

STATE OF TEXAS §
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COUNTY OF DALLAS §

LEASE AGREEMENT

THIS AGREEMENT is made and entered into on the last date of signing below (the "Effective Date") and is by and between the CITY OF ROWLETT, TEXAS (hereinafter called "City"), a home rule municipal corporation, and the ROWLETT CHAMBER OF COMMERCE (hereinafter called "Chamber").

Section 1. Leased Premises. City hereby leases to Chamber the old First Christian Church building located at 4418 Main Street, Rowlett, Texas. The Premises are being leased "as is" "and "with all faults," and the City makes no warranty of any kind, express or implied, with respect to the Premises. Without limiting the generality of the preceding sentence, it is expressly agreed that the City makes no warranty as to the marketability, habitability or fitness for any particular purpose of the Premises.

Section 2. Lease Term. The initial term of this Lease ("Initial Term") is for a period of five (5) years beginning on the Effective Date, with one 5-year renewal option. Not less than 90 days prior to the expiration of the Initial Term of this Lease, the Chamber shall give the City written notice of its intent to renew the lease for the 5-year Renewal Term, with the rent to be due on a monthly basis from the Chamber to the City in an agreed amount. If such notice is not given to the City at least 90 days before the expiration of the Initial Term, the Lease shall be considered terminated upon the expiration of the Initial Term. If written notice of renewal is given, the parties shall renegotiate the terms hereof and the renewal shall be upon such conditions as the parties may agree. If no agreement is made, this Lease shall terminate upon the expiration of the Initial Term.

Section 3. Rent, Taxes. The parties hereto agree that for the Initial Term, the rent due from the Chamber to the City shall be One Dollar (\$1.00) per year. The Chamber shall use and occupy the premises for its own use and such demised premises shall not be used for any other purpose other than as the office and other activities of the Rowlett Chamber of Commerce unless specifically agreed to in writing by the City. City and Chamber understand that the City's fee estate in the Premises should be exempt from ad valorem taxation. If for any reason during the Initial or Renewal Term all or any part of the Premises become subject to ad valorem taxes or any other impositions, payment of same shall in all events be the exclusive liability of Chamber. The City agrees to take all reasonable measures to maintain the tax-exempt status of the Premises.

Section 4. Surrender of Premises. The Chamber covenants that on the last day of term or on the first day of renewal or extension of the term or on the last day of a renewal or extension of term it will peaceably and quietly surrender the demised premises in as good condition as the demised premises is in following the stated improvements, repairs and alterations above with ordinary wear and tear, repairs and replacement required to be made, loss by fire, casualty and causes beyond Chamber's control, excepted. It is understood by the parties that no fixtures attached to the building (air conditioning, plumbing fixtures, etc.) may be removed by the Chamber without the express written consent of the City.

Section 5. Care and Maintenance of Premises. The parties have agreed to allocate responsibility for the following repairs, maintenance, alterations and/or additions to the demised premises as follows:

Responsibility of City:

1. Exterior maintenance including, but not limited to, the foundation, external insulation, lawn maintenance, roof, walls, porches and landscaping;
2. Waste, wastewater and refuse collection and water service;
3. Heating and air conditioning systems; and
4. Termite inspection and treatment if required; and necessary repairs to building due to

infestation and resultant damage.

Responsibility of Chamber:

1. Interior maintenance including, but not limited to, pest control, interior lighting, painting, appliances and routine maintenance of heating and air conditioning systems;
2. Installation of security alarms and cameras;
3. Janitorial service to maintain the premises in a clean, sightly and healthy condition;
4. Service and maintenance of fire extinguishers as may be required by City ordinance and regulation; and
5. All utilities, other than water, wastewater and refuse collection.

Section 6. Repairs, Alterations, Signage. a) It is understood that the aforesaid list of repairs, maintenance, alterations, or additions to the demised premises constitutes the entire responsibility of each party and that no other repairs, maintenance, alterations, or additions may be made to the demised premises by either party without the prior written consent of the other party. Consent by such party shall not be unreasonably withheld. Interior finish-out and those associated costs is at the Chamber's discretion.

b) Any buildings, improvements, additions, alterations, and fixtures (except furniture and trade fixtures) constructed, placed, or maintained on any part of the Premises during the Lease Term shall be considered part of the real property of the Premises and will be the property of the City and remain on the Premises at the expiration of the term of this Lease, except as otherwise provided herein. So long as no Event of Default exists, the Chamber may, at any time while it occupies the Premises, remove any furniture, machinery, equipment, or other trade fixtures owned or placed by the Chamber in, under, or on the Premises or acquired by the Chamber, whether before or during the Lease Term. The Chamber shall be responsible for repairing any damage to the Premises and to any buildings or improvements on the Premises resulting from the removal. Any such items not removed upon the termination of this Lease will become the City's property on that date.

c) The Chamber may not install or erect any sign on or about the Premises without first obtaining the City's written approval with regard to the size, type, shape, design, color, material, and method of attachment of the sign. The Chamber must, at its sole expense, remove any signs that it installed or erected on or about the Premises and repair any damage done to the Premises by installing, erecting, or removing the signs. This removal and repair must be completed no later than the expiration of the Term, whether Initial or Renewal.

Section 7. Liens. a) The Chamber shall not suffer or permit any mechanics' liens or other liens to be filed against the Premises or against the Chamber's leasehold interest in the Premises. If any lien is filed for labor or materials or other obligations of the Chamber, such lien shall encumber only the Chamber's leasehold interest in the Premises. If any such liens shall be recorded against the Premises, the Chamber shall cause the same to be removed within thirty (30) days after obtaining knowledge thereof; or, in the alternative, if the Chamber desires in good faith to contest the same, the Chamber shall be privileged to do so, but in such case the Chamber shall indemnify and save the City harmless from all liability for damages occasioned thereby and shall, in the event of a judgment of foreclosure on said lien, cause the same to be discharged and removed prior to the execution of such judgment. This provision shall survive a termination of this Lease.

b) In addition to the statutory landlord's lien, the City shall have at all times a valid security interest to secure payment of all rentals and other sums of money becoming due hereunder from the Chamber, and to secure payment of any damages or loss which the City may suffer by reason of the breach by the Chamber of any covenant, agreement or condition contained herein, and the Chamber hereby grants to the City a security interest in all goods, wares, equipment, machinery, fixtures, furniture, improvements and other personal property of the Chamber presently, or which may hereafter be, situated on the Premises, and all proceeds therefrom.

Section 8. Insurance. Throughout the Lease Term, the Chamber shall, at the Chamber's expense,

maintain the following categories of insurance:

a) Commercial general liability insurance for bodily injury, death or property damage, insuring the Chamber and naming the City as an additional insured, against all claims, demands, or actions relating to the Premises on an occurrence basis, issued by and binding upon a solvent insurance company licensed to do business in Texas, with a minimum combined single limit of not less than \$1,000,000 per occurrence for injury to persons (including death), and for property damage or destruction, including loss of use with \$2,000,000 aggregate. In addition to other remedies provided in this Lease, if the Chamber fails to maintain the insurance required by this Section, the City may, but is not obligated to, obtain such insurance and the Chamber shall pay to the City upon demand as additional rental the premium cost thereof from the date of payment by the City until repaid by the Chamber. Such policies shall insure operations hazards, independent contractor hazards, contractual liability and products and completed operation liability, in limits not less than \$1,000,000 combined single limit for each occurrence for bodily injury, personal injury and property damage liability.

b) Property insurance. The Chamber shall at all times during the term of this Lease shall, at its own expense, keep in full force and effect insurance against fire and such other risks as are from time to time included in standard all-risk insurance (including coverage against vandalism and malicious mischief) for the full insurable value of Chamber's merchandise, trade fixtures, furnishings, equipment, improvements and betterments, furniture, supplies and all items of personal property of Chamber located on or within the Leased Premises.

Section 9. Indemnification. THE CITY SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER TO ANY PERSON OR PROPERTY ARISING FROM ANY OCCURRENCE ON THE PREMISES. THE CHAMBER HEREBY WAIVES ALL CLAIMS AGAINST THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO IN THIS SECTION AS "THE CITY") FOR DAMAGE TO ANY PROPERTY OR INJURY TO, OR DEATH OF, ANY PERSON IN, UPON, OR ABOUT THE PREMISES ARISING AT ANY TIME AND FROM ANY CAUSE OTHER THAN SOLELY BY REASON OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CITY. THE CHAMBER, FOR ITSELF AND ITS AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, LICENSEES, CONCESSIONAIRES, INVITEES, SUCCESSORS AND ASSIGNS, EXPRESSLY ASSUMES ALL RISKS OF INJURY OR DAMAGE TO PERSON OR PROPERTY, EITHER PROXIMATE OR REMOTE, RESULTING FROM THE CONDITION OF THE PREMISES OR ANY PART THEREOF. THE CHAMBER AGREES TO INDEMNIFY AND SAVE HARMLESS THE CITY FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION) AND ACTIONS OF ANY KIND ARISING OR ALLEGED TO ARISE BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF PROPERTY OCCURRING ON, IN OR ABOUT THE PREMISES OR BY REASON OF ANY OTHER CLAIM WHATSOEVER OF ANY PERSON OR PARTY OCCASIONED OR ALLEGED TO BE OCCASIONED BY ANY ACT OR OMISSION ON THE PART OF THE CHAMBER OR ANY MANAGER, OFFICER, DIRECTOR, SERVANT, AGENT, EMPLOYEE, REPRESENTATIVE, CONTRACTOR, SUBCONTRACTOR, LICENSEE, CONCESSIONAIRE, INVITEE, SUCCESSOR OR ASSIGN, OR BY ANY BREACH, VIOLATION OR NONPERFORMANCE OF ANY COVENANT OF THE CHAMBER UNDER THIS LEASE, WHETHER SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO THE CONCURRENT NEGLIGENCE OF THE CITY. IF ANY ACTION OR PROCEEDING SHALL BE BROUGHT BY OR AGAINST THE CITY IN CONNECTION WITH ANY SUCH LIABILITY OR CLAIM, THE CHAMBER, ON NOTICE FROM THE CITY, SHALL DEFEND SUCH ACTION OR PROCEEDINGS AT THE CHAMBER'S EXPENSE, BY OR THROUGH ATTORNEYS REASONABLY SATISFACTORY TO THE CITY. THE PROVISIONS OF THIS SECTION SHALL APPLY TO ALL ACTIVITIES OF THE CHAMBER WITH RESPECT TO THE PREMISES, WHETHER OCCURRING BEFORE OR AFTER EXECUTION OF THIS LEASE. THE CHAMBER'S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY THE CHAMBER UNDER THIS LEASE. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS LEASE.

Section 10. Casualty Loss.

a) Damage to Premises. If, during the term of this Lease, any buildings or other improvements situated on the Premises are wholly or partially destroyed or damaged by fire, or any other casualty whatsoever (collectively called a "Casualty") that renders a majority of the premises unsuitable for occupancy, the City may in its discretion declare the Lease terminated, and all parties shall be released from further obligations under this Lease save and except those that survive termination. Alternatively, the City may in its sole discretion repair, replace, restore and reconstruct the improvements in a good and workmanlike manner.

b) Payment of Insurance Proceeds. In the event that proceeds of insurance are to be used by the Chamber to repair, replace, restore or reconstruct improvements destroyed by Casualty ("Restoration"), the following provisions shall pertain:

1) Prior to the commencement of such Restoration, the plans and specifications for the Restoration must be approved by the City;

2) If, in the reasonable judgment of the City, the costs of the Restoration will exceed the amount of the Insurance Proceeds, the Chamber will, upon demand by the City, give satisfactory proof or assurances to the City that the funds required to meet such deficiency (such funds to be provided by the Chamber) are or will be available for such purpose;

3) If at the time of the occurrence of the Casualty, or at any time thereafter during Restoration, there exists a default by the Chamber, or any circumstance which, with the giving of notice or the passage of time, or both, would constitute such a default, then the Chamber shall, if demanded by the City, deliver the Insurance Proceeds to a third party escrow agent designated by the City. In such event, the Insurance Proceeds will be advanced by the Escrow Agent in installments during the period of the Restoration, except for a final installment to be advanced following the period of the Restoration. Each installment (except the final installment) is to be advanced by the Escrow Agent in an amount not to exceed ninety percent (90%) of the value of the work completed since the last prior advance (or since commencement of work, as to the first advance) according to a certificate by an independent supervising architect selected and paid by the City, together with a reasonable showing of bills for labor and material, and evidence satisfactory to the City that no lien affidavit has been filed in the records where the filing of liens for any labor or material in connection with such work are to be filed. The final payment or disbursement of the Insurance Proceeds deposited shall be in an amount sufficient to make the total advance equal to the entire cost of any Restoration, and shall be made upon a proper certificate of completion by an independent architect, but in no event shall the Escrow Agent be required to advance more than the balance of the Insurance Proceeds on deposit. It is expressly agreed that if this Lease shall be terminated for the Chamber's default at any time prior to release or payment to the Chamber of any of the Insurance Proceeds as provided in this Section, all of the Insurance Proceeds not therefore paid for the Restoration shall be the sole property of the City and shall be delivered by the Escrow Agent to the City; and

4) Notwithstanding the occurrence of a Casualty which disrupts the operation of the Premises, the Chamber shall remain obligated to pay rent and all other charges in accordance with the terms of this Lease.

Section 11. Right of Entry. Subject to the Chamber's right of use pursuant to the City's covenant of quiet enjoyment, the City (and its officers, agents, employees and contractors) shall have the right to enter upon the Premises in order (a) to inspect the Premises and the improvements thereon, and (b) to confirm that the Chamber is complying with all of the Chamber's covenants and obligations under this Lease. the City shall not be liable to the Chamber for the exercise of the City's rights under this Section, and the Chamber (for itself and all sub-tenants on the Premises) hereby waives any claims for damages for any injury or inconvenience to or interference with the Chamber's business, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned thereby. Except in cases of emergency,

the City shall limit its access to the Premises to normal business hours and shall give reasonable notice (which notice need not be greater than one (1) business day) of its intention to enter the Premises. the Chamber and each subtenant shall be entitled to designate secure areas within its applicable space to which the City shall not be entitled to access except in cases of emergency or when accompanied by the Chamber or the applicable subtenant.

Section 12. Default. The occurrence of any of the following shall constitute a default under this Lease Agreement:

1. The failure to make a required payment under this Lease within ten (10) days of the due date, and after written notice of said late payment.
2. The violation of any other provision or requirement that is not corrected within thirty (30) days after notice of the violation has been given.

If the Chamber is in default under this Lease and after City has provided thirty (30) days written notice of default, the City may take possession of the property as provided by law, deduct the cost of recovery, including attorney fees and legal costs, repair and related costs, and hold the Chamber obligated to release the property, or otherwise mitigate the damages from the default, only as required by law.

Section 13. Notices. Any notice provided for herein shall be given electronically, by facsimile transmission, or by written instrument, personally delivered or sent by U.S. Mail, postage prepaid, to

If intended for City, to:

City of Rowlett
4000 Main Street
Rowlett, Texas 75088
Attn: City Manager

If intended for Chamber, to:

Rowlett Chamber of Commerce
4418 Main Street
Rowlett, Texas 75088

Section 14. Force Majeure. If a party's obligations under this Lease are delayed by an event of force majeure, that party shall provide written notice thereof to the other party within ten (10) days following the event, and the failure to provide such notice shall be a waiver of the ability to claim a force majeure delay. An equitable adjustment in time for performance shall be made for delays if such delay or failure to perform is caused, prevented, or restricted by an event of force majeure.

Section 15. Assignment, Subletting. The Chamber shall not assign, in whole or in part, this Lease, or allow it to be assigned, in whole or in part, by operation of law or otherwise or mortgage or pledge the same, or sublet the Leased Premises, in whole or in part, without the prior written consent of the City, and in no event shall any such assignment or sublease ever release the Chamber from any obligation or liability hereunder. No assignee or sublessee of the Leased Premises or any portion thereof may assign or sublet the Leased Premises or any portion thereof. City shall have the right to sell, transfer or assign, in whole or in part, its rights and obligations under this Lease and in the Leased Premises. Any such sale, transfer or assignment shall contain provisions that such owner, transferee, or assignee shall assume the obligations of the terms and conditions of this Lease Agreement.

Section 16. No Joint Venture. The relationship between the City and the Chamber at all times shall remain solely that of landlord and tenant and not be deemed a partnership or joint venture for ant purposes.

Section 17. Immunities and Defenses. Nothing in this Lease shall be deemed a waiver or release of either of the parties defenses or immunities, whether sovereign, governmental, official, qualified or otherwise, all such defenses and immunities being expressly retained. The Lease of the Premises hereunder is not a proprietary function of the City, it being found and determined by the City that the lease of City-owned Premises to the Chamber is an exercise of a governmental function, intended to advance the City's goals of economic development and prosperity, the improvement and protection of the community, and the protection and preservation of the public welfare. Nothing contained in this Lease shall be deemed or otherwise construed to grant or confer any rights or interest to any person not a party to this Lease, and there are no third-party beneficiaries hereto.

Section 18. No Waiver. No waiver by either party of any default or breach of any covenant, condition, or stipulation contained in this Agreement shall be treated as a waiver of any subsequent default or breach of the same or any other covenant, condition, or stipulation of this Agreement.

Section 19. Governing Law. This Agreement shall be construed under, and in accordance with, the laws of the State of Texas, and all obligations of the parties created by this Lease are performable in Dallas County, Texas.

Section 20. Legal Construction. In case any one or more of the provisions contained in this Lease 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 of the Lease, all such provisions being severable, and this Lease shall be construed as if such invalid, illegal, or unenforceable provision had never been included in this Lease.

Section 21. Entire Agreement. It is expressly agreed by Chamber, as a material consideration for the execution of this Lease, with the specific references to extrinsic documents, is the entire agreement of the parties; that there are, and were, no verbal representations, warranties, understandings, stipulations, agreement or promise pertaining to the subject matter of this Lease or of any expressly mentioned extrinsic documents that are not incorporated in writing in this Lease or in such documents.


Section 22: Amendment. This Lease may not be altered, waived, amended or extended except by an instrument in writing signed by City and Chamber.

EXECUTED the day and year first above written.

CITY OF ROWLETT, TEXAS


Tammy Dana-Bashian, Mayor

ATTEST:


City Secretary

APPROVED AS TO FORM:


City Attorney

ROWLETT CHAMBER OF COMMERCE

By: 
Michael Gallops, President/CEO