

THE STATE OF TEXAS   §  
                                      §  
COUNTY OF DALLAS   §

**Business Development Services Agreement**

This **Business Development Services Agreement** ("Agreement") is made and entered into as of the Effective Date by and between the **City of Farmers Branch**, Texas acting by and through its duly authorized City Manager, hereinafter referred to as the "City" and the **Farmers Branch Chamber of Commerce** acting by and through its duly authorized President Nanette White Foght, hereinafter referred to as the "Chamber." (City and Chamber collectively referred to hereafter as "Parties" or sometimes individually as "Party".)

**WITNESSETH:**

**WHEREAS**, the Chamber is a nonprofit corporation established under the laws of the State of Texas for the purpose of promoting business in the City of Farmers Branch, Texas; and

**WHEREAS**, City is charged with the responsibility of promoting and preserving the health, comfort, safety, peace, good government, and welfare of its citizens;

**NOW THEREFORE**, in consideration of all mutual covenants and agreements hereinafter set forth, the Parties do hereby covenant and agree as follows:

**ARTICLE 1 - Term**

This Agreement shall be effective upon execution by the Parties ("the Effective Date") and shall expire on the 30th day of September, 2018, unless terminated sooner as provided herein.

**ARTICLE 2 – Programs, Projects, and Tasks**

The Chamber agrees to design, develop and implement the following projects or programs and perform the following tasks on behalf of, or for the benefit of, City:

- A.** Engage in Business Community Relations, the purpose of which shall be to:
  - 1. Serve as an advocate for local businesses;
  - 2. Serve as an ombudsman for local businesses;
  - 3. Assist existing, new, and potential local businesses in working with City's procedures relating to permitting, land use planning, and similar activities; and
  - 4. Provide to City's Economic Development Department leads of possible business expansions, closings, and relocations to or from City.
- B.** Develop and coordinate large annual event including:

1. Arranging for a recognized motivational speaker to serve as the event keynote speaker; and
  2. Providing for awards and other recognition for individuals and/or businesses that advance the purposes of the Farmers Branch community and/or the Chamber.
- C. Explore value added services that could be implemented by the Chamber to encourage increase in new Chamber membership.
- D. Implement local sales tax enhancement programs such as:
1. Developing and implementing a “Shop Farmers Branch” program;
  2. Use of “social media blitzes” to promote sales and special events by Farmers Branch retailers; and
  3. Development of restaurant patronage programs for food establishments located within City.
- E. Development and implementation of small business development programs with a purpose of increasing local businesses through development of:
1. Social media programs;
  2. Marketing programs; and
  3. Training programs.
- F. Provide business networking opportunities through:
1. Continuation of grand opening and re-opening activities for new, expanding, and relocating businesses in Farmers Branch;
  2. Development of new, fresh meeting opportunities for young executives, business owners and officers new to Farmers Branch, and similar activities;
  3. Continuation of the “State of the City” event.
- G. By itself or in coordination with others assist in training and educating future business and/or community leaders through various events including, but not limited to:
1. Candidate forums;
  2. Training programs geared toward encouraging and preparing business and/or community leaders to serve in elective or appointive office; and



3. To the extent allowed by law, facilitate efforts to educate citizens regarding the purpose and possible positive and/or negative effects of propositions appearing on local and state-wide election ballots on local and/or regional businesses.
- H. Develop and implement programs seeking to increase Chamber membership between 5% to 10% per year through:
1. Diversification of the Chamber's membership base;
  2. Addition of new business sectors not presently represented or served by the Chamber; and
  3. Outreach to non-traditional business sectors.

### **ARTICLE 3 – Payment; Audit; Program Cancellation**

**3.1 Payment.** For the design, development and implementation of the projects, programs or tasks to be performed as enumerated in Article 2, City shall pay to the Chamber an amount not to exceed \$60,000.

**3.2 Time for Payment; Audit.** City shall pay for the Chamber's services on or before January 31, 2018, excluding quarterly deliverables which includes ribbon cuttings and new business welcome kits. Payment will be made upon the receipt of a statement. Expenditure information shall include donated (in-kind) services and materials related to funded projects or programs. 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, 2018, 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 annual financial report. This section shall survive the expiration of the term of this Agreement.

**3.3 Program Cancellation.** City may cancel its request for any or all projects or programs enumerated in Article 3 by providing written notice of such cancellation to the Chamber no less than 60 days in advance of the date set for the program or project subject to the provision for additional payments or return of payment as contained in Article 5.

**3.4 City Staff Support.** The Chamber may request in writing for City staff support and assistance. The Chamber agrees to reimburse City for any overtime expenses incurred in providing City staff support and assistance for each project or program. All requests for staff support must be sent through the Assistant to the City Manager.

**3.5 Delineation of City Funding.** The funds paid to Chamber shall be applied to or credit against the following, with City receiving certain rights or services, or otherwise used for the following purposes:

A. \$3,000 – State of the City:

1. Title Sponsorship
2. Two (2) tables reflective of title sponsorship
3. Option to purchase an additional table in addition to this contract

B. \$35,000 – Evening of Excellence

1. Title Sponsorship
2. \$30,000 to be applied to fee for the keynote speaker
3. 2 tables (minimum of 20 seats) reflective of title sponsorship
4. Option to purchase an additional table in addition to this Agreement
5. Option to support a more expensive keynote speaker in addition to this contract

C. \$2,500 – Back the Blue & the Firemen Too

1. Title sponsorship
2. 2 tables (minimum of 20 seats) reflective of title sponsorship

D. \$3,500 – Ribbon cuttings

1. \$100 per hosted ribbon cutting
2. Maximum of 35 ribbon cuttings funded
3. Billed to the City on a quarterly basis

E. \$3,500 – Candidate Forum and Legislative Update

1. Host an impartial candidate forum
2. Host a legislative update for businesses
3. 2 tables for the legislative update



F. \$10,000 – Business Welcome

1. \$100 per business welcome kit provided to new businesses
2. Maximum of 100 welcome kits to be funded
3. Billed to the City on a quarterly basis accompanied by a new business report that highlights new businesses in Farmers Branch

G. \$2,500 – Platinum Chamber Membership

**ARTICLE 4 –Assumption of Liability; Indemnification**

The 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. **The 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 the Chamber pursuant to this Article 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 the Chamber or additional funds due the Chamber (not to exceed the budgeted amounts set forth in Section 3.1) 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 the Chamber shall have any interest, direct or indirect, in this Agreement or the proceeds thereof that is violative of relevant provisions of the City Charter, City Ordinances or State statutes dealing with conflict of interest.



## **ARTICLE 8 –Miscellaneous Provisions**

**8.1 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.

**8.2 Assignment.** The 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 the 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.

**8.3 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.

**8.4 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.

**8.5 Amendments.** This Agreement may be amended only by the mutual written agreement of the Parties.

**8.6 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.

**8.7 Independent Contractor.** It is understood and agreed by and between the Parties that the 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 the Chamber pursuant to this Agreement shall be in the capacity of an independent contractor and not as an agent or employee of City. The 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.

**8.8 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:

Charles S. Cox, 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, LLP  
1800 Ross Tower  
500 N. Akard  
Dallas, Texas 75201

If intended for the Chamber:

Nanette White Foght, President  
Farmers Branch Chamber of Commerce  
~~One Medical Plaza, Suite 104~~  
Farmers Branch, Texas 75234

2815 Vauxey View Lane #118

**8.9 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.

**8.10 Prohibition of Boycott Israel.** The Chamber verifies that it does not Boycott Israel, and agrees that during the term of this Agreement will not Boycott Israel as that term is defined in Texas Government Code Section 808.001, as amended.

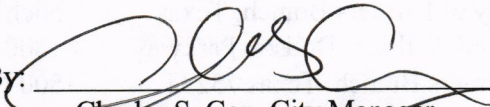
**8.11 Exhibits and Recitals.** The recitals and exhibits attached hereto are incorporated herein and made a part hereof for all purposes.

(signatures on following page)

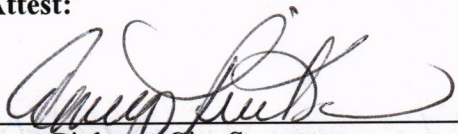


SIGNED AND AGREED this 15<sup>th</sup> day of November, 2017.

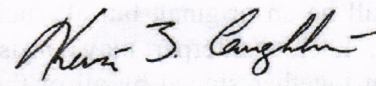
CITY OF FARMERS BRANCH, TEXAS

By:   
Charles S. Cox, City Manager

Attest:

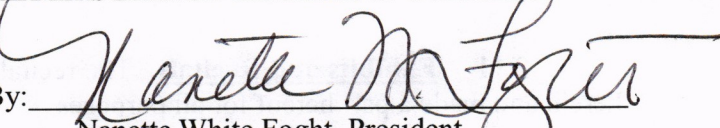
  
Amy Piukana, City Secretary

Approved as to Form:

  
City Attorney

SIGNED AND AGREED this 10 day of November, 2017.

FARMERS BRANCH CHAMBER OF COMMERCE

By:   
Nanette White Foght, President