

2021 COMMERCIAL LEASE AGREEMENT FOR LINDEN LIBRARY

This Lease ("Agreement") is made and entered into on _____ by and between the City of Stockton, a municipal corporation organized and existing under the laws of the State of California on behalf of the Stockton-San Joaquin County Public Library System (Lessee) and Magnasco Investments, a California General Partnership ("Lessor") for the purpose and use as a library facility. The Lessor and Lessee may be referred to collectively as "Parties" or in the singular as "Party" as the context requires.

ARTICLE 1: PREMISES

Lessor is the owner of land and improvements of the commercial property know and numbered as 19059 E. Main Street (Highway 26) in Linden, San Joaquin County, California ("Premises"). Lessee shall use the Premises for operating a public library.

ARTICLE 2: TERM, TERMINATION, AND DEFAULT

2.1 Initial Term. Parties agree the Lessor will lease the Premises to the Lessee for an Initial Term of three (3) years beginning on the date attested above and ending on August 31, 2023, unless terminated in accordance with Section 2.4 or a mutual option is exercised in accordance with Section 2.2.

2.2 Mutual Option for Renewal Term. If Lessee elects, and Lessor agrees, this Lease will extend for a Renewal Term of three (3) years, beginning on September 1, 2023, and terminating on August 31, 2026, provided that:

- 2.2.1 No material default or breach of this Lease has occurred and continues uncured for more than fifteen (15) days after written notice of default or breach, and
- 2.2.2 Lessee provides a written notice of Lessee's request to exercise the renewal option on or before May 1, 2023, and
- 2.2.3 The Renewal Term is subject to the same terms and conditions as are contained in this Lease, except that the monthly lease payment for the Renewal Term shall be specified in Article 3 Lease Payments below, and

2.3 Holdover. If at the expiration of the Term, including the Renewal Term, Lessee continues to use the Premises and follow the terms of this Lease with the consent of the Lessor, the Lease shall continue on a month-to-month basis, subject to all terms and conditions of the Lease. During the month-to-month operation, the Lease shall be terminable by either Party upon thirty (30) days' written notice.

2.4 Termination of Lease. This Lease can be terminated in accordance with the following provisions:

2.4.1 Breach. This Agreement may be terminated for breach according to Article 6.07.

2.4.2 Mutual renewal is not executed. If a mutual option for renewal is not executed, the Lease shall terminate without further obligation by either Party on the last day of the term or another date as mutually agreed upon in writing.

2.4.3 Holdover. The Agreement may be terminated in the holdover term according to Article 2.3.

2.4.4 Mutual Agreement. Upon mutual agreement by the parties, and sixty (60) day written notice.

2.4.5 Damage and Destruction. If the Premises become unusable for the intended purpose because of dilapidation, condemnation, fire, or other casualties, Lessee shall have the right to terminate the Lease thirty (30) days from the date of damage.

2.4.6 Surrender. Upon expiration or other termination of this Lease, Lessee shall surrender Premises in good order as reasonable use, and everyday wear are accepted.

ARTICLE 3: LEASE PAYMENTS

3.1 Initial Term Lease Payments. For the Initial Term, Lessee will pay Lessor a monthly amount in advance, on the first day of each calendar month, and no later than the tenth day of each month according to the following payment schedule in accordance with Section 3.3, Section 3.4, and Section 3.5.

| | | |
|---------|------------|--|
| Year 1: | \$2,400.00 | from above listed attest date to August 31, 2021 |
| Year 2: | \$2,562.00 | September 1, 2021 to August 31, 2022 |
| Year 3: | \$2,562.00 | September 1, 2022 to August 31, 2023 |

3.2 Renewal Term Lease Payments. For the Renewal Term, the payment schedule is listed below. Lessee will pay Lessor the identified monthly amount in advance, on the first day of each calendar month, and no later than the tenth day of each month according to the following payment schedule and in accordance with Section 3.3 and Section 3.4 below.

| | | |
|--------|------------|--|
| Year 4 | \$2,735.00 | September 1, 2023 to August 31, 2024 |
| Year 5 | \$2,735.00 | September 1, 2024 to August 31, 2025 |
| Year 6 | \$2,735.00 | September 1, 2025 to August 31, 2026 and during a holdover term. |

3.3 Delivery of Lease Payment. Each monthly payment will be delivered to Lessor's Agent, Boysen Realty, located at 10933 E. Main Street (Highway 26), Linden, California 95236, or delivered to other such places designated via written notice by Lessor.

3.4 Delayed Lease Payment. Any payment received after the tenth of any month will be considered late and subject to a late payment penalty of \$110.00 for each calendar month until cured.

3.5 Security Deposit. Under a prior Lease, Lessee made a security deposit, and Lessor continues to hold the \$2,300 security deposit. The security deposit will be held by Lessor without interest as security for performance of Lessee's obligations under this Lease, including without limitation, surrender possession of Premises to Lessor as herein provided. If Lessor applies any part of the deposit to cure any default of Lessee, Lessee shall, on demand, deposit with Lessor the amount so applied so that the Lessor shall have the full deposit on hand at all times during the term of this Lease.

3.6 Damage or Destruction. If required, Lessee shall be relieved from the payment of rent and other charges for any portion of time the Premises are unfit for use or occupancy.

ARTICLE 4: LEASE AGREEMENT AND RESPONSIBILITIES

The following expenses are the responsibility of the identified parties below:

4.1 Lessee Responsibilities. The Lessee shall have sole responsibility for providing and paying for the following services, and those services shall be in the name of the Lessee:

4.1.1 Interior Pest Control

4.1.2 Internet service, internet equipment, and internal network and external wiring if needed for connection.

4.1.3 Computers and related Information Technology services

4.1.4 Daily janitorial services, daily maintenance, and cleaning supplies to keep Premises in clean and sanitary order and condition.

4.1.5 Operational supplies

4.1.6 Garbage service

4.1.7 Security, security monitoring equipment.

4.1.8 Telephone equipment and monthly telephone service

4.1.9 Maintenance and repair according to 5.4.

4.2 Lessor Responsibilities. The Lessor shall have the sole responsibility for providing and paying for the following services and equipment, and service contracts shall be in the name of the Lessor:

4.2.1 Telephone and communication equipment from utility distribution poles, conduits, right of way, and utility lines to the inside telephone panel.

4.2.2 Exterior pest control.

4.2.3 Foundation, exterior walls of the building, and load-bearing walls.

4.2.5 Maintenance and repair according to Article 5.3.

4.2.6 Fire monitoring system, annual fire system inspection, and permit costs as required.

4.2.7 Building systems providing services and utilities, including electrical and gas connections, HVAC, wiring, plumbing, conduits, utility lines, and pipes.

4.2.8 Adequate hot and cold water, sewer service, wastewater, stormwater drainage permit activities in the standard and customary manner.

4.2.9 Maintenance and repair of the parking lot. One dedicated space directly behind the Library building exit door with additional shared parking for patrons and part-time staff.

4.2.10 Landscaping, hardscape, planting, and irrigation.

4.2.11 Interior and exterior lighting, fixtures, and wiring.

4.2.12 Structural soundness of roof (both structure and membrane).

4.2.13 Installation of Keys according to Article 5.2.

4.2.14 Exterior lighting, fixtures (power, electric charges, installation, and repairs),

ARTICLE 5: FACILITY REPAIRS AND IMPROVEMENTS

5.1 Emergency Contacts. Parties will provide emergency phone numbers of key staff for issues at Premises. Parties will have the ability to communicate twenty-four hours a day when emergency maintenance or conditions occur. For non-urgent issues, Lessee will communicate with Lessor's Agent during regular business hours.

5.2 Right of Entry, Keys, and Security Codes. Lessee will have the right to access the building at all times during the Lease. Installation of locks and keys will be the Lessor's responsibility except for two exterior doors (located along the sidewalk and rear gate area), which are the Lessee's responsibility. Lessee will provide a list of keyholders and phone numbers of persons eligible for security codes and keys to the Lessor Agent. Upon termination of the Agreement, Lessee shall surrender all sets of keys to the Premises.

5.3 Repairs by Lessor. By taking possession of the Premises, Lessee shall be deemed to have accepted the Premises as being in acceptable sanitary order, condition, and repair. Lessor will be responsible for maintaining and repairing the Premises fixed structures, including but not limited to, HVAC system (heating cooling, ventilation), water for reasonable and everyday drinking, lavatory, plumbing including fixtures, water, wastewater, stormwater connections, electrical equipment and lines, windows, doors, built-ins, fencing, gates, electrical and mechanical systems, walkways, irrigation, graffiti removal, and vandalism repair. Lessor shall address health and safety repairs within 48 hours.

5.4 Repairs and Maintenance of Tenant Improvements. Lessee will request in writing or via email permission to make minor repairs, alterations, changes, or improvements. Lessor will not be responsible for any tenant improvements, repairs, alterations, or changes to tenant improvements within the Premises during the Lease Term. Within ten (10) days of receipt of the request, Lessor will notify Lessee if there are objections to the request. Without objections, Lessee will move forward with the repair.

5.5 Furniture, Fixtures, and Equipment. Lessee has supplied and furnished the Premises with the following tenant improvements: shelves, cabinets, countertops, display cases, display racks, office equipment, computer equipment, signage, and other furniture, fixtures, equipment, appliances, and materials for the operation of a public library that Lessee in its discretion elects to purchase for the Premises. Said items shall remain the

property of Lessee, and Lessee shall immediately remove such personal property at the expiration or termination of this Lease.

5.6 Lessee Contribution to Repairs and Maintenance.

5.6.1 Lessee is and will remain responsible for daily maintenance and janitorial costs except for items identified in Section 5.3.

5.6.2 Lessee shall, from time to time, make expenditures for daily repairs and maintenance for tenant improvements or general repairs in accordance with good library standards, for the first \$1,000 in repairs and maintenance for each year, from September 1 through August 31.

5.6.3 Lessee expenditures shall not be for any invoice above \$200 or any repair(s) to structural and building systems that cannot be resolved for the "not to exceed" amount of \$1,000 from September 1 to August 31 of any Lease term year.

ARTICLE 6: GENERAL AND SPECIAL TERMS AND CONDITIONS

6.1 Waiver. In the event either Lessor or Lessee at any time waive any breach of this Lease, by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Lease, whether of the same or of any other covenant, condition, or obligation.

6.2 Insurance Requirements. During the term of this Lease, Parties shall maintain in full force and effect at each Party's own cost and expense the insurance coverage appropriate to this Lease. City will provide a copy of self-insurance letter upon attest of Lease.

6.3 Notices. The mailing address for Parties for all required notices is as follows:

Lessor:

Magnasco Investments
3200 Synder
Stockton, CA 95215

Lessor Agent:

Peter Boysen Realty
10933 E. Main Street (Highway 26)
Linden, CA 95236
(209) 887-3391

Lessee:

Stockton- San Joaquin County Public Library System
City of Stockton
605 N. El Dorado Street
Stockton, CA 95202
(209) 937-8206

6.4 Heading Not Controlling. Headings used in this Lease are for reference purposes only and shall not be considered in construing this Lease.

6.5 Severability. If any portion of this Lease thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal, state, or city statute, ordinance, or regulation, the remaining provisions of the Lease shall remain in full force and effect to the extent that the provisions of the Lease are severable.

6.6 No Personal Liability. No official or employee of the City of Stockton and the Stockton San Joaquin County Public Library System shall be personally liable to Lessor in the event of any default or breach by the City or for any amount due to the Lessor.

6.7 Applicable Law, Resolutions of Disputes, Forum, and Attorney Fees. California law shall govern any legal action pursuant to this Lease with venue for all claims in the Superior Court of the County of San Joaquin, Stockton Branch, or where applicable, in the Federal District Court of California, Eastern District, Sacramento Division. The prevailing Party in any action brought to enforce or construe the terms of this Lease may recover from the other Party its reasonable costs and attorney's fees expended in connection with such action.

6.8 Force Majeure. Neither Party shall be responsible for delays or failures in performance resulting from acts of God, acts of civil or military authority, terrorism, fire, flood, strikes, war, epidemics, pandemics, shortage of power, or other acts or causes reasonably beyond the control of that Party. The Party experiencing the force majeure event agrees to give the other party notice promptly following the occurrence of a force majeure event and diligent efforts to re-commence performance as promptly as commercially practicable.

6.9 Assignment. Parties shall not assign, sublet, or transfer this Lease without the other Party's prior written consent, which shall not be unreasonably withheld, and then only upon such terms and conditions as Parties may set forth in writing.

6.10 Lessor Agent. Lessor assigned the obligations of Lease to an agent, Peter Boysen Realty, and that relationship exists during the term of this Lease. The agent's contact information is identified in Section 6.3: Notices. If this assignment changes, Lessor will immediately notify Lessee of the change of Agent.

6.11 Possessory Interest and Real Estate Taxes. Lessor shall pay, prior to delinquency, all general real estate taxes and installments of special assessments coming due during the Lease Term on the Premises, and all personal property taxes with respect to Lessor's personal property, if any, on the Premises. Lessee will be responsible for paying all personal property taxes concerning Lessee's personal property, if any, on Premises. If the State of California or County of San Joaquin changes the manner in which property taxes are assessed, Lessor and Lessee shall meet and confer to review evidence of increase to Lessee and discuss and mutually agree upon the proportional share of the property tax increase resulting from new Legislation.

6.12 Entire Agreement, Integration, and Modification. This Lease represents the entire integrated Agreement between Lessor and the Lessee; supersedes all prior negotiations, representations, agreements, previous leases, either written or oral, between the parties and may be amended only by a written Amendment signed by the Lessor and Lessee.

6.13 Authority and Execution. The undersigned hereby represent and warrant that they are authorized by the parties to execute this Lease. This Lease may be executed in counterparts, by fax, pdf, email, electronic copy, or digital signature, each of which shall be deemed to be an original, and such counterparts constitute one and the same Instrument.

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

ATTEST:

CITY OF STOCKTON

ELIZA R. GARZA, CMC
CITY CLERK OF THE
CITY OF STOCKTON

BY: _____
HARRY BLACK
CITY MANAGER

APPROVED AS TO FORM
JOHN M. LUEBBERKE
CITY ATTORNEY

MAGNASCO INVESTMENTS

BY: _____
TARYN JONES
DEPUTY CITY ATTORNEY

BY: _____