

B. Economic Development Programs:

- (1) Develop and host educational programs for the business community to help local businesses develop new markets;
- (2) Promote City events on request such as Liberty Fest, Christmas in the Park, Veterans Celebration, etc.
- (3) Inventory and distribute Farmers Branch literature at Chamber offices, at Chamber functions and via requests.

C. Administration: Assist City in administration of certain business development activities of events including:

- (1) Process business and residential relocation inquiries;
- (2) Organize City related events such as Mayor's Forum; and
- (3) Provide updates to City on request.

ARTICLE 3 – Service Fee; Payment; Audit

(A) For the design, development and implementation of the programs enumerated in Article 2, City shall pay the Chamber an amount not to exceed \$7500.00 (“the Service Fee”). The Service Fee shall be paid in two equal installments of \$3750.00 each, with such installments to be paid upon receipt of a statement (1) upon the Effective Date of this Agreement and (2) not earlier than March 1, 2014, respectively, subject to Subsection (B), below.

(B) Payment of each installment of the Service Fee shall be made only following receipt of a statement from Chamber, and, then, only if Chamber is current on delivery of all monthly financial statements, the Annual Business Plan, and the Annual Report of program activity to the City Manager. Not later than 30 days after the end of each calendar month, Chamber shall deliver to City a monthly financial report which shall, as a minimum, include statements of revenues and expenses and program results for the month covered by the report and year to date. Expenditure information shall include donated (in-kind) services and materials related to funded projects or programs. The Chamber shall also deliver to the City Manager its Annual Business Plan and the Annual Report of program activity not later than 10 days after said documents have been submitted to and accepted by the Chamber's board of directors. In the event the Chamber has not delivered to the City Manager an approved Annual Business Plan or Annual Report on or before the March 1, 2014, installment of the Service Fee is to be paid, City may withhold said installment until such Plan and/or Report are delivered.

(C) City shall not be required to make any payment pursuant to this Agreement while there is pending any uncured defaults of this Agreement for which City has provided notice to the Chamber. Within 90 days of the Chamber's fiscal year ending December 31, 2014, a financial statement prepared by a Certified Public Accountant of all activities funded by this

agreement shall be provided to City. Such statement shall provide sufficient information so as to support the accuracy of the monthly financial report. This section shall survive the expiration of the term of this Agreement.

ARTICLE 4 –Assumption of Liability; Indemnification

Chamber agrees to assume and does hereby assume all responsibility and liability for damages sustained by persons or property, whether real or asserted, in connection with the performance of services performed and to be performed hereunder. **Chamber covenants and agrees to, and does hereby indemnify and hold harmless City and all of its officers, agents, and employees from all suits, action, or claims of any character brought for or on account of any injuries or damages, whether real or asserted, sustained by any person or property by or in consequence of any negligent omission, act or conduct of Chamber, its agents, servants or employees.** The covenants and liabilities of Chamber pursuant to this Article 4 shall not terminate with the termination or expiration of this Agreement.

ARTICLE 5 - Notice of Termination; Refunds

This Agreement may be canceled and terminated by either Party upon giving thirty (30) days written notice to the other Party. Said thirty (30) days shall commence upon receipt of such notice by the addressee and shall conclude at midnight of the 30th day thereafter. Prorated funding returned to City by Chamber or additional funds due the Chamber (not to exceed the budgeted amounts set forth in Article 3 (A)) shall be determined on the basis of the actual services provided and the actual costs incurred as of the effective date of the termination. Upon payment or tender of such amount, all of City's obligations hereunder shall be discharged and terminated and no action shall lie or accrue for additional benefit, consideration or value for or based upon the services performed under or pursuant to this Agreement.

ARTICLE 6 – Compliance with Laws

Chamber shall observe and abide by all applicable federal and state laws and regulation, City's Charter and Ordinances, and all rules and regulations of any lawful regulatory body acting thereunder in connection with the services performed hereunder.

ARTICLE 7 – No Conflicts

No officer or employee of City or Chamber shall have any interest, direct or indirect, in this Agreement or the proceeds thereof that violates relevant provisions of the City Charter, City Ordinances or State statutes dealing with conflict of interest.

ARTICLE 8 –Miscellaneous Provisions

(A) Entire Agreement. This Agreement constitutes the sole and only agreement between the Parties and supersedes any prior understandings written or oral agreements between the Parties with respect to this subject matter.

(B) Assignment. Chamber may not assign this Agreement in whole or in part without the prior written consent of City. In the event of an assignment by Chamber to which City has consented, the assignee shall agree in writing with City to personally assume, perform, and be bound by all the covenants, and obligations contained in this Agreement.

(C) Successors and Assigns. Subject to the provisions regarding assignment, this Agreement shall be binding on and inure to the benefit of the Parties to it and their respective successors and assigns.

(D) Governing Law; Venue. The laws of the State of Texas shall govern this Agreement; and venue for any action concerning this Agreement shall be in a state court of competent jurisdiction in Dallas County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said Court.

(E) Amendments. This Agreement may be amended by the mutual written agreement of the Parties.

(F) Severability. In the event any one or more 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 provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

(G) Independent Contractor. It is understood and agreed by and between the Parties that Chamber in satisfying the conditions of this Agreement, is acting independently, and that City assumes no responsibility or liabilities to any third party in connection with these actions. All services to be performed by Chamber pursuant to this Agreement shall be in the capacity of an independent contractor and not as an agent or employee of City. Chamber shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement.

(H) Notices. Any notice required or permitted to be delivered hereunder may be sent by first class mail, overnight courier or by confirmed or facsimile to the address specified below, or to such other party or address as either Party may designate in writing, and shall be deemed received three (3) days after delivery set forth herein:

If intended for City, to:

Gary D. Greer, City Manager
City of Farmers Branch, Texas
13000 William Dodson Parkway
Farmers Branch, Texas 75234

With copy to:

Peter G. Smith
Nichols, Jackson, Dillard, Hager & Smith
1800 Ross Tower
500 N. Akard
Dallas, Texas 75201

If intended for Chamber:

Lisa Hermes, President
Metrocrest Chamber of Commerce
5100 Belt Line Road, Suite 430
Addison, Texas 75254

(I) Counterparts. This Agreement may be executed by the Parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the Parties hereto.

(J) Exhibits and Recitals. The recitals and exhibits attached hereto are incorporated herein and made a part hereof for all purposes.

(signatures on following page)

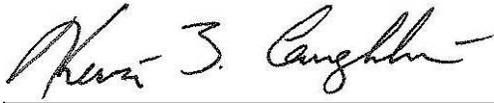
SIGNED AND AGREED this _____ day of _____, 2013.

CITY OF FARMERS BRANCH, TEXAS

By: _____
Gary D. Greer, City Manager

Attest:

Angela Kelly, City Secretary



City Attorney

SIGNED AND AGREED this _____ day of _____, 2013.

METROCREST CHAMBER OF COMMERCE

By: _____
Lisa Hermes, President