

MEMORANDUM

To: Members of the City Commission

From: Lisa Agnor, City Manager

Date: July 2, 2015

Subject: Approval of an agreement with the Marshall Chamber of Commerce for occupancy of space in the Marshall Visual Art Center

The City's lease agreement with the Chamber of Commerce for office space at the Marshall Visual Art Center expires July 31, 2015. The current agreement calls for a monthly payment of \$300 (\$3,600 per year). This payment has not been made since June, 2014, when the Chamber began its reorganization. The Chamber asked the City if there could be some agreement which would allow the Chamber to provide a service for the City in lieu of a monthly cash payment as they continue to rebuild the organization. I met with the Chamber Board recently to discuss the possibility of them working to support the City in the 2015 Wonderland of Lights. The proposed agreement for your consideration provides that the Chamber would coordinate and direct a Neighborhood Lighting Campaign, as well as coordinating lighting efforts with downtown business owners. The agreement is for one year and can be re-evaluated at that time.

Having served as Chairman of the Wonderland of Lights Committee last year, I am aware of the time demands producing this event places on City staff. Last year, we wanted to begin soliciting participation for a Neighborhood Lighting Campaign but were unable to do so because of time constraints.

I feel this agreement would benefit both entities by enhancing the City's production of Wonderland of Lights 2015 and providing a small monetary relief to the Chamber as they continue reorganization efforts.

LEASE AGREEMENT
CITY OF MARSHALL AND CHAMBER OF COMMERCE

This Lease Agreement is made and entered into to be effective this ____ day of _____, 2015, by and between the City of Marshall, Texas, ("City"), and the Marshall Chamber of Commerce, ("Chamber"),

Recitals.

Whereas, the City is the owner of the property commonly known as Marshall Visual Art Center ("MVAC"), located at 208 E. Burleson; and

Whereas, the Chamber is an independent, non-profit corporation established and existing under the laws of the State of Texas for the purpose of promoting the development and attraction of the Marshall area of Harrison County, Texas; and

Whereas, the City has agreed to lease to the Chamber and the Chamber has agreed to lease from the City certain office space located in the MVAC building; and

Whereas, the City Commission finds that the Chamber's use of the MVAC building is beneficial to the general welfare of the City and benefits the Chamber's operations by providing an economical location for the Chamber office; and

Now, Therefore, In consideration of the covenants, terms and conditions set forth herein, the parties agree and covenant as follows:

Section 1

Grant.

The City leases to the Chamber as-is that certain office space located in the front portion of the MVAC ("Premises").

Section 2

Term.

The term of this Lease shall commence on _____, 2015, and shall continue for a period of one (1) year from that date. **Notwithstanding the foregoing, the Chamber agrees and understands that the City may terminate this Lease at any time by giving the Chamber sixty (60) days written notice to vacate the premises.**

Section 3

In-Kind Services, Levies And Utilities.

3.1 In-Kind Services.

In lieu of monetary rental payment for occupancy of space in the Premises, the Chamber agrees to provide the following in-kind services to support the City in the production of the 2015 Wonderland of Lights:

1. Coordinating and directing a Neighborhood Lighting Campaign, with the goal of enlisting a minimum of three neighborhoods to participate in this effort, suitable for bus tours. Confirmation of the participating neighborhoods will be submitted to the City no later than October 15, 2015 for timely promotion and publicity purposes.
2. Coordinating lighting efforts with Downtown business owners.

3.2 Levies.

The City shall pay when due all assessments, water charges, sewer charges, and electricity charges assessed against the Premises.

3.3 Utilities And Other Services.

1. During the term of this Lease, the City shall supply the Premises with a reasonable amount of air conditioning and heating as required by the season. The City shall also provide its usual light, electrical power and

water, as now installed. Any repair work needed on the above-listed utility services shall be provided by the City at no expense to the Chamber.

2. All other services required by the Chamber shall be at the sole expense of the Chamber.

**Section 4
Occupancy And Use.**

4.1 The Chamber agrees to use and occupy the Premises pursuant to all rules and regulations prescribed by the City.

4.2 The Chamber shall not permit the Premises or any part thereof to be used for any improper, immoral or objectionable purposes.

**Section 5
Quiet Enjoyment Of Premises, Alterations And Surrender.**

5.1 Covenant Of Quiet Enjoyment.

The City covenants and agrees that the Chamber, upon observing and keeping the covenants, agreements and conditions of this Lease on its part to be kept, observed and performed, shall lawfully and quietly hold, occupy and enjoy the Premises (subject to the provisions of this Lease) without hindrance by the City.

5.2 The City's Duty To Maintain Premises.

The City shall be responsible for maintaining and repairing the structural components of the Premises, except to the extent such structural components are damaged by the Chamber, its agents, employees or invitees. The Chamber agrees to promptly notify the City of any observed structural defects.

5.3 Use Of The Premises.

The Chamber shall not use the Premises in a manner that would violate any federal, state or local laws. The Chamber further covenants not to do or suffer any waste or damage, disfigurement or injury to the Premises, or to any fixtures and equipment located therein.

5.4 Alterations And Additions.

The Chamber shall have the right to make such other alterations, additions and improvements to the Premises as it shall deem necessary, provided that the Chamber shall have obtained the prior written consent of the City, which consent shall not be unreasonably withheld.

5.5 Surrender.

Upon the termination of this Lease, the Chamber shall surrender possession of the Premises to the City in good condition and repair, ordinary wear and tear excepted.

**Section 6
Assignment, Sublease And Liens.**

The Chamber shall not assign this Lease in whole or in part, or sublet the Premises or any part of the Premises without the prior written consent of the City.

**Section 7
Insurance.**

The Chamber shall procure and maintain at its own expense during the term of this Lease the types and amounts of insurance as shall be required by the City Manager, with insurance companies authorized to do business in Texas. The City shall be named as an additional insured on all such policies. The Chamber may, subject to the review and approval of the City Manager, provide self-insurance to the extent that the Chamber's assets meet levels greater than those required by the City Manager.

The Chamber expressly understands and agrees that any insurance protection furnished by it hereunder shall in no way limit its responsibility to indemnify and save harmless the City under the provisions of Section 8 of this agreement.

**Section 8
Indemnification.**

8.1 The Chamber agrees to defend, indemnify and hold the City, its officers, officials, agents and employees, completely harmless from and against any and all claims arising by reason of injury or death of any person or damage to property resulting from the Chamber's use or occupancy of the Premises, or the acts or omissions of the Chamber's officers, agents, employees, contractors, subcontractors or licensees, except to the extent caused by the negligence or willful misconduct of the City, its agents or employees. Upon notice from the City of any claim which the City believes to be covered hereunder, the Chamber shall timely appear in and defend all suits brought upon such claim and shall pay all costs and expenses incidental thereto, but the City shall have the right, at its option and at its own expense, to participate in the defense of any suit, without relieving the Chamber of any of its obligations under this agreement.

8.2 This section shall survive expiration of this Lease and the expiration of any obligations owing to any party under this Lease.

**Section 9
Miscellaneous Provisions.**

9.1 Partial Invalidity.

If any covenant, condition, provision, term or agreement of this Lease is held to be invalid or unenforceable by a court of competent jurisdiction, the remaining covenants, conditions, provisions, terms and agreements of this Lease shall not be affected thereby, but each covenant, condition, provision, term or agreement of this Lease shall be valid and in force to the fullest extent permitted by law.

9.2 Governing Law.

This Lease shall be construed and be enforceable in accordance with the laws of the State of Texas.

9.3 Binding Effect Of Lease.

The covenants, agreements and obligations contained in this Lease shall extend to, bind and inure to the benefit of the parties and their representatives, successors and assigns.

9.4 Authorization To Execute Lease.

The persons executing this Lease represent and warrant that they are duly authorized and acting representatives of the City and the Chamber respectively, and that by their execution of this Lease, it became the binding obligation of the City and the Chamber respectively, subject to no contingencies or conditions except as specifically provided in the agreement.

9.5 Entire Agreement.

This Lease constitutes the entire agreement of the City and the Chamber with respect to the subject matter of this Lease, and no act or omission of the City or the Chamber shall alter, change or modify any of the provisions in the agreement. Any amendments, changes or modifications of this Lease shall be effective only when made in writing and executed by authorized officers of the parties.

IN WITNESS WHEREOF, the parties have caused the Lease Agreement to be executed by their respective and appropriate officials on this the _____ day of _____, 2015, to be effective on the date herein provided.

ATTEST:

THE CITY OF MARSHALL, TEXAS

BY: _____
ACTING CITY SECRETARY

BY: _____
CITY MANAGER

ATTEST:

MARSHALL CHAMBER OF COMMERCE

BY: _____
SECRETARY/TREASURER

BY: _____

Title: _____