

ORDINANCE NO. 111, 2018
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE LEASE OF, AND THE GRANT OF AN OPTION TO PURCHASE,
CITY-OWNED PROPERTY AT 317 AND 321 SOUTH SHERWOOD STREET
TO FAITH FAMILY HOSPITALITY OF FORT COLLINS, INC.

WHEREAS, the City is the owner of two adjacent parcels of property located at 317 and 321 South Sherwood Street in Fort Collins, more particularly described as Lots 3 and 4, Block 73 (together, the "Property"); and

WHEREAS, the City purchased the property in the 1980s to provide a facility for victims of domestic violence, and the City lease the Property to Crossroads Safehouse for 30 years until Crossroads purchased its own property and moved its program; and

WHEREAS, City staff conducted a public process to find a potential new non-profit tenant for the Property that would use it for a purpose of benefit to the City and its residents; and

WHEREAS, through that process the City identified Faith Family Hospitality of Fort Collins, Inc. ("FFH") as the only organization interested in leasing the Property and being responsible for maintaining it; and

WHEREAS, FFH supports families experiencing homelessness to help them become self-sufficient and transition into permanent housing; and

WHEREAS, City staff believes it is in the best interests of the community to lease the Property to FFH with an option to purchase the Property; and

WHEREAS, City staff and FFH have negotiated a proposed lease by which the City would lease the Property to FFH for up to 25 years at a lease rate of \$25 per month, and grant FFH an option to purchase the Property at any time between the third and fifteenth years of the lease at a purchase price of \$700,000, after which time any purchase would have to be renegotiated; and

WHEREAS, a copy of the draft lease agreement is attached hereto and incorporated herein as Exhibit "A" (the "Lease"); and

WHEREAS, under the terms of the Lease, FFH would also pay for all utilities, property maintenance, communication services, trash services, janitorial services and taxes related to the Property; and

WHEREAS, Section 23-113(b) of the City Code authorizes the City Council to lease any and all interests in real property owned in the name of the City if the City Council first finds that the lease is in the best interests of the City; and

WHEREAS, if the proposed term of the lease exceeds twenty years, the lease must be approved by the City Council by ordinance; and

WHEREAS, Section 23-111(a) of the City Code authorizes the City Council to sell, convey or otherwise dispose of any and all interests in real property owned in the name of the City, provided that the City Council, first finds, by ordinance, that such sale or other disposition is in the best interests of the City; and

WHEREAS, under Section 23-114 of the City Code, any sale or lease of City property interests must be for an amount equal to or greater than the fair market value of such interest unless the City Council determines that such sale or lease serves a bona fide public purpose, based on the five factors listed in Section 23-114; and

WHEREAS, leasing the Property to FFH for less than fair market value, and granting FFH an option to purchase the Property for less than fair market value, serves a bona fide public purpose because:

- (1) The use to which the Property will be put promotes health, safety or general welfare and benefits a significant segment of the citizens of Fort Collins by providing transitional housing for families experiencing homeless to stabilize their lives;
- (2) The use to which the Property will be put supports Strategy 4.3 of the City's Affordable Housing Strategic Plan, which is to increase housing and associated services for people with special needs (this category includes those who are homeless, seniors, persons with disabilities, and victims of domestic violence,) as well as Strategic Objective 1.2 of the City's Strategic Plan, which calls for collaborating with other agencies to make homelessness rare, short lived and non-recurring;
- (3) The financial support provided by the City through the below-market lease of the Property and potential sale of the Property will be leveraged with other funding and assistance received by FFH;
- (4) The lease and sale of the Property will not result in any direct financial benefit to any private person or entity, except to the extent such benefit is only an incidental consequence and is not substantial relative to the public purpose being served; and
- (5) Neither leasing the Property for less than fair market rent nor selling the Property for less than fair market value will interfere with current City projects or work programs, hinder workload schedules or divert resources needed for primary City functions or responsibilities.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the City Council hereby finds that leasing the Property located at 317 and 321 South Sherwood Street under the terms listed above is in the best interests of the City.

Section 3. That the City Council hereby finds that granting FFH an option to purchase the Property on the terms and conditions listed above is in the best interests of the City.

Section 4. That the City Council further finds that such lease and potential sale for less than fair market value serves a bona fide public purpose for the reasons stated in the recitals above.

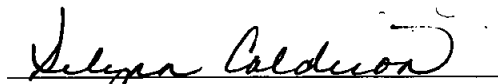
Section 5. That the City Manager is hereby authorized to execute the Lease in substantially the form attached hereto as Exhibit "A" together with such additional terms and conditions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City, including any necessary changes to the legal description of the Property, as long as such changes do not materially increase the size or change the character of the Property leased.

Section 6. That the City Manager is further authorized to execute a purchase and sale agreement with FFH for the sale of the Property on terms and conditions consistent with this Ordinance and the Mayor is hereby authorized to execute such other documents as are necessary to convey the Property to FFH, if FFH exercises its option to purchase the Property in the manner described in the Lease.

Introduced, considered favorably on first reading, and ordered published this 21st day of August, A.D. 2018, and to be presented for final passage on the 4th day of September, A.D. 2018.


Mayor

ATTEST:


City Clerk

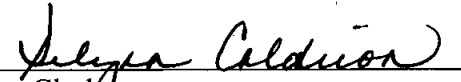


Passed and adopted on final reading on the 4th day of September, A.D. 2018.



Mayor

ATTEST:



City Clerk



LEASE AGREEMENT

THIS LEASE AGREEMENT, made and entered into this ____ day of _____, 2018, by and between **THE CITY OF FORT COLLINS, COLORADO**, a Colorado municipal corporation hereinafter referred to as "the Lessor," and **FAITH FAMILY HOSPITALITY OF FORT COLLINS, INC.**, a Colorado Nonprofit Corporation, ("FFH"), hereinafter referred to as "the Lessee".

WITNESSETH:

WHEREAS, the Lessor is the owner of that certain parcel of real estate, together with the improvements located thereon, situated in the County of Larimer, State of Colorado, being Lots 3 & 4, Block 73 in the City of Fort Collins, County of Larimer, Colorado, the street address of which is 317/321 South Sherwood Street, Fort Collins, Colorado (the "Leased Premises"); and,

WHEREAS, the Lessor desires to lease to the Lessee the Leased Premises, to use for operation of transitional housing for families experiencing homelessness, including space for offices, storage, and other related incidental purposes, and the Lessee desires to lease the Leased Premises from the Lessor.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements herein contained and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto do hereby covenant, promise and agree to and with each other as follows:

ARTICLE I

Lease of the Leased Premises

1.1 The Lessor does hereby lease, demise and let unto the Lessee, and the Lessee does hereby hire and take from the Lessor the Leased Premises.

ARTICLE II

Term

2.1 The term of this Lease is for a period of fifteen (15) years commencing on _____, 2018 and terminating at midnight on _____, 20____ ("Initial Term"). At the end of the Initial Term of this Lease, Lessee can renew this Lease for an additional ten (10) year term, subject to Lessor's consent, which shall not be unreasonably withheld. If Lessee wishes to renew the Lease for a subsequent term, Lessee shall notify Lessor no less than sixty (60) days prior to the end of the Initial Term.

2.2 This Lease will not be recorded; but, at the request of the Lessee, the Lessor and the Lessee will execute a Memorandum of Lease for recording, containing the names of the

parties, the legal description of the Leased Premises, the term of the Lease and such other information as the parties shall mutually agree upon.

ARTICLE III

Option to Purchase

3.1 After the third year of this Lease, until the end of the third term (fifteenth year) of the Lease (the "Option Period"), provided the Lease is still in effect and Lessee is not in default in the keeping and performing of any of the conditions and covenants of this Lease, Lessee shall have the option to purchase the Leased Premises at the price of \$700,000. Lessee can exercise the option by providing written notice to the Lessor ("Notice of Exercise.")

3.2 Exercise of this option is subject to Lessor's confirmation that Lessee is in compliance with the terms of this Lease, including the purposes for which Lessee is using the Leased Premises, and is in good standing with the State of Colorado. Lessor will notify Lessee within thirty (30) days of receipt of the Notice of Exercise of the City's agreement to convey the Leased Premises, and the parties shall enter into an Agreement of Purchase and Sale in a form reasonably acceptable to both parties.

3.3 The purchase price of the Leased Premises during the term of the Option is fixed and will not be adjusted to reflect any changes in the appraised value resulting from improvements or other changes made to the Leased Premises during the term of the Lease by either party, including appreciation, inflation, or any other factors. The Lessor agrees that it shall convey the Leased Premises to the Lessee free and clear of all liens and encumbrances, except non-monetary encumbrances of record as of the date of execution of this Lease Agreement. The foregoing notwithstanding, the Lessor shall have the right during the Option Period to encumber the property with easements to third parties, provided that any such easement either: (i) benefits the Leased Premises (such as for utilities service); (ii) does not significantly reduce the value of the Leased Premises; or (iii) is temporary in nature and would expire prior to conveyance of the Leased Premises to the Lessee.

ARTICLE IV

Rent

4.1 The Lessee will pay to the Lessor during the term of this Lease an annual rental in the amount of Three Hundred Dollars (\$300.00). Such rent must be paid in advance, without demand or notice, in monthly installments of Twenty-Five Dollars (\$25.00) due on the first day of each month commencing _____, 2018.

4.2 The Lessee must make all rent payments to the Lessor at such place as the Lessor may, from time to time, designate in writing. For the present, the Lessor designates Real Estate Services, 300 LaPorte Avenue, Building B, P.O. Box 580, Fort Collins, CO 80522-0580, as the place for making rental payments. All such rent must be paid in current legal tender of the United States as the same is then by law constituted. If Lessor agrees to an extension of time for the

payment of any installment of rent or accepts any money other than of the kind herein specified, that will not be a waiver of Lessor's right to insist on having all other payments of rent made in the manner and at the time herein specified.

4.3 The City Council has determined that, while the rental rates set forth in this Lease are below-market, Lessee's use of the Leased Premises serves a bona fide public purpose because:

- a) The use to which the Leased Premises will be put, promotes the general welfare and benefits a significant segment of the citizens of Fort Collins by providing transitional housing for families experiencing homelessness to stabilize their lives;
- b) The use to which the Leased Premises will be put supports Strategy 4.3 of the City's Affordable Housing Strategic Plan, which is to increase housing and associated services for people with special needs. This category includes those who are homeless, seniors, persons with disabilities, and victims of domestic violence;
- c) The financial support provided by the Lessor through the below-market rent will be leveraged with other funding or assistance;
- d) This Lease will not result in any direct financial benefit to any private person or entity, except to the extent such benefit is only an incidental consequence and is not substantial relative to the public purpose being served; and
- e) Leasing the Leased Premises for less than fair market rent will not interfere with any of Lessor's current projects or work programs, hinder workload schedules, or divert resources needed for Lessor's primary functions or responsibilities.

4.4 The rental amount set forth above is in addition to the Lessee's obligations with respect to the payment of real and personal property taxes, tenant insurance and the Lessee's obligations with respect to the payment of utilities and all maintenance of the Leased Premises.

ARTICLE V

Use of Leased Premises

5.1 The Lessee may use the Leased Premises for operation of transitional housing for families experiencing homelessness, including offices, storage and other related incidental purposes. The Lessor makes no representations that transitional housing is permitted within the zoning classification to which the Leased Premises are subject. The Lessee and its clients/residents must not use the Leased Premises in such a manner as to violate any applicable law, rule, ordinance, or regulation of any governmental body. The Lessee may, upon obtaining the Lessor's prior written consent, use the Leased Premises for any other lawful purpose.

5.2 The possession, consumption or cultivation of marijuana plants or products, including hydroponic cultivation, is prohibited on the Premises.

5.3 The Lessor reserves the right to monitor and review the performance of the Lessee to assure that the Leased Premises are being used in accordance with this Article V, and that all other terms of this Lease are being satisfactorily met. The Lessee shall cooperate with the Lessor relating to such monitoring and review, and make available to the Lessor any documents or other information requested by the Lessor relevant to the Lessor's monitoring and review.

ARTICLE VI

Parking

6.1 This Lease includes the right to use alleyways adjacent to the Leased Premises. On-street parking is available on South Sherwood Street through the City of Fort Collins Parking Services Permit Program. The Lessee is responsible for notifying its agents, employees and business invitees they are permitted the use of the driveways and rear parking area on the Leased Premises.

ARTICLE VII

Maintenance and Repair

7.1 The Lessee must, during the term of this Lease and at its sole expense, keep the Leased Premises in a clean and orderly and safe condition, free of litter, debris, and any unsightly or dangerous condition as required by ordinances, resolutions, statutes and health, sanitary and police regulations. All such work must be done promptly and whenever necessary.

7.2 Except as otherwise provided in this Lease the Lessee, during the term of the Lease, will, at its expense, keep and maintain the exterior walls, foundation and roof of the Leased Premises. Any major repairs or replacements needed to the plumbing, electrical and the heating and air conditioning system during the term of the Lease will be the sole responsibility of the Lessee. The Lessee will also be responsible for performing any routine maintenance and minor repair of systems located on the Leased Premises. including plumbing, electrical and heating and air conditioning.

7.3 The Lessee will also replace any and all plate, window and other glass (structural or otherwise) in, on or about the Leased Premises, which may be broken or destroyed with glass of the same or similar quality. Any such replacement will be at Lessee's cost during the term of this Lease.

7.4 The Lessee must neither permit nor suffer any disorderly noise or nuisance on the Leased Premises having any tendency to annoy or disturb any persons occupying adjacent premises. The Lessee will neither hold nor attempt to hold the Lessor liable for any injury or damage, either approximate or remote, occasioned through or caused by defective electrical wiring or the breaking or stoppage of plumbing or sewage upon the Leased Premises, whether said breakage or stoppage results from freezing or otherwise. The Lessee must not permit or suffer the Leased Premises or the walls thereof to be endangered by over loadings nor permit the Leased Premises to be used for any purpose which would render the insurance thereon void or insurance risks more hazardous without the prior written consent of the Lessor, which consent may be conditioned upon the Lessee obtaining additional specific insurance coverage for such

more hazardous risks.

7.5 . The Lessee is responsible for complying with all applicable City Code provisions related to the use and maintenance of public rights of way adjoining the Leased Premises including the removal of snow and ice from adjacent public walkways.

ARTICLE VIII

Alterations and Improvements

8.1 All alterations, additions, improvements or changes to the Leased Premises by the Lessee subsequent to the commencement of the Lease term ("Modifications") are subject to the written approval of the Lessor, which approval shall not be unreasonably withheld. Modifications that do not directly relate to the permitted uses of the Leased Premises under this Lease or that will negatively impact the value of the Leased Premises may not be permitted. All Modifications must be done in a good and workmanlike manner without impairing the structural soundness of the building and in compliance with the building and zoning laws and all other laws, ordinances, orders, rules, regulations and requirements of all federal state or municipal governments and the appropriate departments, commissions, boards and officers thereof. The Lessee must procure certificates of occupancy, if required by law. Furthermore, Lessee must not begin any Modifications until any contractor or subcontractor engaged for such purpose delivers to the Lessee (with a copy to the Lessor) a certificate showing that proper workmen's compensation insurance is in full force and effect, covering any persons performing such work, and that the same may not be canceled without at least ten (10) days prior written notice to the Lessor. Furthermore, Lessee must not begin any Modifications until the Lessee has procured and paid for all required municipal and other governmental permits and authorizations of the various municipal departments and governmental subdivisions having jurisdiction over the matter.

8.2 The Lessor reserves the right, from time to time (without invalidating or modifying this Lease), at the Lessor's expense, to make alterations, changes and additions to the Leased Premises as needed to manage or protect the Lessor's interest in the Leased Premises; provided, however, that such alterations, changes or additions do not unreasonably interfere with the Lessee's use and enjoyment of the Leased Premises, and the Lessor agrees to in good faith work with the Lessee to minimize any impacts likely to result from construction of any alterations, changes or additions to the Leased Premises.. Except as otherwise agreed by the parties, the Lessee is solely responsible for any alterations, changes or additions to the Leased Premises related to Lessee's intended use of the Leased Premises.

8.3 Lessee must not begin any changes or alterations unless there is conspicuously placed on the Leased Premises the following notice:

NOTICE

Notice is hereby given pursuant to section 38-22-105 (2), C.R.S., that the owners of the within premises have not ordered any construction or reconstruction of the improvements on these premises; and the owners' interest in the premises shall not be subject to any lien on account of any construction, alteration, removal, addition, repair or other improvements of the

premises.

8.4 At the end of the term of this Lease, all fixtures, equipment, additions and alterations, except trade fixtures and appliances installed by the Lessee, shall be and remain the property of the Lessor. However, the Lessor may require the Lessee to remove any or all such fixtures, equipment, additions and alterations and restore the Leased Premises to the condition that existed immediately prior to such change and installation, normal wear and tear excepted, all at the Lessee's cost and expense. All such work must be done in a good and workman like manner and must consist of new materials unless otherwise agreed to by the Lessor.

ARTICLE IX

Covenant of Title

9.1 The Lessor covenants that it is well seized of and has good title to lease the Leased Premises.

ARTICLE X

Taxes, Real and Personal

10.1 Upon commencement of the term of this Lease Agreement, the Lessee shall be responsible for payment of the real property taxes and assessments, if any, that may be imposed upon the Leased Premises.

10.2 The Lessee must pay all sales and use taxes that may be imposed as the result of the business conducted on the Leased Premises and all personal property taxes assessed against personal property situated thereon during the term of this Lease.

10.3 If Lessee fails to pay any such taxes, the Lessor may pay the same (but is under no obligation to do so), and the amount so paid will be due to Lessor from Lessee at the time of the next monthly rental payment. The Lessor, by paying any such amount, does not waive any of its rights hereunder regarding such default.

10.4 The Lessee is not required to pay any tax, assessment, tax lien or other imposition or charge upon or against the Leased Premises or any part thereof or the improvements at any time situated thereon so long as the Lessee, in good faith and with due diligence, contests the same or the validity thereof by appropriate legal proceedings that have the effect of preventing the collection of the tax, assessment, tax lien or other imposition or charge so contested. However, pending any such legal proceedings, the Lessee must give the Lessor such reasonable security as may be demanded by the Lessor to insure payment of the amount of the tax, assessment, tax lien or other imposition or charge and all interest and penalties thereon.

ARTICLE XI

Insurance

11.1 The Lessee, at its sole cost and expense, must procure, pay for and keep in full

force and effect a policy of commercial general liability insurance covering the Leased Premises and the improvements thereon, insuring the Lessee in an amount not less than One Million Dollars (\$1,000,000) covering bodily injury, including death to persons, personal injury and property damage liability arising out of a single occurrence. Such coverage must include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Leased Premises (including acts or omissions of the Lessee).

11.2 All policies of insurance carried by the Lessee must name the Lessee as insured and name the Lessor as an additional insured. The policy or policies must contain a provision that the policy or policies cannot be canceled or materially altered either by the insureds or the insurance company until thirty (30) days prior written notice thereof is given to the Lessee and the Lessor. Upon issuance or renewal of any such insurance policy, the Lessee must provide the Lessor with a certificate of insurance showing evidence of coverage that names the City of Fort Collins as additional insured. Any such policies must contain waivers of subrogation and waivers of any defense based on invalidity arising from any act or neglect of any assignees or sub lessees of the Lessee.

11.3 Any insurance policy purchased by the Lessee must be written by an insurance carrier which has a current rating by Best's Insurance Reports of "A" (excellent) or better and a financial rating of "A" or better or such equivalent classification as may hereinafter be required customarily for properties similarly situated and approved by the Lessor and the insurance carrier must be authorized by law to do business in the State of Colorado. Notwithstanding anything to the contrary contained herein, the Lessee's obligation to carry insurance as provided herein may be brought within the coverage of a "blanket" policy or policies of insurance carried and maintained by the Lessee, so long as such policy or policies segregate the amount of coverage applicable to the Leased Premises. If the Lessee fails to procure, maintain and/or pay for at the times and for the duration specified herein any insurance required by this Lease, or fails to carry insurance required by law or governmental regulation, the Lessor may (but without obligation to do so) at any time or from time to time and without notice, procure such insurance and pay the premiums therefore. In such event, the Lessee must repay the Lessor all sums so paid by the Lessor, together with interest thereon, at the rate of eight percent (8%) per annum, and any costs or expenses incurred by the Lessor in connection therewith, within ten (10) days following the Lessor's written demand to the Lessee for such payment.

ARTICLE XII

Utilities

12.1 The Lessee must pay all charges for gas, electricity, water, sewer, light and power, janitorial services, telephone and other communication services used, rendered or supplied upon or in the Leased Premises.

ARTICLE XIII

Signs

13.1 The Lessee must not affix, erect or maintain on the Leased Premises any sign or

advertisement without first obtaining the Lessor's approval, which approval shall not be unreasonably withheld. The Lessee is responsible for all costs of erection and maintenance of such sign or advertisement.

ARTICLE XIV

Subletting and Assignment

14.1 Except for housing clients of Lessee's program, the Lessee must not assign this Lease any interest or any part thereof, any right or privilege appurtenant thereto, nor mortgage or hypothecate the leasehold without the prior written consent of the Lessor, which consent will not be unreasonably withheld. Lessor's consent to one assignment or hypothecation is not a consent to any subsequent assignment or hypothecation; and, unless Lessee has obtained Lessor's written consent, any assignment or transfer or attempted assignment or transfer of this lease or any interest therein or hypothecation either by the voluntary or involuntary act of the Lessee or by operation of law or otherwise, may, at the option of the Lessor, terminate this Lease; and any such purported assignment or transfer without such consent will be null and void. The Lessor's consent to any such assignment does not relieve the Lessee from any obligation under this Lease unless the Lessor expressly agrees in writing to relieve the Lessee from such obligation.

14.2 If Lessee assigns this Lease or if the Leased Premises or any part thereof is sublet or occupied by anyone other than the Lessee or the Lessee's clients, the Lessor may collect rent from the assignee, subtenant or occupant and employ the net amount collected to the rent herein reserved. No such collection will release the Lessee from the complete performance of Lessee's obligations under this Lease.

ARTICLE XV

Mechanic's Liens

15.1 The Lessee agrees to pay or cause to be paid promptly all bills and charges for material, labor or otherwise in connection with or arising out of any alterations, additions or changes made by the Lessee or its agents or subtenants to the Leased Premises; and the Lessee agrees to hold the Lessor free and harmless against all liens and claims of liens for such labor and materials, or either of them, filed against the Leased Premises or any part thereof and from and against any expense and liability in connection therewith. The Lessee further agrees to discharge (either by payment or by filing the necessary bond or otherwise) any mechanic's, materialman's or other liens against the Leased Premises arising out of any payment due or alleged to be due for any work, labor, services, materials or supplies claimed to have been furnished at the Lessee's request in, on or about the Leased Premises and to indemnify the Lessor against any lien or claim of lien attached to or upon the Leased Premises or any part thereof by reason of any act or omission on the Lessee's part. The Lessee has, however, the right to contest any mechanic's liens or claims filed against the Leased Premises, provided the Lessee diligently prosecutes any such contest and at all times effectively stays or prevents any sale of the Leased Premises under execution or otherwise, and pays or otherwise satisfies any final judgment adjudging or enforcing such contested lien and thereafter procures record satisfaction or release thereof. The Lessee also agrees to defend any such contest on behalf of

Lessor, at the Lessee's cost and expense.

ARTICLE XVI

Condemnation

16.1 If, as a result of any exercise of the power of eminent domain (hereinafter referred to as "proceedings"), any of the following happen:

- (a) the title to the whole or substantially all of the Leased Premises is taken;
- (b) the Leased Premises are deprived of adequate ingress or egress to or from all public streets and highways abutting the Leased Premises; or
- (c) all or substantially all of the parking area outside of the Leased Premises is taken;

and the Lessee cannot reasonably operate in the remainder of the Leased Premises the business being conducted on the Leased Premises at the time of such taking, then this Lease will terminate as of the date of such taking pursuant to such proceedings. For the purpose of construing the provisions of this Article, "proceedings" shall include any negotiated settlement of any matter involving a condemnation and a "taking" shall be deemed to occur when title to the Leased Premises or possession thereof is acquired by a governmental authority, whichever first occurs.

16.2 If, during the term of this Lease, title to less than the whole or title to less than substantially all of the Leased Premises is taken in any such proceedings and the Lessee can reasonably operate in the remainder of the Leased Premises the business being conducted on the Leased Premises at the time of such taking, this Lease will not terminate.

16.3 All damages awarded for any taking described in this Article are the property of the Lessor, except to the extent that any amount thereof is specifically attributable to the Lessee's trade fixtures and to the extent that the Lessor is permitted by law to recover any damages it may sustain as the result of such taking.

ARTICLE XVII

Total or Partial Destruction

17.1 If, during the term of this Lease, the Leased Premises or any part thereof is destroyed or so damaged by fire or other casualty as to become untenable, then, at Lessor's option, the term hereby created will cease; this Lease will become null and void from the date of such damage or destruction; and the Lessee must immediately surrender the Leased Premises and its interest therein to the Lessor. The Lessee must pay rent within said term only to the time of such surrender, provided, however, that the Lessor exercises such option to so terminate this Lease by notice in writing delivered to the Lessee within thirty (30) days after such damage or destruction. If the Lessor does not elect to terminate this Lease, this Lease will continue in full force and effect, and the Lessor will repair the Leased Premises with all reasonable speed, placing the same in as good a condition as it was at the time of the damage or destruction and

for that purpose may enter upon the Leased Premises; and rent will abate in proportion to the extent and duration of the untenability. In either event, the Lessee must remove all rubbish, debris, merchandise, furniture, furnishings, equipment and other items of its personal property within five (5) days after request by the Lessor. If the Leased Premises are only slightly injured by fire or the elements so as to not render the same untenable and unfit for occupancy, then the Lessor shall determine within thirty (30) days whether Lessor will make repairs. If so, Lessor will repair the same with all reasonable speed and, in that case, rent will not abate. If Lessor decides not to make repairs, Lessor will notify Lessee and give Lessee the option of making repairs at Lessee's expense or terminating the Lease. Lessee will notify Lessor within sixty (60) days of Lessor's notice whether Lessee wishes to make repairs or terminate the Lease. Lessee is not entitled to any compensation from or claim against the Lessor for any inconvenience or annoyance arising from the necessity of repairing any portion of the Leased Premises, however the necessity may occur.

ARTICLE XVIII

Holding Over

18.1 Any holding over after the expiration of the term of this Lease Agreement, with the consent of the Lessor, will be construed as a tenancy from month to month on the same terms and conditions herein specified and at the same rental provided for herein.

ARTICLE XIX

Default of Lessee

19.1 If any one or more of the following events (herein referred to as "an event of default") happens:

- (a) The Lessee defaults in the due and punctual payment for the rent or any other amounts required to be paid hereunder and such default continues for three (3) days after the receipt of written notice from the Lessor;
- (b) The Lessee neglects or fails to perform or observe any of Lessee's other obligations hereunder, and the Lessee fails to remedy the same within fifteen (15) days after the Lessee receives written notice from the Lessor specifying such neglect or failure (or Lessee fails to begin such cure within said fifteen (15) days and proceed with due diligence to complete said cure when the default is of such nature that it cannot be cured within said fifteen (15) day period); or
- (c) The Lessee (i) is adjudicated bankrupt or insolvent, (ii) files a petition in bankruptcy for reorganization or for the adoption of an arrangement under the Bankruptcy Act (as now or in the future amended) or (iii) makes an assignment of its property for the benefit of its creditors.

Then, and in any one or more such events, the Lessor has the right, at its election and while such event of default continues, to give the Lessee written notice of its intention to terminate this Lease on the date of such given notice or any later date specified therein; and on such specified

date, the Lessee's right to possession of the Leased Premises will cease; and this Lease will be terminated.

19.2 If the Lessor must commence any action or proceeding to enforce any obligation of the Lessee under this Lease, the Lessor is entitled to a reimbursement of all costs and expenses incurred in said matter, including reasonable attorney's fees.

19.3 The Lessor reserves the right to make any payments or perform any action required hereunder by the Lessee (but is not required to do so); and all amounts expended by the Lessor, together with interest at the rate of eight percent (8%) per annum, must be paid by the Lessee within 30 days following notification of such expenditures.

ARTICLE XX

Interest and Late Charges

20.1 Any amount due to the Lessor from the Lessee under this Lease Agreement not paid when due will bear interest at the rate of eight percent (8%) per annum from the due date until paid. Payments of such interest will not excuse or cure any default by the Lessee under this Lease Agreement. In addition, if the Lessee fails to pay any payment when due and such failure continue for a period of ten (10) days following the due date, the Lessee must pay to the Lessor a monthly collection service charge of five percent (5%) of the late payment amount, which is due and payable immediately.

ARTICLE XXI

Attorneys' Fees

21.1 The Lessee will pay and indemnify the Lessor against all legal costs and charges, including legal costs and attorneys' fees, lawfully and reasonably incurred in obtaining possession of the Leased Premises after default of the Lessee, or incurred after the Lessee surrenders possession upon the expiration or sooner termination of this Lease, or incurred in enforcing any covenant of the Lessee herein contained or any right granted to the Lessor.

ARTICLE XXII

Lessee to Save Lessor Harmless

22.1 The Lessee will indemnify, release, and hold the Lessor harmless from all claims, demands, judgments, costs, and expenses, including attorneys' fees, arising out of any accident or occurrence causing injury to any person or property whomsoever or whatsoever due directly or indirectly to the condition of the Leased Premises, or the use or neglect of the Leased Premises by the Lessee, its agents, employees and business invitees or any person or persons (and their agents, employees, and business invitees) holding under the Lessee, unless such accident or occurrence results from any tortious misconduct or negligent act or omission on the part of the Lessor, its agents and employees.

22.2 The Lessee will further indemnify, release and hold harmless the Lessor from any

damages and all penalties arising out of any failure of the Lessee, in any respect, to comply with all of the requirements and provisions of this Lease Agreement. The Lessee covenants that the Lessee will keep and save the Lessor and the Lessor's interest in and to the Leased Premises forever harmless from any penalty, damage or charge imposed by any violation of any laws, whether occasioned by an act of neglect of the Lessee, or by another or others in the Leased Premises holding under or through the Lessee.

ARTICLE XXIII

Hazardous Material

23.1 As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the state of Colorado or the United States Government. The term "hazardous material" includes, without limitation, any material or substance that is: (i) defined as a "hazardous substance" under appropriate state law provisions; (ii) petroleum; (iii) asbestos; (iv) designated as "hazardous substance" pursuant to section 311 of the Federal Water Pollution Control Act (33 U.S.C. section 1321); (v) defined as "hazardous waste" pursuant to section 1004 of the Federal Resource Conservation and Recovery Act (42 U.S.C. Section 6903); (vi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601); or (vii) defined as a "regulated substance" pursuant to Subchapter IX, Solid Waste Disposal Act (Regulation of Underground Storage Tanks) (42 U.S.C. Section 6991).

23.2 Excepting commonly used products stored in an appropriate location within approved containers, including, by way of example and not of limitation, cleaning products, gasoline and motor oil, the Lessee must not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Leased Premises by the Lessee, its agents, employees, contractors or invitees, without the prior written consent of the Lessor (which Lessor will not unreasonably withhold as long as the Lessee demonstrates to the Lessor's reasonable satisfaction that such hazardous material is necessary or useful to the Lessee's business and will be used, kept and stored in a manner which complies with all laws regulating any such Hazardous Material). If the Lessee breaches the obligation stated in the preceding sentence, or if the presence of Hazardous Material on the Leased Premises caused or permitted by the Lessee results in contamination of the Leased Premises or if contamination of the Leased Premises by Hazardous Material otherwise occurs for which the Lessee is legally liable to the Lessor for damage resulting therefrom, then the Lessee will release, indemnify, defend and hold the Lessor harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution value of the Leased Premises, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Leased Premises, damages, arising from adverse impact or marketing of space, and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees) which arise during or after the Lease term as a result of such contamination. This indemnification of the Lessor by the Lessee includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean up, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil or groundwater on or under the Leased Premises. Without limiting the foregoing, if the presence of any Hazardous Material on the Leased Premises caused or permitted by the Lessee results in

any contamination of the Leased Premises, the Lessee must promptly take all actions at its sole expense as are necessary to return the Leased Premises to the condition existing prior to the introduction of any such Hazardous Material to the Leased Premises; provided that the Lessee first obtains Lessor's approval of such action, which approval will not be unreasonably withheld so long as such action would not potentially have any material adverse affect on the Leased Premises.

ARTICLE XXIV

Notices

24.1 Any notice or other communication given by either party hereto to the other relating to this Lease Agreement must be hand delivered, sent by overnight commercial courier, or sent by registered or certified mail, return receipt requested, addressed to such other party at their respective addresses set forth below; and such notice or other communication shall be deemed given when so hand delivered or mailed:

If to the Lessor, to;
City of Fort Collins
Real Estate Services
P.O. Box 580
Fort Collins.CO 805222-0580

If to the Lessee, to:
Faith Family Hospitality of Fort Collins, Inc.
Annette Zacharias, Executive Director
317/321 S. Sherwood Street
Fort Collins, CO 80524

Where permitted by law, Lessor may also deliver notice to Lessee by posting in a conspicuous place on the Leased Premises.

ARTICLE XXV

[This Article Intentionally Omitted]

ARTICLE XXVI

Legal Compliance, Discrimination

26.1 The Lessee must comply with all Federal, State and local laws, including, to the extent applicable, the requirements of the Americans with Disabilities Act (ADA) and the Fair Housing Act (FHA). The Lessor does not represent that the Leased Premises meet the requirements of the ADA or FHA for the purposes of Lessee's intended use of the Leased Premises. Any improvements required to bring the Leased Premises into compliance with the ADA or FHA for the purposes of Lessee's intended use are Lessee's sole responsibility, and Lessee will indemnify and defend the Lessor against any claims brought under the ADA or FHA regarding the Leased Premises.

26.2 The Lessee will not discriminate against any person applying for services to be provided on the Leased Premises on the basis of religion and will not limit such services or give preference to persons on the basis of religion. The Lessee will not require religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of such services on the Leased Premises.

26.3 In providing services and other benefits on the Leased Premises the Lessee shall not discriminate on the grounds of any protected class recognized under federal, state or local law.

ARTICLE XXVII

Time of the Essence

27.1 Time is of the essence of this Agreement and each and every provision hereof.

ARTICLE XXVIII

Lessor's Right of Entry

28.1 Lessor reserves the right at all reasonable times and with reasonable notice of not less than forty-eight (48) hours, and at all times during emergencies, for Lessor or Lessor's agents to enter the Leased Premises for the purpose of inspecting and examining the same, or to show the same to prospective purchasers or tenants, or to make such repairs, alterations, improvements or additions as Lessor may deem necessary or desirable; provided, however, that such rights shall be subject to the following conditions: (i) such entry, regardless of the purpose, shall not unreasonably interfere with the Lessee's use and enjoyment of the Leased Premises; (ii) any such repairs, alterations, improvements or additions to the Leased Premises shall not unreasonably interfere with the Lessee's use and enjoyment of the Leased Premises; and (iii) the Lessor agrees to in good faith work with the Lessee to minimize any impacts likely to result from construction of any repairs, alterations, improvements or additions to the Leased Premises. During the ninety days prior to the expiration of the term of this Lease or any renewal term, Lessor may exhibit the Leased Premises with prior notice and so as not to interfere with regular use of the space, to prospective tenants or purchasers and place upon the Leased Premises, the usual notice advertising the Leased Premises for sale or lease, as the case may be, which notices Lessee shall permit to remain thereon without molestation.

28.2 In the event of an emergency, in order to protect or minimize the risk of harm to life or property if Lessee shall not be personally present to open and permit an entry into the Leased Premises, or at any time when for any reason an entry therein shall be necessary or permissible, Lessor or Lessor's agents may enter the same by a master key or may forcibly enter the same, without rendering Lessor or such agents liable therefore, and without in any manner affecting the obligations and covenants of this Lease. Nothing herein contained, however, shall be deemed or construed to impose upon Lessor any obligation, responsibility, or liability whatsoever for the care, maintenance or repair of the building or any part thereof, except as otherwise herein specifically provided.

ARTICLE XXIX

[This Article Intentionally Omitted]

ARTICLE XXX

Miscellaneous

30.1 Words of the masculine gender include the feminine and neuter genders; and when the sentence so indicates, words of the neuter gender refer to any gender. Words in the singular include the plural and vice versa.

30.2 This Agreement shall be construed according to its fair meaning and as if prepared by both parties hereto and, along with the Development Agreement Between the City of Fort Collins and Faith Family Hospitality of Fort Collins, Inc., dated _____2018 (the "Development Agreement") is deemed to be and contain the entire understanding and agreement between the parties hereto with respect to their rights and obligations in and to the Leased Premises. There should not be deemed to be any other terms, conditions, promises, understandings, statements or representations, express or implied, concerning this Lease Agreement unless set forth in writing and signed by both parties hereto. In the event of a conflict between this Lease Agreement and the Development Agreement, the terms of the Development Agreement will control.

30.3 The section headings used herein are for convenience of reference only and in no way define, limit or prescribe the scope or intent of any provision under this Lease Agreement.

30.4 Subject to the provisions hereof the benefits of this Lease Agreement and the burdens hereunder inure to and are binding upon the parties hereto and their respective heirs, administrators, successors and permitted assigns.

30.5 No waivers by either party hereto of any one or more of the terms, covenants, conditions and agreements of this Lease Agreement shall be deemed, to imply or constitute a waiver of any succeeding or other breach hereunder; and the failure of either party hereto to insist upon strict performance of the terms, conditions, covenants and agreements herein contained or any of them do not constitute and should not be considered as a waiver or relinquishment of the a party's rights thereafter to enforce any such default or term, condition, covenant or agreement; and the same will continue in full force and effect.

30.6 The remedies of the Lessor under this Lease are cumulative, and no one of them shall be construed as exclusive of any other or of any other remedy provided by law. This lease is governed by and its terms construed under the laws of the State of Colorado.

30.7 The Lessor reserves the right to grant such utility easements and other easements as it desires over, across and under portions of the parking area so long as such easements do not unreasonably interfere with the Lessee's continuing use of the Leased Premises.

30.8 At any time, and from time to time, the Lessee agrees, upon request in writing from the Lessor, to execute, acknowledge and deliver to the Lessor a statement in writing certifying

that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications) and the date to which the rent and other charges have been paid.

30.9 No act or thing done by the Lessor or the Lessor's agents or employees during the term hereof will be considered as an acceptance of the surrender of the Leased Premises, and no agreement to accept such surrender will be valid unless in writing signed by the Lessor. No employee of the Lessor or the Lessor's agent has any power to accept the keys to the Leased Premises prior to the termination of this Lease. The delivery of keys to an employee of the Lessor or to the Lessor's agent will not operate as a termination of this Lease or a surrender of the Leased Premises.

30.10 The Lessee, upon the expiration or termination of this Lease, either by lapse of term or otherwise, agrees to peaceably surrender to the Lessor the Leased Premises, including the alterations, additions, improvements, changes and fixtures other than the Lessee's movable trade fixtures, equipment and furniture, in broom-clean condition and in good repair, as hereinabove provided, and except for acts of God and ordinary wear, and damage by fire or other casualty not caused by the negligence of the Lessee or anyone under the Lessee's control.

30.11 If Lessee does not purchase the Leased Premises pursuant to Article III above, then upon any expiration or termination of this Lease Agreement, all Lessee's rights and obligations as Developer under the Development Agreement will revert to Lessor as owner of the Leased Premises.

30.12 The Lessee acknowledges and agrees that the Lessee has not relied upon any statements, representations, agreements or warranties except such as are expressed herein.

30.13 Nothing contained herein shall be deemed or construed by the parties hereto nor by any third party as creating the relationship of principal and agent or a partnership or a joint venture between the parties hereto, it being agreed that none of the provisions set forth herein nor any acts of the parties herein shall be deemed to create a relationship between the parties hereto other than the relationship of Lessor and Lessee.

30.14 By executing this Lease, the Lessee is deemed to have accepted the Leased Premises in their present condition "as is". The Lessee acknowledges that the Leased Premises, in their present condition, comply fully with the Lessor's covenants and obligations hereunder.

30.15 Attorney Fees. In the event that any litigation is commenced by one party hereto against the party hereto, which litigation results from or arises out of this Lease Agreement, the court shall award to the prevailing party all reasonable costs and expenses, including attorneys' fees and other legal expenses.

30.16 Financial obligations of the Lessor in subsequent fiscal years are subject to the appropriation of funds sufficient and intended for such purposes by Lessor's City Council in its sole discretion.

IN WITNESS WHEREOF, the parties hereto have caused this Lease Agreement to be executed the day and year first above written.

THE LESSOR:

THE CITY OF FORT COLLINS, COLORADO,
a Municipal Corporation

Date: _____

By: _____
Darin A. Atteberry, City Manager

ATTEST:

City Clerk

(Printed Name)

APPROVED AS TO FORM:

Senior Assistant City Attorney

(Printed Name)

THE LESSEE:

FAITH FAMILY HOSPITALITY OF FORT COLLINS,
INC., a Colorado Non-Profit Corporation

By: _____
Annette Zacharias
Executive Director

ATTEST:

Name

Title