

Lease of Presbytery Land Adjoining Easter Lake

THIS AGREEMENT, made and entered into this 13th day of DECEMBER 2017, by and between
The Presbytery of Des Moines of the Presbyterian Church (U.S.A.) ("Landlord"), whose address, for the purpose of
this lease, is: 2400 86th Street Suite 20

(Street & Number)

Urbandale Iowa 50322
(City) (State) (Zip Code)

and Polk County Conservation Board ("Tenant"), whose address for the purpose of this lease is:

11407 NW Jester Park Drive

(Street & Number)

Polk City Iowa 50109-9675
(City) (State) (Zip Code)

The parties agree as follows:

1. **PREMISES AND TERM.** Landlord leases to Tenant the following real estate, situated in

City of Des Moines, Polk County, Iowa:

Further described as District Parcel 120.07171.301.001

-EX E 126F S 550F & N 380F S 430F E 340F W 1000F-
N 757F S 807F E 676F W 1126F NE 1/4 NE 1/4 SEC
25-78-24

Consisting of 7.184 acres, more or less,

Together with all improvements thereon, and all rights, easements and appurtenances thereto belonging, for a term beginning on the later of the date this Lease is executed by both parties or the 1st day of December, 2017, and ending on the 1st day of December, 2018 upon the condition that Tenant performs as provided in this lease.

2. **RENT.** Tenant agrees to pay Landlord as rent \$1.00 per year, in advance commencing on the first day of the lease term. In addition, Tenant agrees to pay as additional rent, the installment of property taxes on the premises that will be delinquent if not paid by March 31, 2018 and the installment of property taxes on the premises that will be delinquent if not paid by September 30, 2018.

3. **ADDITIONAL CONSIDERATION.** As additional consideration for this Lease, Tenant agrees that is will support any application by Landlord or any successor to Landlord as owner of the adjacent property locally known as 2900 Easter Lake Drive and legally described as the North 380 feet of the South 430 feet of the West 1,000 feet of the Northeast 1/4 of the Northeast 1/4 of Section 25, Township 78 North, Range 24 West of the 5th P.M., now included in and forming a part of the City of Des Moines, Polk County, Iowa (the "2900 Easter Lake Drive Property"), if any is needed, for a conditional use permit for its continued use as a day care and preschool facility. Tenant agrees that, upon request from Landlord or any successor to Landlord as owner of the 2900 Easter Lake Drive Property, Tenant shall confirm such support in writing to the City of Des Moines, Iowa.

4. **POSSESSION.** Tenant shall be entitled to possession on the first day of the lease term, and shall yield possession to Landlord at the termination of this lease.

5. **USE:** Tenant shall use the premises only for parkland and park related uses.
6. **CARE & MAINTENANCE.**
- a) Tenant takes the premises as is. Tenant understands and agrees that the Living Waters Fellowship shall have until April 1, 2018 to remove the sand from the volleyball court.
 - b) Landlord shall have no maintenance or custodial responsibilities.
 - c) Tenant shall maintain the premises in a reasonable safe, serviceable, clean and presentable condition,
- Tenant may make physical modifications to the property for the purposes of erosion control or alterations to provide for public use of the said property. Upon termination of the Lease, upon request from Landlord, Tenant, at its expense, shall remove any alternations it made to the property for public use of the property.
7. **UTILITIES & SERVICES.** Tenant, at its expense, shall disconnect any utility connections on the property which utility services come through metered utility service to the adjacent property at 2900 Easter Lake Road owned by Landlord and shall cause separate utility connections to be made from the public utility providers for all public utility services used by Tenant on the property. Tenant shall pay for all utilities and services which may be used on the premises.
8. **ASSIGNMENT & SUBLETTING.** No assignment or subletting, either voluntary or by operation of law, shall be effective without the prior written consent of Landlord, which consent shall not unreasonably be withheld.
9. **INSURANCE. PROPERTY INSURANCE:** Landlord and Tenant agree that the property in question shall be insured by Tenant. Tenant's insurance shall name Landlord as an additional insured as its interest may appear. Tenant shall furnish Landlord with evidence acceptable to Landlord that Tenant has such insurance in effect at the commencement of this Lease and continuously thereafter throughout the term of this Lease.
10. **INDEMNITY.** Except for the negligence of Landlord, Tenant will protect, defend, and indemnify Landlord from and against any and all loss, liability, costs, damages and expenses (including, but not limited to, Landlord's reasonable attorney's fees, witness fees and court costs) occasioned by, or arising out of, any accident or other occurrence causing or inflicting injury or damage to any person or property, happening or done in, upon or about the premises, or due directly or indirectly to the tenancy, use or occupancy thereof, or any part thereof by Tenant or any person claiming through or under Tenant to the extent allowed under the Code of Iowa.
11. **MECHANICS' LIENS.** a) Neither Tenant, nor anyone claiming by, through, or under Tenant, shall have the right to file any mechanic's lien against the premises. Tenant shall give notice in advance to all contractors and subcontractors who may furnish, or agree to furnish, any material, service or labor for any improvement on the premises. Tenant shall protect, indemnify and hold Landlord indemnify Landlord from and against any and all loss, liability, costs, damages and expenses (including, but not limited to, Landlord's reasonable attorney's fees,

witness fees and court costs) occasioned by, or arising out of, any work performed by, through or under Tenant on the property.

b) Tenant shall have the right to maintain on the premises signage consistent with park purposes.

12. NOTICES & DEMANDS. All notices shall be given to the parties hereto at the addresses designated unless either party notifies the other, in writing, of a different address. Without prejudice to any other method of notifying a party in writing or making a demand or other communication, such notice shall be considered given under the terms of this lease when it is deposited in the U.S. Mail, registered or certified, properly addressed, return receipt requested, and postage prepaid.

12. PROVISIONS BINDING. Each and every covenant and agreement herein contained shall extend to and be binding upon the respective successors, heirs, administrators, executors and assigns of the parties hereto.

LANDLORD:

The Presbytery of Des Moines of the Presbyterian Church (U.S.A.)

By: _____

Print Name: David Hamilton

Title: Stated Clerk

TENANT:

Polk County Conservation Board

By:  _____ 12/13/17

Richard Leopold, Director

Acting by Resolution from the Polk County Conservation Board from August 2017

