

**CITY OF MARSHALL
ADULT COMMUNITY CENTER
LEASE AGREEMENT**

THIS AGREEMENT is made and entered into this 15th day of January, 2025 by and between the City of Marshall, Minnesota, (the "City") and Lutheran Social Services, ("LSS"), together (the "Parties").

RECITALS

WHEREAS, the City is the owner of the building located in the City of Marshall and referred to herein as the Adult Community Center;

WHEREAS LSS is organized and exists for the purpose of providing meals for qualifying individuals.

WHEREAS LSS agrees to lease and use a portion of the Adult Community Center for the purpose of installing equipment for the provision of meals and for the preparation and consumption of meals.

NOW THEREFORE, in consideration of the mutual obligations and agreements of the parties herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

GENERAL TERMS AND CONDITIONS

1. **Purpose.** City hereby leases to, and LSS hereby accepts, space within the Adult Community Center, as set forth in Paragraph 4 of this agreement for the following purposes:
 - a. To prepare food for the ongoing nutrition program, and to store and install equipment related to the provision of services for the food program;
 - b. To utilize the designated serving area and consumption area for the patrons of the nutrition program;
 - c. To utilize a designated preparation area to provide meals to be delivered off site; and
 - d. To utilize a designated area to conduct daily administrative tasks and store administrative supplies.
2. **Term.** This lease shall run from January 1 of 2025 and terminating on December 31 of 2025.
3. **Fees.** LSS will pay to the City as rent for said premises the sum of \$475 per month which sum shall include the cost to the City for utility services (gas, water, sewer, garbage, local phone service and electricity). Said amount shall be payable monthly on or before the last day of the month from January 1, 2025 to December 31, 2025. The rental amount provided for in this paragraph may be adjusted upwards by the City upon sixty days notice to LSS such adjustments to be based on increases in the use of utility services.
4. **Allowable Uses.** LSS shall be allowed the following uses of the premises:
 - a. Kitchen - located in the Adult Community Center from the hours of 7:00 a.m. to 1:00 p.m.
 - b. Dining Room - located in the Adult Community Center from the hours of 7:00 a.m. to 12:30 p.m., Monday through Friday. Any other hours of use of the Adult Community Center by LSS shall require prior approval of the Adult Community Center. Adult Community Center maintains their right to utilize the kitchen and dining area or permit use to others during the above-mentioned timeframes with advance communication to both the user and LSS.
 - c. Additional Use Space - LSS may utilize the area adjacent to the dining room and kitchen to store food, administrative supplies and equipment, among other items in support of the kitchen and meal service activities. This area will be shared with the ACC on an as needed basis.
 - d. Proof of Inspections – LSS shall provide the City with a copy of all inspections to which LSS is subject in compliance with state law within ten (10) days of receiving the inspection report.

5. **Building Access.** The City will issue keycards to LSS Staff for entry into the Adult Community Center. LSS staff shall be responsible for lost, unreturned, and/or damaged keycards. The replacement fee shall be \$10.00 dollars per card. Key cards assigned to LSS may only be used by the LSS assigned staff unless the City provides express permission for the transfer in writing. Unauthorized key card transfer is strictly prohibited and will be considered a material breach of this Agreement subject to any applicable remedies. LSS shall be responsible for any costs incurred due to an unauthorized key transfer, including but not limited to re-keying of the premises.
6. **Insurance.** LSS will provide general liability insurance for personal injury and property damage in at least the minimum amount of \$1,000,000 Per Claim, and \$3,000,000 Aggregate. LSS shall list City as "additional insured" on said Policy and shall provide the City with proof of such coverage. LSS shall provide any and all worker's compensation insurance required by law for the coverage of its employees, agents, volunteers and servants. It is specifically understood by and between the parties that all times under this agreement and all employees, agents, volunteers and servants of LSS who participate in the meals program or in any other way authorized by this agreement shall be deemed to be employees of LSS and not of the City of Marshall, for the purpose of determining worker's compensation liability.
7. **Indemnification.** LSS shall defend, indemnify, and hold harmless the City, its officers, employees, contractors, and agents against any and all claims, demands, actions or causes of action of whatsoever kind arising or resulting either directly or indirectly from the use, occupancy, or licensing of the Center by LSS, its sublicensee, contractors, subcontractors, agents, officers, volunteers or employees. To the fullest extent permitted by law and subject to the limit of liabilities establishes in Chapter 466 of the Minnesota Statutes, the City shall defend, indemnify, and hold LSS, its officers, employees, contractors, and agents against any and all claims, demands, actions or causes of action of whatsoever kind arising or resulting either directly or indirectly from Adult Community Center's negligent acts or omissions.
8. **Equipment.** LSS will insure all equipment belonging to them in amounts and under terms sufficient so as to hold the City harmless from any liability loss to said equipment. A complete inventory of equipment provided and used by LSS at the Adult Community Center will be provided to the City at the beginning of the contract period, and any changes thereto will be promptly reported in writing to the City. **City and Third-Party Equipment Use.** LSS shall make its equipment available to the City for use by it or other such persons or organizations as it may designate upon reasonable notice and at such times and under such conditions as the parties may agree to and the circumstances may warrant.
 - a. **Equipment Maintenance and Repair.** Other than as provided in Section b., LSS shall at all times be responsible for the maintenance, repair and replacement of equipment belonging to LSS or belonging to the City and used by LSS. LSS shall keep LSS-owned and City-owned but LSS used equipment in a safe and sanitary condition and shall be responsible for custodial activity associated with and resulting from their meals program. The entire rental area that is used by LSS must be cleaned on a daily basis by LSS after use by LSS. To the extent the City begins renting out the rental area to other individuals or groups, the parties may separately, by mutual consent, agree to an allocation of costs for maintenance, repair and replacement of equipment belonging to the City and used by LSS to decrease LSS responsibility for the entire cost of the maintenance, repair and replacement of equipment belonging to the City and used by LSS.
 - b. **City-Owned Equipment.** LSS may use certain equipment owned by the City of Marshall and included in the list attached as Exhibit A. The City will have responsibility for maintenance or replacement from normal wear and tear of the city -owned equipment listed in Exhibit A, as needed by the City of Marshall. LSS shall be solely responsible for repair or replacement of city owned equipment listed both in Exhibit A and any other city owned equipment used by LSS, when the necessary repair or replacement of the equipment arises out of the negligent use or intentional damage by LSS or their employees, agents, volunteers or representatives. The City shall be

responsible for repair or replacement of LSS owned equipment when the necessary repair or replacement of equipment arises out of the negligent or intentional damage by the City or the ACC, or their employees, agents, volunteers, invitees or other representatives.

- c. **Equipment Security.** In the event the City rents the Adult Community Center Kitchen to a party other than LSS, LSS shall secure their equipment in such a manner as to not be accessible by anyone other than LSS or City Staff. The City is not responsible for any lost, stolen, or damaged LSS equipment not secured prior to third-party rental and use of the kitchen.
9. **Custodial Responsibilities.** The City shall be responsible for and provide necessary and reasonable maintenance and custodial services in and around the Adult Community Center. Spaces used and rented by LSS must be cleaned by LSS employees or volunteers on a daily basis and in compliance with any requirements under LSS' certification from the Department of Health. In those instances when the City has to provide daily custodial service because LSS did not perform daily cleaning after LSS had used the space, then the City will charge LSS an hourly custodial fee of \$55/hour, to be billed only in hour increments.
10. **Applicable Laws, Rules, and Regulations.** LSS leadership and staff shall adhere to all applicable local, state, and federal laws and regulations. LSS leadership and Staff shall adhere to all applicable food safety laws and regulations. LSS leadership and staff shall adhere to the LSS and City Codes of Conduct and Performance and Conduct Standards respectively. If there are conflicts between the LSS and City codes of conduct, LSS Code of Conduct shall control for LSS employees and volunteers.
11. **Assignment and Subletting Prohibited.** LSS may not assign any right, privilege or license conferred by this agreement; nor may it sublet or encumber any portion of the lease premises without first obtaining written consent of the City.
12. **Amendment.** Notwithstanding any other provision hereof, the parties hereto may by mutual consent and in writing agree to modifications and additions hereto.
13. **Termination.** This agreement may be terminated prior to expiration of the term hereof as follows:
 - a. By Mutual written agreement of the Parties; or
 - b. Upon a Material Breach of the Agreement by the other party (the Breaching Party). A material breach occurs when a breach is not cured to the Aggrieved Party's reasonable satisfaction within sixty (60) days after the aggrieved Party provides the Breaching Party with written notice of the breach. In the event either Party gives written notice of breach, the Aggrieved Party alleging the breach may be required by the Breaching Party to specify in writing the exact nature of the alleged breach, specific incidents that support the claim of the alleged breach, and the specific actions that the Aggrieved party alleging the breach deems reasonable and appropriate to cure the alleged breach; or:
 - c. By at Least 60 Days Written Notice. Either party shall provide a minimum of at least 60 days written notice prior to the effective date of termination.
14. **Breach.** In the event of a material breach as outlined in Paragraph 12(c), the Parties may pursue any and all available remedies at law or in equity under the laws of State of Minnesota. All available remedies in this Agreement or by law shall be cumulative, and the exercise of one right or remedy by the applicable party shall not impair its right to exercise any other right or remedy.
15. **Surrender.** In the event the Parties terminate this Agreement with no intent to renew, LSS shall peaceably surrender the leased space and remove all debris and personal property from the leased space. LSS shall not

remove any of the improvements, City-owned appliances, equipment, or fixtures. LSS shall be conclusively deemed to have abandoned any personal property not removed prior to the effective date of the final termination of this Agreement or LSS' surrender of the leased space. The City may dispose of all abandoned debris and personal property. LSS shall be responsible for any disposal costs.

16. **Notice.** Address for any notifications required by this agreement shall be as follows, unless and until written notice of a new address is given by one party to the other:

For City:

Adult Community Center Coordinator
SCC
107 South 4th Street
Marshall, MN 56258
(507) 537-6120

For LSS

LSS
Attn: JC Williams
3101 South Frontage Road Suite 100
Moorhead, MN 56560
(218) 233-7521

17. **Data.** Where applicable, LSS agrees to abide strictly by Chapter 13, Minnesota Government Data Practice Act (MGDPA), and in particular Minn. Stat. §§ 13.05, subd. 6 and 11; and 13.37, subd. 1 (b) and Minn. Stat §§ 138.17 and 15.17. All of the data created, collected, received, stored, used, maintained, or disseminated by the LSS in performing functions under this Agreement is subject to the requirements of the MGDPA and LSS must comply with those requirements as if it were a governmental entity. If any provision of this Agreement conflicts with the MGDPA or other Minnesota state laws, state law shall control. LSS duties and obligations within this section shall survive the expiration of this Agreement.
18. **Entire Agreement.** This Agreement supersedes any prior or contemporaneous representations or agreements, whether written or oral, between the Parties and contains the entire agreement.
19. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Minnesota.
20. **Waiver.** The waiver by either party of any breach or failure to comply with any provision of this Agreement by the other party shall not be construed as or constitute a continuing waiver of such provision or a waiver of any other breach of or failure to comply with any other provision of this Agreement.
21. **Savings Clause.** If a court finds any portion of this Agreement to be contrary to law or invalid, the remainder of the Agreement will remain in full force and effect.
22. **Rent Abatement.** Except for if caused by the wrongful acts of LSS, if the Premises is rendered unusable by fire or other casualty, and this lease is not terminated, the following conditions shall apply:
- a. **Abatement Period.** LSS shall be entitled to a full abatement of the Base Rent from the date of the casualty event until the City has substantially completed the repair and restoration work at the Premises to enable LSS to prepare, private or offer consumption of meals on-site at the ACC unless the parties mutually agree on a different space in city-controlled property for LSS to use during the repair and restoration.
 - b. **Force Majeure.** In the event that LSS is unable to occupy the premises due to a force majeure event, including but not limited to natural disasters, government-imposed restrictions, or other events beyond LSS' control, LSS shall be entitled to rent abatement for the duration of such event. LSS must notify Adult Community Center in writing within 3 days of the occurrence of the force majeure event to qualify for this additional abatement.

- c. **Premises Unavailable.** If the Premises are not delivered to LSS in a condition suitable for occupancy by the Lease Commencement Date, LSS shall receive a rent abatement equal to one day of Base Rent for each day of delay until the Premises are delivered in a tenantable condition.
- d. **Rent Abatement Documentation.** LSS shall provide the Adult Community Center with any documentation reasonably requested to substantiate the conditions warranting rent abatement, except where such documentation is not feasible due to the nature of the event.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and date first written above.

CITY OF MARSHALL, MINNESOTA

LUTHERAN SOCIAL SERVICES

Print: _____

Print: Amy Vajgrt

By: _____
Mayor, City of Marshall

By: *Amy Vajgrt*
Authorized Representative

Title: Senior Director Meals

Date: _____

Date: 1.22.25

ATTESTED TO:

City Clerk

Date: 1-15-25

ADULT COMMUNITY CENTER COMMISSION

Print: *Darwin A. Leck*

By: *Darwin A. Leck*
Adult Community Center Commission

Date: 1-15-25