

City of San Angelo Development Corporation

Business Resource Center

Office Lease Agreement

Basic Terms

Effective Date: January 1, 2022

Landlord: CITY OF SAN ANGELO DEVELOPMENT CORPORATION, a Texas municipal development corporation

Landlord's Address: 69 N. Chadbourne St., San Angelo, Tom Green County, Texas 76903

Tenant: Shad Wisener d/b/a South Plains Lamesa Railroad, LTD

Tenant's Address: 69 N. Chadbourne Street, San Angelo, Texas 76903

Phone: (806) 828-4841

Email: shad.wisener@splrr.com

Leased Premises: Office suite number 210.5 and 210.6, located on the second floor of the Business Resource Center, 69 N. Chadbourne St., San Angelo Texas, being approximately 191 square feet (210.5) and 144 square feet (210.6), as depicted in the diagram of second floor of the BRC, attached hereto as **Exhibit "A"** ("Leased Premises").

Term: One (1) year, commencing on the **Effective Date** and automatically extending for up to one (1) additional one year term, unless earlier terminated as herein provided.

Termination Date: December 31, 2022 subject to one extension of term for an additional year, Terminating on December 31, 23

Permitted Use: Tenant shall use the Leased Premises for the limited purpose of professional business office and related uses.

Zoning: The Permitted Use shall be subject to use restrictions in the designated zoning district for the Leased Premises. At commencement of the Lease Term the designated zoning district for the Leased Premises is "Central Business District" (CBD).

Initial Payment: Initial Rent Payment due and payable on execution of this Lease, is the sum of One Thousand Seven Hundred Three and 25/100 Dollars (\$1,703.25), which includes: (a) Five Hundred Ninety-Eight and 30/100 Dollars (\$598.30 – Suite 210.5) and (b) Five Hundred Thirty-Seven and 20/100 Dollars (\$537.20 – Suite 210.6) one time Security Deposit; and, (b) first month's rent of Two Hundred Ninety-Nine and 15/100 Dollars (\$299.15 – Suite 210.5) and Two Hundred Sixty-Eight and 60/100

Dollars (\$268.60 – Suite 210.6). The deposit is refundable within 30 days of termination or expiration of the lease, net of amounts credited to reimburse landlord for reasonable expenses necessary to restore the Leased Premises to their condition at commencement of the lease, normal wear and tear excepted.

Monthly Rent: Except as provided herein for the Initial Payment, monthly Rent shall be in the sum of Two Hundred Ninty-Nine and 15/100 Dollars (\$299.15 –Suite 210.5) and Two Hundred Sixty-Eight and 60/100 Dollars (\$268.60 – Suite 210.6), payable in advance on or before the 1st day of each month during the term of this Lease. Payments due under this Lease shall be made to the Landlord at 69 N. Chadbourne St., San Angelo, Texas 76903.

Clauses and Covenants

A. Tenant agrees to—

1. Lease the Premises on an annual term with rent payable in advance in equal monthly installments.
2. Comply with all applicable laws, ordinances, rules and regulations relating to Tenant's occupancy, use and maintenance of the Leased Premises.
3. Pay when due the Initial Rent Payment, regular Rent payments and any other payment obligation of Tenant under the terms of this Lease.
4. Pay to Landlord a late charge ten percent of the rent due plus interest accrued on the balance past due at the lower of ten percent (10%) per annum or the maximum rate allowed by law. Acceptance by Landlord of late rent, charges or interest shall not be construed as a waiver of the right of Landlord to terminate this Lease at its option as authorized herein.
5. Pay all taxes on Tenant's property located on the Leased Premises.
6. Use the Leased Premises for the Permitted Use only and uses incidental thereto in compliance with applicable law.
7. Tenant shall return the Leased Premises to Landlord in the same condition as when received, reasonable wear and tear accepted.
8. TENANT AGREES TO INDEMNIFY DEFEND, AND HOLD HARMLESS, LANDLORD, ITS BOARD MEMBERS, OFFICERS, AGENTS AND EMPLOYEES, FROM ANY AND ALL CLAIMS, FAULT, LIABILITIES, DEMANDS, SUITS, CAUSES OF ACTION, PROCEEDINGS OF ANY KIND AND JUDGMENTS FOR PERSONAL INJURY AND/OR PROPERTY LOSS OR DAMAGE, PLUS REASONABLE ATTORNEYS' FEES AND COST OF DEFENSE, WHICH THE INDEMNIFIED PARTIES MAY INCUR ARISING DIRECTLY OR INDIRECTLY OUT OF THE SOLE OR JOINT NEGLIGENCE, ERROR, OMISSION, OR INTENTIONAL ACTS OF TENANT IN THE EXERCISE BY TENANT OF THE PRIVILEGES CONFERRED UNDER THIS LEASE.

THIS INDEMNIFICATION, DEFEND AND HOLD HARMLESS AGREEMENT SHALL SURVIVE THE TERM OF THIS AGREEMENT AS LONG AS ANY LIABILITY COULD BE ASSERTED. NOTHING HEREIN SHALL REQUIRE THE INDEMNIFYING PARTY TO

INDEMNIFY, DEFEND OR HOLD HARMLESS ANY INDEMNIFIED PARTY FOR THE INDEMNIFIED PARTY'S OWN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

9. Maintain Insurance as follows:

a. Tenant shall, at all times during the term hereof, maintain such insurance coverage as may be required by CITY and approved by the City of San Angelo Risk Manager of the types and in the amounts specified in **Exhibit "B"** attached hereto, which by this reference is incorporated into this Agreement for all purposes, and with insurers licensed to do business in Texas. All insurance required herein will defend and shall be drawn in the name of Tenant, with CITY, its board members, officers, agents, guests, invitees, consultants and employees named as additional insureds, except on coverage for Workers' Compensation. Every policy required above shall be primary insurance. Any insurance or self-insurance benefits carried by CITY, its board members, officers, or employees, shall be excess and not contributory to that provided by Tenant. All such insurance, including renewals, shall be subject to the approval of the City of San Angelo Risk Manager for adequacy of protection and evidence of such coverage shall be furnished to the City Risk Manager on Certificates of Insurance indicating such insurance to be in force and effect and providing that it will not be canceled during the performance of Services under this Agreement without thirty (30) calendar days prior written notice to City. Completed Certificates of Insurance shall be filed with City's Risk Manager at City Hall, 72 W. College Avenue, San Angelo, Texas 76903, prior to Tenant occupying or utilizing the Leased Premises, provided however, that Tenant shall at any time upon request file duplicate copies of the policies of such insurance with CITY.

b. Tenant shall notify City's Risk Manager of any reduction or exhaustion of insurance policy aggregate limits. Should Tenant fail to immediately secure other insurance, as specified, for any policy canceled before expiration of the Lease Term or any extension thereof, City may procure such insurance and assess the cost thereof against Tenant as additional rent.

c. Tenant shall require its insurance carrier(s), with respect to Commercial General Liability and Automobile Liability insurance policies, to waive all rights of subrogation against CITY, its board members, officers, agents, guests, invitees, consultants and employees.

d. The procuring of such policies of insurance shall not be construed to be a limitation upon Tenant's liability or as a full performance of its obligations under the indemnification provisions of this Lease. Tenant's obligations are, notwithstanding said policies of insurance, for the full and total amount of any damage, injury or loss caused by or attributable to its occupation or control over the Leased Premises pursuant to this Lease or any extension thereof.

10. Vacate the Leased Premises on the last day of the Term.

B. Tenant agrees not to—

1. Use the Leased Premises for any purpose other than the Permitted Use, including that:

a. No permanent improvements shall be made or construction without the prior written consent of Landlord.

b. No storage or dispensing of petroleum products or hazardous materials without Landlord's prior written consent. ("Hazardous Material" being the presence of which requires investigation, notice or remediation under any federal, state or local statute, regulation, ordinance.)

2. Create or allow any nuisance or waste on Leased Premises.
3. Cause or allow a lien to be placed on the Leased Premises.
4. Assign this Lease or sublease any portion of the Leased Premises without Landlord's prior written consent.
5. Litter or leave trash or debris on the Leased Premises.

C. Landlord agrees to—

Lease to Tenant the Leased Premises subject to the terms and conditions herein provided beginning on the Commencement Date. Landlord covenants and agrees that at all times when Tenant is not in default under the terms of this Lease, Tenant's quiet and peaceable enjoyment of the Leased Premises for the Permitted Use shall not be disturbed or interfered with by Landlord or any person claiming by, through or under Landlord, except as otherwise may be specifically provided for under the terms of this Lease.

D. Landlord agrees not to—

Allow any use of the Leased Premises inconsistent with Tenant's Permitted Use, subject to the reservations of rights herein stated, and so long as Tenant is not in default.

E. Landlord and Tenant mutually agree to the following:

1. *Rent Adjustment.* N/A.
2. *Disclaimer of Warranties.* ALL WARRANTIES OF LANDLORD THAT MAY ARISE IN COMMON LAW ARE EXCLUDED. THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE EXPRESSLY STATED IN THIS LEASE.
3. *RESERVATIONS.* LANDLORD OPERATES THE BUSINESS FACTORY INCUBATOR PROGRAM AND IN ADDITION TO TENANT, OFFICE SPACE IN THE BRC IS OCCUPIED BY VARIOUS PRIVATE BUSINESS ENTITIES. LANDLORD IS RESPONSIBLE FOR BUILDING OPERATION AND MAINTENANCE OF COMMON AREAS, INCLUDING USE OF PARKING FACILITIES AND SECURITY. LANDLORD RESERVES THE RIGHT TO ADOPT REASONABLE RULES AND REGULATIONS RELATING TO OFFICE USE OF THE BRC BY MULTIPLE PRIVATE BUSINESS ENTITIES, IN ADDITION TO CITY, CITY OFFICES, AND ASU SMALL BUSINESS DEVELOPMENT CENTER. TENANT AGREES TO COMPLY WITH SUCH RULES AND REGULATIONS.
4. *Termination of Lease.* Landlord or Tenant may terminate this lease for convenience on thirty (30) days written notice to the other party. *The foregoing provision for termination is in addition to termination pursuant to Default* by Tenant, under Section 9 herein.
5. *No Encumbrances.* Tenant shall not have the right to encumber the Leased Premises.

6. *Transfer, Assignment and Subletting.* Tenant may not transfer, assign or sublet the Leased Premises, in whole or in part, without the prior written consent of the Landlord, which consent may be withheld in the sole discretion of Landlord.

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7. *Fees Related to Leased Premises.*

a. *Utilities:* Usual utilities (electric, water, HVAC) are provided by Landlord. Telephone and other services are provided by Tenant at Tenant's expense. Any use of Landlord's copier will be charged as additional rent at the rate of \$.10 per page for color copies. Landlord will permit Tenant up to 250 black and white copies per month without charge. Each black and white copy exceeding 250 in any calendar month will be charged as additional rent at the rate of \$.08 per page.

b. Tenant will be permitted occasional use of the conference room located on the first floor of the BRC without charge, unless Tenant charges a fee for attendees at a meeting or event utilizing the conference room. Tenant will be charged as additional rent at the rate of \$75 for half day (up to four hours) or \$175 for full day (exceeding four hours but not more than eight hours). Scheduling of use of the conference room will be pursuant to BRC policy approved by Landlord.

c. *Taxes:* Tenant shall be solely responsible for the payment of any taxes assessed relating to Tenant improvements or personal property placed upon the Leased Premises. Tenant shall pay all such taxes, charges, and assessments to the public officer charged with the collection thereof not less than fifteen (15) days before the same shall become delinquent, and **Tenant agrees to indemnify and save harmless Landlord from all such taxes, charges and assessments.** Failure to pay such taxes and assessments as provided herein shall, at the option of Landlord, result in termination of this Lease.

8. *Default by Tenant/Events.* The following shall constitute events of default by Tenant:

- a. failure to timely pay Rent or other charges payable by Tenant under this Lease; or,
- b. failure to comply with any provision of this Lease Agreement other than timely payment of Rent.

9. *Default by Tenant/Landlord's Remedies.* Landlord's remedy for Tenant's default, after providing a notice describing the nature of default and such default continues for a period of ten (10) days after notice, is to terminate this Lease Agreement by written notice, take possession of the Leased Premises, and seek judicial relief for costs, rents due and such other damages or relief to which Landlord may be entitled. Landlord may enter and take physical possession and control over the Leased Premises on termination of this Lease by self-help, and may prohibit the Tenant in default or any other person who may be occupying the Leased Premises, from access thereto or the use thereof, and shall not be liable in trespass or for damages therefore.

10. *Default/Waiver/Mitigation.* It is not a waiver of default if the Landlord fails to declare immediately a default or delays in taking any action. Pursuit of any remedy set forth in this Lease does not preclude pursuit of other remedies under this Lease or provided by law.

11. *Reimbursement of Landlord's Expenses.* Tenant shall pay on demand Landlord's expenses necessarily incurred, including, but not limited to attorney's fees and court costs, to enforce any Tenant obligation under this Lease or to terminate this Lease for Tenant's default and retake physical possession of the Leased Premises.

12. *Amendment of Lease.* This Lease may be amended only by an instrument in writing signed by Landlord and Tenant.

13. *Notices.* Any notice required or permitted under this Lease must be in writing and delivered to the address for the recipient party. Any notice required by this Lease will be deemed to be delivered (whether actually received or not) on the second day after deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address below. Notice may also be given by personal delivery or commercial courier delivery and will be effective when actually received. Any address for notice may be changed by written notice delivered to the other party as provided herein.

LANDLORD:

City of San Angelo
Attn: Dir. of Economic Development
69 N. Chadbourne St.
San Angelo, Texas 76903

TENANT:

Shad Wisener, d/b/a SPLRR, LTD
69 N. Chadbourne Street, Ste. 210.5 & 210.6
San Angelo, Texas 76903

14. *Entire Agreement.* This Lease Agreement constitutes the entire agreement of the parties concerning the lease of the Premises by Landlord to Tenant. There are no representations, warranties, agreements, or promises pertaining to the lease of the Leased Premises by Landlord to Tenant that are not in this Lease Agreement.

EXECUTED by the parties in duplicate originals on the dates indicated below.

TENANT:

Shad Wisener, d/b/a SPLRR, LTD.

BY: _____
Shad Wisener

DATE: _____, 2019

LANDLORD:

CITY OF SAN ANGELO DEVELOPMENT CORPORATION

Attest:

Nora Nevarez, Secretary

BY: _____
Max Puello, President

DATE: _____

APPROVED AS TO FORM

APPROVED AS TO RISK

Brandon Dyson, Deputy City Attorney

Charles Hagen, Risk Manager



THE
BUSINESS FACTORY

<p>210.8 124 sq. ft. Vacant</p>	<p>210.7 197 sq. ft. Vacant</p>	<p>210.6 144 Sq. Ft. Shad Wisener</p>	<p>210.5 191 sq. ft. Shad Wisener</p>
			<p>210.4 Vacant 161 Sq. Ft.</p>
<p>210.2 100 sq. ft. Vacant</p>	<p>210.1 105 sq. ft. Vacant</p>		

EXHIBIT "B"

SPECIAL INSURANCE RIDER

TYPES AND AMOUNTS OF INSURANCE REQUIRED. Provider shall obtain and continuously maintain in effect at all times during the term hereof, at Provider's sole expense, insurance coverage as follows with limits not less than those set forth below:

- 1.1** **Commercial General Liability.** Tenant shall obtain and maintain policies of insurance covering the Leased Premises and Tenant's activities thereon at all times during the Term, including comprehensive general liability insurance with a minimum combined occurrence and annual limitation of \$1,000,000.00; and Fire Damage on the building and fixtures with a minimum combined occurrence and annual limitation of \$150,000. This policy shall be an occurrence-type policy and shall protect Tenant and additional insureds against all claims arising from bodily injury, sickness, disease or death of any person (other than Tenant's employees) and damage to property of City or others arising out of the act or omission of Provider or its agents and employees. This policy shall also include protection against claims for the contractual liability assumed by Provider under the paragraph of this Agreement entitled "Indemnification".