

**BOULDER PUBLIC LIBRARY DISTRICT**  
**-SPECIAL MEETING-**  
Tuesday, May 28, 2024  
Boulder Public Library, Canyon Meeting Room  
1001 Arapahoe Ave, Boulder CO  
and  
Via Zoom  
6:00 p.m.  
Join Zoom Meeting  
<https://tinyurl.com/yckjjw7v>

<u>Board of Trustees</u>	<u>Term Expiration</u>
Andy Saylor	2029
Benita Duran	2028
Tom Cosgrove	2028
Sylvia Wirba	2027
Doug Hamilton	2027
Cara O'Brien	2026
Sam Fuqua	2025

Follow [link](#) to review long range agenda planning document.

**AGENDA**

1. Call to Order and Declaration of Quorum
2. Public Comment
3. Consider approval of minutes of April 30, 2024
4. Programs and Events Workplan – (Kopke) *30 min.*
5. Library Policy Review
  - a. BLDG61 Makerspace Policy (Kopke) *20 min.*
  - b. Digital Accessibility Statement (Farnan/Phares) *20 min.*
6. Board Photo
7. Approval of Library Director Contract *10 min.*
8. Treasurer's Report *10 min.*
  - a. Statement of Activities Financial Report through 03.31.24
  - b. Balance Sheet
9. Pontem LLC Security Guard Services Contract Amendment *10 min.*
10. Director Updates (*oral*) *5 min.*
11. Break for Main Library Office Reconfiguration Tour *20 min.*
12. Trustee Matters *5 min.*
13. Legal Counsel Updates *5 min.*
14. Adjournment

**NEXT REGULAR MEETING: Tuesday, June 18, 2024**

**RECORD OF PROCEEDINGS  
MINUTES OF THE MEETING OF THE BOARD OF TRUSTEES  
OF THE  
BOULDER PUBLIC LIBRARY DISTRICT**

<p><b>Held:</b> Tuesday, April 30, 2024, at 6:00 p.m. at the Boulder Public Library, 1001 Arapahoe Avenue, Boulder, Colorado</p>
<p><b>Person preparing summary:</b> Celia Seaton</p>
<p>The meeting of the Board of Trustees of the Boulder Public Library District was called and held as shown above in accordance with the statutes of the State of Colorado. The following Trustees, having confirmed their qualifications to serve on the Board, were in attendance:</p> <p style="padding-left: 40px;">Benita Duran Doug Hamilton Sam Fuqua Jennifer Yee</p> <p>Also present were Kim J. Seter, Esq. from Seter &amp; Vander Wall, P.C.; David Farnan, Director of the Boulder Public Library; Jennifer Phares, Deputy Director of the Boulder Public Library; Celia Seaton, Executive Assistant of the Boulder Public Library; Andy Saylor, Trustee-elect of the Boulder Public Library; and Tom Cosgrove, Trustee-elect of the Boulder Public Library.</p> <p><b>Members of the public present:</b> None.</p>
<p><b>Type of Meeting:</b> Special</p>
<p><b>Agenda Item 1: Call to order</b> Trustee Duran called the meeting to order at 6:04 p.m. noting that a sufficient number of appointed trustees were present to create a quorum authorized to act on behalf of the District.</p>
<p><b>Agenda Item 2: Public comment</b> None.</p>
<p><b>Agenda Item 3: Consider Approval of Minutes of April 2, 2024</b></p> <p style="padding-left: 20px;">a. Following motion from Trustee Fuqua and second from Trustee Yee, these minutes were approved unanimously.</p>
<p><b>Agenda Item 4: Library Policies Review</b></p> <p style="padding-left: 20px;">a. Second review and finalization of finance policies initially reviewed on April 2 and April 16 – From his legal perspective, Seter sanctioned the language of the highlighted portion on page 16 of the <a href="#">packet</a>.</p> <p style="padding-left: 40px;">Hamilton moved that the Board approve the bundle of finance policies. Yee seconded, and the motion passed unanimously.</p>
<p><b>Agenda Item 5: Director Updates</b> A walkthrough of the NoBo site is planned for next week, and the building will have occupancy permission soon which will enable the situation of books, materials, and furniture. After occupancy is granted and prior to the</p>

lease being signed, the property will be subdivided (library building, road, plaza areas adjacent to the creek, parking lot, and playground). Only the building, parking lot, and playground will be leased by the Library.

Marketing and Communications Manager Maria Tormos will attend the next Trustee meeting on May 14 to present on the Marketing and Communications Strategic Plan. It is set to be reviewed by the leadership team next week, and the final draft will go into the Board's packet. This plan will guide staff promotion for many upcoming items such as the grand opening of the North Boulder Library, the re-opening of the Canyon Theater and Library Café, and regular public hours of operation at the Carnegie Library.

Farnan distributed a zine, [the recent collaboration among Carnegie Library staff, OUT Boulder County, and local Boulder Valley School District students](#).

Farnan noted the breakaway fencing installed that day to protect the underbelly of the library buildings. Local encampments have recently grown and resulted in considerable damage to the surrounding man-made and natural space.

#### **Agenda Item 6: Boulder Library Foundation Updates**

Hamilton relayed updates from BLF's Chris Barge. Table sales are going well for the 50-year year gala set for September 26. Four new members come on board May 9. The Foundation just hired a new administrative assistant, Lisa McClellan.

#### **Agenda Item 7: Trustee Matters**

- a. Update from Trustee Selection Process – Hamilton relayed a discussion that arose from the Selection Committee's final meeting regarding the need for diversity among future candidates. He recommended further engagement with those who reside outside the city boundaries, as both the newly selected Trustees hold city addresses. He urged the other Trustees to keep these recruitment goals in mind as they interact with others while attending library programs and events.
  - i. Joint Meeting with Trustees and County and City – Library staff will present the 2023 Annual Report at a County Commissioner Meeting and hold a dialogue. Staff is currently in the process of coordinating this session with the County Commissioners. This meeting is tentatively set to occur in July or August; once a firm date has been established, it will be relayed to the Board.
- b. Library Director Evaluation Process – Duran volunteered to draft a position description for this role, fashioned after goals and measurements of success affiliated with the Boulder Public Library District including current Director Farnan's input. Duran discussed aligning the language in the description with the contract. The group spoke about salary and incorporating flexibility through bonuses and leave time. Fuqua prefers more discussion before developing a bonus scenario. Hamilton agreed, particularly due to the approaching deadline for a new signed contract. The group will further discuss the job description at the May 14 meeting, planning for approval by May 28.
- c. Update on NoBo Library Meeting – Fuqua and Hamilton reported on this [meeting as referenced in the packet materials](#).
- d. NoBo Speaker – Fuqua, Duran, and Saylor expressed interest in speaking at the grand opening of the new library branch. Farnan welcomed further speakers if available.
- e. Advanced Planning Agenda – Hamilton noted that after May, the Board will typically hold special meetings and regular meetings on the first and third Tuesdays of the month, respectively (with flexibility of the Board to cancel special meetings that are deemed unnecessary).

- f. Retreat – Hamilton broached the idea of holding a second retreat meeting this year. He suggested July or October and will poll the group for availability. Fuqua agreed that this session could assist in orienting the two new Trustees. Yee sees value in the bonding potential of Trustees getting better acquainted, beyond business discussions. Duran suggested holding a session of this type before an upcoming evening meeting. Farnan and Hamilton agreed that this was a good idea and will investigate August/September dates. Hamilton suggested the following subcategories for the retreat agenda:
  - i. Library Trends
  - ii. Strategy
  - iii. Budget
  
- g. Appreciations to departing Trustee Jenn Yee – the group expressed well wishes to Yee, along with gratitude for her service.

In response to Yee’s inquiry around compensating a subcommittee member for their work, Seter noted that this would be permissible under an employment scenario. Duran suggested limited honorariums or gift cards, as well as childcare or other support for people volunteering their time. The group discussed IRS regulations and W-9 requirements.

Duran encouraged expansion beyond the two current Trustee committees. Farnan spoke about the short-term formation of such teams to achieve certain goals and strategy plans to move the Library’s missions forward (e.g., Literacy and Outreach Strategic Planning Group, the Library District Advisory Committee, the Master Plan Focus Group). Duran noted many upcoming opportunities to engage in the upcoming months.

**Agenda Item 8: Legal Counsel Updates**

Seter reviewed [Senate Bill 24-216](#): Standards for Decisions Regarding Library Resources. This measure, “Concerning standards that public libraries are required to include in policies regarding library resources,” is under consideration by the state government. [See handouts.](#)

**Agenda Item 9: Executive Session: Gunbarrel Lease and Library Director contract**

The Board moved into executive session to discuss personnel matters as allowed by Section 24-6-402 (4) (f) and contract negotiations as allowed by Section 24-6-402 (4) (e) concerning the executive director’s contract and the Gunbarrel Lease.

**Agenda Item 10: Adjournment**

There being no further business to come before the Board, the meeting was adjourned at approximately 7:28 p.m. to go into executive session.

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Attestation

**May 24, 2024**

**To:** Boulder Public Library Board of Trustees

**From:** David Farnan, Library Director

Jennifer Phares, Director of Business and Administration

Jaime Kopke, Programs & Events Department Manager

**Subject:** Library Policy Review

**Background:**

The Boulder Public Library District Board of Trustees adopted the current library policies with minor updates on Dec. 5, 2023, during the Board meeting. The Board confirmed a schedule to review these policies in detail during 2024. Staff prioritized the policies to review based upon how individual policies are related to the expansion of programs and services and considering the period since their last review by the Boulder Library Commission. The Boulder Public Library District is also required to establish several new policies and procedures for finance, IT, personnel, etc. The new policies were incorporated into the review schedule.

**Makerspace Policy:**

The Makerspace Policy was revised and updated by Jaime Kopke's team, and those revisions were reviewed by the Leadership Team. The recommended revisions show as tracked changes in Attachment A. The policy was broadened to cover both the BLDG61 and Studio 24 makerspaces. The Acknowledgment of Risk and Release has been updated and is under review by the Seter Vander Wall & Mielke P.C. team.

**Digital Accessibility Statement and Procedure:**

The Digital Accessibility Statement and procedure is new. It was drafted by a staff team with representatives from IT, Communications, and Human Resources in response to the requirement by House Bill 21-1110 and C.R.S. 24-85-101 to have a statement and plan for compliance issued by July 1, 2024. The draft statement followed by the procedure staff will follow to respond to requests is Attachment B.

**Questions for the Board of Trustees:**

1. Does the Board of Trustees have any questions or input regarding the revised Makerspace Policy?
2. Will the Board of Trustees consider a motion to approve the Makerspace Policy, or does it prefer to review the policy with further changes and input incorporated during the June 2024 regular Board meeting?
3. Does the Board of Trustees have any questions or input regarding the Digital Accessibility Statement and Procedure?
4. Will the Board of Trustees consider a motion to approve the Digital Accessibility Statement, or does it prefer to review the statement with changes or input incorporated during the June 2024 regular Board meeting?

Boulder Public Library District (BPLD) provides open access to information and encourages the free and respectful expression of all points of view. The BPLD makerspaces- BLDG 61 Makerspace extends those commitments into the world of making by providing open access to a wide variety of equipment and tools during Open Studio hours, and by offering classes and programs for guided exploration.

BPLD's Rules of Conduct and Internet Access policy apply to the library makerspaces- BLDG 61 Makerspace. A signed BLDG 61 Makerspace Acknowledgment of Risk and Release form is required of all users and visitors to the Makerspace. Exception is given to individuals or groups on staff-led tours of the makerspaces. Users must also complete any the required Equipment Use and Safety Class prior to independent use of most equipment and tools in the spaces.

Equipment and tools in the library BLDG 61 Makerspaces are available at no charge to all community members. Some equipment requires training and/or registration. All other equipment is available to use on a first come, first served basis. Independent use of tools and equipment during classes or programs is prohibited without prior authorization by staff.

Use of the BLDG 61 Makerspace makerspace equipment and tools is free during Open Studio hours. Users are welcome to bring in staff-approved consumable materials for use with the equipment and tools, except the 3D printers. BPLD supplies 3D printer filament for a fee to users. Other consumable materials may be available for purchase such as sheets of wood, skeins of wool, etc. Fees for consumable materials are charged to cover BPLD's cost. During library programs, BPLD may provide consumable materials free of charge, as available. Please consult with staff about the availability of consumable material before planning a project.

Users (or if minors, their parents/guardians) are responsible for any fees incurred for loss or damage to BPLD property, not associated with normal wear and tear, that is the result of inappropriate or unauthorized use of tools, equipment, or consumable materials, or for improper clean-up of the tools, equipment or the space. BPLD is not responsible for any damage to, or loss or theft of, users' personal property including electronic files left on BPLD computers.

At its discretion, staff reserves the right to disallow the use of any tools, equipment, or consumable materials, or to halt, delete, or disallow the creation of items that violate any library policy. Projects must be approved by staff prior to use of 3D printers, the laser cutter, and the CNC machine to ensure that proper file format, size and materials are being used. Approval to use the BLDG 61 Makerspace library makerspaces does not constitute endorsement by BPLD of the uses to which the space is put or the products produced therein.

## Makerspace Use BLDG 61 Guidelines for Use

- All users and visitors must agree to and sign the Acknowledgment of Risk and Release form before entering the space. Exception is given to individuals or groups on staff-led tours of the space.
- Minors (under 18) must have a parent/adult guardian agree to and sign the Acknowledgment of Risk and Release form before entering the space. Exception is given to individuals or groups on staff-led tours of the space.
- Some equipment requires Use and Safety Class prior to participating in Open Studio hours.
- Users must be punctual for scheduled classes. A reservation is subject to cancellation if the user is late by 10 or more minutes. Users may lose the ability to make any further reservations after arriving late 3 times or 3 absences unless staff are notified in advance.
- Users under the age of 14 must be supervised by parent, adult guardian (18 or older), or teacher at all times always, unless the program expressly allows otherwise-

# Safety Guidelines

- Safety gear is required ~~during the~~for-use of some tools and ~~All~~ safety gear must be worn as appropriate. BPLD provides ~~access to~~ safety gear while in the space.
- Long hair must be safely secured and out of the way. Jewelry, lanyards, loose clothing or other dangly items are not permitted in the space.
- Closed-toed shoes are required in the space.
- Unsafe behavior is not permitted. Users are encouraged to report any unsafe behavior observed in the space to the staff member or volunteer on-duty.
- Covered, non-alcoholic drinks are allowed. ~~in the~~ Food is prohibited unless otherwise approved by staff.

# Tool and Material Donations ~~s~~ Guidelines

~~BPLD does not accept donations of tools or materials. accepts new or gently used donations of the following items by appointment:~~

- ~~• Tools in clean and good working condition~~
- ~~• Consumable material that is relevant to programs being offered in the space~~

~~Donations are greatly appreciated. Staff reserves the right to decline donations as well as remove those that no longer support makerspace activities. As requested, staff will provide a letter of receipt that donors may fill out for tax purposes. Staff are not qualified to determine the value of any donation. It is up to the donor to assign a value for tax purposes. Please email [bdg61@boulderlibrary.org](mailto:bdg61@boulderlibrary.org) to set up an appointment.~~

~~Adopted~~Approved by the Boulder Public Library District Board of Trustees, May ,2024.~~December 12, 2023.~~

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BPLD's [Rules of Conduct](#) and [Internet Access policy](#) apply to the makerspaces. A signed Makerspace [Acknowledgment of Risk and Release form](#) is required of users and visitors to a makerspace. Exception is given to individuals or groups on staff-led tours of the makerspaces. Users must also complete any required Equipment Use and Safety Class prior to independent use of most equipment and tools in the spaces.

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## Tool and Material Donations

BPLD does not accept donations of tools or materials.

Approved by the Boulder Public Library District Board of Trustees, May ,2024.

## Digital Accessibility Statement

The Boulder Public Library District is committed to ensuring all patrons can engage with and explore our digital platforms' countless opportunities and services without issue or limitation.

Therefore, the Boulder Public Library District endeavors to conform to the [Web Content Accessibility Guidelines 2.1](#) at Level AA (WCAG 2.1 AA) for all digital assets accessed by our patrons.

Working with a team of accessibility professionals and digital accessibility solution providers, the Boulder Public Library District is undertaking the steps necessary to ensure our digital assets provide substantial conformance to WCAG 2.1 AA standards and any future iterations. Additionally, we are committed to planning for and maintaining any new digital assets or platforms accessible to customers with disabilities as a matter of policy.

Specific files on our website are in Portable Document Format (PDF) and require the [free Adobe Acrobat Reader](#).

It's important to note that the Boulder Public Library District's journey towards providing digital accessibility to our patrons is continuous. With your understanding and support, we will persist in our efforts to meet WCAG 2.1 AA standards, ensuring that every visitor to our digital assets feels welcomed and included.

This accessibility statement will be reviewed regularly, understanding that the Boulder Public Library District may make updates or modifications as needed.

## Third Party Content

To further enhance our digital experience, the Boulder Public Library District features links to third-party websites. However, the Boulder Public Library District does not control such third-party websites, so we cannot guarantee their policies or practices concerning accessibility standards.

## Contact Us with Questions on Accommodations

The library will provide reasonable accommodations for qualified individuals with known disabilities or health conditions related to our digital assets unless doing so results in an undue hardship to business operations. If a patron requests an accommodation, the library team will engage in a timely, good-faith, and interactive process to determine whether the Boulder Public Library District can execute a practical and reasonable solution.

If patrons have specific questions, concerns, or feedback regarding accessibility relating to the Boulder Public Library District's digital assets, please complete and submit the [Report an Issue](#) form on our website. You may also contact the library directly at 303-441-3100, and staff will gather the information and submit the form for you.

Staff will respond to your submission within two business days using the preferred communications method you selected on the form.

Note: All information gathered is part of public records.

*This statement was prepared on 5/2/24.*

## Accessibility Feedback Procedure

1. Using the [Report an Issue](#) form on our website, patrons can submit specific questions, concerns, or feedback regarding accessibility regarding the Boulder Public Library District's digital assets.
  - a. If necessary, the library staff can also submit the information as a service to the patron either in person or over the phone.
2. Those who have access to the Report an Issue form include Tim, Brittany, Gina, Lisa, Maria, and Craig. This is the Accessibility Team.
3. An Excel sheet will be created to log all incoming forms for tracking.
  - a. Data fields: first and last name, phone number, email, notes addressing their concerns, date of transmission, respond by date, responder's name, follow up notes.

4. An automatic acknowledgement receipt of the message will be sent immediately, and a personalized response will be generated in two business days by an Accessibility Team member.
  - a. The Accessibility Team will do their best to address the issue raised by the patron.
  - b. If unable to easily address the issue raised by the patron, then the Accessibility Team will share their findings with the LTeam for a proposed solution.
5. If the first internal response is not acknowledged by the patron, a follow up message will be sent and noted on the Excel sheet.
6. If the second internal response is not acknowledged, the Accessibility Team will try another method of contact before closing the original request.

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**MAIN**

1001 Arapahoe Ave.  
Boulder, CO 80302

**REYNOLDS**

3595 Table Mesa Dr.  
Boulder, CO 80305

**CARNEGIE**

1125 Pine St.  
Boulder, CO 80302

**NOBO**

4500 13th St.  
Boulder, CO 80304

**MEADOWS**

4800 Baseline Rd.  
Boulder, CO 80303

**Boulder Public Library District**  
**Statement of Activities - Actual vs Budget**

As of March 31, 2024

	2024 Approved Budget	YTD Actuals 03/31/2024	YTD Balance 03/31/2024	
			Actual minus budget	% Received / Spent
<b>Revenue</b>				
Property Tax	21,407,127.00	8,736,530.68	(12,670,596.32)	41 %
Carryover Revenue	16,577,384.04	16,577,384.04	0.00	100 %
Interest Income	0.00	62,435.45	62,435.45	0 %
Grants	641,634.00	0.00	(641,634.00)	0 %
Donations	0.00	86.88	86.88	0 %
Sales	35,000.00	9,252.59	(25,747.41)	26 %
Book Fees	0.00	3,250.52	3,250.52	0 %
Other	5,000.00	753.25	(4,246.75)	15 %
<b>Total Revenue</b>	<b>38,666,145.04</b>	<b>25,389,693.41</b>	<b>(13,276,451.63)</b>	<b>66 %</b>
<b>Expenditures</b>				
Personnel	6,289,070.00	1,580,574.08	4,708,495.92	25 %
Administrative	671,515.00	74,417.17	597,097.83	11 %
Board Governance				
Legal Consultants & Fees	150,000.00	43,320.24	106,679.76	29 %
Auditor	27,600.00	0.00	27,600.00	0 %
Board Food	6,000.00	943.28	5,056.72	16 %
Board Memberships & Travel	5,000.00	0.00	5,000.00	0 %
<b>Total Board Governance</b>	<b>188,600.00</b>	<b>44,263.52</b>	<b>144,336.48</b>	<b>23 %</b>
Purchased Services	1,661,675.00	461,105.64	1,200,569.36	28 %
Building Costs & Utilities	705,494.00	65,535.03	639,958.97	9 %
IT Support	1,027,533.00	401,424.45	626,108.55	39 %
Library Collection	1,950,050.00	448,998.61	1,501,051.39	23 %
Marketing & Engagement	210,000.00	15,216.96	194,783.04	7 %
Programs & Events	415,000.00	78,164.97	336,835.03	19 %
Capital Outlay	1,390,000.00	358,420.36	1,031,579.64	26 %
Cafe	50,000.00	4,384.46	45,615.54	9 %
2023 City of Boulder Library Expenses	13,865,000.00	0.00	13,865,000.00	0 %
<b>Total Expenditures</b>	<b>28,423,937.00</b>	<b>3,532,505.25</b>	<b>24,891,431.75</b>	<b>12 %</b>
<b>Total Change in Fund Balance</b>	<b>10,242,208.04</b>	<b>21,857,188.16</b>	<b>11,614,980.12</b>	<b>213 %</b>

Created on : 05/24/2024 12:59 PM PST

**Notes:**

BPLD is expecting an invoice from the City of Boulder by June 1, 2024. The actual balance due will be paid in 2024 in two installments.

As of May 24, 2024, 70% (\$14,947,054) of the 2024 property tax revenues have been received.

The \$15 million invested in a Certificate of Deposit will mature in June 2024. The projected interest accrued is \$170,000.

## Boulder Public Library District Balance Sheet

As of Date: 05/24/2024

	Current Year Balance 2024	Prior Year Balance 2023	Difference 2024 minus 2023
<b>Assets</b>			
<b>Cash &amp; Cash Equivalents</b>			
Chase checking account	16,946,246.58	6,648,518.33	10,297,728.25
Chase CD account	10,000,000.00	10,000,000.00	0.00
Cash Drawers & Change Fund	750.00	0.00	750.00
<b>Total Cash &amp; Cash Equivalents</b>	<b>26,946,996.58</b>	<b>16,648,518.33</b>	<b>10,298,478.25</b>
Accounts Receivable, Net	0.00	74,551.97	(74,551.97)
<b>Total Assets</b>	<b>26,946,996.58</b>	<b>16,723,070.30</b>	<b>10,223,926.28</b>
<b>Liabilities and Fund Balance</b>			
<b>Accounts Payable</b>			
Accounts Payable	94,497.83	112,604.86	(18,107.03)
Chase Credit Card Payable - 5782	0.00	33,081.40	(33,081.40)
Due to Affiliates (COB)	0.00	13,955,183.59	(13,955,183.59)
<b>Total Accounts Payable</b>	<b>94,497.83</b>	<b>14,100,869.85</b>	<b>(14,006,372.02)</b>
Accrued Liabilities	71,211.26	0.00	71,211.26
Short-term Liabilities	560.17	0.00	560.17
<b>Total Liabilities</b>	<b>166,269.26</b>	<b>14,100,869.85</b>	<b>(13,934,600.59)</b>
Change in Fund Balance	26,780,727.32	2,622,200.45	24,158,526.87
<b>Total Fund Balances</b>	<b>26,780,727.32</b>	<b>2,622,200.45</b>	<b>24,158,526.87</b>
<b>Total Liabilities and Fund Balance</b>	<b>26,946,996.58</b>	<b>16,723,070.30</b>	<b>10,223,926.28</b>

Created on : 05/24/2024 1:21 PM PST

**Notes:**

The balance sheet shows actuals only. No budget.

The Due to Affiliates (COB) is the estimate amount owed to the City of Boulder for 2023 BPL operations.

May 24, 2024

**To:** Boulder Public Library District Board of Trustees

**From:** David Farnan, Library Director

Jennifer Phares, Director of Business and Administration

**Subject:** Amendment to 2024 Security Guard Service Contract with Pontem, LLC

**Background:**

The Board of Trustees unanimously approved the 2024 Security Guard Service Contract with Pontem, LLC during the Dec. 5, 2023 board meeting. The contract provided security guards during open hours for the Main, Reynolds and Meadows Libraries.

**Contract Amendment:**

With Board approval, the 2024 contract will be amended to add a security guard at the new NoBo Library and for additional coverage at the Main Library on Thursday and Saturday evenings until 10 p.m. for the Canyon Theater pilot program. Security guard coverage was requested by several community members and the public services staff during the planning of the new NoBo Library.

A summary of the cost of the additional services to begin in June 2024 is below. The additional \$84,790 for 2024 will be reallocated from personnel budget dollars that will not be spent.

Original Base Contract	\$663,077
2024 NoBo Library Security	\$78,083
2024 Canyon Theater Pilot Security	\$6,707
<b>Final 2024 Total</b>	<b>\$747,867</b>

**Board Action:**

Staff requests that the Board of Trustees considers a motion to approve the amendment to the 2024 Security Guard Contract with Pontem, LLC.

**FIRST AMENDMENT TO PONTEM SECURITY  
SERVICE AGREEMENT**  
dated 16 December 2023

This Amendment is made as of the \_\_\_\_ day of May, 2024, by and between the Boulder Public Library District (“District”), and Pontem, LLC (“Contractor”).

A. The District and Contractor entered into a Contract dated 16 December 2023, to provide security guard services (the "Contract"); and

B. The parties wish to amend the terms of the Contract and clarify and amend their promises and obligations and the scope of services to include the new North Boulder Library Facility.

NOW THEREFORE, the parties agree the Contract is amended as follows:

1. The ADDENDUM: SERVICES, TERM & COMPENSATION is deleted and replaced with the FIRST AMENDED ADDENDUM: SERVICES, TERM & COMPENSATION (May 2024) attached hereto to include the North Boulder Library facility.
2. Except as amended herein, the Contract shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have set their hands to this Contract Amendment on the day and year above first written.

**Boulder Public Library District**

**Pontem, LLC**

\_\_\_\_\_  
By: Doug Hamilton, President

\_\_\_\_\_  
By: Renee Ortiz, Managing Member



**FIRST AMENDED ADDENDUM: SERVICES, TERM & COMPENSATION (May 2024)****SCOPE OF SERVICES****I. BOULDER PUBLIC LIBRARY DISTRICT LOCATIONS REQUIRING SECURITY SERVICES**

- A. Main Library, 1001 Arapahoe Ave., Boulder, CO 80302
- B. Meadows Library, 4800 Baseline Road, Boulder, CO 80303
- C. George Reynolds Library, 3595 Table Mesa Drive, Boulder, CO 80305
- D. North Boulder Library, 4500 13th Street, Boulder, CO 80304

**II. SCHEDULE****A. Weekly Schedule of Open Hours:****Main Library:**

Monday through Thursday	9 a.m. to 7
p.m. Friday and Saturday	10 a.m. to 5
p.m. Sunday	12 p.m. to 5
p.m.	

**Main Library Canyon Theater – North building**

Thursday	open until 10 p.m.
Saturday	open until 10 p.m.

**Meadows Library:**

Monday through Thursday	9 a.m. to 7
p.m.	
Friday and Saturday	10 a.m. to 5
p.m. Sunday	12 p.m. to 5
p.m.	

**George Reynolds Library:**

Tuesday through Thursday	9 a.m. to 7
p.m.	
Friday and Saturday	10 a.m. to 5
p.m. Sunday	12 p.m. to 5
p.m.	

**North Boulder Library:**

Monday through Thursday	9 a.m. to 7 p.m.
Friday and Saturday	10 a.m. to 5 p.m.
Sunday	12 p.m. to 5 p.m.

B. Closure Schedule: The District closure schedule is on the website [<https://boulderlibrary.org/about/holiday-closings/>] and is subject to change. Security services are not required on the days the libraries are closed. Officers are not expected to report for duty when the libraries are closed due to weather or emergency. The District will provide the officers with contact information to learn of weather or emergency related closures.

C. General Daily Schedule:

1. Officer(s) scheduled for the opening shift shall arrive 15 minutes prior to the opening of the Main Library. Officer(s) scheduled for the closing shift shall remain on-site to complete closing and securing the facility up to 30 minutes after closing.
2. Officers will be assigned to perform interior patrols and exterior building patrols several times per shift as assigned by the District.
3. Main Library:
  - a. A minimum of **four** officers shall be deployed on-site daily at the Main Library. This number includes the Lead Officer as described below.
  - b. Officers will be stationed at the indoor public restrooms to approve access and monitor patron behavior.
4. Meadows, George Reynolds, and North Boulder Libraries:
  - a. A minimum of one officer shall be deployed to patrol each library daily.
5. Monthly Assignments:
 

The District reserves the right to move the assigned officers to any of the facilities in this agreement as needed without prior notice.

D. Lead Officer:

As one of the assigned officers, the Contractor shall provide a lead officer or onsite supervisor who is responsible for the following in addition to the regular post duties:

1. Setting and managing the weekly officer schedule.
2. Coordinating extended coverage described in Section III.
3. Liaising with the main supervisor/contractor office to cover absences using substitute officers.
4. Onboarding training new officers or substitutes.
5. Liaising with the main supervisor/contractor office to ensure officers have received training, maintain required certifications, and maintain a current training record.

E. Absences:

The Contractor shall schedule trained substitute officers to cover unexpected and scheduled absences of any assigned officer.

F. Minimum Wage:

In alignment with the District's minimum wage for contract service providers of \$22.45/hour, beginning in January 2024, the minimum hourly wage earned by guards will be \$22.45/hour. Newly hired guards will be paid a lower rate for the first 90-days of their employment with the company and then will be increased to \$22.45/hour.

### III. EXTENDED COVERAGE

- A. Notice: The District will submit requests for extended coverage via email to the Contractor with as much advance notice as possible. The Contractor will confirm the ability to cover the request via email within 2 business days. Once the Contractor has confirmed availability, Contractor shall be responsible for providing coverage for the extended coverage as requested by the District.
- B. Programs and events outside the daily schedule: Periodically, the District schedules programs or special events outside regular business hours. Library staff will submit requests with advance notice for extended security coverage during these programs and events in accordance with section III, part A in this Scope of Services.
- C. Special events: The District may host programs or events up to three times annually when alcoholic beverages will be served or sold under a Special Event Permit from the City of Boulder. Officers will monitor the public restrooms and maintain patron access to the liquor services area.

### IV. EXPECTATIONS FOR OFFICER PROFESSIONAL CONDUCT AND SKILLS REQUIRED

- A. While on duty, security officers are representatives of the District and are expected to perform their duties with a high degree of professionalism. Patrons and library staff members are their customers. Everyone should be treated consistently, fairly and with dignity and respect. Guards shall refrain from standing near or behind public service points unless requested by library staff, refrain from engaging patrons and staff in lengthy conversations of a social nature or conducting personal business in public areas.
- B. Officers must:
1. Be mentally alert and capable of making decisions in accordance with rules, regulations, and policies.
  2. Be able to observe behaviors, record, and report details thoroughly and accurately according to the requirements of the District.
  3. Be able to remain in a standing or sitting position for extended periods of time and be able to travel on foot across rough, uneven surfaces.
  4. Be computer literate, able to read, interpret, and implement written instructions/Post Orders, understand, and follow oral instructions, and act in accordance with specialized training and requirements.
  5. Be physically capable of performing foot patrols at minimum once per hour and remain vigilant and active while on duty.
  6. Maintain the level of physical fitness necessary to climb stairs and lift and/or move objects weighing up to 50 pounds.
  7. Be fluent in English and able to communicate with the public in person or by telephone/ smartphone. Fluency in Spanish is preferred.

8. Respond to emergency situations.
9. Receive initial and ongoing training from the Contactor in the following areas:
  - a. De-escalation techniques.
  - b. Crisis intervention.
  - c. Access control to public restrooms.
  - d. Maintain certification to perform First Aid and CPR and certified to operate an AED (new officers shall receive this training after 90 days) and the HALO smart sensor system. First Aid training to include blood borne pathogens and biohazard instruction.

## **V. DAILY DUTIES**

- A. Attending the staff pre-opening check-in.
- B. Prepare the entrances for opening.
- C. Conduct frequent patrols throughout the facility interior and outside perimeter.
  1. Make verbal or visual contact with staff at each public service point.
  2. Check all public restrooms.
  3. Check all staff office areas.
  4. Inspect all areas that are secluded and not visible from staff or security posts.
  5. Check enclosed outdoor areas.
  6. Check outdoor areas for abandoned personal items, public health risks, or encampments directly impacting library spaces and report through the proper District channels.
- D. Consistently enforce the Library Rules of Conduct and policies following the District guidelines for issuing warnings and suspensions to patrons who refuse to comply with District rules and policies.
- E. Document all incidents, interactions and suspensions using the forms provided and submit the completed forms to staff library administration daily.
- F. Inform the staff, MOD, or PIC when a suspension is issued.
- G. Contact Boulder Police Department for assistance, as needed, and any time an illegal act is/has been committed inside or immediately outside a facility.
- H. Promptly respond to staff requests for assistance with incidents or disruptive behavior from patrons.
- I. Promptly respond to patron requests for assistance with safety or security-related matters.
- J. Assist library staff with emergency procedures as needed.
- K. Periodically review security camera recordings.
- L. Log and manage inventory of items of value sent to lost and found.
- M. Conduct closing sweeps and procedures, set the security alarm, and lock the facility at closing time.

## **VI. GUIDELINES FOR RULE ENFORCEMENT AND SUSPENSION OF LIBRARY PRIVILEGES**

- A. Officers are expected to balance approachability with authority, make general observations at an appreciable distance from service points to maintain patron privacy, maintain composure and employ de-escalation techniques when addressing confrontational situations, and enforce the rules and policies [<https://boulderlibrary.org/about/rules/>] by first educating patrons. Enforcement must be conducted in a consistent manner.
- B. Officers must comply with the following guidelines regarding rule enforcement and suspension of library privileges for patrons:
1. Rule violations: Persons who violate any rule of conduct shall be provided with an opportunity to correct their behavior. Those who violate library rules or interfere with others' ability to use the library, shall be warned to stop unwanted behaviors. If the person refuses to do so, that person shall be suspended.
  1. Illegal conduct: Any person who allegedly commits or is arrested for a criminal violation in a library shall be issued the maximum length suspension permitted and be referred to the Boulder Police Department. The District shall provide the security officers with a list of examples of illegal conduct.  
Suspensions: Officers are given guidelines to determine the length of suspensions. Suspension of library privileges may range from 24 hours (for a relatively minor first rule violation) up to the maximum of one year for repeat rule violations or criminal activity. A suspension period of more than one year may be issued for sexual offenses only with prior consultation with the Library Director or their designee
  2. Officers are expected to address rule violations consistently and make suspension length commensurate with the type of violation. Patrons who repeatedly violate the rules may be given progressively longer suspensions.
  3. Officers must complete the required suspension documentation and make a reasonable attempt to issue the patron who violated rules with a written copy of the suspension.
  2. Trespass: Officers should contact the Boulder Police Department to issue a trespass citation to patrons who violate the terms of suspension

### **SCHEDULE OF COSTS**

Number of personnel assigned to cover standard schedule: 14-20

Standard guard hourly rate billed to the library: \$36.06

Standard lead officer hourly rate billed to the library: \$40.08

TOTAL regular base weekly cost (257 hours):  
\$15,130

TOTAL regular base weekly cost for Canyon Theater pilot: \$216.36

Administrative weekly costs (Itemized in Section II of this Fee Schedule): \$140.31

**EXTENDED LIBRARY SCHEDULE FOR BEFORE/AFTER OPEN HOURS SECURITY COVERAGE**

Guard hourly rate billed to the library: \$36.06

Lead hourly rate billed to the library: \$40.08

Minimum number of hours for additional shifts: Four-hour minimum

Rush scheduling change (less than 48-hour advance notice): \$75

Any additional terms for hourly costs: shifts canceled with less than 24-hour advance notice will be billed at the four-hour minimum hourly rate.

**ADMINISTRATIVE COSTS**

Number of contractor-provided cell phones (six for Main Library, one for each branch libraries):  
Total of nine phones at \$608.00/month

Contractor will not be paid for Administrative Costs during any time the libraries are closed for more than one month.

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{00735897}

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- Contractor will not be paid for Administrative Costs during any time the libraries are closed for more than one month.

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**MEMORANDUM**

TO: Boulder Public Library District

FROM: Seter, Vander Wall & Mielke, P.C.; Kim J. Seter, Esq.

DATE: May 24, 2024

RE: Legal Status Report for the May 28, 2024 Trustees' Meeting

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**Executive Session Regarding Personnel Matter**

**Task:** We have been asked to prepare the notice and motion for an executive session on a personnel matter and further discussions of the Executive Director Contract if needed.

**Status:** Trustee Duran prepared goals that have been incorporated into the contract.

Proposed Motion:

*I move the Board move into executive session to discuss personnel matters as allowed by Section 24-6-402 (4) (f) and contract negotiations as allowed by Section 24-6-402 (4) (e).*

The board may enter executive session upon approval of 2/3 of the Trustees present.

**Action:** No additional action required.

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**Gunbarrel Branch Library Lease**

**Task:** Complete lease of Gunbarrel property.

**Status:** The Lease was signed effective May 15, 2024. I have attached a copy of correspondence filing the lease with the County Assessor to obtain the tax exemption allowed by statute. The attachment includes a copy of the Lease for your future reference.

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**Action:** None required.

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**Transition Process for Administrative Work-Ongoing Matter**

**Task:** Transition minutes, notices, agenda preparation, records management etc. to BPLD personnel.

**Status:** Archives and other matters will be transitioned as capacity warrants.

**Action:** None required.

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**Additional Projects Underway**

- a. Policy and procedure reviews
- b. Redrafts of assigned contracts

## **BOULDER PUBLIC LIBRARY DISTRICT DIRECTOR**

### **CONTRACT**

This Boulder Public Library Director Contract (“**Contract**”) is entered into this \_\_\_\_\_ day of June, 2024 by and between the Boulder Public Library District (“**District**”) by its Board of Trustees (the “**Board**”), and David Farnan (“**Farnan**”).

### **AGREEMENT**

#### **ENGAGEMENT AS DIRECTOR OF THE BOULDER PUBLIC LIBRARY DISTRICT**

**A. Effective Date.** The following terms and conditions shall be effective upon approval and execution of this Contract by both parties.

**B. Employment.** Pursuant to its powers under § 24-90-109 (c), C.R.S., the Board of Trustees employs, and Farnan agrees to accept employment, as Director (“**Director**”) of the Library District.

**C. Term.** This Contract is for a term ending June 1 of the subsequent year. Unless otherwise terminated, the Contract will automatically renew on June 1 each year for successive periods of one (1) year each, subject, however, to annual appropriation by the Board of Trustees and potential adjustment of salary and other matters to be agreed. Despite these terms, Farnan serves at the will and pleasure of the Board.

**D. Duties.** Shall lead and direct a program of library services for the residents of the Library District under the direction and review of the Board. Duties under this Contract include:

1. Leadership: To be a public presence for the Library District and a partner in community projects, inspiring community support through active involvement in community organizations and activities;
2. Planning: To lead a district-wide planning process to establish the mission, goals, and objectives of the Library District;
3. Policy Development: To assist the Board in developing policies that pertain to all aspects of Library District operations to promote exemplary service to the public;
4. Policy Implementation: To implement policies adopted by the Board with fairness and consistency;
5. Program Development: To direct the development and implementation of a variety of contemporary services that meet the diverse needs of public audiences in a friendly and helpful setting;
6. Collection Development: To grow and make easily accessible a first-class collection of print and non-print media that encompasses the ethnic and cultural

diversity of the communities served by the Library District and that represents a wide variety of viewpoints;

7. Staffing: To build an organizational culture of service and commitment through selection and development of staff;
8. Employment Recommendations: To recommend individuals for employment by the Board consistent with the policy, staffing, and development needs of the Library District;
9. Finance: To formulate and administer an annual budget, implement investment strategies, and be accountable to taxpayers through regular reports to the Board and the public;
10. Communications and Marketing: To learn the service needs of the public and to provide frequent and on-going information to the public and staff regarding Library District services and operations;
11. Facilities: To maintain attractive, safe, comfortable, and convenient buildings and vehicles to serve the public;
12. Technology: To provide up-to-date technical software, equipment, training, and support for the public and the staff;
13. Foundation and Fundraising: To collaborate with the Boulder Public Library Foundation in establishing goals and priorities and actively participate in fundraising for the benefit of the library;
14. Professional Involvement: To engage the Library District in cooperative activities with other libraries, participate in activities of the State Library, and assume leadership roles in state, regional, and national library organizations;
15. Legislative Involvement: To inform the Board of opportunities to actively engage in advocacy for libraries at all levels of government- local, county, state, and federal;
16. Board Meetings and Reports: To prepare the agenda for each Board meeting, present a monthly report of library activities to the Board, and submit an annual report to the State Library and appropriate local governments;
17. Other: To be responsible for any other reasonable acts or duties, consistent with the foregoing, as may be prescribed by the Board or are necessary for the orderly and efficient management and control of the Library District.

**E. 2024/2025 Goals.** For the Contract year commencing June, 2024, the Board of Trustees has established the following goals for the Director.

1. Culture and Community Within the District Organization.



- A. Build upon the existing culture of collaboration with integration of new hires
  - Conduct annual listening session with staff and trustees
  - Implement Performance Review process Q1 2025
- B. On boarding all new trustees and continue to build working relationships with all seven trustees
  - Conduct Trustee Orientation
  - Meet with trustees individually, outside of meetings, at least once each calendar year

2. Service and Programs.

- A. Continue to implement 2018 master plan and ballot initiative promises
  - Open NoBo Library Q2 2024
  - Prepare for opening of Gunbarrel Library by Q2 2025
  - Open Carnegie Q4 2024
  - Begin Canyon Theater pilot program Q2 2024
  - Launch Literacy and Outreach Program Q3 2024

3. Engagement with Library Community as the Library District Leader.

- A. Develop and nurture leadership within organization
  - Provide at least 3 development opportunities for potential/aspiring leaders in organization Q1 2025
- B. Board of Trustees Development
  - Work with trustees to refine/develop understanding of fiscal / fiduciary responsibility – give them tools they need to make informed decisions. Q3-4 2024
  - Provide tools for trustees to enhance transparency for the public regarding decisions including detailed quarterly budget reports, presentation of library incidents and library usage twice per year.

**F. Compensation.** Annual compensation for services under this Contract shall be the amount determined by the Board. The compensation shall be payable in the same manner as the compensation of Library District employees. The Board may from time to time review the compensation to be paid under this Contract and may increase or decrease said compensation as it deems appropriate. Upon the request of the Board, Director will participate in performance and compensation reviews with the Board or any subcommittee designated for this task.

**G. Vacation, Sick Leave, and Holidays.** The Director shall be entitled to paid vacation leave based on his original date of hire as provided in Library District personnel policies, as amended from time to time.

**H. Insurance Coverage and Retirement Benefits.** Director shall be included in the life and health insurance coverage and retirement benefits available to all full-time salaried employees of the Library District.

**I. Reimbursements.** Director shall be reimbursed by the Library District for the following employment-related expenses upon submission of Library District reimbursement forms and related documentation:

1. Conference attendance for professional organizations, to a maximum per year as set forth in the Library District budget.
2. Registration fees, lodging, and meals for seminar or meeting attendance to a maximum per year as set forth in the Library District budget.
3. Business meals, to a maximum per year as set forth in the Library District budget.
4. Mileage reimbursements at the rate and for the purposes allowed by the Internal Revenue Service.

**J. Termination.**

1. Termination Without Cause. This Contract may be terminated by either party for any or no reason upon not less than one hundred eighty (180) days written notice.
2. Termination for Cause. This Contract may be terminated by either party for cause at any time. In the event of termination for cause, which shall be determined in the Board's sole discretion, Director will be paid accumulated Paid Time Off, if any, as provided in the Personnel Manual for full-time salaried employees.

"Cause" for purposes of this Agreement may be defined as: (i) fraud, misappropriation or embezzlement of District funds or property; (ii) intentional breach of the provisions of this agreement; (iii) repeated willful failure to perform services hereunder; and/or (iv) incapacity; and, (v) articulated reasons deemed appropriate by a majority vote of the Board.

**K. Miscellaneous.**

1. Contract Employee: The Director position is a contract position, is governed entirely by this Contract and is not subject to Library District Personnel Policies except as specifically provided herein.

2. Governing Law: This Contract shall be governed by the laws of the State of Colorado.
3. Acknowledgement of Public Record: Director acknowledges and agrees by his signature below that the amount of salary and benefits paid pursuant to this Contract are a matter of public record, which may be disclosed by the Library District and Board.
4. No Waiver of Right to Enforce: The failure of either party to enforce any of the provisions of this Contract shall not be construed as a waiver of such provisions or terms, nor shall the right of that party thereafter to enforce such terms or provisions be impaired.
5. Delegation of Duties: Director may delegate or assign the duties and obligations set forth in this Contract to the extent authorized by the Board, but no such delegation or assignment shall relieve Director of the responsibility for the delegated obligation or duty.
6. Entire Agreement: This Contract constitutes the entire agreement between the parties hereto, and there are no agreements or understandings relating to the subject matter hereof which are not fully set forth within this Contract. All prior discussions concerning the subject matter hereof are merged herein and superseded hereby. No modification, amendment, or revision of this Contract shall have any force or effect unless set forth in writing and executed by both parties hereto.
7. Notice: All notices required or permitted under this Contract shall be in writing and shall be deemed given when personally served on the Director, the Board of Trustees or the President of the Board of Trustees.

**[THIS AREA INTENTIONALLY LEFT BLANK]**

**IN WITNESS WHEREOF**, the parties have hereunto set their hands as of the day and year first above written.

**Boulder Public Library District**

\_\_\_\_\_  
Doug Hamilton, President

Attest:

\_\_\_\_\_  
David Farnan

DRAFT

Seter, Vander Wall  
& Mielke, P.C.  
ATTORNEYS AT LAW

KIM J. SETER  
BARBARA T. VANDER WALL  
COLIN B. MIELKE  
ELIZABETH A. DAUER  
RUSSELL NEWTON

May 23, 2024

Boulder County Assessor  
Ownership and Mapping Div.  
P.O. Box 471  
Boulder, Colorado 80306-0471

Attn: Adam Hoppe at [ahoppe@bouldercounty.gov](mailto:ahoppe@bouldercounty.gov)

Re: Boulder Public Library District Triple Net Lease of 6500 Lookout Road (Assessor Parcel: 146311203006) and 0 Lookout Road (Assessor Parcel 146311203008) (the "**Property**")

Dear Adam:

As we have discussed, I represent the Boulder Public Library District (the "**District**"). The District was created pursuant to §§ 24-90-101 *et seq.*, C.R.S. and is a political subdivision of the state of Colorado pursuant to § 24-90-103 (6), C.R.S.

Section 39-3-124 (b)(I)(A), C.R.S. provides that "the part of real property that is used by ... a political subdivision ... pursuant to the provisions of a lease for at least a one-year term ... and pursuant to which the real property is used for the purposes of the ... political subdivision ... shall be exempt from the levy and collection of property tax." The statute requires the filing of the lease with the county assessor's office.

I have attached a copy of a Boulder Library Building Lease dated May 15, 2024 (the "**Lease**"). The Lease leases the Property to the District for a period of five years and includes the entirety of the two Parcels described above. The District will convert the Property from the existing bank building into a local public library branch. Accordingly, the Lease and Property are exempt from the levy and collection of property tax under the statute. The exemption is effective May 15, 2024 pursuant to § 39-3-130 (1)(a)(I), C.R.S.

Please let me know if you need any other information from me to implement the exemption.

{00736285}

Boulder County Assessor  
Ownership and Mapping Div.

Re: Boulder Public Library District Triple Net Lease of 6500 Lookout Road (Assessor Parcel:  
146311203006) and 0 Lookout Road (Assessor Parcel 146311203008) (the "Property")

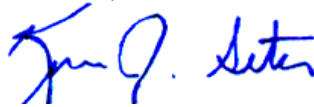
May 23, 2024

Page 2 of 2

I have enjoyed our discussions regarding this Property and other matters and look forward to the opportunity to work with you again soon.

Sincerely,

**SETER, VANDER WALL & MIELKE, P.C.**



Kim J. Seter

KJS/mmb  
Attachment

cc: DFarman  
JPhares  
DHamilton  
Russell Bean, Esq.

BOULDER LIBRARY  
BUILDING LEASE BY AND  
BETWEEN

BNR Farms LLC,  
by Midwest Trust Company, as  
Manager ("Landlord")

AND

BOULDER PUBLIC LIBRARY  
DISTRICT  
("Tenant")

## BASIC LEASE PROVISIONS

**THIS SUMMARY OF BASIC LEASE PROVISIONS** (the "Basic Lease Provisions") is set forth for the convenience of the Parties. In the event of any conflict, inconsistency or ambiguity between the Basic Lease Provisions and the attached Office Building Lease ("Lease"), the attached Lease shall govern.

A. **Landlord:** "Landlord" means BNR Farms, LLC by Midwest Trust Company as Manager which will hereinafter be referred to as BNR Farms.

**Landlord's Address for Notice:**

BNR Farms, LLC  
c/o Midwest Trust Company  
507 Canyon Blvd., Suite 100  
Boulder, Colorado 80302

**Copy to:**

Russell Bean  
Russell K Bean PC, LLC  
16890 E. Alameda Pkwy, #471985  
Aurora, CO 80047

B. **Tenant:** "Tenant" means Boulder Public Library District

**Tenant's Address for Notice:**

Boulder Public Library District  
1001 Arapahoe Avenue  
Boulder, CO 80302  
Attn: David Farnan, Director

**Copy to:**

Seter, Vander Wall & Mielke, PC  
7400 E. Orchard Road, Suite 3300  
Greenwood Village, CO 80111  
Attn: Kim J. Seter, Esq.

~~C.~~ **Premises:** The Premises are described in Article I, Section A of the Lease. It includes the two lots, a vacant former bank building and the right to use access ways for ingress and egress.

D. **Lease Term:** The "Lease Term" is sixty (60) full calendar months, with one (1) option to renew for five (5) years, as more particularly described in Article II Term.



E. **Rent:** "Base Rent" is \$150,000.00 annually, due in monthly installments of \$12,500.00 on the first day of each month and is exclusive of additional rent and other sums and charges to be paid by Tenant under this Lease.

F. **Security Deposit:** The Security Deposit is \$25,000.00 and is equal to two month's Base Rent.

G. **Personal Property:** Furniture and other personal property listed in the attached Personal Property attachment shall remain for the use of Tenant during the Lease Term.

H. **Rent Commencement Date** is the earlier of (i) one business week from the day Tenant is issued a Certificate of Occupancy from the City of Boulder, or (ii) 30 days from the Possession Date.

**LIBRARY LEASE**  
(Triple Net)

THIS LEASE (the "Lease"), is dated May 15, 2024 by and between BNR Farms, LLC by Midwest Trust Company as Manager ("Landlord") and Boulder Public Library District, a quasi-municipal corporation and political subdivision of the state of Colorado ("Tenant").

In consideration of the premises, the mutual covenants hereinafter contained, and every act to be performed hereunder by them, Landlord and Tenant enter this Lease.

**ARTICLE I**  
**DESCRIPTION OF PREMISES AND USE**

**A. Property, Building and Premises.** Landlord hereby lets and demises to Tenant, and Tenant hereby leases from Landlord, for the Lease Term described in Article II, the Premises located in the Boulder County, Colorado, more fully described as:

6500 Lookout Road (Assessor Parcel 146311203006); and

0 Lookout Road (Assessor Parcel 146311203008)

Boulder, Colorado 80301 (the "Real Property"),

including the former bank building (the "**Building**"), and all parking, paved, and landscaped grounds on the Property; and, the right to use and allow its licensees and invitees to use, in common with others entitled thereto, the access drives to and from Lookout Road; and to and from Spine Road through and across 5365 Spine Road (Assessor Parcel 146311203009) subject to the terms and conditions of this Lease (Collectively, the "**Premises**"). A depiction of the Property, the Building and the Premises is attached as **Exhibit A**.

**B. Delivery and Acceptance of Premises.** The Landlord will deliver possession of the Premises to the Tenant the later of May 15, 2024 or the date the lease is executed (the "**Possession Date**"). Tenant agrees to accept delivery of the Premises in their "as is" condition subject to all the terms of this Lease on the Possession Date. Landlord has no obligation to make any improvements to the Premises.

**C. Use of Premises.** Tenant will use the Premises for a public library with all attendant uses and services that public library facilities typically provide, and shall not use or permit the Premises to be used for any other purpose without the prior written consent of Landlord, which consent to a change in use shall not be unreasonably withheld or delayed.

1. Tenant shall not do or permit anything to be done in or about the Premises nor bring or keep anything therein that may increase the existing rate of or affect any fire or other insurance covering the Building or any of its contents, or cause cancellation of any insurance policy covering said Building.

2. Tenant shall not allow the Premises to be used for any unlawful purposes, nor shall Tenant cause, maintain or permit any nuisance in, on, or about the Premises as defined by the City of Boulder Municipal Code.

3. Tenant shall not permit employees, customers, or visitors to smoke inside the Building.

4. Tenant shall not store any waste in or upon the Premises except as normal in the operations of a public library.

5. Tenant shall have the right to install a standard exterior sign on the Building, may utilize the existing on Premises Signs and may install monument signage after obtaining Landlord's written approval as to the location, color, design, composition and size, not to be unreasonably withheld or delayed.

6. Tenant may from time-to-time conduct used book sales or other library related sales on the Premises but shall not conduct any auction, distress, fire sale, bankruptcy, liquidation, or going-out-of-business sale thereon without the Landlord's prior written consent.

7. Tenant may make tenant improvements within and without the Building and on the Property to make them suitable for Tenants purposes, including modifications to the bank drive up window, provided no structural changes are made to the Building without prior written consent of the Landlord.

8. Tenant shall not use the Premises or permit anything to be done in or about the Premises that will conflict with any law, statute, ordinance or governmental rule or regulation related to the Premises and the use thereof now in force or which may hereafter be enacted or promulgated, including, without limitation, environmental laws. Tenant shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations, or requirements of any board of insurance underwriters or similar bodies now in force or which may hereafter be in force, relating to or affecting the condition, use or occupancy of the Premises.

## ARTICLE II TERM

A. **Primary Term.** The Lease Term is sixty (60) months beginning twelve o'clock noon on the "Rent Commencement Date" (as defined below) and extending until twelve o'clock noon sixty (60) months thereafter. The "**Rent Commencement Date**" shall be (i) one business week from the day Tenant is issued a Certificate of Occupancy from the City of Boulder, or (ii) 30 days from the Possession Date whichever is earlier.

B. **Extended Term.** Tenant may, at Tenant's sole option, extend the Lease for

one (1) additional five (5) year period ("**Extended Term**"), upon the same terms and conditions, except for Base Rent, which will increase by three percent (3%) in the first year, and three percent 3% each year thereafter. To exercise its option, Tenant must give Landlord written notice of such election at least one hundred eighty (180) days before the end of the Lease Term and may only do so if Tenant (i) is not then in default; and (ii) has not been in default on two (2) or more separate occasions during the Lease Term.

**ARTICLE III  
BASE RENT, ADDITIONAL  
RENT AND SECURITY  
DEPOSIT**

**A. Base Rent.** Tenant will pay Base Rent of \$150,000 annually in monthly installments of \$12,500, without setoff or deduction, without notice or demand, in advance, on or before the first day of each month during the Lease Term at the address of Landlord set forth in the Basic Lease Provisions or at such other address or addresses as Landlord may hereafter provide in writing. For the purposes of this Lease, the term "Lease Year" shall mean twelve (12) consecutive months starting with the first day of the Rent Commencement Date. Base Rent for any fractional month during the Lease Term will be adjusted pro rata on a per diem basis.

**B. Additional Rent.** The Parties intend this Lease to be a "Triple Net Lease." All costs and expenses attributable to the Premises will be paid by Tenant as "Additional Rent." Tenant will pay Additional Rent directly to third parties providing services or materials, or government services and not to Landlord. Additional Rent includes but is not limited to all costs and expenses related to Tenant Improvements and operation, maintenance and management of the Premises, including, without limitation: all services provided to the Building and the Premises, including HVAC services, water, sewer, other utilities, janitorial, electrical, trash, and general maintenance; all real estate taxes for the Premises, premiums for insurance required or permitted to be carried by Tenant, all charges for utilities, all costs for maintenance and repairs, and all other costs and expenses of operating, maintaining, repairing, lighting, replacing, cleaning, exterior window cleaning, painting, striping, removing of snow, ice and debris, conducting efficiency studies used in the operation and maintenance of the Premises, including heating, air conditioning and ventilating equipment, and personal property taxes and other charges incurred in connection with such equipment; costs and expenses of maintaining, repairing and replanting and replacing flowers and shrubbery and planters, as reasonably necessary; sprinkler maintenance costs; labor and administrative costs of operating and maintaining the Premises. Notwithstanding the forgoing, Additional Rent shall not include the cost of correcting any construction defects or making any structural changes, advertising the Premises for sale or lease, lease commissions or brokerage fees incurred by Landlord in connection with the lease, sale or financing of the Premises, costs or expenses reimbursed by insurance, Landlord's net income taxes, income tax accounting, interest, depreciation and general corporate overhead.

**C. Rent Default.** Tenant will be in Default on payment of Base Rent and/or Additional Rent if not timely made within 10 days after written notice from Landlord of a failure to make a payment.

**D. Late Rent Payment.** Any payment of Base Rent, Additional Rent, or obligation hereof which may be satisfied by the payment of money will, as of the date of Default:

1. Include a late fee of five percent (5%) of such amount that represents a fair and reasonable estimate of the costs that Landlord will incur by reason of late payment by Tenant; and,

2. Will bear interest at the rate of 10 % *per annum* ("Default Rate") until paid in full.

**E. Security Deposit.** Tenant will deposit with Landlord a Security Deposit of \$25,000.00 (the "**Deposit**") upon execution of this Lease. The Deposit may be applied by Landlord to pay losses or costs, damage or expense including reasonable attorney's fees sustained by Landlord by reason of failure of Tenant to comply with any provision in this Lease. To the extent not applied to a loss, cost, damage or expense, the Deposit, without interest thereon, will be returned to Tenant within 60 days after expiration or termination of the Lease. The Deposit is not an advance payment of rent or any measure of the loss, cost, damage, or expense that is or may be suffered by Landlord. In the event all or any portion of the Deposit is applied by Landlord to pay any loss, cost, damage or expense, Tenant shall, within 20 days after written demand, deposit with Landlord amounts necessary to replenish the Deposit.

#### **ARTICLE IV TENANT IMPROVEMENTS**

Tenant shall not, under any circumstances, make alterations or additions to the exterior of the Building except for a library identification sign. Tenant shall make no structural changes to the Premises, including equipment or appliances installed in connection with the transmission or delivery of the utilities without first procuring Landlord's written consent, which consent shall not be unreasonably withheld or delayed, after delivering to Landlord the plans and specifications.

Tenant may remodel the interior of the Building for Tenant's purposes including the removal of existing and construction of new non-loadbearing walls. Tenant may hang pictures, artwork and other wall hangings, without Landlord's prior written permission, and may repaint and install wall coverings, without the necessity for Landlord's consent. All new carpet and flooring must be approved in advance by Landlord, and must be of grade and quality commensurate with that originally installed in the Premises and must conform to existing building standards.

Tenant may with Landlord's written consent, make landscaping and xeroscaping improvements to the Premises.

Tenant is a public entity and its projects may not be the subject of mechanics or materialmen's liens under Colorado law. Nevertheless, Tenant will promptly pay for the costs associated with any such alterations or additions, and shall indemnify, to the extent permitted by law, Landlord against liens, costs, damages and expenses incurred by Landlord in connection therewith,

including any reasonable attorney's fees incurred by Landlord, if Landlord shall be joined in any action or proceeding involving such work. Landlord may, at its option, pay sums due to release any liens, in which event any such sums paid by Landlord shall be due to Landlord by Tenant upon written demand and shall accrue interest at the Default Rate from the date incurred by Landlord. Under no circumstances shall Tenant commence any such work until Landlord has been provided with certificates evidencing that all the contractors and subcontractors performing such work have in full force and effect adequate worker's compensation insurance as required by the laws of the State of Colorado, public liability and builder's risk insurance in such amounts and according to terms satisfactory to Landlord. Landlord shall at all times have the right to post or keep posted on the Premises, or in the immediate vicinity thereof, any notices of non-responsibility for any construction, alteration or repair of the Premises by Tenant, and Tenant hereby agrees to give Landlord at least ten (10) business days prior written notice of Tenant's plans to commence such work so as to enable Landlord an opportunity to post such notices, and Tenant shall ensure that such notices remain posted, continuously, throughout the period of construction.

All alterations, additions, improvements and fixtures, including but not by way of limitation, lighting fixtures, ducts, controls, diffusers, counters and work stations, filters or other equipment for distribution of heating and cooling, plumbing, electrical and telephone, and other personal property which may be made or installed by, for and on behalf of Tenant, upon the Premises, and which are permanently attached to the floors, walls, or ceilings so as to become fixtures ( except Tenant's computers and Tenant's telephone system, custom cabinets, and any trade fixtures or trade equipment used by Tenant within the Premises, which equipment shall be removed upon the request of the Landlord) shall become the property of Landlord at the time of installation, and shall remain upon and be surrendered with the Premises at the time of termination of this Lease as a part of the Premises, without disturbance, molestation or injury. Any tile, linoleum or floor covering of similar character which may be cemented or otherwise adhesively affixed to the floor of the Premises shall be and become the property of Landlord absolutely upon installation. During the Lease Term Tenant shall not remove or damage the above described items and fixtures without the written consent of Landlord. Tenant shall promptly repair any damage to the Premises occasioned by the installation or removal of Tenant's trade fixtures, alterations, furnishings, equipment, computers and telephone system.

## **ARTICLE V INSURANCE**

A. **Building Insurance.** Commencing with the Lease Commencement Date and continuing throughout the Lease Term, and any extensions thereof, Tenant shall maintain or cause to be maintained (i) special causes of loss, or its equivalent, casualty insurance policy, insuring the Building and all improvements of the Building and the Premises in an amount not less than one hundred percent (100%) of their replacement value; (ii) commercial general liability insurance to the extent required by the Colorado Governmental Immunity Act; and (iii) other policies of insurance which Landlord requires to be kept in force. The insurance coverage amounts shall be determined by Landlord, in Landlord's reasonable discretion. Unless this Lease is terminated as a result of damages to the Premises, any insurance proceeds received by Landlord as a result of damage to the Building shall to the extent not payable to any lender, be applied to the extent reasonably

necessary by Landlord to repair such damage.

**B. Premises Insurance.** Commencing with the Lease Commencement Date and continuing throughout the Lease Term, and any extensions thereof, Tenant shall maintain or cause to be maintained, at its sole cost and expense: (i) fire and extended coverage insurance insuring all alterations and additions made by Tenant to the Premises and all of its fixtures, inventory, furniture and equipment in an amount not less than the full replacement value thereof with the broadest possible coverage ("special causes of loss, or its equivalent") on a one hundred percent (100%) co-insurance form insuring against all risks of direct physical loss; and (ii) public liability, bodily injury and property damage commercial general insurance coverage (or its equivalent) insuring against claims of any and all personal injury, death or damage occurring in or about the Premises in amounts required by the Colorado Governmental Immunity Act.

Each of the foregoing insurance policies in Sections A and B above to be carried by Tenant shall name Landlord as an additional insured, and shall be payable to Landlord and Tenant as their interests may appear. In addition, all such policies shall contain waivers of subrogation and, if required by Landlord, a loss payable endorsement in favor of the holder of any first mortgage on the Property or portion thereof. All such policies shall provide that no cancellation or termination thereof or any material modification thereof shall be effective, except on twenty (20) days prior written notice to Landlord, and, if applicable, said Mortgagee. Certificates evidencing such insurance shall be delivered to Landlord upon the Lease Commencement Date and each anniversary thereof.

**C. Landlord's Representations, Covenants.** Landlord represents that, to Landlord's knowledge there is no soil contamination, on or under the Premises and further represents that Landlord knows of no asbestos or other toxic or hazardous substances having been on the Premises. If Tenant finds any existing asbestos or other contamination or hazardous substance that existed on the Lease Execution Date, the Landlord will remove, or pay for the removal of such soil contamination, asbestos or other toxic or hazardous substance. If Landlord is unable to remove or pay for the removal of such substance, Tenant may terminate this Lease.

**D. Hazardous Materials.** Except as necessary in the ordinary course of conducting Tenant's general business practices, Tenant shall not carry any stock of goods, store any Hazardous Materials in violation of any Federal, State or local laws, statutes, ordinances, rules or regulations pertaining to the same (hereinafter, "Environmental Regulations"), or do anything in or about the Premises that would in any way tend to increase insurance rates or invalidate any policy on the Premises or the Building. For purposes of this Lease, Hazardous Materials shall include, without limitation, substances defined as "hazardous substances" or "hazardous materials" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq. ("CERCLA"), the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq. ("RCRA") or any other Federal, State or Local laws or statutes and in any regulations adopted and publications promulgated pursuant to said laws. If Tenant fails to use, handle or dispose of Hazardous Materials as required by applicable Federal and State law and such failure causes an increase in insurance premium to Landlord, Tenant agrees to pay as Additional Rent any such increase in premiums therefor resulting from such failure by Tenant. If Tenant installs any electrical equipment that overloads the power lines to the Building, Tenant shall at its own expense make whatever changes are necessary to comply with the requirements of insurance underwriters and

insurance rating bureaus and governmental authorities having jurisdiction.

Tenant shall, at Tenant's sole cost and expense, fully, diligently and in a timely manner, comply with all laws, rules, regulations, ordinances, directives, covenants, and restrictions of record, relating in any manner to the Tenants use of the Premises (including but not limited to environmental conditions and the use, generation, manufacture, production, installation, maintenance, removal, transportation, storage, spill, or release of any Hazardous Materials) now in effect or which may hereafter come into effect. Tenant shall comply with all requirements concerning the handling and disposal of all waste.

**E. Hold Harmless.** To the extent permitted by law, Tenant shall indemnify, protect, defend and hold Landlord, its managers, members, officers, directors, agents, employees, lenders and the Premises, harmless from and against any and all damages, liabilities, judgments, costs, claims, liens, expenses, penalties, loss of permits and attorneys' and consultants' fees arising out of or involving any Hazardous Materials brought onto the Premises by or at the direction of Tenant or by anyone under Tenant's control to the extent permitted by law. The indemnification set forth above shall survive the expiration or termination of this Lease.

## **ARTICLE VI MAINTENANCE OF THE BUILDING AND REPAIRS**

**A. Tenant's Maintenance and Repair Obligations--Building.** Tenant shall at its sole cost and expense, keep the Building in good condition and repair, ordinary wear and tear excepted, including, without limitation, all heating, ventilating and other mechanical appurtenances and equipment; In connection with all such maintenance, Tenant may enter into (i) contracts for the maintenance, inspection and service of the Building and the equipment within the Building, and (ii) contracts for the cleaning of all windows in the Building and for sweeping of and removal of snow from sidewalks adjacent to the Premises, the costs of which, together with all costs of any replacements or repairs resulting from determinations made by the inspection service, shall be included in and comprise a portion of Additional Rent.

**B. Tenant's Maintenance and Repair Obligations—Interior of Premises.** Tenant shall, at its sole cost and expense, maintain, replace, repair and keep all parts of the interior of the Premises (which include but are not limited to, interior wall surfaces, doors, door hardware, and mechanical equipment within the Premises), in good order, operating condition and repair. Tenant shall also keep the Premises in a clean, sanitary and safe condition in accordance with all applicable directions, rules and regulations of any health officers, building inspectors or other proper officers of the governmental agencies having jurisdiction over the Premises. Tenant shall comply with all requirements of laws, ordinances and other rules and regulations that affect the Premises. Tenant shall permit no injury to the Building or Premises. At the expiration of the Lease Term, Tenant shall surrender the Premises broom clean in as good order as the same is on the day Tenant first opened the Premises for business, ordinary wear and tear, damage, and loss from the elements, loss caused by fire or other casualty, repairs to be made by Landlord, and other occurrences beyond the control of Tenant excepted.

**C. No Capital Improvements.** Notwithstanding the foregoing, the Tenant's



Maintenance and Repair Obligations – Building and Premises shall not include an obligation to perform maintenance and repairs to the Building or Premises that would be considered capital improvements, as generally understood by the IRS code. Capital improvement maintenance and repair obligations shall be the sole and exclusive responsibility of the Landlord, the costs for which shall not be assigned to the Tenant as Additional Rent. For the avoidance of any doubt issues such as replacement of HVAC Systems, water, sewer, and electrical lines, roofs, structural repairs, and parking lot replacement or resurfacing shall be considered capital improvements.

**ARTICLE VII  
WAIVER OF SUBROGATION**

Landlord and Tenant agree that, if the property or interests on which they are required to obtain insurance in connection with the transaction contemplated by this Lease shall be damaged or destroyed during the Lease Term by a peril insured under the policies of insurance, and whether or not such damage or destruction was caused by the neglect of the other party, neither party shall have any liability to the other or to any insurer of the other for, or in respect of, such damage or destruction, to the extent covered by such insurance; and each party shall insure that the policies of insurance required herein are endorsed with a provision in and by which the insurer shall waive its right of subrogation against the other. The waiver of subrogation hereby required shall extend only to the risks insured by the policies required by this Lease.

**ARTICLE VIII  
DESTRUCTION OF OR DAMAGE TO PREMISES**

A. **Total Destruction.** In case the Premises or the Building in which the Premises are situated shall be destroyed by fire or other peril insurable under the policies of insurance so as to become partially or totally untenable, the same shall be repaired as speedily as possible at the expense of Landlord, to the extent of insurance proceeds available, unless (i) Landlord shall elect not to rebuild as hereinafter provided; or (ii) the remainder of the Lease Term at the time of such damage or destruction is less than twelve (12) months, in which event Landlord shall not be required to rebuild if either Landlord or Tenant shall elect, upon written notice to the other party sent within fifteen (15) days of the date of the damage or destruction to terminate the Lease effective as of the date of receipt of the notice. No rent shall be due while the Premises is untenable.

B. **Partial Destruction.** In case the Premises or the Building in which the Premises are situated shall be damaged by fire or other peril insurable under the policies of insurance so as to render more than thirty-three percent (33%) of the Premises or 33% of the said Building untenable, or in the Tenant's reasonable and good faith judgment prevents the operation of Tenant's business, Tenant may, at its election by notice given to the other not more than 30 days after the occurrence of the damage, terminate this Lease. In the event Tenant elects not to terminate, Landlord shall, as speedily as possible, repair, rebuild or restore any such damage suffered in the Building or the Premises as set forth above, provided, however, that Landlord shall only be required to use building standard materials, and in the event Tenant desires the use of materials which are not building standard, Tenant shall pay any increased cost with respect to such materials, together with any costs incurred by Landlord as a result of delays in construction resulting from such materials not being available for use and installation at the time when Landlord is ready to install such materials. Subject to

the receipt of required building permits issued by applicable governmental authorities, and subject to other factors of "force majeure," the Premises shall be repaired within 120 days of the date of the occurrence of the damage or destruction. In the event the Premises are not repaired within such 120-day period, Tenant may give notice of default and opportunity to cure. If the Premises are not repaired as provided herein by the date which is fifteen (15) days after the Landlord's receipt of such written notice and opportunity to cure, Tenant may terminate this Lease. The deadlines set forth herein shall be tolled during any periods of delay pending receipt of building permits from pertinent governmental authorities, and during any period in which construction and progress is delayed due to the unavailability of materials selected by Tenant and during the period of any force majeure event.

C. **Uninsured Loss.** In case of casualty to the Premises resulting in damage or destruction which casualty is not insured against, Landlord shall be under no obligation to restore, replace, or rebuild the Premises, and this Lease shall be deemed terminated and of no further force or effect as of the date of such casualty, unless Landlord elects in its sole and absolute discretion to restore, repair, replace and rebuild the Premises and so notifies Tenant in writing within thirty (30) days after such casualty. In the event Landlord so elects to restore, repair, replace and rebuild the Premises, then this Lease shall continue in full force and effect during the period of such restoration, repairing, replacing, or rebuilding, with the rent abated.

## ARTICLE IX EMINENT DOMAIN

If the whole of the Premises shall be acquired or condemned by eminent domain for any public or quasi-public use or purpose, then the Lease Term shall cease and terminate as of the date of title vesting in such proceeding, all rent shall be paid up to that date, and Tenant shall have no claim against Landlord for the value of any unexpired Lease Term; however, the provisions of this Article shall in no way be construed or interpreted as a waiver of Tenant's right against the condemning authority.

If the whole of the parking areas for the Property shall be acquired or condemned by eminent domain for any public or quasi-public use or purpose, then the Lease Term shall cease and terminate as of the date of title vesting, unless Landlord, at its own expense should elect to take immediate steps to provide other parking facilities within a reasonable distance from the Building and reasonably acceptable to Tenant so as to allow parking space ratios between the parking areas and the gross area of the buildings on the Property to be sufficient to satisfy Tenant and applicable governmental authorities.

If a part of the Premises shall be acquired or condemned by eminent domain for any public or quasi-public use or purpose, and in the event that such partial taking shall be so extensive that Tenant is unable to continue to operate its business in the remainder of the Premises, then for a period of thirty (30) days following such taking, Tenant shall have the right to either terminate this Lease and declare the same null and void by giving written notice thereof to Landlord or, alternatively, to continue in the possession of the remainder of the Premises under the terms herein provided, except that the Minimum Rent and Tenant's Pro Rata Share of Operating Costs shall be reduced in such proportion as the nature, value and extent of the part so taken bears to the whole of

the Premises.

If a part of the parking area of the Property should be acquired or condemned by eminent domain for any public or quasi-public use or purpose, no rights under this Lease shall be affected, so long as the remaining number of parking spaces satisfy the requirements of applicable governmental authorities and the needs of the Tenant. If the remaining number of parking spaces do not so conform as set forth above, or if ingress or egress to and from the Building or the Premises is materially impaired, Landlord may, at its election, take immediate steps to provide substitute additional parking facilities within a reasonable distance from the Building and acceptable to Tenant, to allow parking space ratios sufficient to satisfy applicable governmental authorities and the needs of the Tenant.

In the event Tenant terminates this Lease as provided hereinabove, such termination shall be as of the date of Tenant's written notice (but rent shall be due until Tenant's surrender of the Premises), and Tenant shall have no claim against Landlord for the value of the unexpired Lease Term, or for damages of any kind. In addition, in the event this Lease otherwise terminates or is terminated by Landlord pursuant to this Article, Landlord shall have no claim against Tenant for the value of the unexpired Lease Term, or for damages of any kind.

In the event of a partial taking which is not extensive enough to render the Premises unsuitable for the business of Tenant as set forth above, then Landlord shall as speedily as possible restore the Premises to a condition comparable to its condition at the time of such taking, less the portion lost in the taking, and this Lease shall continue in full force and effect except that the Minimum Rent and Tenant's Pro Rata Share of Operating Costs shall be reduced in the manner provided above.

As regards any obligations of Landlord described in this Article, in no event shall Landlord be required to spend an amount in excess of the amount available to Landlord from the award for any part of the Premises or parking area taken.

In the event of any condemnation or taking as aforesaid, whether in whole or in part, Tenant shall not be entitled to any part of the award paid to Landlord for such condemnation. Although all damages in the event of any condemnation or taking of the fee interest are to belong to Landlord, provided that Landlord's award is not diminished, Tenant shall have the right to claim and recover from the condemning authority, but not from Landlord, such compensation as may be separately awarded or recoverable by Tenant in Tenant's own right on account of loss of the leasehold and any and all damage to Tenant's business by reason of condemnation.

## **ARTICLE X INDEMNIFICATION**

Tenant shall to the extent permitted by Colorado Law, indemnify, protect, defend and hold harmless Landlord, Landlord's mortgagee, Landlord's beneficiaries and their respective partners, members, agents and employees (each referred to herein as an "indemnified party") against and from any and all claims, damages, liabilities, obligations, losses, causes of action, costs and expenses (including, but not limited to, reasonable attorneys' fees and court costs and loss of rentals payable

by Tenant or other tenants in the event of loss caused by any negligent act or willful omission of Tenant unless such loss is covered by Landlord's rent abatement insurance) suffered or incurred by any or all of the indemnified parties and arising from or as a result of (a) any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease; or (b) any willful act or negligence of Tenant, or any officer, agent, employee of Tenant, and in case any action or proceeding be brought against any or all of the indemnified parties by reason of (a) or (b) above, then Tenant, upon notice from an indemnified party, shall to the extent permitted by law, defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord; provided, that such indemnity shall not apply to any loss suffered as a result of Landlord's negligence or willful misconduct. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property or injury to persons in, upon or about the Premises and the Building from any cause attributable to Tenant, and Tenant hereby waives all claims in respect thereof against Landlord. Tenant shall give prompt notice to Landlord in case of casualty or accidents in or about the Premises or the Building.

Landlord shall, and does hereby, indemnify, protect, defend and hold harmless Tenant, Tenant's beneficiaries and their respective partners, members, agents and employees against and from any and all claims, damages, liabilities, obligations, losses, causes of action, costs and expenses (including, but not limited to, attorneys' fees and court costs) suffered or incurred by any of the indemnified parties in connection with loss of life, personal injury or property damage arising from or as a result of (a) any breach or default in the performance of any obligation on Landlord's part to be performed under the terms of this Lease or (b) any willful act or negligence of the Landlord, its officers, agents, or employees; provided that such indemnity shall not apply to any loss suffered as a result of the Tenant's negligence or willful misconduct.

#### **ARTICLE XI ASSIGNMENT AND SUBLETTING**

Tenant shall not assign, sell, pledge, mortgage, encumber or in any manner transfer this Lease or any interest therein, nor sublet the Premises or any part or parts thereof, nor permit occupancy by anyone with, through or under it without the prior written consent of Landlord in Landlord's sole discretion. Tenant shall have the right to assign or sublease the premises to a related affiliate without prior written consent.

No interest in this Lease shall pass to any trustee or receiver in bankruptcy, to any estate of Tenant, to any assignee of Tenant for the benefit of creditors, or to any other party by operation of law or otherwise without Landlord's consent.

No consent to assignment or subletting shall be granted if an Event of Default under this Lease exists and is continuing.

#### **ARTICLE XII LANDLORD'S SALE OR TRANSFER**

If Landlord determines to list the Premises or Building for sale, Landlord will provide

Tenant written notice of such intention at least thirty days prior to listing the property for sale and provide Tenant with the opportunity to make an offer to purchase the property. Landlord has 15 business days to accept or reject the offer.

### ARTICLE XIII EVENTS OF DEFAULT

This Lease is made on the condition also that, if any one or more of the following events (herein referred to as an "Event of Default") shall happen, Tenant shall be in default of its obligations under this Lease.

A. **Rent Payments.** Tenant shall default in the timely payment of the Base Rent, Additional Rent or any other amounts payable hereunder as described in Article III; or

B. **Non-Monetary Events.** Tenant shall neglect or fail to perform or observe any of the other covenants herein contained on Tenant's part to be performed or observed, and Tenant shall fail to remedy the same within thirty (30) days after Landlord shall have given to Tenant notice specifying such neglect or failure (or within such period, if any, as may be reasonably required to cure such default, if the nature of such default is such that it cannot be cured within said thirty (30) day period, provided that Tenant shall have commenced to effect such cure and shall proceed with due diligence to complete such cure within such additional period of time as may be commercially reasonable); or

C. **Bankruptcy.** Tenant shall (i) be adjudicated a bankrupt or insolvent, or (ii) file or threaten to file a petition in bankruptcy or for reorganization or for the adoption of an arrangement under the Bankruptcy Act (as now or in the future amended), or (iii) make an assignment of its property for the benefit of its creditors; or

D. **Abandonment.** Tenant shall abandon or fail to take possession of the Premises without payment of rent due hereunder.

E. **Remedies.** If Tenant fails to perform any of its affirmative duties or obligations, within thirty (30) days after written notice (or in case of an emergency, without notice), Landlord may at its option, perform such duty or obligation on Tenant's behalf, including but not limited to the obtaining of reasonably required insurance policies, or governmental licenses, permits or approvals. The costs and expenses of any such performance by Landlord shall be due and payable by Tenant upon receipt of invoice therefor. If any check given to Landlord by Tenant shall not be honored by the bank upon which it's drawn, Landlord, at its option, may require all future payments to be made by Tenant to be by cashier's check. In the event of an Event of Default, Landlord may, upon notice or demand, and without limiting Landlord in the exercise of any right or remedy which Landlord may have by reason of such Event of Default:

(a) Terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession to Landlord. In such event Landlord shall be entitled to recover from Tenant: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which

the unpaid rent would have been earned after the termination until the time of award exceeds the market rent; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the market rent; and (iv) the cost of recovering possession of the Premises, expenses including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Landlord in connection with this Lease applicable to the unexpired terms of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent (1%). Efforts by Landlord to mitigate damages caused by Tenant's defaults under this Lease shall not waive Landlord's rights to damages. If termination of this Lease is obtained through the remedy of unlawful detainer, Landlord shall have the right to recover in such proceeding any unpaid rent and damages as are recoverable therein, or Landlord may reserve the right to recover all or part thereof in a separate suit; continue the Lease and Tenant's right to possession and recover the rent as it becomes due. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Landlord's interests, shall not constitute a termination of the Tenant's right to possession; and

(b) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the State of Colorado; and

(c) Landlord shall be entitled to recover the reasonable attorney's fees incurred by Landlord in pursuing Landlord's rights and remedies under this Lease.

**ARTICLE XIV  
REMOVAL OF PERSONALTY AND FORFEITURE OF PERSONALTY**

Tenant agrees that on or before expiration of the Lease Term or repossession of the Premises by Landlord without termination, whichever first occurs, by way of default or otherwise Tenant shall remove all personal property for which it has the right to ownership. Any and all such property of Tenant not removed within twenty (20) days after written notice shall irrevocably become the sole property of Landlord. Tenant waives all rights to notice and all common law and statutory claims and causes of action, which it may have against Landlord after said time period as regards the storage, destruction, damage, loss of use and ownership of the personal property affected by the terms of this paragraph. Tenant acknowledges Landlord's need to relet the Premises upon termination of this Lease or repossession of the Premises, and understands that the forfeitures and waivers provided herein are necessary to aid said reletting and to allow Landlord the opportunity to mitigate damages.

**ARTICLE XIII  
NON-DISTURBANCE AND SUBORDINATION**

This Lease shall be subject and subordinate to the lien of any first mortgage or other mortgage in favor of the beneficiary of said first mortgage, which Landlord may now or hereafter place upon the Premises and the Building, and to all terms, conditions and provisions thereof, to all advances made, and to any renewals, extensions, modifications or replacements thereof; provided, however, that if this Lease is in full force and effect, the right of possession of Tenant to the Premises and Tenant's rights arising out of this Lease shall not be affected or disturbed by the Mortgagee in the exercise of any of its rights under the mortgage or the note secured thereby, nor shall Tenant be named as a party defendant to any foreclosure of the lien of mortgage, nor in any other way be deprived of its rights under this Lease. In the event that the Mortgagee shall agree to the sale of the Premises pursuant to the exercise of any rights and remedies under the mortgage, or otherwise, such sale shall be made subject to this Lease and the rights of Tenant hereunder.

**ARTICLE XIV  
NOTICES**

All notices to be given hereunder by either of the parties shall be in writing. Notices may be given personally by delivering the same to the address set forth in the Basic Lease Provisions, or, if the Tenant, to the Premises. Either party may change the address to which notices may be sent by delivering a copy thereof to the other party in the manner aforesaid.

**ARTICLE XV  
MISCELLANEOUS**

A. **Covenant Dependency.** Except as otherwise expressly provided herein, the obligation of Tenant to pay rent hereunder is independent of every other covenant, duty or obligation of Landlord herein, and is not subject to deduction or offset.

B. **Liens.** Tenant shall not cause or permit any mechanic's or other lien to be filed against the Premises, the Building or any portion of the Project by reason of, or due to, or as a result of, any work, labor, services, or materials performed at, or furnished to, the Premises, to Tenant, or to anyone

holding the Premises through or under Tenant. If any such mechanic's lien shall at any time be filed, Tenant shall immediately cause the same to be discharged of record by payment, bond, order of a court of competent jurisdiction or otherwise; provided, however, that Tenant shall have the right to contest any and all such liens provided security which is satisfactory to Landlord, in its sole discretion, is deposited with Landlord or the court having jurisdiction over such matter, and such lien is released from the Premises, the Building and the Project within fifteen (15) days from the filing date of said lien. Subject to the immediately preceding sentence, in the event that Tenant fails to cause any such lien to be discharged within fifteen (15) days after being notified of the filing thereof and before judgment or sale thereunder, then, in addition to any other right or remedy of Landlord, Landlord may, but shall not be obligated to, discharge the same by paying the amount claimed to be due, or by bonding or other proceeding deemed appropriate by Landlord, and the amount so paid by Landlord, together with all costs and expenses (including, but not limited to, reasonable attorney's fees), incurred by Landlord in procuring the discharge of such lien, shall be deemed to be Additional Rent and shall immediately become due and payable by Tenant to Landlord on the first day of the next following month.

C. **Relationship of Parties.** Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or a partnership or a joint venture between the parties hereto, it being agreed that neither the method of computation of rents or any other provisions set forth herein nor any acts of the parties herein shall be deemed to create any relationship between the parties hereto other than the relationship of Landlord and Tenant.

D. **Representations.** Landlord and Tenant each hereby acknowledge and agree that they have not relied upon any statements, representations, agreements or warranties, except such as are expressed in this Lease.

E. **Amendments, Modifications and/or Assignment.** No amendment or modification of this Lease or any approvals or permissions of Landlord required under this Lease shall be valid or binding unless reduced to writing and executed by the parties hereto in the same manner as the execution of this Lease.

F. **Grammatical Changes.** Wherever the words "Landlord" and "Tenant" are used in this Lease, they shall include "Landlords" and "Tenants" and shall apply to persons, men and women, companies, partnerships, and corporations. Wherever the words "mortgage" or "mortgages" are used herein the same shall be deemed to include a deed of trust or trust deed, and the word "lender" shall include a Mortgagee of a mortgage or a beneficiary of a deed of trust or trust deed. For purposes of this Lease, the term "rent" shall be deemed to mean any Base Rent, Additional Rent or other monetary obligations of Tenant hereunder. All references to the Lease Term shall include any extension of the Lease Term, except as otherwise provided. All references to Tenant shall include Tenant's guarantors, assignees or sublessee. All reference to the singular shall include the plural, and vice versa.

G. **Section Headings.** The section headings are inserted herein only for convenience of reference and shall in no way define, limit or describe the scope or intent of any provisions of this Lease.

H. **Binding Effect.** Subject to the provisions hereof, the benefits of this Lease and the burdens hereunder shall respectively inure to and be binding upon the heirs, successors, personal representatives and assigns of the parties.



**I. Personal Property Taxes.** Tenant is a governmental entity that does not pay personal or real property taxes. It will pay property taxes for the Premises to the extent required by this Lease or the state law. Tenant will ensure that personal and real property taxes for items that are the subject of this Triple-Net lease are not assessed against or paid by Landlord.

**J. Non-Waiver.** No waiver of condition or covenant of this Lease by either party hereto shall be deemed to imply or constitute a further waiver by such party of the same or any other condition or covenant. No act or thing done by Landlord or Landlord's agents during the Lease Term shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept such surrender shall be valid unless signed in writing by Landlord. The delivery of Tenant's keys to any employee or agent of Landlord shall not constitute a termination of this Lease unless a written agreement has been entered into with Landlord to this effect. No payment by Tenant, nor receipt from Landlord, of a lesser amount than the Minimum Rent herein stipulated shall be deemed to be other than on an account of the earliest stipulated rent, nor shall any endorsement or statement on any check or any letter accompanying any check, or payment as rent, be deemed an accord and satisfaction, and Landlord shall accept such check for payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other remedy available to Landlord. If this Lease be assigned, or if the Premises or any part thereof be sublet or occupied by anyone other than Tenant, Landlord may collect rent from the assignee, subtenant or occupant and apply the net amount collected to the rent herein reserved, but no such collection shall be deemed a waiver of the covenant herein against assignment and subletting, or the acceptance of the assignee, subtenant or occupant as tenant, or a release of Tenant from the complete performance by Tenant of the covenants herein contained on the part of Tenant to be performed.

**K. Reimbursement of Attorneys Fees and Costs.** In the event either party takes legal action against the other to enforce the terms of this Lease, the prevailing party shall recover from the other party its reasonable attorney's fees and costs, together with fees charged by accountants, appraisers and other consultants or experts hired by the prevailing party or its attorneys.

**L. Status Statement of Lease.** Tenant agrees, within an initial five (5) business days of written request by Landlord from time to time, to execute, acknowledge and deliver to Landlord a status statement of Lease generally in the form attached as **Exhibit B**, to the extent that the facts set forth therein are true.

**M. Easements.** Landlord shall have the right to grant any easements on, over, under and above the Premises for such purposes as Landlord determines, provided that such easements will not materially interfere with Tenant's business.

**N. Holding Over.** In the event that Tenant remains in possession after the expiration of this Lease, without execution of a new Lease and without Landlord's written consent, Tenant shall be deemed to occupy the Premises as a tenant from month to month, subject to all conditions, provisions and obligations set forth herein insofar as the same are applicable to a month-to-month tenancy, except that Minimum Rent shall increase to one hundred fifty percent (150%) of Minimum Rent for the last year of the Lease Term or any Extension Term thereof. In addition, Tenant shall pay any reasonable damages and hold Landlord harmless from any liability incurred in connection with any claims made by any succeeding occupant based on delay of possession.

**O. Time of the Essence.** Time is of the essence hereof, and each party shall perform its obligations and conditions hereunder within the time hereby required.

**P. Unenforceability.** If any clause or provision of this Lease is illegal, invalid or

unenforceable under present or future laws effective during the Lease Term, then and in that event it is the intention of the parties hereto that the remainder of this Lease shall not be affected thereby, and it is also the intention of the parties to this Lease that in lieu of each clause or provision of this Lease that is illegal, invalid or unenforceable, there be added as a part of this Lease a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

**Q. Rights and Remedies.** The remedies of Landlord and Tenant shall be cumulative, and no one of them shall be construed as exclusive of the other, or any remedy provided by law or equity.

**R. Limited Liability Company Authority/Corporate Authority.** Landlord and Tenant (if a corporation, or limited liability company) each represent and warrant that it has full power and authority to enter into this Lease Agreement and has taken all action necessary to carry out the transaction contemplated hereby, so that when executed this Lease Agreement constitutes a valid and binding obligation enforceable in accordance with its terms. Tenant shall provide Landlord its resolution authorizing execution of the Lease at the time of said execution and said resolution shall be incorporated herein.

**S. Interpretation and Venue.** The terms of this Lease shall be interpreted according to the laws of the State of Colorado. Each party consents to the enforcement by their respective Landlord of Tenant's obligations hereunder in the District Court in and for the County of Boulder, Colorado.

**T. Exhibits and Addenda.** The Exhibits and Addenda attached to this Lease are incorporated herein and made a part hereof by this reference.

**U. Landlord/Tenant Representations.** In the event either Landlord or Tenant is either a corporation and/or limited liability company, the officers executing this Lease on behalf of Tenant hereby covenant that they are duly authorized by the corporation and/or limited liability company to execute this Lease, that the corporation and/or limited liability company is duly organized under the laws of its State of incorporation and that the corporation and/or limited liability company has the full right and authority to enter into this Lease for the full term hereof. In the event Tenant is a general or limited partnership, the general partner(s) executing this Lease on behalf of Tenant hereby covenant(s) that he (they) is (are) duly authorized by the partnership to execute this Lease, that the partnership is duly organized under the laws of the State in which it was formed and that the partnership has the full right and authority to enter this Lease for the full term hereof. Landlord further warrants that it is owner of the property and holds title in fee simple.

**V. ADA.** Landlord represents to Tenant that, to the Landlord's knowledge as of the Lease Execution Date, the Building has received no notice of required modification as a result of the Americans with Disabilities Act of 1990, as amended. However, this is an older building, and Tenant shall maintain the Premises in compliance with all applicable laws during the Lease Term, except those items that are the responsibility of Landlord. In the event the Tenant requires any changes, or the Tenant's work in the Building requires any changes to comply with the ADA, any and all costs thereof will be paid by the Tenant.

**W. OFAC Certification.** Tenant hereby certifies and represents that Tenant, and any of its affiliates, any of their respective partners, members, shareholders or other equity owners, and their respective officers, directors, are (a) not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person," or other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and (b) not engaged in this Lease, directly or indirectly on behalf of, or instigating or facilitating this Lease, directly or indirectly on behalf of, any such person, group, entity or nation. Tenant hereby agrees to defend, indemnify and hold harmless Landlord from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorneys' fees and costs) arising from or related to any breach of the certifications set forth in this paragraph to the extent permitted by law.

**THE PARTIES' SIGNATURES APPEAR ON THE FOLLOWING PAGES**

IN WITNESS WHEREOF, the parties hereto have executed this Lease the day and year first above written.

**LANDLORD**

BNR Farms LLC,  
by Midwest Trust Company, Manager

By: Mae Elizabeth Brandt 05/09/2024  
Its: VICE PRESIDENT AND TRUST OFFICER

**TENANT**

BOULDER PUBLIC LIBRARY DISTRICT












Douglas C. Hamilton, President Board of Trustees

Attest:

Paul F. [Signature]

FirstBank Furniture

Branch: BOLD

Line #	Item Picture	Item Description	Dimensions	Quantity on Site	Items Specs	Quality of Item	Furniture for NOCO & warehouse to be removed on 6/1
1		Lobby Benches	20"x72"	2			To remain at BOLD
2		Glass Bulletin Board		1			To remain at BOLD
3		Botte Guest Chair		2	Source Seating, Fabric: CF Stinson, Sleeping Bear Dunes, Surf	good	To return to warehouse.
4		BISON Airflow Chair Mat	46"W x 60"D	14	Bison, clear	good	Keep (2) for NOCO, (12) to remain at BOLD
5		Zip Conference Chair		12	All Seating, Back Fabric: CF Stinson - Staple, Tempest Seat Fabric: HBF - Abito, Arco	good	To remain at BOLD
6		Canvas Round Meeting Table	48" Dia. x 30"H	2	Indiana, Nevamar Tranquility Top, Black Strut legs	good	1 to return to warehouse and 1 to remain at BOLD
7		Break Tables	36" square	3			(2) Keep for NOCO, (1) to remain at BOLD
8		Break Chairs		12	Source Axis		(8) Keep for NOCO, (4) to return to warehouse
9		Black Shelving Sections (5 partitions deep)		5			To remain at BOLD
10		Black Shelving Sections (2 partitions deep)		1			To remain at BOLD
11		Tan 4H Filing Cabinet		1			To remain at BOLD

FirstBank Furniture

Branch: BOLD

Line #	Item Picture	Item Description	Dimensions	Quantity on Site	Items Specs	Quality of Item	Furniture for NOCO & warehouse to be removed on 6/1
12		Black 6 Drawer Unit		1			To remain at BOLD
13		Tan Cash Units		9			To remain at BOLD
14		Clock		1			To remain at BOLD
15		Art 2		1			To remain at BOLD
16		Art 3		1			To remain at BOLD
17		Art 4		1			To remain at BOLD

**EXHIBIT A**  
**Premises**





### Exhibit A-Building Floor Plan



A-I

**EXHIBIT B**  
**Tenant Estoppel and Status Statement of Lease**

TO:

Re: \_\_\_\_\_ ("Tenant")  
\_\_\_\_\_ (the "Premises")

Gentlemen:

The undersigned is the (check one) Tenant (X) or Guarantors LJ under that certain Lease of the Premises (the "Lease") dated as of \_\_\_\_\_, 2024, covering - ( - ) square feet in the building located at \_\_\_\_\_ Suite \_\_\_\_\_, \_\_\_\_\_, as the Landlord and record owner of the Property. The undersigned hereby certifies, at the date hereof, as follows:

1. The Lease identified above is the Lease with \_\_\_\_\_ as Landlord. A true, correct and complete copy of the Lease and all amendments, guaranties, security agreements, subleases and other related documents are attached hereto as Schedule "1" and incorporated herein by this reference. Said Schedule "1" consists of the following: (describe documents and set forth number of pages). There are no other documents and understandings, between such Landlord and Tenant and/or Guarantors which relate to the Property.

2. The Lease sets forth the entire agreement between the undersigned Tenant and Landlord with respect to the leasing of the Premises, including but not limited to all understandings and agreements relating to the construction or installation of any leasehold improvements by the Landlord and to the conditions precedent to occupancy of the Premises by the undersigned.

3. Tenant entered into occupancy of the Premises described in the Lease on \_\_\_\_ - \_\_\_\_ 2010, and is in possession of and occupies those Premises for purposes permitted under the Lease.

4. The Lease Commencement Date under the Lease is \_\_\_\_ , 2024.

5. The Lease Term will expire on \_\_\_\_\_. Tenant has no rights to renew or extend the Term of the Lease or any expansion rights under the Lease, except those (if any) set forth in the Lease.

6. Tenant has deposited with Landlord the sum of \_\_\_\_\_ Dollars (\$....., (in cash,) as Security Deposit or for other purposes stated in the Lease.

7. No rents or charges have been paid in advance, except for the following rents or charges which have been paid to the date specified: \_\_\_\_\_ Dollars(\$ \_\_\_\_\_ paid to \_\_\_\_\_, 2024.

8. The current Base Rent is \_\_\_\_\_ (\$ \_\_\_\_\_).

9. Landlord has not, as an inducement, assumed any of Tenant's Lease obligations and has made no agreements with Tenant covering free rent, partial rent, rebate of rental payments or any other type of rental concession, except as follows:

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10. The undersigned certifies that Tenant is required to pay all operating expenses as set forth in the Lease.

11. All Base Rent and other rentals under the Lease including the payment of any taxes, utilities, common area maintenance payments or other charges that are currently due have been paid, except \_\_\_\_\_; all such rentals are being paid on a current basis without any claims for offsets or deductions.

12. The Lease (including all exhibits) and all related agreements and documents listed above are duly authorized, executed and delivered by Tenant and/or Guarantors and are in full force and effect and have not been assigned, modified, supplemented or amended except as indicated in Paragraph 1 above; nor have the undersigned Tenant's rights in or under such Lease been assigned.

13. The Lease and the other agreements listed above represent the entire agreement between the parties as to the Premises.

14. Other than the Landlord and its mortgage lenders, no person or firm other than the undersigned is in possession of the Premises and to the best of the undersigned's knowledge, no person or firm other than the Landlord has a future right to the Premises.

15. The undersigned is not the subject of any pending bankruptcy, insolvency, debtor's relief, reorganization, receivership, or similar proceedings, nor the subject of a ruling with respect to any of the foregoing.

16. Except as may be specifically set forth in the Lease, Tenant does not have any right to renew or extend the Lease Term nor any option or preferential right to purchase all or any part of the Property or all or any part of the building of which the Premises are a part, nor any right, title or interest with respect to the Property other than as Tenant under the Lease.

17. There are no uncured defaults by Landlord under the Lease or any of the related agreements described above, and Tenant knows of no events or conditions which if uncured shall with the passage of time or notice or both, would constitute a default by Landlord under the Lease or any of the related agreements described above. There are no existing defenses or offsets, which the undersigned has against the enforcement of the Lease by Landlord.

18. The undersigned represents that the improvements and space required to be furnished according to the Lease have been duly delivered by the Landlord and accepted by the

Tenant and the Premises are in good condition and not in need of repair as of the date of this Certificate.

19. All conditions of the Lease to be performed by Landlord and necessary to the enforceability of the Lease have, to the undersigned Tenant's knowledge, been satisfied.

20. As of the date hereof, the condition of the Premises is satisfactory and adequate.

21. The undersigned represents that the Landlord has not guaranteed the Lease or any of Tenant's obligations hereunder or otherwise provided Tenant with inducement that the Landlord will pay for Tenant's obligation(s) in the event that Tenant fails to pay any obligation that Tenant is required to pay under the terms of the Lease.

22. Other than in the ordinary course of business, the undersigned has not dumped, spilled or in any other manner deposited any hazardous waste substances on the Property. The undersigned has received no notice of and has no knowledge of any violation or claimed violation of any law, rule or regulation relative to hazardous waste substances. The undersigned has not used, and the undersigned has no knowledge of any use of, the project for the storage of oils, other products of petroleum distillation or other hazardous material.

It is understood that you require this Certificate from the undersigned as a condition to the purchase of the Property from the Landlord, and that you are relying on this Certificate. After receipt of notice from Landlord that the sale has been completed, the undersigned will honor the assignment of Landlord's interest in the Lease, subject to your honoring the undersigned's right to the Premises Tenant's right of non-disturbance and the Project as set forth in the Lease.

Dated the \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
Tenant \_\_\_\_\_ Guarantors \_\_\_\_\_ (check one)  
\_\_\_\_\_, a \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF COLORADO )  
CITY/COUNTY OF DENVER ) ss.  
)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_,  
by \_\_\_\_\_

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public