

COUNCIL ACTION FORM

**SUBJECT: AGREEMENT BETWEEN HEARTLAND SENIOR SERVICES AND
THE CITY OF AMES REGARDING THE HEALTHY LIFE CENTER**

BACKGROUND:

City staff has been working to finalize this agreement with Heartland Senior Services for the Healthy Life Center prior to the September 10th bond referendum. Heartland will be a tenant in the building, occupying 10,257 square feet for an adult day center, nutrition, activities, and administrative services. The agreement calls for Heartland to provide funding for the construction of the facility as well as ongoing financial support for the operations and projected operating deficit.

The major provisions of this proposed agreement are highlighted below:

- Heartland will pay the City \$3,500,000 towards the construction of the Healthy Life Center which will be due 30 days after the award of the construction contract for the building. (Paragraph 1)
- Heartland will pay 11% of the annual operating costs, as identified in the RDG Planning Study, of the Healthy Life Center and grounds. (Paragraph 2)
- Heartland will pay 10% of the deficit each year when the expenditures exceed revenues associated with the non-aquatics portion of the Healthy Life Center. (Paragraph 2)
- Heartland will be responsible for 100% of its operating expenses (staffing, activity supplies, food, etc.). (Paragraph 2)
- Heartland is responsible to pay for any improvements to its tenant space and for the purchase of any equipment after the Healthy Life Center building is first constructed. (Paragraph 5)
- Rather than collect funds from Heartland in the future to help cover the cost for the building replacement items, the City will establish a Replacement Fund derived from the operating revenues each year of the Healthy Life Center to be used to replace these items.
- In the Heartland's tenant space, the City will be responsible for cleaning/upkeep, for the repairs to the plumbing, HVAC, electric systems, and for the replacement

of carpeting, flooring, painting of walls due to normal wear and tear. (Paragraph 10)

- The agreement will endure until it is terminated by mutual consent of both parties. (Paragraph 11)
- The agreement contains a “hold harmless” covenant and insurance requirements to protect both parties. (Paragraphs 12 & 13)

ALTERNATIVES:

1. The City Council can approve the attached agreement with Heartland Senior Services in regards to the Healthy Life Center.
2. The City Council can approve the attached agreement with Heartland Senior Services in regards to the Healthy Life Center with modifications suggested by the City Council.
3. The City Council delay making a final decision regarding the proposed lease agreement until the results of the September 10, 2019 bond election are known.

CITY MANAGER’S RECOMMENDED ACTION:

Rather than wait until the results of the September 10th bond election are known to begin negotiations with the Heartland Senior Services regarding the Healthy Life Center, the staff has been working to finalize the attached agreement to avoid any delays in starting construction should the referendum pass.

Therefore, it is the recommendation of the City Manager that the City Council support Alternative #1 and approve the attached agreement between the City and Heartland Senior Services.

**MEMORANDUM OF AGREEMENT
BETWEEN THE CITY OF AMES
AND HEARTLAND SENIOR SERVICES
REGARDING THE HEALTHY LIFE CENTER**

WHEREAS The City, Story County, Heartland Senior Services, and Mary Greeley Medical Center have been working together over the last three years to develop the concept of the Healthy Life Center (HLC) that will help achieve the life-long goal of making healthy living accessible and enjoyable to people of all ages and socio-economic status; and,

WHEREAS the City of Ames has agreed to construct, own, and manage the Healthy Life Center; and,

WHEREAS the Healthy Life Center will help all employers in Story County recruit and retain employees, reduce health care costs, and improve the overall health of everyone who lives within Story County; and,

WHEREAS Heartland Senior Services current facility has outlived its useful life and, therefore, is in need of approximately 10,257 square feet of new space that is estimated to cost \$3,500,000; and,

WHEREAS Heartland Senior Services will be a tenant in the Healthy Life Center and provide their clients with an adult day center, nutrition, activities, and administrative services; and,

WHEREAS user fees alone will not support the annual operating costs of the Healthy Life Center;

NOW Therefore, the City of Ames and Heartland Senior Services agree to the following on this _____ day of _____, 2019:

OBLIGATIONS OF HEARTLAND SENIOR SERVICES

Heartland Senior Services (hereinafter "Heartland") will have the following obligations:

1. Heartland will pay to the City of Ames (hereinafter "City") \$3,500,000 of the cost to construct the Healthy Life Center. This obligation to pay the \$3,500,000 will become effective only if the City Council enters into a contract to construct the Healthy Life Center. This payment will be due and payable to the City of Ames from Heartland 30 days after notice of the award of the contract for construction of the Healthy Life Center building. Heartland will show proof of available funds to pay the \$3,500,000 upon entering into this agreement.

2. Heartland will be responsible each fiscal year (July 1 to June 30) to pay to the City:
 - a. 11% of the total annual operating costs of the HLC building and grounds as defined in the RDG HLC Planning Study. The specific operating cost categories Heartland will be required to pay a share of are generally defined on pages 65, 66, and 68 of the RDG HLC Planning Study. However, the parties agree that other operating cost categories, unforeseen at this time, may be added in the future.

Notwithstanding the above, Heartland is responsible for 100% of its operating expenses required to provide direct services to their participants (i.e. staffing, program and activity supplies, food and feed, etc.).

- b. 10% of the deficit each fiscal year when expenditures exceed revenues associated with non-aquatics portion of the building.
 - c. Expenditures and revenues used to determine the amount of payments required in Paragraph 2.b will be allocated in accordance with the RDG HLC Planning Study and include any other expenditure or revenue categories unforeseen at this time.
3. The City will invoice Heartland on a quarterly basis for its share of the operating costs required in Paragraph 2. a. Heartland will then be required to pay the City this operating cost obligation within 15 days of the invoice date.
4. The City will invoice Heartland for its deficit obligation for the non-aquatic space required in paragraph 2. b. by August 31 following the end of each fiscal year. Payment will be required within 30 day of the invoice date.
5. Heartland will be responsible to pay for any minor or major improvements to its tenant space and purchase any equipment (movable or fixed) within Heartland's tenant space after the Healthy Life Center construction is finalized. Improvements do not include maintenance and repairs to its tenant space.
6. Heartland's tenant space shall be used only for an adult day, nutrition, older adult activities, administrative, and other related services consistent with the vision of the Healthy Life Center.

OBLIGATIONS OF THE CITY OF AMES

7. The City will construct, own, and manage the Healthy Life Center.
8. The City will construct, within the Healthy Life Center, approximately 10,257 square feet of finished tenant space to be occupied by Heartland in accordance with the cost estimates contained in the RDG HLC Planning Study.

Examples of finished space include: flooring and painted walls, lighting and plumbing fixtures, etc. This also includes sinks, toilets, shower fixtures, counter tops, etc.

Additionally, in accordance with the RDG Planning study, \$67,500 is included within the \$3.5 million in capital funding for the purchase of furniture and equipment (office desks, chairs, conference room tables, etc.).

9. In accordance with the recommended Replacement Fund reflected in the RDG HLC Planning Study (pages 101-116), the City will be responsible for those associated costs.
10. The City will be responsible for custodial cleaning/upkeep, along with the associated cleaning supplies, for the maintenance and repairs of Heartland's tenant space related to the plumbing, electrical, and HVAC systems, and for the replacement of carpet and/or flooring tile and painted walls, etc. due to normal wear and tear.

City is not responsible for maintenance and/or repairs that are inflicted by HSS staff/participants that cause damage within their tenant space.

DURATION OF THE AGREEMENT

11. This agreement will endure until it is terminated by mutual consent of the parties or the City fails to construct the Healthy Life Center.

HOLD HARMLESS

12. The parties do hereby covenant and agree to indemnify and hold harmless the other party, its officers and employees, against any loss or liability whatsoever, including reasonable attorney's fees, pertaining to any and all claims by any and all persons, resulting from or arising out of the City's construction, location, operation, and maintenance of the HLC and Heartland's tenancy of the Healthy Life Center.

INSURANCE

13. Heartland shall maintain:

- a. Commercial General Liability (CGL) with limits of Insurance not less than \$1,000,000 each occurrence, and \$2,000,000 Annual General Aggregate. The City of Ames, its officials, employees and agents shall be included as insured on the CGL. This insurance for the additional insured shall be as broad as the coverage provided for the named insured. It shall apply as Primary Insurance before any other insurance or self-insurance, including any deductible, maintained by, or provided to, the additional insured. To the fullest extent provided by the laws of Iowa, the insurer shall agree to waive all rights of subrogation against the City of Ames, its officials, employees, and volunteers for losses arising from occupancy of the premises.

Workers' Compensation Insurance in accordance with state law and Employers Liability Insurance limits of at least \$500,000 each accident for bodily injury by accident and \$500,000 each employee for injury by disease. To the fullest extent provided by the laws of Iowa, the insurer shall agree to waive all rights of subrogation against the City of Ames, its officials, employees, and volunteers for losses arising from occupancy of the premises.

Each insurance policy required by this paragraph shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty days prior written notice. Heartland shall furnish the City with certificates of insurance and with original endorsements effecting coverage required by this paragraph. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements shall be on standard insurance company forms and shall be received and approved by the City before occupancy commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

SUBLEASE

14. Heartland shall not sub-lease its tenant space without prior written approval of the City Council.

TENANT SPACE DESIGN

15. Heartland may configure its tenant space in any reasonable manner. However, the space shall be designed without any interior load bearing walls if possible.

USE OF THE HEALTHY LIFE CENTER SHARED SPACE

- 16. Heartland may use the meeting rooms in the Healthy Life Center at no cost based on terms mutually agreeable to the parties. These terms will be determined prior to the Healthy Life Center opening to the public.
- 17. If Heartland clients or staff wishes to use the Healthy Life Center for personal use, the individuals must pay all costs associated with that use.

USE OF HEARTLAND'S TENANT SPACE

- 18. The City may use Heartland's tenant space during non-business hours for Healthy Life Center related activities at no cost, based on terms mutually agreeable to the parties. These terms will be determined prior to the Healthy Life Center opening to the public.

The parties hereby agree to the above:

CITY OF AMES, IOWA

By: _____
John A. Haila, Mayor

Date: _____

Attest by: _____
Diane R. Voss, City Clerk

HEARTLAND SENIOR SERVICES

By: _____
Nicole Facio, President

Date: _____