

CITY CONTRACT No. _____

LEASE AGREEMENT

WHEREAS "LESSOR," **Meals on Wheels of Cheyenne, Inc.**, a Wyoming non-profit corporation located at 2015 S. Greeley Hwy, Cheyenne, WY 82007, or its successors or assigns, agrees to lease a portion of the real property currently identified as 2015 S. Greeley Hwy, Cheyenne, WY 82007, to be more specifically described herein, to "LESSEE," **City of Cheyenne**, a Wyoming municipality, whose legal address is 2101 O'Neil Avenue, Cheyenne, Wyoming, under the following terms.

1. LESSOR, a non-profit corporation and LESSEE, municipality LESSOR and LESSEE represents and warrants that they are authorized under the laws of the State of Wyoming and have full power and authority to enter into this Commercial Lease Agreement (hereinafter the "Lease").
2. PROPERTY. The LESSOR hereby leases to LESSEE Property hereby referred to as "Leased Property," that building located on the lot with the legal description at **Exhibit A**, as well as all improvements and the appurtenances. The Leased Property is approximately nine thousand five hundred (9,500) square feet and includes surrounding yard space and access to a common area for parking. The Leased Property currently is addressed as 2015 S. Greeley Hwy, Cheyenne, Wyoming 82007, although the Parties understand and agree that a new address will be assigned by Laramie County at the time LESSEE obtains permitting for certain work to be performed at the Leased Property. An aerial view depiction of the Leased Property is attached hereto as **Exhibit A**, including the legal description of the lot on which the Leased Property is situated.
3. SUBLEASE. LESSEE may sublet the Leased Property but only with prior written notification given to LESSOR and after obtaining prior written consent from LESSOR. LESSOR retains sole discretion to authorize any subleasing.
4. TERM AND RENEWAL. The term of this Lease is FIVE (5) years beginning on June 1, 2023 and ending May 31, 2028. This Lease may be extended at LESSEE's option for up to two (3) three-year (1) extension periods with sixty (60) day notice to terminate. In any event, each Party agrees to provide the other with no less than one (1) year advanced notice of termination or renewal of this Lease Agreement.
5. FIRST RIGHT OF REFUSAL TO PURCHASE. LESSOR agrees LESSEE has the first right of refusal to purchase the Leased Property during the term of this Lease Agreement. During the term of the Lease Agreement, LESSOR shall not directly or indirectly through an affiliate enter into any agreement or consummate any transaction resulting in the sale of the Leased Property with any person or entity other than LESSOR, except in compliance with the terms and conditions stated herein ("Third-Party Transaction").

a. If, at any time during the term of the Lease Agreement, LESSOR receives a *bona fide* written offer for a third-party transaction LESSOR desires to accept (“Third-Party Offer”), LESSOR shall within ten (10) days following receipt of the Third-party Offer, or before the expiration of the offer, whichever is earlier, notify LESSEE in writing (“Offer Notice”) of the identity of the proposed parties to the Third-Party Offer and the material financial and other terms and conditions of such Third-Party Offer (“Material Terms”). Each Offer Notice constitutes an offer made by LESSOR to enter into an agreement with LESSEE on the same Material Terms of such Third-Party Offer.

b. At any time prior to the expiration of the ten (10) day period following the receipt of the Offer Notice (“Exercise Period”), LESSEE may accept the Third-Party Offer by delivery to LESSOR of a binding letter of intent containing the Material Terms executed by LESSEE, provided, however, that LESSEE is not required to accept any non-financial terms or conditions contained in any Material Terms that cannot be fulfilled by LESSEE as readily as by any other person (*e.g.*, an agreement conditioned upon the services of a particular individual or the supply of a product exclusively under the control of such third-party offeror).

c. If, by the expiration of the Exercise Period, LESSEE has not accepted the Third-Party Offer and provided that LESSOR has complied with all provisions of this section, at any time following the expiration of the Exercise Period, LESSOR may consummate the Third-Party Transaction with the counterparty identified in the applicable Offer Notice on Material Terms that are the same or more favorable to LESSOR as the Material Terms set forth in the Offer Notice.

6. RENTAL AMOUNT. LESSEE agrees to pay LESSOR:

YEAR	START TERM	END TERM	RENT/FOOT	ANNUAL RENT
1-3	06/01/2023	05/31/2026	\$8.00	\$76,000
4	06/01/2026	05/31/2027	\$8.16	\$77,520
5	06/01/2027	05/31/2028	\$8.32	\$79,040
BEYOND				MARKET RATE

Monthly rent payments are due on the first of each month. Beginning the tenth of each month, LESSEE will be charged \$20.00 per day for each day the monthly rental payment is late, not to exceed \$633.33 per monthly payment in late fees. If the current rent due plus any late fees charged is not paid by the last day of the month the rent is due, LESSOR may begin the due process to terminate the Lease. LESSOR and LESSEE agree that LESSEE that the first rental payment of \$6,333.33 will be due by June 1, 2023.

7. SECURITY DEPOSIT. LESSOR acknowledges LESSEE will pay a refundable security deposit of \$6,333.33 (Six Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents). This security deposit may be refunded within thirty (30) days of the termination of this Agreement, in whole or in part, depending on

whether any damage to the Leased Property requires repairs. If the Leased Property requires any cleaning, maintenance, or repairs, LESSOR may use security deposit to cover costs.

8. **REMODEL AND IMPROVEMENTS.** LESSOR and LESSEE acknowledge significant remodel and improvements may be completed by LESSEE. LESSOR acknowledges LESSEE intends to remodel portions or all of the property, which may include but are not limited to, installing partitions and making modifications to restroom and utility rooms, fencing of adjacent yard space, floor drains, either at one time or in phases at LESSEE'S expense. LESSOR acknowledges and authorizes those improvements submitted to and approved by LESSOR. LESSEE acknowledges that all structural improvements of remodel would remain with the building if Lease is terminated. LESSEE acknowledges all improvements requiring governmental approval must also be approved by LESSOR. No reasonable request for alteration and remodel will be denied. LESSOR'S approval process may take into consideration financial feasibility, value of the Property and how the proposed alteration and remodel will affect the value of the Property, and local regulator matters. Improvements of a temporary nature shall be removed at conclusion of Lease.
9. **USE.** LESSEE will be solely responsible for keeping all outside and inside areas clean and in good condition. LESSEE shall not conduct an operation that competes with LESSOR's operations, in the discretion of LESSOR. Any waiver of this term shall be limited and in LESSOR's sole discretion.
10. **WASTE AND HAZARDOUS ACTIVITIES.** LESSEE shall not commit or suffer to be committed any waste on the Property, nor shall LESSEE permit the Property to be used in any way which would be hazardous on account of fire, toxic chemicals or anything else which would in any way increase or render void any insurance on the Property.
11. **SIGNS AND AWNINGS.** LESSOR has the right to pre-approve all signs and awnings on the building exterior. All signs shall comply with Laramie County sign codes and shall be installed in a manner to avoid injury or defacement of the Leased Property. Upon the expiration or sooner termination of this Lease, all signs placed by the LESSEE shall be removed and all damage caused by the erection, maintenance or removal of any of the signs shall be fully repaired at the expense of the LESSEE. All awnings shall remain on the Leased Property and shall not be removed by LESSEE. All signage lighting installed by LESSEE shall conform to Laramie County's codes or any applicable governmental rules.
12. **UTILITIES.** LESSEE will be responsible for utilities, to include water and sewage as they pertain to this Lease. LESSEE shall be responsible for the payment of utility services to include electricity, gas, telephone, Internet, or cable television service, and janitorial, beginning as of June 1, 2023. LESSEE shall put utilities services in its' own name. After first year of occupancy, adjustments to the Water and Sewer

fees will be based on actual usage and agreed to by LESSOR and LESSEE.

13. PROPERTY TAX. LESSOR will be responsible for property taxes, as well as any prorated property taxes prorated as of June 1, 2023.
14. REPAIRS AND MAINTENANCE. LESSEE and LESSOR agree as follows:
 - a. By accepting possession of the Property, LESSEE has accepted the Property in its present condition. LESSOR warrants Property is free of dangerous material and is structurally sound as of the effective date of this Lease.
 - b. LESSOR shall maintain in good repair the outside of the building/structural exterior of the property, including but not limited to, structural components of the roof, exterior walls, foundations, MAJOR systems maintenance such as HVAC, electrical, plumbing, such as broken pipes due to no fault of the lessee, and parking lot maintenance.
 - c. LESSEE agrees to maintain and be responsible for MINOR repair costs (excluding the structural components of exterior walls and foundations and items listed in Section 14(b)), above, including plumbing, electrical and lighting facilities and minor equipment, wiring, fixtures, walls, wall coverings, ceilings, floors, windows, doors, glass, plate glass, and entrances.
 - d. LESSEE will be responsible for keeping exterior and interior of Property in good, clean and habitable condition, including trash and snow removal.
 - e. LESSEE shall not allow any damage to be committed on any portion of the Property, and on termination of the Lease, LESSEE shall deliver the Property to LESSOR in good condition, ordinary wear and tear excepted. All structural upgrades to the Property are to remain upon termination of the Lease.
 - f. All requests for repairs or maintenance that are the responsibility of LESSOR pursuant to any provision of this Lease must be made in writing by LESSEE to LESSOR or its designee at the address set forth below or as amended in writing from time to time. LESSOR acknowledges the time sensitivity of repairs, which will be high priority.

Stephanie Freeman
Executive Director
Meals on Wheels of Cheyenne, Inc.
2015 S. Greeley Hwy
Cheyenne, WY 82007
With electronic copy to:
sfreeman@mealsonwheelsofcheyenne.com

17. COMPLIANCE WITH LAWS, RULES AND REGULATIONS. LESSEE, at its sole cost and expense, shall comply with all laws, ordinances, orders, rules and regulations of state, federal, municipal or other agencies or bodies having jurisdiction relating to the use, condition, re-facing and non-re-structural remodeling, and occupancy of the Leased Property by LESSEE and/or its Sub-lessees including ADA compliance, if applicable.
18. CONDEMNATION. If, during the Term, all or a substantial part of the Property are taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain or by purchase in lieu thereof, and the taking would prevent or materially interfere with the use of the Property for the purpose for which they are then being used, this Lease shall terminate and the Rent shall be abated for the remaining portion of the Term, effective on the earlier of (i) the date physical possession is taken by the condemning authority or (ii) the date on which it is impracticable for LESSEE to use the Leased Property for its intended purpose.
19. FIRE AND CASUALTY. If fire or other casualty destroys the Property, whether such loss is total or partial, this Lease Agreement shall proceed and the rent shall be paid upon receipt of insurance proceeds. LESSEE shall be obligated, to the full extent of the insurance proceeds and other sums recovered, to return the Property to its former condition, unless parties mutually agree in writing to another use of the insurance proceeds.
20. PROPERTY AND LIABILITY INSURANCE. LESSEE agrees as follows:
 - a. LESSEE shall maintain a policy or policies of insurance insuring LESSOR'S interest in the Property against all risk of direct physical loss in an amount equal to the full replacement cost of the Property and value of the building. LESSEE will pay any premiums on such insurance when due. LESSEE shall be named as an additional insured on any and call policies. Certificates of insurance shall be presented to LESSEE before the date rent is first due.
 - b. LESSOR agrees to carry liability insurance with minimum \$1,000,000.00 single occurrence and \$2,000,000.00 aggregate coverage which provides protection against any injuries or damages sustained by individuals in the Leased Property including, but not limited to, all interior hallways, stairways, elevators, restrooms, lobbies, doorways, and any and all interior rooms; also, to include all exterior stairways, doorways, sidewalks, parking lots, and any and all exterior spaces whatsoever.
 - c. LESSEE may maintain insurance covering personal property against all risk of direct physical loss in an amount equal to the full replacement cost of the property as of the date of the loss.

- d. LESSEE shall provide LESSOR certificates of insurance evidencing coverage as described above upon each anniversary of the date rent is first due. LESSOR shall be named as an additional insured on any and all policies.
21. QUIET ENJOYMENT. LESSOR warrants that it has full right to execute and perform this Lease, and grant the leasehold estate, and that LESSEE, upon timely payment of the rent and performing the terms, conditions, covenants and agreements contained in this Lease, shall peaceably and quietly have, hold and enjoy the Property during the term of the Lease. However, LESSOR shall not be responsible for the acts or omissions of LESSEE or any third parties that may interfere with LESSEE'S use and enjoyment of the Property.
22. LESSOR'S RIGHT OF ENTRY. LESSOR shall have the right to enter the Property after giving twenty-four hours' notice, except in case of emergency, for inspection, cleaning, making repairs, alterations or additions as LESSOR and LESSEE may deem necessary or desirable, and/or to show prospective buyers the Leased Property.
23. SUBLEASE. LESSEE shall have the right to sublease but only with prior written notice to LESSOR and written approval from the LESSOR. In the event of any subletting, LESSEE shall nevertheless at all times remain fully responsible and liable for the payment of rent and for compliance with all of the other obligations under this Lease.
24. DEFAULT BY LESSEE. The following actions shall constitute default by LESSEE under this Lease:
 - a. LESSEE shall fail to pay within thirty (30) days due any installment of Rent, Additional Rent or any other payment required pursuant to this Lease.
 - b. LESSEE shall fail to comply with any term, provision or covenant of this Lease (other than the timely payment of all payments due as per subparagraph above) and the failure is not cured within thirty (30) days after written notice to LESSEE.
25. REMEDIES FOR LESSEE'S DEFAULT. Upon the occurrence of any event of default set forth in this Lease, LESSOR shall have the option, in its sole discretion, to pursue any one or more of the following remedies per any notice or demand to LESSEE pursuant to Wyoming state eviction laws:
 - a. Terminate this Lease, in which event LESSEE shall surrender the Property to LESSOR and, if LESSEE fails to surrender the Property, LESSOR may, pursue and all remedies at law or equity to remove LESSEE and, except as otherwise provided in this Lease, any other person who may be occupying

all or any part of the Leased Property. LESSEE agrees to pay upon demand the amount of all loss and damage, which LESSOR may suffer, limited to the intended use of the Leased Property in this Lease.

- b. Enter upon and take possession of the Leased Property, without liability for any claim for damages, re-rent the Property on behalf of LESSEE and receive directly the rent by reason of the re-renting. LESSEE agrees to pay LESSOR on demand any deficiency that may arise by reason of any re-renting of the Leased Property.
 - c. Enter upon the Leased Property as described above, and do whatever LESSEE is obligated to do under the terms of this Lease. LESSEE agrees to reimburse LESSOR on demand for any expenses that LESSOR may incur in effecting compliance with LESSEE'S obligations under this Lease. Further, LESSEE agrees that LESSOR shall not be liable for any damages resulting to LESSEE from effecting compliance with LESSEE'S obligations under this Subsection caused by the negligence of LESSOR or otherwise.
 - d. Take assignment of all Lease payments and deposits from LESSEE'S subleases or assignees to guarantee payment of the terms of this Lease.
 - e. The right of first refusal is void.
26. ACTS OF GOD. LESSOR shall not be required to perform any covenant or agreement in this Lease or be liable in damages to LESSEE, so long as the performance or non-performance of the covenant or obligation is caused by or prevented by an act of God or force majeure.
28. CHOICE OF LAW. The parties agree that the State of Wyoming is the proper jurisdiction for litigation of any matters relating to this Lease and Laramie County is the proper venue for such litigation and service sent by certified mail to the address of the parties set forth in this Lease shall be adequate service for this litigation.
29. HOLDING OVER. In the event of holding over by LESSEE after the expiration or termination of the Lease, the hold over shall be as a tenant-at-will and all of the terms and provisions of this Lease shall be applicable during that period, except that LESSEE shall pay LESSOR, as rental for the period of such hold over, an amount equal to one and one-half times the rent which would have been payable by LESSEE had the hold over period been a part of the Lease term. LESSEE agrees to immediately vacate and deliver the Leased Property to LESSOR upon LESSEE'S receipt of notice from LESSOR to vacate. The rent payable during the hold over period shall be payable to LESSOR on demand. No holding over by LESSEE, whether with or without consent of LESSOR, shall operate to extend the term of the Lease.

30. SUCCESSORS. This Lease shall be binding upon and inure to the benefit of LESSOR and LESSEE, and their respective successors and assigns.
31. ASSIGNMENT. LESSEE may assign all or part of its rights or obligations under this Agreement with prior written consent of LESSOR, which consent shall not be unreasonably withheld or delayed.
32. HOLD HARMLESS AND NON-LIABILITY. LESSEE shall indemnify, defend, and hold harmless LESSOR, its agents and any and all affiliates of LESSOR, from and against any and all claims arising from LESSEE'S operations, contracts, improvements, and repairs to the premises, including mechanic's / materialmen's liens and notices, and injury to persons, loss of life or damage to property occurring in or about the Property and from and against any and all cost, expenses, and liabilities (including without limitation, reasonable attorneys' fees) incurred by the LESSOR or said affiliates in or in connection with any claim or proceeding based thereon, to the extent such injury, loss of life or damage arises out of the negligence or willful act or failure to act of (a) LESSEE, or any of its officers, employees, agents, contractors, or licenses or (b) any visitors, guests, or invitees of LESSEE while on the Property.
33. GOVERNMENTAL IMMUNITY: The City expressly reserves the right to invoke governmental immunity for any claim arising out of this Agreement pursuant to the Wyoming Governmental Claims Act, Wyo. Stat. § 1-39-101, *et seq.*
34. AMERICAN WITH DISABILITIES ACT. LESSEE shall in good faith operate with compliance to the American with Disabilities Act, unless LESSEE is not subject to same.
35. MISCELLANEOUS. The captions appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such section. If any provisions of this Lease shall be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of this Lease, and such other provisions shall continue in full force and effect.
36. NOTICE.
 - a. Any notice or document required or permitted to be delivered by this Lease shall be deemed to be delivered (whether or not actually received) when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the parties at the respective addresses set below. A signed and dated receipt from the receiving party will be returned to the sending party acknowledging receipt of notice.

LESSOR:

Meals on Wheels of Cheyenne, Inc.
C/O Stephanie Freeman
Executive Director
(Or person then in this position)
2015 S. Greeley Hwy
Cheyenne, WY 82007

LESSEE:

City of Cheyenne
C/O Mayor Patrick Collins
2101 O'Neil Ave
Cheyenne, WY 82001

37. ENTIRE AGREEMENT AND LIMITATION OF WARRANTIES. It is expressly agreed by LESSEE, as a material consideration for the execution of this Lease, that this Lease and associated documents, if any, are the entire agreement of the parties; that there are and were no verbal representations, warranties, understandings, stipulations, agreements or promises pertaining to this Lease not incorporated in writing in the Lease. LESSOR and LESSEE expressly agree that there are and shall be no implied warranties of merchantability, habitability, fitness for a particular purpose or any other kind arising out of this Lease and there are no warranties which extend beyond those expressly set forth in this Lease. It is also agreed that this Lease may not be altered, waived, amended or extended except by an instrument in writing signed by both LESSOR and LESSEE.

[THIS SPACE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the day and year of the last executed signature below.

LESSOR:

MEALS ON WHEELS OF CHEYENNE, INC.

By: _____
STEPHANIE FREEMAN, Date
EXECUTIVE DIRECTOR

LESSEE:

CITY OF CHEYENNE

BY:

Patrick Collins, Mayor Date

(SEAL)

ATTEST:

Kristina F. Jones, City Clerk