



Huntsville, Alabama

308 Fountain Circle
Huntsville, AL 35801

Cover Memo

Meeting Type: City Council Regular Meeting **Meeting Date:** 6/22/2023

File ID: TMP-3040

Department: Fire and Rescue

Subject:

Type of Action: Approval/Action

Agreement between the City of Huntsville and Huntsville Dream Center, Inc.

Resolution No.

Finance Information:

Account Number: 1000-42-42100-515050-00000000-

City Cost Amount: NTE \$10,000.00

Total Cost: NTE \$10,000.00

Special Circumstances: N/A

Grant Funded: N/A

Grant Title - CFDA or granting Agency: N/A

Resolution #: N/A

Location: (list below)

Address: N/A

District: District 1 ☐ District 2 ☐ District 3 ☐ District 4 ☐ District 5 ☐

Additional Comments: N/A

RESOLUTION NO. 23- _____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to enter into an Agreement by and between the City of Huntsville, a municipal corporation in the State of Alabama, and Huntsville Dream Center, Inc. for the rental of The Dream Theatre for Huntsville Fire and Rescue and Huntsville Police ceremonies which said Agreement is substantially in words and figures similar to that certain document attached hereto and identified as “Agreement between the City of Huntsville and Huntsville Dream Center, Inc.” consisting of nine (9) pages and the date of June 22, 2023, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk of the City of Huntsville, Alabama.

ADOPTED this the 22nd day of June 2023.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 22nd day of June 2023.

Mayor of the City of Huntsville,
Alabama

FACILITIES USE CONTRACT
Huntsville Dream Center
The Dream Theatre

This Facilities Use Agreement “**Agreement**” is entered into and effective as of the date of signing by and between Huntsville Dream Center, Inc., herein referred to as the “Venue”, a nonprofit corporation of the State of Alabama, and the City of Huntsville, a municipal corporation in the State of Alabama, hereinafter referred to as the “City”.

The City of Huntsville desires to rent **The Dream Theatre** located on The Rock Family Worship Center campus (the “**Premises**”) to City upon the terms set forth herein to conduct graduation ceremonies for Huntsville Fire and Rescue and Huntsville Police Department Cadet Academies

1. SUMMARY OF RENT PROVISIONS.

A. Huntsville Dream Center, The Dream Theatre
3401 Holmes Avenue, NW
Telephone: (256) 533-9292
Contact Person: Ashlynne Bell, Kat Holder and/or Andrea Valverde

B. Renter Information
Huntsville Fire and Rescue:
Contact Person: Annie Helms
Email: annie.helms@huntsvilleal.gov
Address: 2100 Clinton Avenue, W
Telephone: 256-427-6774

Huntsville Police Department:
Contact Person: Jessi Wynn
Email: jessi.wynn@huntsvilleal.gov
Address: 815 Wheeler Avenue
Telephone: 256-427-7002

C. Scheduling

Rental reservations will be held for a period of 10 working days after which if a Purchase Order the signed contract and deposit areas not received, the desired dates may be released to another renter.

Premises Description:

Capacity: Audience 737 (800 with rows added to the front)

Currently there are no seating restrictions on Dream Theatre. We follow the guidelines put in place statewide and will update contracts as needed.

- 6. Production Staff to be provided by contracted company: Dream Theatre Staff or approved production company**
- 7. Available Parking: On premise Visitor Parking. Reserved parking not available.**

H. Base Rent and Service Fees:

Fifty percent of the total theatre rental amount (including rehearsals) shall be due, in advance, upon signing of the contract as a rental deposit (the "**Rental Deposit**"). Base Rent and Service Fees do not include fees for cleaning services, production staff or miscellaneous fees, or payment for any damage that may occur to the Premises or other property of The Rock Family Worship Center caused as a result of this rental.

Final balance is due the day of final rental.

Base Rent: \$950 per 12-hour day/partial days available by DT's discretion (\$550.00 partial day)

Production Staff Fees: 2 DT staff members at \$30 per hour

DT House Manager Fee: \$30 per hour for one staff member

Custodial Fee: \$250 per day

Miscellaneous Fees:

Rehearsal Security: DT Staff Members

Performance Security: Off duty Huntsville Police Department Office - \$35 per hour – paid directly to officer

Estimated Total: \$1,500.00 (1 days full base rent + 1 partial day rent + 1 cleaning days)

TOTAL Rental Deposit (Non-Refundable): \$375.00 (25%)

Estimated Balance Due: \$1,125.00 (estimated total - deposit)

Make checks payable to: Huntsville Dream Center, Attn: Accounts Receivable

Additional Standard Package Info:

- 700 seat theater with colored LED lighting
- Full working stage house with loading dock
- Standard lighting
- State of the art audio
- Intercom/Paging system in each dressing space
- Multiple dressing rooms with paging
- Video monitor lobby kiosk
- Free Parking

3 New Packages We Are Offering in 2023: *(please contact DT for more information and pricing)*

- Intelligent Lighting Package
- LED Wall Package
- Marley Floor Package

2. USE OF THE PREMISES

Huntsville Dream Center hereby grants to Renter permission to use the Premises for uses in connection with the Event, during the dates and times specified above. In using the Premises, Renter shall abide by all of the conditions of this Agreement, the conditions set forth in Exhibit B attached hereto and Addendum 1, "Building Use Regulations". Renter shall not make any alterations or improvements to the Premises, or install any signs, floor coverings or fixtures, without the Venue's written approval. The Venue shall have the right to enter the Premises at all times to inspect and confirm Renter's compliance with the terms of this Agreement. All other portions of the Building, other than the Premises, will remain under the Venue's control and may be used for any and all purposes, as Venue may deem appropriate.

at the end of event the facility and equipment used will need to be returned to standard rental condition

3. MOVE-IN/MOVE-OUT.

Renter shall not begin moving equipment, furnishings, other property or personnel onto the Premises until the agreed upon load in date listed in above Event Dates and times. Any equipment, furnishings, or other property belonging to Renter remaining upon the Premises after the move-out date shall be deemed abandoned and may be disposed of by Venue, at such time and in such manner as the venue may determine at its sole discretion. Renter will be billed at the rate of \$50 per hour for this service. Renter acknowledges that the Venue shall have no liability whatsoever for any loss of or damage to Renter's equipment, materials or other property which may arise as a result of such disposal.

4. FEES AND PAYMENT.

A. **Base Rent and Service Fees.** Renter agrees to pay to the Venue the Base Rent and other fees in the amounts specified in the Summary of Rent Provisions (page 2, paragraph H). Venue reserves the right to charge additional fees, based upon Venue's customary rate for any services, equipment or personnel provided by Venue in connection with Renter's use of the Premises, which fees may be in addition to those fees described in the Summary of Rent Provisions. Renter shall be responsible for ticket sales for its event.

B. **Rental Deposit and Payment.** Upon the execution and delivery of this Agreement to Venue Fifty percent (25%) of the total theatre rental amount shall be due, in advance, upon signing of the contract (within 10 working days of contract meeting). Base Rent and Service Fees do not include fees for cleaning services, production staff or miscellaneous fees, or payment for any damage that may occur to the Premises or other property of Venue caused as a result of this rental. **Final balance of the total rental is due within 10 days after rental period.** The balance of the Base Rent, together with all Service and Personnel Fees, Cleaning Fees, and Miscellaneous Fees, and other costs, shall be paid by check payable to "Huntsville Dream Center" and shall be delivered to Venue at **3401 Holmes Avenue NW, Huntsville, AL 35816, Accounting Department, and to no other entity**, prior to the start of the rental. Should you incur additional fees during your performance due to damage to the Premises or other property of the Venue caused as a result of this rental, said charges will be billed to you following your performance. ***If we do not receive your payment by the due date, 10% of the total balance due will be charged for each month the account is delinquent. We reserve the right to refer your account to a collection agency. You will be responsible for any additional charges incurred.***

C. **Miscellaneous Fees.** Miscellaneous fees for requests made by Renter may include, but are not limited to: administrative/clerical, additional tables, chairs, ballet barres, genie lift, gels, projector, piano and piano tuning.

5. SERVICES, PERSONNEL AND EQUIPMENT.

The Venue's Production Staff hired by Renter shall operate all Venue equipment, and Renter is not authorized to handle or operate such equipment unless otherwise previously agreed to in writing by the Production Director (PD). Venue shall provide, at no additional cost to Renter, normal heat, electricity, overhead lighting, and water. Venue agrees to provide, at Renter's expense, the additional services, personnel, equipment and other requirements as described in the Summary of Rent Provisions, or as otherwise agreed to in writing by Venue and Renter. Venue may also provide, at Renter's expense, such other services, personnel (including security and law enforcement), equipment or other requirements as Venue may, in its discretion, determine are reasonably necessary or appropriate for the protection of the Premises, Building or other interests of Venue. All other services, personnel, equipment or other requirements (including without limitation security, furnishings, electrical, communications and other equipment) which are beyond the normal operation and maintenance of the Premises, shall first be approved by Venue, and shall be arranged and paid for by Renter.

6. THIRD PARTY SERVICES

Renter may require certain security or other services not provided by Venue. Renter may contract for such services with third party service providers (a "**Service Provider**") subject to the terms set forth herein. If Renter chooses to retain a Service Provider, Renter shall first notify the Venue of the name of the Service Provider and the general nature of services to be provided. All Service Providers will be subject to Venue's prior written approval. Venue may require that Service Providers be selected only from a Venue-prepared list of Service Providers pre-approved by Venue. All Service Providers (including without limitation, subcontractors or other third parties) shall, before performing any services in connection with this Agreement, secure and maintain commercial general liability insurance, property insurance, workers compensation, automobile insurance, employers liability insurance, and such other insurance coverage, in such forms and amounts as Venue may reasonably require relative to the nature of the services to be provided, and shall provide Venue with certificates of proof of all required insurance. All Service Providers shall also comply with all applicable permitting, bonding and other requirements of any governing authorities, including without limitation all applicable licensing requirements. Renter shall indemnify and hold harmless the Venue from any claims that may arise as a result of any Service Provider's failure to provide any of the insurance coverage, permitting, licensing, or other requirements of this Agreement.

7. ADVERTISING

Renter shall not place any signs, banners, posters (containing commercial identification or otherwise) or other advertising on the Premises, in or on the Building, or otherwise on the Venue campus, without prior written approval of Venue. Renter shall not post or exhibit or allow to be posted or exhibited any signs, advertisements, show bills or posters of any description on any part of the Premises or the Building, or otherwise on the Venue campus, except upon the regular billboards provided for such purpose by PD, or as otherwise approved in writing in advance by Venue. Renter will use, post or exhibit only such signs, advertisements, show bills and/or posters upon said billboards as they relate to the performance or exhibition to be given under this Agreement and which meet with the approval of PD. Renter shall not, without the consent of PD, distribute or circulate, or permit to be circulated or distributed, any advertising matter or programs in or about the Premises or the Building. Renter shall also not include the name or any trademark of the Venue in any advertising, sales promotion or other publicity matter without Venue's prior written approval.

8. SUITABILITY OF SPACE.

Venue makes no representation warranty or agreement that the Premises, parking, or ancillary facilities are suitable for Renter's intended purpose. Renter acknowledges that Renter has inspected the Premises and agrees to

accept the Premises as they are on the date of this Agreement, subject to such changes as Venue and Renter may agree to in writing.

9. CONDITIONS OF USE.

In using the Premises, Renter, its employees, agents, guests, invitees, subcontractors, and Service Providers shall:

- A. Comply with all applicable federal, state and local laws, codes, regulations, rules and orders, and all regulations and policies of Venue. Renter shall obtain, at its expense, all required government licenses, permits and approvals except those licenses, permits and approvals to be obtained by the Venue as specified herein.
- B. Refrain from using any portion of the Building, the Premises, or any other part of the Venue campus in any manner that may create a fire or other hazard, is inconsistent with applicable fire codes or policies, or could invalidate or increase the rate of insurance on the Building. Renter shall not construct any tents or other temporary structures on or around the Premises without the written approval of the Venue, the City Fire Marshal, and all other appropriate authorities.
- C. Refrain from using any portion of the Building or the Premises in any manner that constitutes a waste or nuisance, or causes injury to the Building.
- D. Conduct its business within the Building in a dignified and orderly manner, with full regard for the public safety, and in conformity with Venue fire and safety regulations.
- E. Disclose all potential liability issues including nudity, adult content, and the use of any potentially dangerous props or other equipment at the time of the signing of the contract.

10. RETURN OF PREMISES.

Renter shall return the Premises and the Building to Venue in the same condition as received by Renter, normal wear and tear excepted, and shall pay any costs to repair or restore the Premises or the Building (and all Venue property located thereon) to such condition, unless the damage is caused by the sole negligence or willful misconduct of Venue, its employees or subcontractors.

11. LIABILITY/INDEMNIFICATION.

Renter agrees to conduct its activities upon the Premises so as not to endanger any person or property, including without limitation the Building and the Premises and all furnishings, fixtures, or equipment thereon. Renter shall hold harmless, defend and indemnify the Rock Family Worship Center, and their respective trustees, officers, employees, and agents from and against any and all claims, losses, causes of action, judgments, damages and expenses including, but not limited to reasonable attorneys' fees, bodily injury, sickness, disease or death, or injury to or destruction of tangible property or any other injury or damage resulting from or arising out of (a) performance or breach of this Agreement by Renter, (b) Renter's use of and activities in connection with the Building and the Premises, or (c) any act, error, or omission on the part of the Renter, or its agents, employees, invitees, guests or subcontractors who provide any materials or perform any operation relative to this Agreement except where such claims, losses, causes of action, judgments, damages and expenses result solely from the negligent acts or omissions or willful misconduct of the Rock Family Worship Center, its officers, employees or agents.

Renter agrees to obtain a signed liability waiver from all participants containing the information as stated in the Sample Waiver below.

12. INSURANCE.

The City of Huntsville is "self insured" Please see attached letter.

13. DEFAULT/CANCELLATION.

A. **Default.** Should either party default in the performance of any material term or condition of this Agreement, the non-defaulting party may give written notice of default to the defaulting party. If the defaulting party should fail to correct or take reasonable steps to correct such default within ten (10) days of notice, the non-defaulting party shall have the right to terminate this Agreement by providing written notice of termination to the defaulting party. In the event of default by Renter resulting in termination, Venue shall retain the Rental Fees and all other fees previously paid by Renter as outlined below (B.). In addition, Renter shall immediately pay to Venue compensation for all previously unreimbursed expenses for equipment, personnel or services incurred by Venue in connection with this Agreement. In the event of default by Venue resulting in termination, Venue shall refund to Renter the entire Rental Deposit and all other fees previously paid to Venue by Renter with the exception of the administrative/clerical fees.

B. **Cancellation by Renter.** Should Renter cancel the Event ninety-days (90) or more before Event, the Venue shall refund ninety percent (90%) of the Rental Deposit and all other fees previously paid by Renter. Should Renter cancel the Event thirty days (30) to eighty-nine days (89) before the Event, the Venue shall refund fifty percent (50%) of the Rental Deposit and other refundable fees* previously paid by Renter. Should Renter cancel the Event less than thirty days (30) before the event, Venue shall refund twenty-five percent (25%) Rental Deposit and all other fees previously paid by Renter. In addition, Renter shall immediately compensate Venue for all previously unreimbursed expenses for equipment, personnel or services incurred by Venue in connection with this Agreement.

C. **Cancellation by Venue.** Venue reserves the right to cancel any performance and terminate this Agreement for the protection of public health and safety, or for reasons arising from events outside of the Venue's reasonable control. In the event of such termination the Venue, Venue shall refund to Renter the Rental Deposit, together with all fees previously paid by Renter, less all reasonable expenses, incurred by Venue in connection with this Agreement prior to the date of termination.

14. UNCONTROLLABLE CIRCUMSTANCES.

Neither Renter nor Venue shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to uncontrollable circumstances the effect of which by the exercise of reasonable diligence, the non performing party could not avoid. The term "uncontrollable circumstances" shall mean: any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the control of the non performing party. It includes, but is not limited to, acts of other governing authorities, fire, flood, earthquakes, weather, lightning, epidemic, war, terrorism, riot, civil disturbance, sabotage, police action, inability to procure permits, licenses, or authorizations from any state, local, or federal agency, strikes, work slowdowns or other labor disturbances, and judicial restraint. In the event of an uncontrollable circumstance, the party unable to perform shall immediately notify the other party and shall resume performance of its obligations immediately upon cessation of the uncontrollable circumstance. In the event the Building or any part thereof shall be destroyed or damaged by fire or any other uncontrollable circumstances and such destruction or damage shall render the fulfillment of this Agreement by the Venue reasonably or practically impossible, then and thereupon this Agreement shall terminate and the Renter shall pay rental for the Premises only up to the time of such termination at the rate herein specified. Renter hereby waives any claim for damages or compensation should this Agreement be so terminated.

15. TAXES.

Renter shall promptly pay all sales, use, excise, and any other taxes and any license fees which are required to be paid by Renter to any governmental or accepted licensing authority, and at Venue's request, shall provide evidence of such payment.

16. LIENS.

Should any mechanic's or other lien be filed against the Premises, the Building or any part thereof by reason of Renter's acts or omissions or because of a claim against Renter, Renter shall cause the same to be canceled and discharged of record by bond or otherwise within ten (10) days after notice by Venue.

17. NO SMOKING IN BUILDINGS.

Renter acknowledges that the Rock Family Worship Center prohibits smoking within all indoor public buildings. Smoking within the Building by any person, including without limitation Renter, its invitees, and guests, is prohibited. Smoking is permitted at approved locations outside of the Building.

18. MISCELLANEOUS.

A. **Assignment.** Renter shall not assign, sublease or transfer any interest in this Agreement, or permit the use of the Premises by any person other than Renter and its guests and invitees, without the prior written consent of the Venue.

B. **Entire Agreement.** The Rental Information Sheet and all of the exhibits attached hereto are incorporated into this Agreement by this reference and are deemed a part of the Agreement. This Agreement, and the applicable laws, regulations and policies referenced herein, constitute the entire Agreement between the parties regarding the subject matter hereof and are intended to be a final expression of the agreement between the parties. No promise, representation, warranty or covenant not included in this document has been or is relied upon by any party. Each party has relied upon its own examination of the full agreement and the counsel of its own advisors. This Agreement may be not modified except by written instrument executed by both parties.

C. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns.

D. **Notices.** Except as otherwise specified herein, any notice or other communication required to be given in writing shall be deemed to have been properly given and effective: (a) if delivered in person during recipient's normal business hours; or (b) if delivered by courier, express mail service or registered or certified U.S. mail. Any such notice shall be sent or delivered to the respective addresses of the parties set forth in the Summary of Rent Provisions, and are effective upon receipt or upon attempted delivery in the above manner to such addresses.

E. **Governing Law.** This Agreement shall be interpreted and construed in accordance with the laws of the State of Alabama, without application of any principles of choice of laws. The forum and venue for any claim or judicial action to enforce the terms of this Agreement shall be located exclusively in Madison County.

F. **Non-waiver.** A waiver by either party of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach.

G. **Execution of Counterpart.** This Agreement may be executed separately or independently in any number of counterparts, each and all of which together, will be deemed executed simultaneously and for all purposes to be one Agreement.

H. **Headings.** The headings used in this Agreement are for convenience only and in no way define, limit, or describe the scope of this Agreement or the intent of any provision.

I. **Collections, outstanding balances and fines for damages are subject to a fee of 10% of the balance due for each month it is outstanding. Renter agrees to pay all collection costs and attorney fees should collections be required.**

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives effective as of the day and year first written above.

Huntsville Dream Center, on behalf of The Dream Theatre

Signature: 

Print Name: Arlyne Bell

Title: Director Date: June 6, 2023

RENTER

Signature: _____

Print Name: _____

Title: _____ Date: _____

EXHIBIT A

RENTER AGREES TO THE FOLLOWING ADDITIONAL TERMS, CONDITIONS, RESTRICTIONS AND/OR LIMITATIONS:

1. RENTER'S ACTIVITIES – Renter agrees to conduct Renter's activities upon the Premises so as not to endanger any person lawfully thereon and agrees not to put up or operate any engine or motor or machinery on the Premises, or use oils, burning fluids, camphene, kerosene, naphtha, or gasoline for either mechanical or other purposes or use any agent other than electricity for illuminating the Premises, unless the Venue's Production Director ("PD") has specifically previously approved the same in writing. Renter shall not do, or permit to be done, upon the Premises anything that will tend to injure, mar, or in any manner deface said Premises, and will not drive or install, or permit to be driven or installed, any nails, hooks, tacks, or screws into any part of the Premises or the Building.
2. OBJECTIONABLE PERSONS – The Venue and PD reserve the right to eject or cause to be ejected from the Premises any objectionable person or persons; and neither the Rock Family Worship Center nor any of its officers, agents or employees shall be liable to Renter for any damages that may be sustained by Renter through the exercise of said right.
3. HANDLING FUNDS – Renter is responsible for all handling, control, custody and keeping of funds, whether the same are received through the box office or otherwise. The Rock Family Worship Center, including, without limitation, The Dream Theater, shall not be liable to Renter nor to any other person for any loss, theft, or defalcation thereof. The Renter will handle outside the Building and off campus all registrations, payment of registration and conference fees, travel, lodging, etc.
4. OBSTRUCTIONS – No portions of the sidewalks, entries, passage, vestibules, halls, elevators, ways or access to public utilities of the Premises, shall be obstructed by Renter, the doors, skylights, stairways or openings that reflect or admit light into any portion of the Building, including hallways, corridors and passageways, air circulation vents

and house lighting attachments, shall in no way be obstructed by Renter. Any damage resulting from any misuse of any portion, facility or equipment of the Building, of whatsoever character shall be paid for by Renter as a reimbursable cost payable to Venue within thirty-days (30).

5. FLAMMABLE MATERIALS – No flammable materials such as bunting, tissue paper, crepe papers, etc., will be permitted to be used without written approval of the Fire Marshal.

6. EXHIBIT ENTRANCE – All articles, exhibits, fixtures, materials, displays, etc., shall be brought to or out of the Building only at such entrances as may be designated by the PD.

7. CONTROL OF BUILDING - The Building and Premises, including keys, shall be at all times under the control of PD, and he or other duly authorized representatives of the Venue shall have the right to enter the Premises at all times during the period covered by this Agreement. The entrances and exits of the Premises shall be locked and unlocked at such times as may be reasonably required by Renter for Renter's use of the Premises; but Renter at Renter's own expense, must at all times place proper watchmen at all entrances and exits when the same are unlocked.

8. LOST ARTICLES – The PD shall have the sole right to collect and have custody of articles left in the Building or parking lot by persons attending any performance, seminar, conference, audition, exhibition or entertainment given or held in Premises, and Renter shall not collect or interfere with the collection or custody of such articles.

9. COPYRIGHT INFRINGEMENT INDEMNIFICATION – Renter warrants and represents that no artistic work or other property protected by copyright will be performed, reproduced or used in the performance of this Agreement unless Renter has previously thereto obtained written permission from the copyright holder. Renter will indemnify, save and hold harmless the Venue and its trustees, officers, agents, employees and servants from and against all claims, costs and expenses (including legal fees), demands, actions and liability of every kind and character whatsoever with respect to copyright and the performance of artistic works.

10. CHANGING OF CLOTHING – All changing of clothing must be done in defined dressing rooms, **not in the public restrooms.**

11. PAINTS - NO PAINTS OF ANY KIND MAY BE USED IN ANY AREAS OF THE BUILDING.

12. RESTROOM AREAS - Public restrooms are not to be used for changing costumes or applying make-up. The dressing rooms are for this purpose.

13. HAZE - Only water-based haze is permitted in the theater. No oil-based hazers permitted.