

LEASE AGREEMENT

STATE OF TEXAS
COUNTY OF COMAL

§
§
§

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the CITY OF NEW BRAUNFELS, TEXAS (“Lessor”), is the Owner of that certain building addressed as 295 Rosewood Avenue which is located on a 0.322 acre property out of the J M Veramendi Survey No. 1, Abstract 2, in the City of New Braunfels, Comal County, Texas (the “Property”) which is further identified as the shaded portion on the southeastern corner of the the survey map attached hereto as Exhibit A.

WHEREAS, The City of New Braunfels recently acquired the Property from The Institute for Public Health and Education Research who had an existing lease agreement with Family Promise of Greater New Braunfels, Inc. to operate their Day Center since [REDACTED].

WHEREAS, Family Promise of Greater New Braunfels, Inc. (“Lessee”) is a Texas domestic non-profit corporation designed to help families with children facing homelessness achieve and sustain independence.

WHEREAS, The City Council of the City of New Braunfels has passed Resolution No. _____ approving this Lease on _____, and finding that this lease serves a public purpose by providing a facility for Lessee to provide their services to City residents as well as authorizing the City Manager to execute this Lease .

WHEREAS, the Lessor, acting by and through its City Manager, Robert Camareno, and the Lessee, acting by and through its Executive Director Sarah Dixon, have entered into the following lease agreement (the “Lease”) effective as of the date indicated below:

W I T N E S S E T H:

Section I Leased Premises

The Lessor, in consideration and subject to the conditions set forth herein, agrees to lease to the Lessee, the Property, together with all rights, privileges, easements and appurtenances belonging to or in any way pertaining to the Property.

Section II

Lease Term

The term of this Lease shall be for a period of five (5) years commencing on the 1st day of October, 2023 and ending on the 30th day of September, 2028, unless sooner terminated or extended as provided in this Lease.

Section III Consideration

As consideration for this Lease, the Lessee agrees, and the Lessor accepts the payment of One Dollar (\$1.00) annually to be paid upon the execution of this Lease and on the 1st day of October each year thereafter. Payment shall be made directly to Lessor, attention Real Estate Manager at 550 Landa Street, New Braunfels, TX 78130 or to the attention of City Manager wherever City Hall maybe located.

Section IV Terms and Conditions

The Lessor agrees to lease the Property to the Lessee and the Lessee agrees to lease the Property from the Lessor pursuant to the following terms and conditions:

- A. The Lessee shall obey all laws, ordinances, orders, rules, regulations, and covenants applicable to the use, condition, and occupancy of the Property;
- B. The Lessee shall not use, or permit the use of, the Property in any manner that results in waste of the Property or constitutes a nuisance. Nor shall Lessee use, or permit the use of, the Property for any illegal purpose. At all times during the course of this Agreement that the Property may be used to house program participants overnight, a staff member of the Lessee shall be present on the Property.
- C. The Lessor shall not incur any expenses under this Lease. All expenses, including any construction or maintenance expenses, shall be the sole responsibility of the Lessee;
- D. Lessee shall be responsible for all utilities on the Property;
- E. Lessee shall not sublease or assign the Property to any other person or entity without the express prior written consent of the Lessor. All improvements, changes, or modifications to the Property shall be in accordance with all City codes, ordinances and regulations and shall be at the sole expense of Lessee;
- F. Lessee shall maintain the premises in a neat, well-groomed conditions at all times;

- G. Lessee shall have the sole usage and control of the Property at all times;
- H. Lessee shall maintain appropriate signage identifying the Property as being operated and maintained by Lessee. All signage must be in compliance with all applicable ordinances of the City.
- I. Lessee agrees that Lessee is a not-for-profit entity and, unless approved by the Lessor in Writing, shall not operate any commercial business on the Property. All operations on the Property must be in the interest the Lessee's mission and programs for providing for assistance to families with children facing homelessness and any proceeds received must be for the benefit of Lessee or their beneficiaries.
- J. During the term of this lease, Lessee shall not discriminate against any person on the basis of race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations.
- K. No debt, lien, or encumbrance of any kind shall be allowed to be placed against the Property or improvements thereon other than portable buildings purchased and placed on the Property by Lessee;

Section V

Acceptance of Property, Improvements, Maintenance and Repairs

- A. The Lessee accepts the Property in its present condition "AS IS". Lessee has occupied the Property for a number of years and is well aware of the condition of the real property and the facility.
- B. The Lessor shall have no maintenance, repair or replacement obligations under this Lease with respect to the Property.
- C. Lessee shall maintain and keep in good repair the Property and keep it free from waste or nuisance throughout the term of this Lease or any extensions. At the termination of this Lease, Lessee shall surrender and deliver the land and buildings subject to this lease to Lessor in as good condition as existed at the time of execution of this lease, reasonable wear and tear excepted.
- D. Lessee shall be responsible for the removal of all garbage, refuse, grease and other rubbish from the Property during the term of this lease and any extensions.
- E. Lessee agrees that all repairs, alterations, additions or improvements on the property must be approved by Lessor, which approval shall not unreasonably be withheld, and shall be done in accordance with all City Codes and shall have the appropriate permits issued by the City whenever applicable.

- F. Upon termination of this lease, all improvements including but not limited to the facility and its fixtures, with the exception of Lessee's personal property, shall remain on the Property and become the property of Lessor.

Section VI Insurance and Indemnity

The Lessee shall maintain and keep in force the following insurance coverages and shall indemnify, protect and defend the Lessor from claims which may arise out of or in connection with Lessee's use of the Property:

- A. Commercial property insurance written on a causes of loss—special form covering the replacement cost of the buildings located on the Property with all proceeds payable to Lessee, naming Lessor as “additional insured.”
- B. Commercial property insurance written on a causes of loss—special form (formerly known as “all risks” form) covering Lessee's personal property, fixtures, and leasehold improvements on the Property, and naming Lessor as “Building Owner Loss Payable.”,
- C. Commercial general liability insurance written on an occurrence basis, including contractual liability, covering Lessee's operations within the Property, naming Lessor, as “additional insured,” and having limits of not less than \$1,000,000 each occurrence and \$2,000,000 general aggregate.
- D. Business auto liability insurance written on an occurrence basis and having a combined single limit of not less than \$1,000,000.
- E. Workers' compensation insurance in the statutory amount and employer's liability insurance having limits of not less than \$500,000 each accident for bodily injury by accident, \$500,000 each employee for bodily injury by disease, and \$500,000 bodily injury by disease for entire policy.
- F. All coverages set forth above must contain a waiver of subrogation in favor of the Lessor.
- G. All coverages set forth above shall not exclude sexual abuse or sexual molestation of underage children.

The required insurance shall be written so that the Lessor will be notified in writing, in the event of cancellation, restrictive amendment or non-renewal at least thirty (30) days prior to action. Certificates of Insurance, and copies of additional insured and waiver of subrogation in favor of Lessor endorsements shall be filed with the Lessor at the annual commencement date of this Lease. All required insurance shall be written with the Lessor

as an additional insured. In any event, the Lessee is fully responsible for all losses arising out of, resulting from or connected with its (and by extension the public's) use of the Leased Premises under this Lease whether or not the losses are covered by insurance. All insurance required under this section shall be primary over any other insurance coverage the City may have. The burden of maintaining proper insurance coverage and compliance with this subsection lies solely with the Lessee.

Section VII

Property Damage or Destruction

- A. *Notice:* In the event that any portion of the Property should be damaged or destroyed by fire, tornado, or other casualty, Lessee shall immediately give written notice of the damage or destruction to Lessor, including a description of the damage and as far as known to Lessee, the cause of the damage.
- B. *Total Destruction:* In the event that the Property should be totally destroyed by fire, tornado, or other casualty, or if it should be so damaged by such a cause that rebuilding or repairs cannot reasonably be completed within one (1) year or at a cost not to exceed available funds, this Lease shall terminate at the option of Lessee, and rent shall be abated for the unexpired term of this Lease, effective as of the date of written notification as provided in Section VII-A.
- C. *Partial Destruction:* In the event that the Property should be damaged by fire, tornado or other casualty, but not to such an extent that rebuilding, or repairs cannot reasonably be completed within one (1) year or at a cost not to exceed available funds, Lessee shall commence with necessary repairs as soon as practicable from the date of written notification as provided in Section VII-A.
- D. *Obligation to Rebuild:* If the buildings are damaged by an insured event, the parties will mutually agree if the buildings should be restored, repaired or rebuilt and if they agree, Lessee will, utilizing proceeds from Lessee's insurance, restore the buildings to as good or better condition as before the loss.

Section VIII

Default

In the event of default by the Lessee of any condition set out herein, the Lessor will notify the Lessee of such default and the Lessee will have thirty (30) days to correct the default. In the event the Lessee fails or refuses to correct the default or if the particular default is repeated, the Lessor may immediately terminate the Lease. Upon termination of the Lease, the Lessee agrees to immediately surrender possession of the Property to the Lessor pursuant to Section V, Item G without further notice.

Any termination of this agreement as herein provided, does not relieve Lessee from the payment of any sum or sums that are due and payable or become due and payable to

Lessor hereunder, or any such claim for damages then or theretofore accruing against Lessee hereunder, or any such sum or sums or claim for damages by any remedy provided for by law, or prevent Lessor from recovering damages from Lessee for any default there under.

Section IX Binding Effect

The terms, conditions and covenants contained in this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

Section X Lease Extension

Upon (90) days written notice; Lessee may request this Lease be extended for an additional term of years as approved by City Council. Said extension may be subject to modification in consideration, insurance requirements and other terms.

Section XI Lease Termination

This lease may be terminated by written agreement of Lessor and Lessee

Section XII Notices

All notices required to be furnished in writing via USPS First Class Mail under the terms of this Lease shall be furnished to the Lessor at the following address:

City of New Braunfels
550 Landa Street
New Braunfels, TX 78130
Attention: City Manager

and shall be provided to Lessee at the following address:

Family Promise of Greater New Braunfels, Inc.
295 Rosewood Avenue
New Braunfels, TX 78130
Attention: Executive Director

Notices will be deemed furnished when deposited in the United States mail postage prepaid, or to such other address as may have been designated in writing during this Lease.

Section XIII Miscellaneous

- A. *Venue.* Venue is in Comal County, the county in which the Property is located.
- B. *Entire Agreement.* This Lease is the entire agreement of the parties, and there are no oral representations, warranties, agreements, or promises pertaining to this Lease.
- C. *Amendment of Lease.* The Lease may be amended only by an instrument in writing approved and signed by the Lessee and the Lessor.
- D. *Assignment of Lease:* This Lease may not be assigned without the prior written consent of Lessor.

EXECUTED on this the _____ day of _____, 2023.

LESSOR
CITY OF NEW BRAUNFELS

LESSEE
FAMILY PROMISE OF GREATER
NEW BRAUNFELS, Inc.

By: _____
Robert Camareno, City Manager

By: _____
Sarah Dixon, Executive Director

APPROVED AS TO FORM:

Valeria M. Acevedo, City Attorney

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF COMAL §

Before me, a Notary Public, on this _____ day of _____, ____ personally appeared SARAH DIXON, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity as Executive Director of FAMILY PROMISE OF GREATER NEW BRAUNFELS INC.

WITNESS my hand and official seal.

Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF COMAL §

Before me, a Notary Public, on this _____ day of _____, ____ personally appeared ROBERT CAMARENO, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity as City Manager of the CITY OF NEW BRAUNFELS, TEXAS.

WITNESS my hand and official seal.

Notary Public, State of Texas