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LIBRARY LEASE AGREEMENT

12-004-0153

Between
Davis County
and

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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
11/12/2019 03:43 PM
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DEP RT REC'D FOR DAVIS COUNTY

Clearfield Community Development and Renewal Agency

This Lease Agreement made the 11th day of December, 2018, by and between the Clearfield Community Development and Renewal Agency ("CDRA"), located at 55 South State Street, Clearfield, State of Utah, hereinafter referred to as "Lessor," and Davis County, a public County, located at 61 South Main, Farmington, State of Utah, hereinafter referred to as "Lessee," collectively referred to herein as the "Parties," agree as follows:

1. **DESCRIPTION OF LEASED PREMISES:** The Lessor agrees to lease to the Lessee the Property, as defined in the Purchase and Sale Agreement entered into between the Parties, as that certain real property described with a legal description on Exhibit "A" attached hereto and incorporated herein by reference, located at 562 South 1000 East, Clearfield, Utah.

Additional Description: The term Property shall include, but is not limited to the existing building, parking lot, improvements, and all land located at 562 South 1000 East, Clearfield, Utah.

Hereinafter known as the "Premises."

2. **USE OF LEASED PREMISES:** The Lessor is leasing the Premises to the Lessee and the Lessee is hereby agreeing to lease the Premises for the following use and purpose:

Lessee shall continue to provide library services in a manner consistent with those services previously provided by the Lessee at this location.

Lessee shall discontinue library services within one month from the date that the new library to be constructed at 1 North Main Street receives certificate of occupancy.

Lessee shall also complete demolition and environmental remediation of the Premises, as described in the Purchase and Sale Agreement dated 12/11/18, within 12 months from the date that the new library to be constructed at 1 North Main Street receives certificate of occupancy.

Any change in use or purpose to the Premises other than as described above shall be upon prior written consent of Lessor only.

3. **TERM OF LEASE:** The term of this Lease shall expire at the earlier of a) exactly one year from the date that the new library to be constructed at 1 North Main Street receives certificate of occupancy, or b) the date that demolition and environmental

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remediation is completed, with formal acceptance of such by the CDRA Board.

4. **BASE RENT:** The net payment shall be one-dollar (\$1.00), payable once for the entire term, due within 1 month from the commencement of the Lease. Said net payment is-hereafter referred to as the "Base Rent."

5. **OPTION TO RENEW:** There is no automatic option to renew this lease. Any additional lease agreement between Lessee and Lessor must be entered in writing between the Parties.

6. **TRIPLE NET (NNN):** It is the intention of the Parties that this Lease shall be considered a "Triple Net Lease."

i. **Operating Expenses.** The Lessor shall have no obligation to provide any services, perform any acts, or pay expenses, charges, obligations or costs of any kind whatsoever with respect to the Premises. The Lessee hereby agrees to provide for itself and/or pay one-hundred percent (100%) of any and all Operating Expenses as hereafter defined for the entire term of the Lease and any extensions thereof in accordance with specific provisions hereinafter set forth. The term "Operating Expenses" shall include all costs to the Lessor of operating and maintaining the Premises, and shall include, without limitation, real estate and personal property taxes and assessments, management fee(s), heating, air conditioning, HVAC, electricity, water, waste disposal, sewage, operating materials and supplies, service agreements and charges, lawn care, snow removal, restriping, repairs, repaving, cleaning and custodial, security, insurance, the cost of contesting the validity or applicability of any governmental acts which may affect operating expenses, and all other direct operating costs of operating and maintaining the Premises and related parking areas, unless expressly excluded from operating expenses.

ii. **Insurance.** Lessee shall maintain, at all times during the Term of this Lease, comprehensive general liability coverage that is satisfactory to Lessor. During the Term of this Lease, Lessee shall, upon request, certify to Lessor the limits of indemnification available under Lessee's self-insurance plan.

7. **SECURITY DEPOSIT:** There shall be no security deposit made by Lessee to Lessor.

8. **LEASEHOLD IMPROVEMENTS:** The Lessee agrees that no leasehold improvements, alterations or changes of any nature shall be made to the leasehold premises or the exterior of the building without first obtaining the consent of the Lessor in writing, which consent shall not be unreasonably withheld, if determined by Lessor that said improvements, alterations or changes are necessary to continue to provide library services in a manner consistent with those services previously provided by the Lessee at this location. Furthermore, any leasehold improvements shall be made only in accordance with applicable federal, state or local codes, ordinances or regulations, having due regard for the type of construction of the building housing the subject leasehold Premises. If the Lessee makes any improvements to the Premises the Lessee shall be responsible payment.

9. **LICENSES AND PERMITS:** A copy of any and all local, state or federal permits acquired by the Lessee which are required for the use of the Premises shall be kept on site at all times and shall be readily accessible and produced to the Lessor and/or their agents or any local, state, or federal officials upon demand.

10. **OBLIGATIONS OF LESSEE:** The Lessee shall be solely responsible whenever needed for the maintenance and general upkeep of the entranceway leading into the Premises, so that this is kept in a neat, safe and presentable condition. The Lessee shall also be responsible for all repairs and maintenance of the leasehold Premises, particularly those items which need immediate attention and which the Lessees, or their employees, can do and perform on their own, including but not limited to, the replacement of light bulbs, as well as the normal repair and cleaning of windows, cleaning and clearing of toilets, etc., and the Lessee shall properly maintain the Premises in a good, safe, and clean condition. The Lessee shall properly and promptly remove all rubbish and hazardous wastes and see that the same are properly disposed of according to all local, state or federal laws, rules regulations or ordinances.

In the event the structure of the Premises is damaged as a result of any neglect or negligence of Lessee, their employees, agents, business invitees, or any independent contractors serving the Lessee or in any way as a result of Lessee's use and occupancy of the Premises, then the Lessee shall be responsible for seeing that the proper claims are placed with the Lessee's insurance company, or the damaging party's insurance company, and shall furthermore be responsible for seeing that the building is safeguarded with respect to said damage and that all proper notices with respect to said damage, are made in a timely fashion, including notice to the Lessor, and the party or parties causing said damage. Any damage that is not covered by an insurance company will be the liability of the Lessee. Lessee agrees that Lessor is not responsible for any liability arising at the Premises during the terms of this lease.

The Lessee shall, during the term of this Lease, at its sole expense, keep the interior of the Premises in as good a condition and repair as it is at the date of this Lease, reasonable wear and use excepted. This obligation would include the obligation to replace any plate glass damaged as a result of the neglect or acts of Lessee or her guests or invitees. Furthermore, the Lessee shall not knowingly commit nor permit to be committed any act or thing contrary to the rules and regulations prescribed from time to time by any federal, state or local authorities and shall expressly not be allowed to keep or maintain any hazardous waste materials or contaminates on the Premises. Lessee shall also be responsible for the cost, if any, which would be incurred to bring the contemplated operation and business activity into compliance with any law or regulation of a federal, state or local authority.

11. **INSURANCE:** In the event the Lessee shall fail to obtain insurance coverage required hereunder and fails to maintain the same in force continuously during the term, Lessor may, but shall not be required to, obtain the same and charge the Lessee for same as additional rent. Furthermore, Lessee agrees not to keep upon the Premises any articles or goods which may be prohibited by the standard form of fire insurance policy, and in the

event the insurance rates applicable to fire and extended coverage covering the Premises shall be increased by reason of any use of the Premises made by Lessee, then Lessee shall pay to Lessor, upon demand, such increase in insurance premium as shall be caused by said use or Lessee's proportionate share of any such increase.

12. SUBLET/ASSIGNMENT: The Lessee may not transfer or assign this Lease, or any right or interest hereunder or sublet said leased Premises or any part thereof without first obtaining the prior written consent and approval of the Lessor.

13. DAMAGE TO LEASED PREMISES: In the event the building on the Premises shall be destroyed or damaged as a result of any fire or other casualty which is not the result of the intentional acts or neglect of Lessee and which precludes or adversely affects the Lessee's occupancy of the Premises, then in every such cause, the rent herein set forth shall be abated or adjusted according to the extent to which the leased Premises have been rendered unfit for use and occupation by the Lessee. It is understood, in the event of total or substantial destruction to the Premises that in no event shall Lessor have the obligation to restore, replace or engage in the reconstruction with respect to said damage.

14. ENFORCEMENT:

In the event any legal action has to be instituted to enforce any terms or provisions under this Lease, then the prevailing party in said action shall be entitled to recover a reasonable attorney's fee in addition to all costs of said action.

15. INDEMNIFICATION: The Lessee hereby covenants and agrees to indemnify, defend and hold the Lessor harmless from any and all claims or liabilities which may arise from any cause whatsoever as a result of Lessee's use and occupancy of the Premises, and further shall indemnify the Lessor for any losses which the Lessor may suffer in connection with the Lessee's use and occupancy or care, custody and control of the Premises. Lessee is a governmental entity under the Utah Governmental Immunity Act of the Utah Code, Section 63G-7-101 et seq. 1953 (as amended) (hereinafter the "Act"). Nothing in this Agreement shall be construed to be a waiver by Lessee of any of the protections, rights, or defenses applicable under the Act.

16. MISCELLANEOUS TERMS:

- I. Usage by Lessee: Lessee shall comply with all rules, regulations and laws of any governmental authority with respect to use and occupancy. Lessee shall not conduct or permit to be conducted upon the Premises any business or permit any act which is contrary to or in violation of any law, rules or regulations and requirements that may be imposed by any authority or any insurance company with which the Premises is insured, nor will the Lessee allow the Premises to be used in any way which will invalidate or be in conflict with any insurance policies applicable to the building. In no event shall explosives or extra hazardous materials be taken onto or retained on the Premises. Furthermore, Lessee shall not install or use any equipment that will cause undue interference with the peaceable and quiet enjoyment of the Premises by other tenants of the building.

- II. **Signs:** Lessee shall not place on any exterior door, wall or window of the Premises any sign or advertising in a manner not consistent with the library services previously provided by the Lessee at this location without Lessor's prior written consent. Thereafter, Lessee agrees to maintain such sign or advertising matter as first approved by Lessor in good condition and repair. Furthermore, Lessee shall conform to any uniform reasonable sign plan or policy that the Lessor may introduce with respect to the building.
 - III. **Pets:** Unless otherwise stated in this Lease Agreement, the only pets that shall be allowed on the Premises are those needed legally allowed by accessibility standards.
 - IV. **Condition of Premises/Inspection by Lessee:** The Lessee has had the opportunity to inspect the Premises and acknowledges with its signature on this lease that the Premises are in good condition and comply in all respects with the requirements of this Lease. Furthermore, the Lessor makes no representation or warranty with respect to the condition of the Premises or its fitness or availability for any particular use, and the Lessor shall not be liable for any latent or patent defect therein. Furthermore, the Lessee represents that Lessee has inspected the Premises and is leasing and will take possession of the Premises with all current fixtures present in their "as is" condition as of the date hereof.
17. **ESTOPPEL CERTIFICATE:** Lessee at any time and from time to time, upon at least ten (10) days prior notice by Lessor, shall execute, acknowledge and deliver to Lessor, and/or to any other person, firm or corporation specified by Lessor, a statement certifying that the Lease is unmodified and in full force and effect, or if the Lease has been modified, then that the same is in full force and effect except as modified and stating the modifications, stating the dates to which the fixed rent and additional rent have been paid, and stating whether or not there exists any default by Lessor under this Lease and, if so, specifying each such default.
18. **HOLDOVER:** Should Lessee remain in possession of the Premises after the cancellation, expiration or sooner termination of the Lease, or any renewal thereof, without the execution of a new Lease or addendum, such holding over in the absence of a written agreement to the contrary shall be deemed, if Lessor so elects, to have created and be construed to be a tenancy from month to month, at a rate of one-dollar (\$1.00) per month, terminable upon thirty (30) days' notice by either party.
19. **WAIVER:** Waiver by Lessor of a default under this Lease shall not constitute a waiver of a subsequent default of any nature.
20. **GOVERNING LAW:** This Lease shall be governed by the laws of the State of Utah.
21. **NOTICES:** Payments and notices shall be addressed to the following:

Lessor

To CDRA: Clearfield CDRA

Attn: City Manager / CDRA Executive Director
55 South State Street
Clearfield, UT 84015

with copies to: Clearfield City
Attn: City Recorder
55 South State Street
Clearfield, UT 84015

Lessee

To County: Davis County Library
61 South Main, PO Box 618
Farmington, Utah 84025
Attn: Chris Safford

with copies to: Davis County Facilities Management
Attn: Mack McDonald
28 East State Street, PO Box 618
Farmington, Utah 84025

22. **AMENDMENT:** No amendment of this Lease shall be effective unless reduced to writing and subscribed by the parties with all the formality of the original.

23. **BINDING EFFECT:** This Lease and any amendments thereto shall be binding upon the Lessor and the Lessees and/or their respective successors, heirs, assigns, executors and administrators.



IN WITNESS WHEREOF, the parties hereto execute the Library Lease Agreement this 11th day of December, 2018.

Lessee's Signature

Kandy B. Elliott

Printed Name

Kandy B. Elliott

Lessor's Signature

Kent Bush
Attest: Nancy B. Dean
City Recorder

Printed Name

Kent Bush

ATTEST

Curtis Koch
Curtis Koch
Davis County Clerk/Auditor

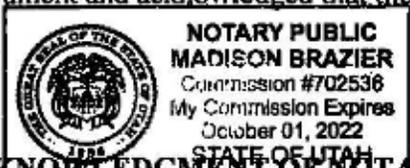


ACKNOWLEDGMENT OF NOTARY PUBLIC

STATE OF UTAH

Davis County, ss.

On this 14 day of December, 2018, before me appeared Kent Bush, as LESSOR of this Library Lease Agreement who proved to me through government issued photo identification to be the above-named person, in my presence executed foregoing instrument and acknowledged that they executed the same as their free act and deed.



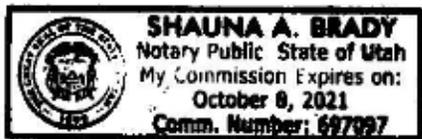
Madison Brazier
Notary Public
My commission expires: 10/1/22

ACKNOWLEDGMENT OF NOTARY PUBLIC

STATE OF UTAH

Davis County, ss.

On this 15th day of December, 2018, before me appeared Randy B. Elliott, as LESSEE of this Commercial Lease Agreement who proved to me through government issued photo identification to be the above-named person, in my presence executed foregoing instrument and acknowledged that they executed the same as their free act and deed.



Shauna A. Brady
Notary Public
My commission expires: Oct 8 2021

Exhibit "A"

LEGAL DESCRIPTION:

BEG AT APT N ALG TH SEC LN 532 FT FR SE COR OF SEC 1, T4N-R2W; SLM: TH S 89°50' W 229.5 FT; TH W'LY 59.9 FT ALG THE ARC OF A 424.29 FT RAD CUR TO THE LEFT; TH S 81°44'40" W 11.21 FT; TH W'LY 29.9 FT ALG THE ARC OF A 421.53 FT RAD CUR TO THE RIGHT; TH N 9.28 FT PARALLELING E SEC LN OF SEC 1; TH S 89°53'10" W 27 FT ALG N LN OF CHURCH PPTY; TH N 353.37 FT TO S LN OF A 50 FT ROAD; TH ALG ARC OF A 524.24 FT RAD CUR TO RIGHT 234.80 FT, SD CUR HAS A CENTRAL ANGLE OF 25°39'45" & A LONG CHORD BEARS S 87°14'52" E 232.85 FT; TH S 74°25' E 54.61 FT; TH S 27°58' E 82.78 FT; TH E 33 FT TO SEC LN; TH S ALG SEC LN 253.72 FT TO POB. CONT 2.768 AC. LESS TO 600 SOUTH STR TOTAL 2.279 ACRES