities must conform with the Academy's design, specifications, policies and procedures, and intended use.
- L. Unauthorized training or use of the Training Academy's facilities may result in denial of future use of the Training Academy's facilities.

.02 Submission and Receipt of Facility Use Requests

- A. All requests for the use of SAPD Training Academy facilities must be presented in writing to the Training Academy Commander or his designee.
- B. The Academy Commander, or his designee, will provide the independent training provider a license agreement, along with a copy of the Facility Use Agreement (Rules), a Hold Harmless Agreement, and a Request for Facility use that details the request, the intended training, and any request for assistance with presentation equipment.
- C. The Academy Commander, or his designee, will determine the appropriateness of the training to be provided.
- D. The request for the use of the Academy's facilities will not be approved until the required documents have been filled out, signed, and returned to the Training Academy for review and approval.

- E. When appropriate, as determined by the Training Academy Commander, a license agreement may be entered into between the SAPD Training Academy and the Independent Training Provider.
- F. Under these circumstances, a copy of the license agreement will be supplied to the Independent Training Provider for review and signature.
- G. All signed license agreements will be retained in the Training Academy's files for future review.

.03 Fee Schedule

- A. For the use of the SAPD Training Academy facility by Independent Training Providers:
 - 1. All training will be conducted during the SAPD Training Academy's normal business hours (0745-1630, Monday through Friday) unless otherwise authorized by the Training Academy Commander.
 - 2. Fees are based on a daily use and include any portion of a day.
 - 3. The Training Academy's facilities and corresponding fees are as follows:

- Firing Range (including rifle range)	\$150.00
- Classroom (seat 24-48 students)	\$125.00
- Driving Track (does not include SAPD vehicles)	\$125.00
- Gymnasium	\$100.00
- Tactical Village	\$100.00
- B. The Training Academy staff will maintain a log of all use of the Training Academy's facilities by Independent Training Providers. The administrative supervisor will be responsible to send a letter to any Independent Training Provider that uses the Training Academy's facilities following the completion of the license term, or at the end of the month for leases that continue beyond one week, detailing the use of the Academy's facilities and the appropriate fees resulting from such use. Only those that utilize the Training Academy's facilities each month will be notified of fees due.
- C. The letter will be sent under the authority and signature of the Training Academy Commander.
- D. Independent Training Providers will be directed to submit payment to the Training Academy on a check made payable to the City of San Antonio, and to submit such payment within 30 days of receipt.

- E. All payments will be made in form of a check, cashier's check, or money order made payable to the City of San Antonio. Cash will not be accepted by the Training Academy.
- F. All payments received by the Training Academy pursuant to this procedure will be turned in to the SAPD Accounting office for deposit with the City of San Antonio consistent with the Ordinance passed by City Council.
- G. Failure to submit payments as directed may result in a denial of the Academy's facility's use in the future, as determined by the Training Academy's Commander.

CITY OF SAN ANTONIO
SHORT TERM LICENSE AGREEMENT FOR RENTAL OF POLICE TRAINING ACADEMY
Classrooms, Gymnasium, Shooting Bay, Driving Track, Tactical Village

San Antonio Police Training ACADEMY
12200 S.E. Loop 410
San Antonio, Texas 78221-4100

This License Agreement ("*LICENSE*") is made and entered into by and between the City of San Antonio ("*CITY*") a municipal corporation of the State of Texas, acting by and through its Commander of the Police Training Academy, ("*COMMANDER*") and _____, hereinafter called *LICENSEE*, for the following express purposes and conditions, all of which *LICENSEE* hereby covenants and agrees with *CITY* to keep and perform:

I. PAYMENT TO CITY AND GRANT AND TERM OF LICENSE

1.1 That *CITY*, for and in consideration of the License Fee, covenants and promises herein contained to be kept, performed and observed by *LICENSEE*, does hereby agree to furnish certain space to *LICENSEE*, hereinafter called *LICENSED PREMISES* or *PREMISES*, located in the San Antonio Police Training Academy ("*ACADEMY*"), City of San Antonio, Bexar County, Texas, as designated below, and *LICENSEE* agrees as consideration hereof and as payment, in advance of the date of the use of the *LICENSED PREMISES*, for the right herein granted to use the *PREMISE* for *LICENSEE*'s event:

Commencement Date/Time ("Term")

Date: _____

Time: _____

Licensed Premises ("space")

License Fee:

\$ _____
\$ _____
\$ _____
\$ _____
\$ _____

1.2 The License Fees are shown on Attachment I- Space Usage and are stated a per day basis. *LICENSEE* understands and agree to pay the full day License Fee for any portion of a day for which any or all of the respective *LICENSED PREMISES* are used by *LICENSEE*.

II. USE OF LICENSED PROPERTY AND EQUIPMENT/*CITY*'s SUPERIOR INTEREST

2.1 The *LICENSED PREMISES* and equipment shall be used for the purpose of authorized training and for no other purpose without the prior written consent of the *CITY*. *CITY* reserves the right to review the intended use of the *LICENSED PREMISES*. *LICENSEE* may not use the *LICENSED PREMISES* for any purpose other than that specifically agreed to by *CITY*.

2.2 **PERSONNEL AND EXCLUSIVE SERVICES.** *LICENSEE* shall employ sufficient qualified personnel as may be required for the proper use and occupancy of the *ACADEMY* including, but not limited to, registration personnel, security guards and paramedics and any other personnel deemed necessary by the *COMMANDER*. *LICENSEE* agrees that each person employed by *LICENSEE* to provide services in the *ACADEMY* will at all times maintain a neat and clean appearance and conduct himself/herself in a polite and professional manner. *LICENSEE* agrees to replace any such employee failing to do so upon notice by *COMMANDER*.

2.3 ***CITY*'s SUPERIOR INTEREST/CONTROL OF PREMISES AND *ACADEMY*.** *LICENSEE* acknowledges that this *License* is in the nature of a privilege to use the *Premises*, and, therefore, is revocable by *CITY*, and *CITY* does not purport to convey any real property interest in any of the property over, under or upon the *Premises*. *CITY* reserves the right to enter upon the *Licensed Premises* at any time for asserting its superior real property interests or for emergency purposes. In furnishing the *LICENSED PREMISES*, *CITY* reserves the right to control the management thereof, and to enforce all necessary and proper rules for the management and operation of said premises and the *ACADEMY*.

2.4 REMOVAL OF INSTALLATIONS, EXHIBITS, AND ALL OTHER PROPERTY. All installations, exhibits, training materials, and all other property (collectively "property") shall be removed from the *LICENSED PREMISES* on or before the expiration of the Term hereof. In the event that the above stated area is not vacated and property of *LICENSEE* removed by *LICENSEE*, including *LICENSEE*'s personnel, on the date above named, *CITY* is hereby authorized to remove from the *LICENSED PREMISES* and to store at the expense of *LICENSEE* all property of any and all kinds and description which may then be occupying said *LICENSED PREMISES*. *CITY* shall not be liable for any damages to or loss of such property which may be sustained due to such removal or resulting from the place to which it may be removed. *CITY* is hereby expressly released from any and all claims for any damages of whatever kind or nature.

2.5 ALTERATIONS. *LICENSEE* will not cause or permit any nails or any other things to be driven into any portion of the *ACADEMY*, nor cause or permit any changes, alterations, repairs, painting or staining of any part of the *LICENSED PREMISES* or furnishing or the equipment thereof, nor do or permit to be done anything which will damage or change the finish or appearance of the *ACADEMY* or the furnishings thereof. TAPE OR OTHER ADHESIVE MATERIALS MAY NOT BE APPLIED TO WALLS OR OTHER SURFACES OF THE *LICENSED PREMISES* WITHOUT THE PRIOR WRITTEN APPROVAL OF *COMMANDER*. ALL PRODUCTS THAT CREATE A SUBSTANTIAL RISK OF DAMAGE OR EXCESSIVE LITTER ARE PROHIBITED. *LICENSEE* will pay the costs of repairing any damages which may be done to the *LICENSED PREMISES* or any of the fixtures, furniture or furnishings thereof by an act of *LICENSEE* or any of *LICENSEE*'S employees or agents or anyone visiting the *LICENSED PREMISES* upon the invitation of *LICENSEE*, including the participants and attendees of the presentation of *LICENSEE*. *COMMANDER* shall determine whether any damage has been done, the amount of the damage, the reasonable cost of repairing it, and whether, under the terms of this *LICENSE*, *LICENSEE* is to be held responsible.

2.6 SEATING CAPACITY. In no event shall attendance at an event be in excess of the designated capacity as determined by *CITY*'s Fire Marshall.

2.7 AISLES AND ALL ACCESS CLEAR. *LICENSEE* will permit no chairs, movable seats or other obstructions to be or remain in the entrances, exits, or passageways and will keep same clear at all times. No portion of the sidewalk, entries, passage, vestibules, halls, elevators, or access to public utilities of said building shall be obstructed by *LICENSEE* or used for any purpose other than for ingress and egress to and from the *LICENSED PREMISES*.

2.8 RESPONSIBILITY FOR DAMAGE. If said *LICENSED PREMISES*, or any portion of the *ACADEMY*, during the Term of this *LICENSE* shall be damaged by the act, default or negligence of *LICENSEE*, or of *LICENSEE*'s agents, officers, directors, representatives, employees, consultants, subconsultants, sublicensees of *LICENSEE*, contractors, subcontractors, volunteers, invitees, participants, attendees or any person admitted to the *LICENSED PREMISES* by *LICENSEE*, *LICENSEE* will pay to *CITY*, upon demand, such sum as shall be necessary to restore said *LICENSED PREMISES* to its present condition. *LICENSEE* hereby assumes full responsibility for the character, acts and conduct of all persons admitted to said *LICENSED PREMISES*, or to any portion of the *ACADEMY* with the consent of *LICENSEE*'s employees or any person acting for or on behalf of *LICENSEE*.

2.9 SECURITY PERSONNEL. As a condition of the granting of this *LICENSE*, *LICENSEE* agrees to provide adequate security at all times if deemed necessary by the *COMMANDER*. Security arrangements must be made through the *COMMANDER*.

2.10 *LICENSEE*'S REPRESENTATIVE. A representative of *LICENSEE* approved by *COMMANDER* or his designee shall remain on the *PREMISES* during the Term hereof and until all participants, attendees and the public have left the *PREMISES*.

2.11 RESERVED RIGHTS. *CITY* reserves the sole and exclusive right to sell or serve on, in or about the *LICENSED PREMISES* any soft drinks, food, souvenirs, or other merchandise, or *CITY* may grant all concession rights to any party or parties designated by *CITY*, and no food or beverage, samples or otherwise, may be served or distributed by *LICENSEE* without the prior written consent of *CITY*. *CITY* likewise reserves the right, through its *COMMANDER*, his designee or *CITY*'S Police Officers, to eject any objectionable persons from the *ACADEMY* and upon the exercise of this authority, *LICENSEE* hereby waives any right and all claims for damages against *CITY*, or any of its agents, officials, or employees.

III. INDEMNITY

3.1 LICENSEE COVENANTS AND AGREES TO FULLY INDEMNIFY AND HOLD HARMLESS, CITY AND THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, AGENTS, CONTRACTORS, SUBCONTRACTORS, OTHER LICENSEES, SUBLICENSEES, LESSEES, SUBLESSEES, CONSULTANTS, SUBCONSULTANTS, INVITEES, VOLUNTEERS, UTILITY PROVIDERS, SERVICE PROVIDERS, AND REPRESENTATIVES OF CITY, INDIVIDUALLY OR COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING BUT NOT LIMITED TO, BODILY INJURY OR DEATH AND PROPERTY DAMAGE, MADE UPON CITY, DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO LICENSEE'S ACTIVITIES CITY'S ACTIVITIES OR THIRD PARTY'S ACTIVITIES UNDER THIS LICENSE AGREEMENT, INCLUDING ANY ACTS OR OMISSIONS OF LICENSEE, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT, SUBCONSULTANT, SUBLICENSEE OF LICENSEE, CONTRACTORS, SUBCONTRACTORS, VOLUNTEERS, INVITEES, PARTICIPANTS, AND ATTENDEES AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES WHILE IN THE EXERCISE OR PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS LICENSE, ALL WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. LICENSEE SHALL PROMPTLY ADVISE CITY IN WRITING OF ANY CLAIM OR DEMAND AGAINST THE CITY OR LICENSEE KNOWN TO LICENSEE RELATED TO OR ARISING OUT OF LICENSEE'S ACTIVITIES INCLUDING THOSE NAMED ABOVE, (AGENTS, ETC.), CITY'S ACTIVITIES OR THIRD PARTY'S ACTIVITIES UNDER THIS LICENSE AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT LICENSEE'S COST. CITY SHALL HAVE THE RIGHT, AT ITS OPTION AND AT ITS OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING LICENSEE OF ANY OF ITS OBLIGATIONS UNDER THIS PARAGRAPH. NOTWITHSTANDING ANY CONDITION IMPOSED BY A POLICY OF INSURANCE TO WHICH LICENSEE AND CITY ARE NAMED, CITY SHALL RETAIN THE RIGHT, AT ITS OPTION AND AT ITS OWN EXPENSE, TO PARTICIPATE IN ANY SUCH DEFENSE PROVIDED BY LICENSEE OR LICENSEE'S AGENT UNDER THIS ARTICLE.

3.2 IT IS THE EXPRESS INTENT OF THE PARTIES TO THIS LICENSE AGREEMENT, THAT THE INDEMNITY PROVIDED FOR IN THIS ARTICLE, IS AN INDEMNITY EXTENDED BY LICENSEE TO INDEMNIFY, PROTECT AND HOLD HARMLESS CITY FROM THE CONSEQUENCES OF CITY'S OWN NEGLIGENCE, PROVIDED, HOWEVER, THAT THE INDEMNITY PROVIDED FOR IN THIS ARTICLE SHALL APPLY ONLY WHEN THE NEGLIGENT ACT OF CITY IS A CONTRIBUTORY CAUSE OF THE RESULTANT INJURY, DEATH OR DAMAGE, AND SHALL HAVE NO APPLICATION WHEN THE NEGLIGENT ACT OF CITY IS THE SOLE CAUSE OF THE RESULTANT INJURY, DEATH OR DAMAGE. LICENSEE FURTHER AGREES TO DEFEND, AT ITS OWN EXPENSE AND ON BEHALF OF CITY AND IN THE NAME OF CITY, ANY CLAIM OR LITIGATION BROUGHT AGAINST CITY AND ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES, IN CONNECTION WITH ANY SUCH INJURY, DEATH OR DAMAGE FOR WHICH THIS INDEMNITY SHALL APPLY AS SET FORTH ABOVE.

IV. INSURANCE REQUIREMENTS

4.1 Prior to the commencement of any work, including installation of any exhibits or other property, including any "set-up" for a presentation, under this LICENSE, LICENSEE shall furnish an original completed Certificate(s) of Insurance to CITY's ACADEMY and City Clerk's Office, which shall be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon, and which shall furnish and contain all required information referenced or indicated thereon. The original certificate(s) must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed directly from the agent to CITY. CITY shall have no duty to pay or perform under this LICENSE until such certificate shall have been delivered to the CITY's ACADEMY and the City Clerk's Office, and no officer or employee, other than the CITY's Risk Manager, shall have authority to waive this requirement.

4.2 *CITY* reserves the right to review the insurance requirements of this ARTICLE during the effective period ("Term") of this *LICENSE* and any extension or renewal hereof and to modify insurance coverage and their limits when deemed necessary and prudent by *CITY's* Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this *LICENSE*, but in no instance will *CITY* allow modification whereupon *CITY* may incur increased risk.

4.3 *LICENSEE'S* financial integrity is of interest to *CITY*, therefore, subject to *LICENSEE's* right to maintain reasonable deductibles in such amounts as are approved by *CITY*, *LICENSEE* shall obtain and maintain in full force and effect for the duration("Term") of this *LICENSE*, and any extension hereof, at *LICENSEE's* sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and rated A- or better by A.M. Best Company and/or otherwise acceptable to *CITY*, in the following types and amounts:

<u>TYPE</u>	<u>AMOUNT</u>
1. Worker's Compensation* Employer's Liability*	Statutory \$500,000/\$500,000/\$500,000
2. Commercial General (public) Liability Insurance to include Coverage for the following: a. Premises operations b. Independent contractors** c. Products/completed operations d. Personal Injury e. Contractual liability f. Explosion, collapse, underground** g. Broad form property damage, to include fire legal liability	For Bodily and Property Damage of \$1,000,000 per Occurrence with a \$2,000,000 General Aggregate, or its equivalent in umbrella or excess liability coverage
3. Business Automobile Liability a. Owned/lease vehicles b. Non-owned vehicles c. Hired vehicles	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence

* Any alternate plan for Worker's Compensation and Employer's Liability must be approved in advance by *CITY's* Risk Manager. Alternate plans will not be allowed or accepted during any periods of *LICENSEE's* construction work, if any, on or about the *PREMISES*, whether authorized or unauthorized hereunder.

** If applicable.

4.4 *CITY* shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements thereto as they apply to the limits required by *CITY*, and may make a reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Upon such request by *CITY*, *LICENSEE* shall exercise reasonable efforts to accomplish such changes in policy coverage and shall pay the cost thereof.

4.5 *LICENSEE* agrees that, with respect to the above required insurance, all insurance agreements and Certificate(s) of Insurance will contain the following required provisions:

Name *CITY*, its elected officials, employees, agents, officers, directors, consultants, subconsultants, contractors, subcontractors, volunteers, representatives, and invitees as additional insured with respect to operations and activities of, or on behalf of, the named insured performed under agreement with *CITY*, with the exception of the workers' compensation and professional liability policies;

"It is agreed that any insurance provided by *LICENSEE* is primary to any insurance or self-insurance maintained by the CITY OF SAN ANTONIO."

"It is agreed that any insurance or self-insurance maintained by the CITY OF SAN ANTONIO shall apply in excess of, or not contribute with insurance provided by this policy."

Workers' compensation and employers' liability policy will provide a waiver of subrogation in favor of *CITY*.

4.6 *LICENSEE* shall notify *CITY* in the event of any notice of cancellation, non-renewal or material change in coverage and shall give such notices not less than thirty (30) days prior to the change, or ten (10) days notice for cancellation due to non-payment of premiums, which notice must be accompanied by a replacement Certificate of Insurance. All notices shall be given to *CITY* at the following address:

City of San Antonio
12200 S.E. LOOP 410
San Antonio, Texas 78221-4100

City Clerk
P.O. Box 839966
San Antonio, Texas 78283-3966

4.7 Nothing herein contained shall be construed as limiting, in any way, the extent to which *LICENSEE* may be held responsible for payments of damages to persons or property resulting from *LICENSEE'S* agents, officers, directors, representatives, employees, consultants, subconsultants, sublicensees of *LICENSEE*, its contractors, subcontractors, volunteers, invitees, participants, attendees, sublicensees or any person admitted to the *LICENSED PREMISES* by *LICENSEE* of the matters covered under this *LICENSE*.

V. COPYRIGHT INDEMNIFICATION

5.1 ***LICENSEE AGREES TO ASSUME FULL RESPONSIBILITY FOR COMPLYING WITH THE FEDERAL COPYRIGHT LAW OF 1978 (17 U.S.C. 101, ET SEQ, AS AMENDED,) AND ANY REGULATIONS ISSUED THEREAFTER INCLUDING, BUT NOT LIMITED TO, THE ASSUMPTION OF ANY AND ALL RESPONSIBILITIES FOR PAYING ROYALTIES WHICH ARE DUE FOR THE USE OF COPYRIGHTED WORKS IN LICENSEE'S PERFORMANCES OR EXHIBITIONS TO THE COPYRIGHT OWNER, OR REPRESENTATIVES OF SAID COPYRIGHT OWNER, AND LICENSEE AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS CITY, ITS OFFICERS, EMPLOYEES AND AGENTS, FOR ANY CLAIMS, LOSSES, EXPENSES OR DAMAGES GROWING OUT OF LICENSEE'S INFRINGEMENT OR VIOLATION OF THE COPYRIGHT LAW AND/OR REGULATIONS.***

VI. LAW OBSERVANCE/TAXES

6.1 *LICENSEE* shall not do, nor suffer to be done, anything on the *LICENSED PREMISES*, during the Term of this *LICENSE*, in violation of the laws of the United States, the State of Texas, or any of the ordinances of *CITY* or Bexar County, Texas, including, but not limited to, license requirements of *CITY* such as the itinerant vendors license required by Chapter 16, Article VI, of the City Code of the City of San Antonio, applicable to persons operating a temporary or transient business for selling and delivering goods, wares or merchandise in *CITY*, and issued through the office of the City Treasurer (210) 207-8667. Further, *LICENSEE* shall obey all rules and regulations of *CITY* for the government and management of the *ACADEMY*, together with all rules and requirements of the police and fire departments of *CITY*. *LICENSEE* agrees that every employee, agent or invitee connected with the purpose for which the Premises are licensed shall abide by, conform to and comply with all and any such rules, laws, and ordinances. If the attention of said *LICENSEE* is called to such violations, *LICENSEE* will immediately desist from and correct such violations.

6.2 If actual sales are made on the *LICENSED PREMISES*, *LICENSEE* must inform each seller of the applicable sales tax. This rate is subject to change and *LICENSEE* must check with the Local State Comptroller's Office (1-800-252-5555) prior to show date to ascertain the current rate. Additionally, *LICENSEE* is responsible for ensuring that said *LICENSEE* or those selling under *LICENSEE* possesses a sales permit number prior to the start of the event.

VII. ATTORNEY'S FEES

7.1 If *CITY* is required to file suit to collect any License Fee or other amount owed to *CITY* under this *LICENSE* for *LICENSEE'S* use of the *LICENSED PREMISES*, *CITY* shall be entitled to collect reasonable attorney's fees.

VIII. NON-DISCRIMINATION

8.1 *LICENSEE*, its agents, and employees agree not to discriminate on account of race, color, religion, national origin, gender, or handicapped condition in the use of or admission to the *LICENSED PREMISES*.

IX. PERFORMANCE QUALITY

9.1 *LICENSEE* hereby agrees that no activity, event, performance, exhibition or entertainment (collectively "*presentation*") shall be given or held or take place in the *LICENSED PREMISES* herein described which is potentially dangerous to the public or which is illegal, indecent, obscene, lewd, immoral, or in any manner offensive to persons of ordinary sensibilities and should any presentation or any part thereof be deemed by *COMMANDER* to be dangerous, illegal, indecent, obscene, lewd, immoral or in any manner offensive to persons of ordinary sensibilities, then said *COMMANDER* shall have the right to demand of *LICENSEE* that *LICENSEE* immediately, upon receipt of such notice, cease its *presentation*, or make the changes demanded by the *COMMANDER*.

X. ABANDONED ITEMS

10.1 *CITY* shall have the sole right to collect and have custody of articles left in the *ACADEMY* by persons attending any presentation given or held on the *LICENSED PREMISES*. *LICENSEE* agrees to hold *CITY* harmless for dispensing of said articles not claimed within 24 hours after the end of the presentation, and *CITY* may sell same at a public or private sale without notice to *LICENSEE*.

XI. TERMS USED

11.1 It is understood that whenever this *LICENSE* authorizes or requires *CITY* to take any action, it may be done by *COMMANDER*, his designee or by other persons designated by the City Manager, unless the City Charter requires that the City Manager take such action or that the City Council approve such action.

XII. CANCELLATION BY CITY

12.1 Violation by *LICENSEE* of any covenant, agreement or condition contained herein shall be cause for termination hereof by *CITY*. In such a case, *LICENSEE* forfeits any payment already made and is entitled to a refund only if the canceled space is re-booked to another party. In addition, *CITY* may likewise terminate this *LICENSE* if the *LICENSEE* should, prior to the date of occupancy thereunder, violate any covenant, agreement, or condition in any other agreement which the *LICENSEE* might have for use of the *ACADEMY* or should a court having jurisdiction over *LICENSEE* take its assets pursuant to proceedings under the provisions of any Federal or State reorganization code or act. Written notice of such cancellation will be given to *LICENSEE* by *COMMANDER*. *LICENSEE* waives any and all claims for damages against *CITY* resulting from such cancellation.

XIII. NO WAIVER

13.1 No waiver by *CITY* of any default or breach of any covenant, condition, or stipulation herein contained shall be treated as a waiver of any subsequent default or breach of the same or any other covenant, condition, or stipulation hereof.

XIV. IMPOSSIBILITY OF PERFORMANCE

14.1 If the (a) *ACADEMY* or any portion thereof be destroyed or damaged by fire or other calamity so as to prevent the use of the *LICENSED PREMISES* for the purposes and during the periods specified in this *LICENSE*, or (b) if the use of the *LICENSED PREMISES* by *LICENSEE* shall be prevented by an act of God, strike, lockout, material or labor shortage, restrictions by any governmental authority, civil riot, flood, or any other cause beyond the

control of *CITY*, then this *LICENSE* shall terminate. *CITY* shall not be liable or responsible to *LICENSEE* for any damages caused thereby and *LICENSEE* hereby waives any claim against *CITY* for damages by reason of such terminations, except that any unearned portion of the rent due thereunder shall abate, or, if previously paid, shall be refunded by *CITY* to *LICENSEE*.

14.2 Further, *CITY* reserves the right to relocate *LICENSEE* to an alternate space within the *ACADEMY* which is suitable for the use of *LICENSEE* should such relocation become necessary. In the event of such relocation, this *LICENSE* shall continue in full force and effect with the new location substituted for the old location. *CITY* shall use its best efforts to avoid any unnecessary inconvenience to *LICENSEE*.

XV. SEVERABILITY

15.1 In case any one or more of the provisions contained in this *LICENSE* 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 *LICENSE* shall be considered as if such invalid, illegal, or unenforceable provision had never been contained herein.

XVI. NOTICES

16.1 Any notices required or appropriate under this *LICENSE* shall be given in writing to *LICENSEE* at the address shown below, and to City, c/o COMMANDER of Police Training *ACADEMY*, 12000 S.E. Loop 410, San Antonio, Texas, 78221-4100.

XVII. HEADINGS

17.1 The Article headings contained herein are for convenience of reference and are not intended to define, extend, or limit any provisions of this *LICENSE*.

XVIII. NO ASSIGNMENT

18.1 This *LICENSE* is personal to *LICENSEE*. It is nonassignable and any attempt to assign this *LICENSE* will terminate all rights and privileges herein granted.

XIX. TEXAS LAW TO APPLY

19.1 This *LICENSE* will be interpreted according to the Constitution and laws of the State of Texas. Venue of any court action brought directly or indirectly by reason of this *LICENSE* shall be in Bexar County, Texas. This *LICENSE* is made and is to be performed in Bexar County, Texas, and is governed by the laws of the State of Texas.

XX. ENTIRE AGREEMENT

20.1 This *LICENSE* contains the final and entire agreement between the parties hereto and contains all of the terms and conditions agreed upon, and supersedes all other agreements, oral or otherwise, regarding the subject matter of this *LICENSE*, none of which shall hereafter be deemed to exist or to bind the parties hereto; it being the intent of the parties that neither shall be bound by any term, condition, or representation not herein written or contained in Addendum(s).

XXI. AUTHORIZED AGENT

21.1 The signer of this *LICENSE* for *LICENSEE* hereby represents that he or she has full authority to execute this *LICENSE* on behalf of *LICENSEE*.

CITY OF SAN ANTONIO ("CITY")

LICENSEE:

By: _____
Commander
Police Training Academy
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

**ATTACHMENT 1
SPACE USAGE**

SPACE	LICENSE FEE
Firing Range	\$150.00
Tactical Village	\$100.00
Gymnasium	\$100.00
Driving Track	\$125.00
Classroom Space	\$125.00
*All costs are based on a per day or portion of a day basis	

Funds receivable as a Licensee Fee are to be deposited, upon receipt, thusly:

1. Miscellaneous Revenue – Use of Academy Classroom Space, Tactical Village and Gymnasium to Index Code 020230 (Police Academy Classroom Space, Tactical Village and Gymnasium Fee)
2. Miscellaneous Revenue-Use of Driving Track to Index Code 023283 (Police Academy Driving Track Fee)
3. Miscellaneous Revenue-Use of Firearms (“Firing”) Range to Index Code 023069 (Police Academy Firing Range Fee).