

ATTACHMENT B - Fenton Parking Lease

LAND LEASE

This Land Lease ("Lease") is made effective on the _____ day of _____ 2020 by and between the First Presbyterian Church of Fenton 503 S. Leroy, Fenton, Michigan 48430, a Michigan ecclesiastical corporation, ("Landlord") and the City of Fenton Downtown Development Authority, 301 S. Leroy, Fenton, Michigan 48340, a Michigan Municipal corporation ("Tenant") who agree as follows.

SECTION 1 THE LAND

1.01 Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the real property located in the City of Fenton, Genesee County, Michigan, more particularly described in Exhibit A hereto (the "Land") the fee title to all of which, as of the date hereof, is vested in Landlord, together with all rights, privileges, easements and appurtenances now or hereafter benefiting or belonging to the Land (collectively the Appurtenances"). The Land and the Appurtenances are hereinafter collectively referred to as the "Premises".

SECTION 2 THE TERM

The term of this Lease will commence the date first written above and will continue until December 31, 2045 unless sooner terminated as provided herein. Landlord and Tenant (or their successors or assigns) agree to renegotiate in good faith for a renewal or extension of the Lease for an additional twenty-five (25) years upon its expiration. Either party seeking renewal or extension of the Lease shall notify the other party, as provided in Section 13, by December 13, 2044.

SECTION 3 THE TERM

3.01 Tenant agrees to pay to Landlord, as rent in advance for the entire term of the lease, the total amount of Twenty-Five (\$25) Dollars, payable on the execution of this Lease.

3.02 Landlord and Tenant acknowledge and agree that this is a net lease, and that all costs, expenses and charges of every nature relating to the Premises or any part thereof which may be attributable to, or become due during, the Lease term will be paid by Tenant, and Tenant will defend, indemnify and hold Landlord harmless from and against such costs, expenses and charges; provided, however, that nothing herein shall be construed (i) to require Tenant to pay any indebtedness secured by any mortgage placed by Landlord on the Premises or (ii) to require Tenant to incur any cost, expense or charge (including without limit for taxes and assessments or maintenance and repair) with respect to the easements granted under Section 28 hereof except such as may be specifically imposed thereunder.

SECTION 4
TAXES AND ASSESSMENTS

The Premises is exempt from ad valorem real property taxes under Michigan law and is expected to remain so during the Term of this Leases. However, Tenant agrees to pay as additional rent all taxes and assessments, general and special, and all other governmental impositions which may be levied on the Premises or any part thereof or on improvements at any time situated .on the Premises, during the Term this Lease.

SECTION 5
USE OF PREMISES

5.01 During the continuation of this Lease, the Premises may be used and occupied solely as a public parking lot. Tenant agrees that it will not use or permit any person to use the Premises or any part thereof for any use or purposes in violation of any applicable laws, ordinances, statutes or other regulations.

5.02 Tenant and Landlord agree, acknowledge and recognize that the Lease is an integral element in the creation of the Dibbleville Master Parking Plan as shown in Exhibit B, encompassing public parking for Dibbleville area residents, businesses, governmental offices and churches. A failure to create or maintain a public parking lot substantially conforming to the Dibbleville Master Parking Plan (Exhibit B), which significantly impacts available public parking in the area may be deemed by Tenant or Landlord as a frustration of the purpose of this Lease.

5.03 Tenant and Landlord agree, acknowledge and recognize that a senior citizen housing complex is anticipated to operate as a private apartment building of sixty-four (64) units for tenants over the age of fifty-five (55) years and providing up to eighty- five (85) parking spaces on its premises for residents, staff and guests. Any substantial change in the operation of the senior citizen housing complex, or its successors or assigns, including but not limited to changes in size, character of occupancy, and extent of provided parking which significantly impact available public parking in the area may be deemed by Tenant or Landlord as a frustration of the purpose of this Lease.

5.04 Tenant and Landlord agree, acknowledge and recognize that the Land currently provides parking for 14 vehicles for Landlord's exclusive use and Tenant agrees to operate the parking lot should on Exhibit B so as to provide fourteen (14) spaces free of charge for church use and shall designate the fourteen (14) parking spaces in the parking lot area nearest to Landlord's premises, by signs or markings of a mutually satisfactory design, restricting these spaces to "Presbyterian Church Parking Only - Sunday 9:00 to Noon ." The operation of the parking lot so as to provide fourteen (14) spaces available free of charge for church use and the designation of these spaces shall be implemented in such a way as to make these restrictions enforceable under the City of Fenton Traffic and Parking Code. Existence of enforceable designated parking as provided in this Section shall constitute a continuing condition concurrent to this Lease; and substantial breach may be deemed by Landlord as a frustration of the purpose of this Lease.

SECTION 6 INSURANCE

6.01 Tenant, at its sole expense, will at all times until termination of this Lease and surrender of the Premises to Landlord, add the Premises to the policies of insurance covering the Tenants other property used for parking purposes.

6.02 If Tenant fails to provide all or any of the insurance required by this Section 6, or subsequently fails to maintain such insurance in accordance with the requirements of this Section, Landlord may (but will not be required to), and without waiving or releasing Tenant from any of Tenant's obligations, procure or renew such insurance, and any amounts paid by Landlord for such insurance will be additional rental due and payable promptly following the payment of any premium by Landlord.

6.03 In the event of loss under any policy or policies under this Section 6, the proceeds shall be paid to the parties as their interests may appear.

6.04 Tenant, upon reasonable request of Landlord, shall provide adequate proof of the existence of the insurance coverage mandated by this Section.

SECTION 7 DAMAGE

In case of damage to the Premises or any part thereof, Tenant shall promptly give written notice thereof to Landlord and, if and only if the available insurance proceeds plus the amount of any deductible are sufficient, Tenant shall be obligated to restore, repair, replace, rebuild or alter the same as nearly as possible (subject to then prevailing zoning and building codes and ordinances) to its condition immediately prior to such damage or destruction (the "Restoration"). In the event that the available insurance proceeds plus the amount of any deductible are not sufficient for the restoration, Tenant shall immediately notify Landlord of the same and of the amount of the deficiency and whether or not Tenant, at its option, elects to proceed with the Restoration at its cost and expense. If Tenant declines to proceed with the Restoration within ninety (90) days after Landlord's receipt of notice from Tenant of the amount of the deficiency, this lease shall terminate and the proceeds of the insurance shall be paid to the parties as their interest may appear. The determination as to whether or not the available insurance proceed plus the amount of any deductible are sufficient for the Restoration shall be made within sixty (60) days after the amount of available insurance proceeds has been determined on the basis of the average of three written estimates from contractors licensed in the State of Michigan as to the cost of the Restoration, which estimates shall be the obligation of the Tenant to obtain and shall be furnished to the Landlord along with Tenant's notice of a deficiency.

SECTION 8 MAINTENANCE AND REPAIRS

8.01 During the continuation of this Lease, Tenant will keep the Premises and every part thereof in a clean and wholesome condition and will comply with all lawful health, fire, safety, police and other applicable laws and regulations. Tenant agrees at its own expense to keep the Premises, at all times in good appearance, condition and repair, and to restore the same after any damage or destruction (except as otherwise provided under Section 7 above). Tenant will also pay all other expenses in connection with

the maintenance of the Premises including repair and upkeep of grounds, sidewalks, driveways and parking areas in a first-class condition.

8.02 Except as otherwise expressly provided to the contrary herein, Landlord shall in no event be required to make any alterations, replacements, changes, additions, improvements or repairs to the Premises during the term of this Lease.

8.03 Tenant agrees to hire an independent contractor ("Contractor") for the removal of natural accumulations of snow and ice from the parking lot when accumulation equals or exceeds two inches (2") prior to Sunday morning Services or Christmas Eve Services. Tenant, its successors or assigns, shall not be responsible for costs incurred by Landlord for removal of snow or ice from sidewalks or steps or Landlord's adjacent premises. If service is not satisfactory to Landlord due to reasonable cause, Tenant agrees to change Contractor.

SECTION 9 LIENS

During the continuation of this Lease, Tenant will keep the Premises free of liens of any sort, except as permitted by Section 19 hereof, and will defend, indemnify and hold Landlord and the Premises harmless from any liens which may be placed on the Premises, except those attributable to the acts or omissions of Landlord. If any lien or claim of lien should be recorded against the Premises or any part thereof, Tenant shall within thirty (30) days thereafter cause same to be discharged of record.

SECTION 10 CONDEMNATION

In the event that the Premises, or any part hereof, shall be taken in condemnation proceedings or by exercise of any right of eminent domain or by agreement between Landlord, Tenant and those authorized to exercise such right (any such matters being hereinafter referred to as a " taking"), this Lease shall terminate and Landlord, Tenant and any person or entity having an interest in the award or awards shall have the right to participate in any such condemnation proceedings or agreement for the purpose of protecting their interests hereunder. Each party so participating shall pay its own expenses therein.

SECTION 11 ASSIGNMENTS, MORTGAES AND SUBLEASES OF TENANT 'S INTEREST

11.01 Except as provided in Section 30, Tenant and its successors and assigns shall not have the right to assign this Lease and/or any interest in his lease without Landlord's prior consent, which Landlord may withhold at its sole discretion.

11.02 Tenant, and its successors and assigns, shall not have the right to mortgage and pledge this Lease and/or any interest in his lease without Landlord's prior consent, which Landlord may withhold at its sole discretion.

11.03 Tenant shall not have the right to sublet the Premises in whole or in part without Landlord' s prior consent, which Landlord may withhold at its sole discretion.

SECTION 12
ENTRY ON PREMISES BY LANDLORD

12.01 Tenant shall permit Landlord and its authorized representatives to enter the Premises at all reasonable times for the purpose of (i) inspecting the same, and (ii) making any necessary repairs thereto and performing any work therein that may be necessary by reason of Tenant's failure to make any such repairs or perform any such work or to commence the same for thirty (30) days after written notice from Landlord (or without notice in case of emergency). Nothing herein shall imply any duty upon the part of Landlord to do any such work; and performance thereof by Landlord shall not constitute a waiver of Tenant's default in failing to perform the same.

12.02 During the progress of any work in the Premises performed by Landlord pursuant to the provisions of Section 12.01 hereof, Landlord may keep and store therein all necessary materials, tools, supplies and equipment. Landlord shall not be liable for inconvenience, annoyance, disturbance, or other damage of Tenant or any subtenant by reason of making such repairs or the performance of any work, or on account of bringing materials, tools, supplies and equipment into the Premises during the course thereof and the obligations of Tenant under this Lease shall not be affected thereby.

SECTION 13
NOTICE OR DEMANDS; CONSENTS

All bills, notices, statements, communications to or demands (collectively, "notices or demands") upon Landlord or Tenant desired or required to be given under any of the provisions hereof must be in writing. Any such notices or demands from Landlord to Tenant will be deemed to have been duly and sufficiently given if personally delivered to Tenant or if a copy thereof has been mailed by United States mail in an envelope properly stamped and addressed to Tenant at such address as Tenant may have last furnished in writing to the Landlord for such purpose, and any such notices or demands from Tenant to Landlord will be deemed to have been duly and sufficiently given if personally delivered to Landlord or mailed by United States mail in an envelope properly stamped and addressed to Landlord at such address last furnished by written notice from Landlord to Tenant. The effective date of such notice or demand will be deemed to be the time when personally delivered or mailed (as evidenced by the postmark date on the envelope) as herein provided. All consents desired or required to be given under any of the provisions of this Lease must be in writing.

SECTION 14
BREACH AND RE-ENTRY

If Tenant defaults in the performance of any of its obligations in this Lease and the default continues for a period of thirty (30) days after written notice thereof to Tenant (unless the default is of such a nature that it cannot reasonably be cured within 30 days, in which case Tenant shall have such additional time to cure as is reasonably necessary to cure [but not to exceed an additional 45 days], provided that Tenant has commenced to cure within said 30 days and diligently proceeds with the same) , then Landlord may (but will not be required to) declare this Lease terminated, or re-enter the Premises without declaring such a termination, or may exercise all other remedies available under Michigan law. Landlord will not be liable for damages to persons or property by reason of any lawful re-entry or forfeiture. Tenant, by the execution of this Lease, waives notice of re-entry by Landlord. In the event of re-entry by Landlord without declaration of termination, the liability of Tenant for the rent provided herein will not be extinguished, and any rentals prepaid may be retained by Landlord and applied against the costs of re-entry, or as

liquidated damages, or both. Tenant will pay, in addition to the rentals and other sums agreed to be paid hereunder, reasonable attorney's fees, costs and expenses in any suit or action instituted by or involving Landlord to enforce the provisions of this Lease, including without limit any proceeding under the Federal Bankruptcy Code or any appellate proceeding.

SECTION 15
PERFORMANCE BY LANDLORD OF THE COVENANTS OF TENANT

If Tenant fails to pay any sum of money required to be paid hereunder or fails to perform any act on its part to be performed hereunder, including without limitation the performance of all covenants pertaining to the condition and repair of the Premises pursuant to Section 8 above, and such failure shall continue for a period of thirty (30) days (or a reasonable period of less than thirty (30) days when life, person or property are in jeopardy) after notice thereof by Landlord, Landlord may (but shall not be required to), and without waiving or releasing Tenant from any of Tenant's obligations, make any such payment or perform any such other act. All sums so paid by Landlord and all necessary incidental costs, including without limitation the cost of repair, maintenance or restoration of the Premises, if so performed by Landlord hereunder, shall be deemed additional rental and shall be payable to Landlord within five (5) days after receipt of invoice by Tenant. On default in such payment, Landlord shall have the same remedies as on default in payment of rent. The rights and remedies granted to Landlord under this Section 15 shall be in addition to, and not in lieu of all other remedies, if any, available to Landlord under this Lease or otherwise, and nothing herein contained shall be construed to limit such other remedies of Landlord with respect to any matters covered herein.

SECTION 16
SUBORDINATION; ESTOPPEL CERTIFICATES

16.01 Tenant agrees that Landlord may choose to make this Lease subordinate to or paramount to any mortgage now or hereafter affecting the premises and to any and all advances to be made thereunder or to be secured thereby, and to the interest and charges thereon, and all renewals, replacements and extensions thereof, provided the mortgagee named in any such mortgage agrees to recognize Tenant's rights under this Lease in the event of foreclosure if Tenant is not in default under this Lease (or if in default, Tenant or Leasehold Mortgagee cures the default within any applicable notice and grace period). Tenant will execute promptly any instrument or certificate that Landlord may request to confirm such subordination, and hereby irrevocably appoints Landlord as Tenant's attorney-in-fact to execute such instrument or certificate on its behalf.

16.02 Tenant, within ten (10) days after request (at anytime or times) by Landlord, will execute and deliver to Landlord, an estoppel certificate proposed by Landlord identifying the Commencement Date and expiration date of this Lease and stating that this Lease is unmodified and in full force and effect, or is in full force and effect as modified, stating the modifications, and stating that Tenant does not claim that Landlord is in default in any way, or listing any such claimed defaults. The certificate also will confirm the amount of any additional rent as of the date of the certificate. If Tenant fails to deliver the executed certificate to Landlord within the ten (10) day period, the accuracy of the proposed certificate will be deemed conclusively confirmed. Landlord shall, within ten (10) days after request by Tenant, execute and deliver to Tenant a similar estoppel certificate.

SECTION 17
QUIET ENJOYMENT

Landlord agrees that at all times when Tenant is not in default under the provisions and during the continuation of this Lease, Tenant's quiet and peaceable enjoyment of the Premises will not be disturbed or interfered with by Landlord or any person claiming adversely to, or by, through or under Landlord.

SECTION 18
HOLDING OVER

If Tenant remains in possession of the Premises after the expiration of this Lease, Tenant will be deemed to be occupying the Premises as a tenant at will, subject to all the provisions of this Lease to the extent that they can be applicable to a tenancy at will, except that the minimum net rent for each month or fraction thereof that Tenant remains in possession will be 200% of the rent set forth in Section 3.

SECTION 19
REMEDIES NOT EXCLUSIVE WAIVER

19.01 Each and every of the rights, remedies and benefits provided by this Lease are cumulative, and are not exclusive of any other of said rights, remedies and benefits, or of any other rights, remedies and benefits allowed by law.

19.02 One or more waivers of any covenant or condition by Landlord will not be construed as a waiver of a further or subsequent breach of the same covenant or condition, and the consent or approval by Landlord to or of any act by Tenant requiring Landlord's consent or approval will not be deemed to waive or render unnecessary Landlord's consent to or approval of any subsequent similar act by Tenant.

SECTION 20
WAIVER OF SUBROGATION

Landlord and Tenant hereby waive any and all right of recovery against each other for any loss or damage caused by fire or any of the risks covered by standard fire and extended coverage, vandalism and malicious mischief insurance policies.

SECTION 21
DEFINITION OF LANDLORD; LANDLORD'S LIABILITY

The term "Landlord" as used in this Lease, so far as covenants, agreements, stipulations or obligations on the part of the Landlord are concerned, is limited to mean and include only the owner or owners of fee title to the Premises at the time in question, and in the event of any transfer or transfers of the title to such fee the Landlord herein named (and, in case of any subsequent transfers or conveyances, the then grantor) will automatically be relieved from and after the date of such transfer or conveyance of all personal liability for the performance of any covenants or obligations on the part of the Landlord contained in this Lease thereafter to be performed.

SECTION 22
INDEMNIFICATION

Tenant at its expense will defend, indemnify and save Landlord, its licensees, servants, agents, employees and contractors, harmless from any loss, damage, claim of damage, liability or expense to or for any person or property, whether based on contract, tort, negligence, nuisance or otherwise, arising directly or indirectly out of or in connection with the condition of the Premises, the use or misuse thereof or of the easement rights granted under Section 28 hereof by Tenant or any other person, the acts or omissions of Tenant, its licensees, servants, agents, employees or contractors, the failure of Tenant to comply with any provision of this Lease, or any event on the Premises, whatever the cause; provided however, that nothing herein shall be construed to require Tenant to identify Landlord against Landlord's own acts, omissions or neglect.

The duties imposed on Tenant, its successors or assigns, by this Section shall apply to the Land and to the parking area North of the Land upon which Landlord is granted, pursuant to Section 8.03, the right to contract for snow and ice removal, for loss, damage, alarm of damage, liability or expense arising directly or indirectly out of or in connection with Landlord's exercise or failure to exercise the rights granted it in Section 8.03.

SECTION 23
ENTIRE AGREEMENT

This Lease and the Exhibits attached hereto and forming a part hereof, set forth all of the covenants, agreements, stipulations, promises, conditions and understandings between Landlord and Tenant concerning the Premises and there are no covenants, agreements, stipulations, promises, conditions or understanding, either oral or written, between them other than herein set forth.

SECTION 24
FORCE MAJEURE

In the event that Landlord or Tenant shall be delayed, hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, the act, failure to act or default of the other party, war or other reason or cause beyond their control, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

SECTION 25
SHORT FORM LEASE

The parties will, following the execution and delivery of this Lease, upon the request of either party promptly execute and record an instrument, in recordable form, which will constitute a short form of Lease, setting forth a description of the Premises, the term of this Lease and any other portions thereof, except the rental provisions, as either party may reasonably request.

SECTION 26.
RELATIONSHIP OF THE PARTIES

The relationship between Landlord and Tenant shall be that of lessor and lessee, respectively, and nothing contained in this Lease shall be deemed to create a partnership or joint venture between Landlord and Tenant.

SECTION 27
NON RECOURSE OBLIGATION

Landlord's liability under this Lease shall at all times be limited to Landlord's interest in the Premises. If Landlord fails to perform any provision of this Lease upon Landlord's part to be performed, and if as a consequence of such default Tenant recovers a money judgment against Landlord, such judgment may be satisfied only out of the proceeds of sale received upon execution of such judgment and levied thereon against the right, title and interest of Landlord in the Premises and out of rents or other income from such property receivable by Landlord and Landlord shall not be personally liable for any deficiency.

SECTION 28
EASEMENTS

During the term of this Lease, Tenant is hereby granted a non-exclusive easement for the use and operation of any and all existing storm sewers across and under Landlord's Property. The easement granted under this Section 28 shall terminate with respect to Tenant upon termination of this Lease for any reason.

SECTION 29
GENERAL

29.01 Many references in this Lease to persons, entities and items have been generalized for ease of reading. Therefore, references to a single person, entity or item will also mean more than one person, entity or thing whenever such usage is appropriate (for example, "Tenant" may include, if appropriate, a group of persons acting as a single entity, or as tenants-in-common). Similarly, pronouns of any gender should be considered interchangeable with pronouns of other genders.

29.02 All agreements and obligations of Tenant under this Lease are joint and several in nature. Any waiver or waivers by Landlord of any of the provisions of this Lease will not constitute a waiver of any later breach of that provision, and any consent or approval given by Landlord with respect to any act, neglect or default by Tenant will not waive or make unnecessary Landlord's consent or approval with respect to any later similar act, neglect or default by Tenant.

29.03 Topical headings appearing in this Lease are for convenience only. They do not define, limit or construe the contents of any paragraphs or clauses.

29.04 This Lease can be modified or amended only by a written agreement signed by Landlord and Tenant.

29.05 All provisions of this Lease are and will be binding on the heirs, executors, administrators, personal representatives, successors and assigns of Landlord and Tenant.

29.06 The laws of the State of Michigan will control in the construction and enforcement of this Lease.

29.07 Time is of the essence in all respects under this

SECTION 30
ASSIGNMENT

During the term of this Lease, the Tenant may assign all or any portion of its interest in the Premises to the City of Fenton or any agency thereof without the prior written consent of the Landlord.

IN WITNESS WHEREOF, the Landlord and Tenant have executed this Lease as of the date set forth at the outset hereof.

FIRST PRESBYTERIAN CHURCH OF FENTON

CITY OF FENTON DOWNTOWN DEVELOPMENT