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MEMO

TO: Sunfish Lake Mayor and Councilmembers
FROM: Timothy J. Kuntz, City Attorney
DATE: October 28, 2020
RE: Lease Agreement with First Calvary Baptist Church;
November 4, 2020 Council Meeting; Agenda Item 8(c)

Section 1. Background. The City's current lease with St. Anne's Episcopal Church expires at the end of this year. In reviewing other possible locations for the City to conduct its Council meetings, Planning Commission meetings and election, the City received an offer from First Calvary Baptist Church to lease space at its location at no charge to the City. After touring the facility and discussing the offer made by First Calvary Baptist Church, the Council concluded that it would be in the best interest of the City to not renew the existing lease with St. Anne's Episcopal Church and enter into a new lease with First Calvary Baptist Church.

Section 2. Salient Provisions. The material lease terms of the Lease Agreement with First Calvary Baptist Church are as follows:

1. The lease term is five years (for calendar years 2021, 2022, 2023, 2024 and 2025).
2. The Church will lease space to the City in the "Auditorium" for meetings on the first Tuesday and the third Thursday of each month. If the Council or Planning Commission changes the dates of the meetings, other suitable space will be made available.
3. In every election year (the even numbered years), the City will have space in the "Auditorium" to conduct the election process on Monday and Tuesday in August for the primary election and on Monday and Tuesday in November for the general election. The City will share this space for the election process with the City of Inver Grove Heights.
4. The Church will provide space to store the ballot boxes, voting machines and election signs.

5. If the City needs additional meeting space on days outside of the regular meeting dates or times and outside of any substitute dates for the regular meeting dates, then the Church agrees in good faith to make such space available.
6. During the meetings, the City will have non-exclusive use of the parking lot, restrooms, hallways, tables and chairs and audio/visual equipment. The City will also have use of the kitchen facilities during the election.
7. The City may place a literature stand containing City of Sunfish Lake related materials in the hallway of the Church near the front door. The City may place a display stand inside the Church near the front door for the purpose of displaying and posting City official notices and other information about City activities and business. The Church will provide the City with a mail slot at the Church.
8. Subject to the written approval of the Church, the City may place location or directional signs in the Church. The location of the signs and the design and size are subject to written approval of the Church.
9. If the City damages the Church premises during its use, the City will repair the damage. When the City leaves the Church premises, the City will turn off the lights and lock the doors. The City will leave the space in substantially the same condition that existed when the City began the meeting.
10. The City will hold the Church harmless from any claims arising out of the City's use of the lease space, except for claims resulting from the negligence of the Church.
11. The City will carry liability insurance up to the tort liability limits. The Church will be named as an additional insured.
12. The Church is offering the space to the City at no cost.
13. The Landlord will provide the Tenant with two (2) keys to the Premises. The two (2) keys will be held by the City Clerk and one other designated City official. If the Tenant loses a key, the Tenant will immediately notify the Landlord and pay all costs associated with re-keying the locks on the various doors on the Premises and the costs associated with issuing new keys to the authorized users of both the Landlord and Tenant.

Section 3. Council Action. The Council is asked to consider the attached Lease Agreement between the City of Sunfish Lake and First Calvary Baptist Church at the November 4, 2020 Council meeting.

Attachment

LEASE AGREEMENT

THIS LEASE AGREEMENT (“Lease”) is made and entered into this 4th day of November, 2020, by and between the City of Sunfish Lake, a Minnesota municipal corporation (“Tenant” or “City”) and First Calvary Baptist Church, a Minnesota non-profit corporation (“Landlord”). Landlord and Tenant hereby agree:

ARTICLE 1 **RECITALS**

Recital No. 1. Landlord desires to lease to Tenant and Tenant desires to lease from Landlord the Leased Space, as defined in this Lease, together with the non-exclusive right to use the parking lot, restrooms, hallways, tables and chairs and audio/ video equipment during meeting times and election times. The Leased Space is located at First Calvary Baptist Church at 5495 South Robert Trail, Sunfish Lake, Minnesota 55077 (hereafter the “Premises”).

Recital No. 2. The Leased Space consists of and is defined as the following space located on the Premises at the following times:

1. Space in the “Auditorium” for City Council meetings on the first Tuesday of each month from approximately 6:30 p.m. to 10:30 p.m.; if the City Council cannot meet on the first Tuesday of each month, then the Council meeting shall occur on the second Tuesday of the month or such other date as the Tenant shall designate upon the Tenant giving the Landlord at least two weeks advance notice of the change in the meeting date.
2. Space in the “Auditorium” for Planning Commission meetings on the third Thursday of each month from approximately 6:30 p.m. to 10:30 p.m.; if the Planning Commission cannot meet on the third Thursday of each month, then the Planning Commission meeting shall occur on the fourth Thursday of the month or such other date as the Tenant shall designate upon the Tenant giving the Landlord at least two weeks advance notice of the change in the meeting date.
3. Use of a small meeting room during the City Council meetings, Planning Commission meetings and election events.
4. The non-exclusive use of the kitchen facilities during election events.
5. Space in one-half of the “Auditorium” and space in one-half of the “Lobby Area” to conduct the primary election process on the second Monday and Tuesday in

August from approximately 6:00 a.m. to 10:30 p.m. for the primary election and on the first Monday and Tuesday in November from approximately 6:00 a.m. to 10:30 p.m. for the general election in every election year (even numbered years). If the primary election date or the general election date changes, the Tenant shall give Landlord at least two weeks advance written notice of the change and the election process shall be held on the changed dates.

6. During the Term, space to store election ballot boxes, election equipment, voting machines and election signs in an area designated by the Landlord in the garage/storage building.
7. The non-exclusive right to use of the parking lot, restrooms, hallways, tables and chairs and audio/visual equipment during meeting times and election times.

Hereinafter collectively referred to as the “Leased Space”.

Recital No. 3. The parties desire that the term of this Lease be for five years beginning on January 1, 2021 and ending on December 31, 2025 (“Term”).

ARTICLE 2 **AGREEMENT**

2.1 Lease of Premises. Under the terms and conditions hereafter set forth, Landlord leases to Tenant and Tenant hereby leases from Landlord the Leased Space at the Premises:

- A. **Rent.** The rent shall be \$1.00 for the Term of the Lease. Landlord acknowledges the receipt and sufficiency of the rent amount.
- B. **Duration of Lease.** The Lease shall be for a five (5) year Term commencing on January 1, 2021 and ending on December 31, 2025.
- C. **Use at Other Times.** There may develop occasions when Tenant has need to use the Leased Space on days and at times other than those specified in the definition of Leased Space. Such additional or different dates or times may be utilized by Tenant subject to Tenant giving Landlord at least two weeks advance written notice and subject to the approval of Landlord. The Landlord and the Tenant will cooperate in good faith to make such adjustments.
- D. **Cooperation with the City of Inver Grove Heights.** Tenant understands and acknowledges that during the election process, one-half of the “Lobby Area” and one-half of the “Auditorium” will be used by the City of Inver Grove Heights for its election process and one-half of the “Auditorium” and one-half of the “Lobby Area” will be used by Tenant for its election process. Tenant agrees to in good faith cooperate with the City of Inver Grove

Heights to reasonably allocate the space and to otherwise coordinate its activities so that both cities have respective designated areas to conduct the election process.

- E. Permitted Uses. Tenant may only use the Leased Space for the purposes defined in Recital No. 2 of this Lease, and for any other use approved in writing by Landlord. The use of the parking lot, restrooms, hallways, tables and chairs and audio/visual equipment is on a non-exclusive basis during meeting times and election days.
- F. Literature Stand. Tenant may place a literature stand containing City of Sunfish Lake related materials in the hallway of the Premises near the front door. Tenant will pay for the literature stand.
- G. Official Notices. Tenant may place a display stand inside the Premises near the front door for the purpose of displaying and posting City official notices and other information about City activities and business. Tenant will pay for the display stand.
- H. Mail Slot. Landlord will provide Tenant with a mail slot at the Premises.
- I. Signage. Subject to the written approval of Landlord, Tenant may place location or directional signs on the Premises. The location of the signs and the design and size are subject to Landlord's written approval.
- J. Set up for Meetings. With respect to the Council and Planning Commission meetings in the Auditorium, Landlord shall set up the tables and chairs prior to the meeting. After the meeting the Tenant shall remove the tables and place them in the location designated by the Landlord. The chairs shall remain in the Auditorium.
- K. Utilities. Landlord shall pay for all utilities relating to the Premises including gas, electric, telephone, cable and trash collection.
- L. Repair and Maintenance. If the Tenant damages the Premises during its use of the Leased Space, the Tenant will repair the damage. When the Tenant leaves the Premises, the Tenant will turn off the lights and properly secure the doors. The Tenant shall leave the Leased Space in an orderly condition and in substantially the same condition that existed when the Tenant began using the Leased Space. Tenant has no responsibility to snow plow the parking lot or remove snow from the sidewalks or entrance to the Premises. The Landlord agrees to use reasonable care to plow the parking lot and sidewalks and make the parking lot and sidewalks available to the Tenant at the times specified in Recital No. 2 of this Lease.
- M. No Alterations. Tenant shall not make any alterations or improvements to the Premises without first obtaining the written consent of the Landlord.

- N. Insurance. Tenant, at the Tenant's sole cost and expense, shall maintain comprehensive general public liability insurance up to the tort liability limit of \$500,000 per person and \$1,500,000 per occurrence.

Landlord shall be listed as an additional insured on the comprehensive general public liability insurance policy.

All policies of insurance shall be in form and substance reasonably satisfactory to the Landlord, shall be written with companies reasonably satisfactory to the Landlord, and shall provide for at least ten (10) days written notice to Landlord prior to cancellation or reduction in coverage. Such policies, or certificates thereof, shall be delivered to Landlord prior to the commencement of the Lease Term; and evidence of renewal of such insurance shall be delivered to Landlord not less than thirty (30) days prior to the expiration of such coverage.

Tenant shall provide Landlord with a Certificate of Insurance with First Calvary Baptist Church named as an additional insured.

- O. Indemnification. Tenant hereby agrees to indemnify, defend and hold the Landlord harmless from any claims, losses or damages made against Landlord or incurred by Landlord that arise out of or relate to Tenant's use of the Premises, except for claims resulting from the negligence or intentional acts of the Landlord.
- P. Real Estate Taxes. Landlord shall pay the real estate taxes and special assessments related to the Premises.
- Q. Notices. Any notices required to be given shall be personally delivered to the party or sent by certified mail (return receipt requested) to the following addresses:

Landlord: First Calvary Baptist Church
Attention: Pastor Mike Verway
5495 S. Robert Trail
Sunfish Lake, MN 55077
(651) 451-6487
office@1stcalvary.com

Tenant: City of Sunfish Lake
City Attorney's Office
LeVander, Gillen & Miller, P.A.
633 South Concord St., Suite 400
South St. Paul, MN 55075
(651) 451-1831

- R. Keys to Premises. The Landlord will provide the Tenant with two (2) keys to the Premises. The two (2) keys will be held by the City Clerk and one other designated City official. If the Tenant loses a key, the Tenant will immediately notify the Landlord and pay all costs associated with re-keying the locks on the various doors on the Premises and the costs associated with issuing new keys to the authorized users of both the Landlord and Tenant.

IN WITNESS WHEREOF, the parties have executed this Lease effective on the date shown above.

LANDLORD:
FIRST CALVARY BAPTIST CHURCH

By: _____

Its Trustee

By: _____

Its Trustee

TENANT:
CITY OF SUNFISH LAKE

By: _____

Dan O'Leary
Its Mayor

ATTEST:

Catherine Iago, City Clerk