

LSS MEALS SITE USE AGREEMENT – 2025

This site use agreement has been prepared for the purpose of defining the rules of the agencies involved in the development and operation of the Nutrition Program in St James.

This agreement made this 7th 21st day of January 2025, by and between the City of St James, hereafter referred to as the City and LSS Meals, 3101 S Frontage Road, Suite 100, City of Moorhead and the State of Minnesota, hereafter called the Nutrition Program, in consideration of costs, covenants and agreements herein reserved and contained, do hereby agree each with the other as follows:

1. **Purpose.** City here by leases to, and Nutrition Program accepts, space within the Community Building, as set forth in Paragraph 4 of this agreement solely for the Permitted Use. Permitted Use shall mean any use or action necessary for, in connection with,

incidental to, or convenient for the preparation, storage, and serving of meals through the LSS Meals program on-and off-site. Personal preparation, storage, and/or serving of any meals outside of the Nutrition Program shall be prohibited. No personal belongings included but not limited to personal food storage, furniture, equipment or the like shall be stored at the Community Building by the Nutrition Program employees, agents, volunteers, or servants.

2. **Term.** This site use agreement shall run from January 1, 2025, and terminating December 31, 2025.

3. **Fees.** The City acknowledges and agrees that the Permitted Use benefits the City's community population, that the Nutrition Program has undertaken this program at the Nutrition Program's expense. The Nutrition Program agrees to pay a yearly fee of \$1,200.00 which shall include the cost to the City for utility services (gas, water, sewer, garbage, and electricity, to help offset the costs of operation. Payment will be made on a quarterly basis. The site use amount provided in this paragraph may be adjusted upwards by the City upon sixty (60) notice to the Nutrition Program, such adjustments to be based on increases in the use of utility service.

4. **Allowable Uses.** The Nutrition Program shall be allowed the following uses of the premises:

- a) Kitchen - located in the Community Building from the hours of 9:00 AM to 1:00 PM, Monday through Friday.
- b) Community Room - located in the Community Building from the hours of 11:00 AM to 1:00 PM, Monday through Friday. Any other hours of use of the Community Building by the Nutrition Program shall require prior approval from the City Manager. The Community Building maintains their right to utilize the kitchen and community room or permit use to others during the above-mentioned timeframes with advance communication to both the user and the Nutrition

Program.

- c) Additional Use Space – the Nutrition Program may utilize the area adjacent to the 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 City on an as needed basis. The Community Building office space is not included in Additional Use Space.

~~5. Subject to the terms and conditions hereof, the City grants to the Nutrition Program the right to use the Facilities solely for the Permitted Use. Permitted Use shall mean any use or action necessary for, in connection with, incidental to, or convenient for the preparation, storage, and serving of meals through the LSS Meals program. The Nutrition Program shall be permitted to use the Facilities on the following days/times:~~

6. **Building Access.** The City will issue keys to the Nutrition Program staff for entry into the Community Building. The Nutrition Program staff shall be responsible for lost, unreturned, and/or damaged keys. Keys issued to the Nutrition Program staff may only be used by the Nutrition Program staff unless the City provides express permission for the transfer in writing. Unauthorized key transfer is strictly prohibited and will be considered a material breach of this Agreement subject to any applicable remedies. The Nutrition Program shall be responsible for any costs incurred due to an unauthorized key transfer, including but not limited to rekeying of the Community Building.

7. **Equipment.** The Nutrition Program will ensure 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 by the Nutrition Program at the Community Building 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.

- a) City and Third-Party Equipment Use – the Nutrition Program 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, including the use of the Commercial Kitchen license held by the Nutrition Program.
- b) Equipment Maintenance and Repair – the Nutrition Program shall at all times be responsible for the maintenance, repair, and replacement of equipment belonging to the Nutrition Program or belonging to the City and used by the Nutrition Program. The Nutrition Program shall keep LSS-owned and City-owned equipment, but the Nutrition Program 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 site used area that is used by the Nutrition Program must be cleaned on a daily basis.
- c) Equipment Security – In the event the City rents the Community Building and/or Kitchen to a party other than the Nutrition Program, the Nutrition Program shall secure their equipment in such a manner as to not be accessible by anyone other than the Nutrition Program or City staff. The City is not responsible for any lost, stolen, or damaged Nutrition Program equipment not secured prior to third-party rental and use of the Kitchen.

8. **Custodial Responsibilities.** The Nutrition Program agrees to restore ~~community facilities~~ the Community Building to ordinary cleanliness after use. Ordinary cleanliness is defined as leaving facilities in the same condition as they were prior to entering. Notwithstanding this undertaking, basic custodial services such as floor maintenance, window washing, cleaning of rest rooms, washing and/or painting of walls, snow and ice removal and all other general maintenance, reasonable inspection and repairs to the interior and exterior of the ~~facilities~~ Community Building are the responsibility of the ~~building owner~~ City. The City agrees to maintain, inspect, and repair and to assume sole financial responsibility for the ~~facility~~ Community Building due to mechanical and electrical problems. The City agrees to have all fire extinguishers inspected yearly by a licensed inspector at City expense. A dated and signed tag must be placed on each extinguisher.

9. **Communication.** All correspondence regarding this agreement will be between the Senior Director or Area Directors and City.

10. **Holidays.** The closing of sites on holidays will be determined by the Nutrition Program and the City.

11. **Smoking.** No employee, agent, volunteer, or servant shall smoke within 25-feet of the Community Building.

12. **Emergency Use.** In the event of a disaster, the City agrees to allow the Nutrition Program to use facilities for the preparation, serving and distribution of meals/food. ~~and in an extreme disaster for housing of disaster victims.~~

13. **Insurance.**

The City's responsibility: During the term of the agreement, the City shall maintain at its expense, specific insurance coverages with companies licensed to do business in the state of MN as follows:

- a) **General Liability** with respect to its use and occupancy of the premises with limits of liability of not less than \$1,000,000.00 per occurrence and \$3,000,000.00 aggregate.
- b) **Property Coverage** which protects against loss by fire, lightning, and other risk customarily covered by standard extended coverage endorsement in amounts of not less than the full replacement cost of the building, without deduction for depreciation.
- c) **Professional and Sexual /Physical Misconduct Liability** for the City's staff with limits of \$1,000,000 each occurrence and \$3,000,000 aggregate.

The City shall annually furnish The Nutrition Program with Certificates of Insurance outlining these coverages.

The Nutrition Program's responsibility: During the term of the agreement, The Nutrition Program shall maintain at its expense, specific insurance coverages with companies licensed to do business in the state of MN as follows:

- d) **General Liability Insurance** with personal injury and property damage in at least the minimum amount of \$1,000,000 Per Claim, and \$3,000,000 Aggregate. The Nutrition Program shall list the City as “additional insured” on said Policy and shall provide the City with proof of such coverage. ~~with respect to its use and occupancy of the premises with limits of liability of not less than \$1,000,000.00 per occurrence and \$3,000,000.00 aggregate.~~
- e) **Worker’s Compensation Insurance** shall be provided ~~limits at state required by law for coverage of its employees levels for all Nutrition Program staff serving at this site location.~~ It is specifically understood by and between the parties that all times under this agreement and all employees, agents, volunteers, and servants of LSS Program who participate in the Nutrition Program or in any other way authorized by this agreement shall be deemed to be employees of LSS and not the City of St. James, for the purpose of determining worker’s compensation liability.
- f) **Contents Insurance:** For any kitchen equipment owned by the Nutrition Program, coverage shall be in place in the amount of the full insurable replacement value. Exhibit A is a list of all the Nutrition Program - owned equipment (if applicable) located on the Premises as of the date of this Agreement.
- g) **Professional and Sexual Misconduct Liability** for the Nutrition Program’s staff with limits of \$1,000,000 each occurrence and \$3,000,000 aggregate.

14. Indemnification. To the extent such waiver does not void or diminish the coverage under any policy, The City and The Nutrition Program hereby waive any rights each may have against the other on account of any loss or damage sustained by either party, as the case may be, or their respective property, to the extent such loss or damage is covered by insurance carried by either party.

All personal property, equipment and fixtures kept, stored or maintained on the Premises shall be at the sole risk of The Nutrition Program. The Nutrition Program hereby forever waives and releases City from any claims for loss or damage of any kind whatsoever to such personal property, equipment and fixtures, except to the extent such claims may arise or result from the negligence or wrongful acts of the City or its employees, agents, invitees or contractors. Except for any negligent or intentional or reckless act or failure to act of The City, its agents, employees, guests, invitees or contractors, or failure on the part of City to perform its covenants or agreements under this agreement, The Nutrition Program shall indemnify and hold harmless The City against all liabilities, damages, claims, costs and other expenses, including reasonable attorneys' fees, which may be imposed upon, incurred by, or asserted against The City by reason of any damage or injury to person or property adjudicated to be the fault of The Nutrition Program or its agents or employees.

15. Applicable Laws, Rules, and Regulations. The Nutrition Program agrees and shall abide, conform to and comply with all the laws of the United States and the State of Minnesota, and all of the ordinances of the City, Minnesota, together with all the rules and requirements of the Police and Fire Department of the City, Minnesota. In addition, all rules and regulations by the Minnesota Department of Health will be complied with. A restaurant license, if required, will be procured annually by the Nutrition Program. The City agrees to arrange for an annual fire

inspection and notify the Nutrition Program of results. Fire inspecting must be completed by professionally trained personnel.

16. Assignment and Subletting Prohibited. The Nutrition Program may not assign any right, privilege or license conferred by this Agreement; nor may it sublet or encumber any portion of the premises without first obtaining written consent of the City.

17. Amendment. Notwithstanding any other provision hereof, the parties hereto may by mutual consent and in writing agree to modifications and additions hereto.

18. 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 the 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 Sixty (60) Days Written Notice. Either party shall provide a minimum of at least sixty (60) days written notice prior to the effective date of termination.

19. Breach. In the event of a material breach as outlined in Paragraph 18(b), the Parties may pursue any and all available remedies at law or in equity under the laws of the 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.

20. Surrender. In the event the Parties terminate this Agreement with no intent to renew, the Nutrition Program shall peaceably surrender the used space and remove all debris and personal property from the leased space. The Nutrition Program shall not remove any of the improvements, City owned appliances, equipment or fixtures. The Nutrition Program 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 the Nutrition Program's surrender of the used space. The City may dispose of all abandoned debris and personal property. The Nutrition Program shall be responsible for any disposal costs.

21. 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:

City: **Nutrition Program:**

City of St. James

LSS

Attn: Tammy Stevens

Attn:

1205 6th Ave S

3101 South Frontage Road – Suite 1

PO Box 70
St. James, MN 56081
507-375-3241

Moorehead, MN 56560
218-233-7521

22. **Data.** Where applicable, the Nutrition Program 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 Nutrition Program in performing functions under this Agreement is subject to the requirements of the MGDPA and Agreement the Nutrition Program 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. The Nutrition Program duties and obligations within this section shall survive the expiration of this Agreement.
23. **Entire Agreement.** This Agreement supersedes any prior or contemporaneous representations or agreements, whether written or oral, between the parties and contains the entire agreement.
24. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Minnesota.
25. **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.
26. **Savings Clause.** If a court finds any portion of this Agreement to be contrary to law or invalid, the remainder of this Agreement will remain in full force and effect.
- ~~8. In the event the Nutrition Program or the City must cancel all or part of the terms of this agreement, the City and the Nutrition Program will provide the other agency a 60 day notice in writing. Upon written receipt by the City from LSS, this agreement is subject to immediate termination by the Nutrition Program should federal, state, or local dollars be reduced or withdrawn.~~
- ~~9. The City agrees to allow the Nutrition Program use of the facility kitchen/dining areas for the term of January 1, 2025 to December 31, 2025, to be used as a nutrition site for seniors. This agreement will renew annually unless notified by the Nutrition Program. Any changes will be made with amendments agreeable to both parties.~~
10. Other: _____

11. **For Housing Projects only:** Please provide your tenant ratio of under 60 years of age _____% and over 60 year of age _____%.

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

Signature _____ Date _____

Address

Phone

Fax

E-mail