

MASTER LEASE AGREEMENT

This Master Lease Agreement (this “Lease”), dated as of _____, 2024, is entered into by and between FORMER FEDERAL BUILDING LANDLORD, LLC, a Montana limited liability company (“Landlord”), and the CITY OF BILLINGS, MONTANA (“Tenant”).

WHEREAS, the Tenant is the owner of real property legally described on Exhibit A hereto (the “Land”) and the improvements located thereon and having an address of 316 North 26th Street, Billings, Montana (collectively, the “Premises”); and

WHEREAS, the Tenant has leased the Land to First Interstate Bank (the “Bank”) pursuant to that certain Ground Lease dated as of the date hereof by and between the Tenant, as lessor, and the Bank, as lessee (the “Ground Lease”); and

WHEREAS, pursuant to that certain Lease Purchase Agreement, dated on or about the date hereof, by and between the Bank, as lessor, and the Tenant, as lessee (the “Lease Purchase Agreement”), the Tenant has subleased the Premises from the Bank; and

WHEREAS, the Tenant and the Landlord are parties to that certain Ground Sublease Agreement, dated as of the date hereof (the “Ground Sublease”), pursuant to which the Tenant has subleased the Premises to the Landlord for a period of 75 years; and

WHEREAS, the Tenant and Landlord now intend to provide for the lease of the Premises from the Landlord to the Tenant subject to and in accordance with the terms and conditions of this Lease.

1. Premises. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises, including all common access ways, stairways, elevators, lobbies, lavatories, sidewalks, parking areas and hallways (“Common Areas”).

2. Term. The term of this Lease commences on _____, 2024 (the “Commencement Date”) and shall continue for a period of nineteen and one-half years thereafter, unless terminated sooner as provided in this Lease (the “Term”).

3. Rent. Tenant agrees to pay Landlord “Rent” on the dates and in the amounts set forth on Exhibit B hereto, as such Exhibit B may be modified from time to time by written agreement of the parties hereto. Except as set forth to the contrary in this Lease, Tenant will pay Rent to Landlord at the address set forth in Section 29, or such other place in the United States as Landlord may designate, in advance on the first day of each month during the Term, without demand, deduction or setoff except as expressly permitted by this Lease. Rent will begin on the Commencement Date. Rent for partial months during the Term will be prorated based upon the number of days in such months.

4. Triple Net Lease. This Lease is a triple net lease requiring payment by Tenant of all operating expenses including without limitation all taxes (as provided in Section 6), utilities, costs applicable to the Premises under any restrictive covenants, costs of improvements (as permitted herein), maintenance, repairs, alterations, additions, replacements, and insurance relating to the Premises shall be at the sole cost and expense of Tenant. Tenant acknowledges and agrees that Landlord shall not have any obligation to make any improvements, repairs, alterations, additions, or replacements whatsoever to the Premises.

5. Utilities. Tenant shall pay the providers of metered utilities directly.

6. Taxes.

(a) Tenant shall pay on or before the last day on which payment may be made without penalty or interest, all taxes, assessments, or other governmental charges that shall or may be imposed during the Term of this Lease upon, or arise in connection with the use of, the Premises by Tenant. Notwithstanding the foregoing, Landlord may elect to pay all such taxes, charges, or other assessments and obtain reimbursement from Tenant within 30 days after written verification of all such taxes, charges, or assessments paid by Landlord. The foregoing shall not require payment by Tenant of any income taxes assessed against Landlord or of any capital levy, franchise, estate, succession, inheritance or transfer tax due from Landlord.

(b) Tenant shall pay to the proper taxing authority, on or before their due date, all real property taxes payable with respect to the Premises for the Term of this Lease. All real property taxes with respect to tax periods in which the Commencement Date or termination date of the Term of this Lease fall will be prorated between Landlord and Tenant in their appropriate shares, calculated based on the lease term and the pre-lease and post-lease time periods associated with such tax periods. Notwithstanding the foregoing, Landlord may elect to pay such real property taxes and obtain reimbursement from Tenant within 30 days after written verification of such taxes paid by Landlord.

(c) Notwithstanding the foregoing, taxes shall not include any income, capital levy, capital gains, transfer, recordation, mortgage, franchise, capital stock, gift, estate or inheritance tax; taxes or assessments on the personal property of Landlord or any subtenants; or any penalty, interest, delinquency, charge or other addition to the amount of the actual tax or assessment.

7. Possession. If Tenant pays the Rent and other charges and performs Tenant's obligations under this Lease, Landlord promises that Tenant may peaceably and quietly possess and enjoy the Premises under this Lease and make reasonable use of the Common Areas.

8. Use.

8.1 Use of Premises. Tenant shall use the Premises for governmental purposes and any other lawful uses.

8.2 Tenant Care of Premises. Tenant will keep the Premises in good order and condition. Tenant shall, at all times during the Term of the Lease, and at its own cost and expense,

repair, replace, and maintain in a good and safe condition the Premises and Common Areas, including all improvements and additions thereto, and shall use all reasonable precautions to prevent the waste, damage or injury to the Premises and Common Areas. In addition, Tenant shall be responsible (at its own cost and expense) for the care and maintenance of all grounds, parking and landscaping at the Premises, including regular lawn mowing and trimming, and for all snow removal from sidewalks and parking lots.

9. Regulated Substances and Environmental Laws. Except as provided below, Landlord shall clean up and mitigate the effect of any Regulated Substances or violations of Environmental Laws, other than those caused by Tenant. Tenant hereby agrees to indemnify, defend and hold Landlord harmless from any and all loss, cost, liability or expense, including, without limitation, reasonable attorneys' fees, resulting from the clean up or mitigation of Regulated Substances released by Tenant or the violation of Environmental Laws by Tenant. "Regulated Substances" means any substance for which its use, manufacture, storage, transport, treatment, release or disposal is regulated by an Environmental Law; asbestos containing materials; PCB's; petroleum products; and all other toxic, dangerous or hazardous chemicals, materials, substances, pollutants or wastes which pose a hazard to the health and safety of the occupants of the Premises as the same may be defined under the Environmental Laws. "Environmental Laws" means any and all federal, state or local statutes, ordinances, rules, regulations, standards, policies, or other requirements relating to pollution or protection of human health and safety and the environment, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, as amended by SARA, the Resource Conservation and Recovery Act, the Toxic Substances Control Act, the Clean Air Act, and the Clean Water Act and any similar law of the state, county or city in which the Premises are located.

10. Requirements of Law. Tenant is responsible for compliance with Legal Requirements which are applicable to all or any part of the Premises. Tenant hereby agrees, to the extent permitted by law, to indemnify, defend and hold Landlord harmless from any and all loss, cost, liability or expense, including, without limitation, reasonable attorneys' fees, resulting from Tenant's failure to comply with all Legal Requirements. "Legal Requirements" means all laws, ordinances, orders, rules and regulations, whether local, state, federal or promulgated by other agencies or bodies applicable to the Premises, including, without limitation, all building codes and regulations, indoor air quality requirements and Title Three of the Americans with Disabilities Act (but excluding Environmental Laws which are governed by Section 9).

11. Alterations. Tenant shall be permitted to perform any alterations, additions or improvements to the Premises provided that such alterations, additions or improvements shall be performed in a satisfactory manner and shall not weaken or impair the structural strength, or materially lessen the value of, the Premises; provided that Tenant shall not undertake any rehabilitation, repairs or other work on the Premises inconsistent with the Secretary's Standards; or construct any new or replacement capital improvements on the Premises which substantially alter the Premises or its use, except (A) replacements and remodeling in the ordinary course of business or under emergency conditions, or (B) reconstruction paid for from insurance proceeds. Tenant will, within 60 days after filing of a lien, pay and discharge any mechanic's, materialmen's or other lien against the Premises resulting from Tenant's failure to make payment for any improvements in the Premises made by Tenant or at its direction. Tenant will immediately notify Landlord of any claim of lien or other action of which it has knowledge which relates to any

improvements in the Premises made by Tenant or at its direction. As used herein, “Secretary’s Standards” means the standards for rehabilitation set forth in Title 36 of the Code of Federal Regulations, Part 67.7, or any successor provisions, as amended from time to time. The parties agree that the rehabilitation and improvement project being undertaken at the Premises pursuant to the plans and specifications provided to the Landlord as of the date hereof does not violate this Section 11.

12. Entry by Landlord. Landlord and its agents have the right to enter the Premises at any reasonable time upon 48 hours prior written notice during the Term for inspecting the Premises. Landlord shall use reasonable efforts to minimize interference with Tenant’s use of the Premises.

13. Subordination. This Lease will be subject and subordinate to the Ground Sublease and, at the request of any ground lessor, this Lease will be subject and subordinate to any mortgage or other ground lease that may hereafter encumber the premises. Upon request, the Tenant will execute, acknowledge and deliver to Landlord a commercially reasonable subordination, attornment and non-disturbance agreement evidencing such subordination and Tenant’s agreement to attorn to such mortgagee or ground lessor if such mortgagee or ground lessor acquires title to the Premises; provided, however, that this Lease remains unmodified and that the mortgagee or ground lessor agrees in such subordination, attornment and non-disturbance agreement that Tenant’s peaceable and quiet possession of the Premises under this Lease will not be disturbed so long as Tenant is not in default under this Lease. In no event will Tenant’s possession of the Premises be disturbed as long as Tenant is not in default beyond applicable cure periods under this Lease.

14. Estoppel Certificates. Each of the parties to this Lease shall, without charge, at any time and from time to time, within twenty (20) days after written request by the other party, deliver a written instrument to such party or to any other person specified by such party, duly executed and acknowledged, certifying that this Lease is unmodified and in full force and effect or, if there has been any modification, that the said Lease is in full force and effect as modified, stating any and all such modifications, and specifying the dates to which the rental and other charges provided for herein have been paid.

15. Assumption of Risks. Tenant assumes all risk of loss or damage of Tenant’s property within the Premises, including any loss or damage caused by water leakage, fire, windstorm, explosion, theft, act of any other tenant, or other cause. Landlord will not be liable to Tenant, or those claiming through Tenant, for property damage occurring in the Premises. Landlord assumes all risk of loss or damage of Landlord’s property, including any loss or damage caused by water leakage, fire, windstorm, explosion, theft, act of Tenant, or other cause. Tenant will not be liable to Landlord, or those claiming through Landlord, for property damage occurring in the Premises. Notwithstanding the above, if, as a result of any interruption of services, the Premises will be uninhabitable or unusable by Tenant for five consecutive business days, then Rent shall be abated to the extent to which such condition interferes with Tenant’s use of the Premises commencing on the first day of such condition and continuing until such condition is corrected.

16. AS-IS. THE PREMISES IS BEING LEASED “AS IS, WHERE IS AND WITH ALL FAULTS AND DEFECTS” AND TENANT ACKNOWLEDGES, AGREES AND ACCEPTS

THE PREMISES IN SUCH CONDITION INCLUDING BUT NOT LIMITED TO ALL DEFECTS, IF ANY, IN AND TO THE PREMISES. LANDLORD MAKES AND HAS MADE NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE PREMISES, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF HABITABILITY, FITNESS OR SUITABILITY OF THE PREMISES FOR A PARTICULAR USE OR PURPOSE). TENANT ACKNOWLEDGES AND AGREES THAT TENANT HAS BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PREMISES AND TO HAVE QUALIFIED EXPERTS INSPECT THE PREMISES PRIOR TO ITS EXECUTION OF THIS LEASE AND UNDERSTANDS AND AGREES TO ACCEPT THE PREMISES IN ITS AS-IS CONDITION WITH ALL FAULTS.

17. Indemnification. Notwithstanding any provision of this Lease, but subject to Section 20, Tenant will, to the extent permitted by law, indemnify Landlord against all claims, demands and actions, and all related costs and expenses (including reasonable attorneys' fees) for injury, death, disability or illness of any person occurring in the Premises to the extent caused by (a) Tenant's negligence, (b) Tenant's breach of this Lease, or (c) Tenant's violation of Legal Requirements.. Notwithstanding any provision of this Lease, but subject to Section 20, Landlord will indemnify Tenant against all claims, demands and actions, and all related costs and expenses (including reasonable attorneys' fees) for injury, death, disability or illness of any person to the extent caused by (a) Landlord's negligence, (b) Landlord's breach of this Lease, or (c) Landlord's violation of Legal Requirements.

18. Tenant Insurance. Tenant shall keep the Premises and all buildings, improvements, and personal property on the Premises, insured against loss or damage by fire or other casualty in an amount and in forms of insurance policies customary in the industry in which Tenant operates. Tenant shall also maintain comprehensive general liability insurance covering injury, death, disability or illness of any person, or damage to property, occurring on the Premises, in an amount and in forms of insurance policies customary in the industry in which Tenant operates.

19. Release of Landlord. IF THE PREMISES, OR ANY PART THEREOF, IS DAMAGED BY FIRE OR OTHER CAUSE AGAINST WHICH TENANT IS REQUIRED TO CARRY INSURANCE PURSUANT TO THIS LEASE, LANDLORD SHALL NOT BE LIABLE TO TENANT FOR ANY LOSS, COST OR EXPENSE ARISING OUT OF OR IN CONNECTION WITH SUCH DAMAGE INCLUDING (WITHOUT LIMITATION) ANY RIGHT TO RECOVER ANY DEDUCTIBLE. TENANT HEREBY RELEASES LANDLORD FROM ANY LIABILITY, CLAIM OR ACTION ARISING OUT OF OR IN CONNECTION WITH SUCH DAMAGE AND WAIVES AND RELEASES ANY RIGHT OF SUBROGATION THAT ANY INSURER OF TENANT WOULD, BUT FOR THIS WAIVER, HAVE AGAINST LANDLORD PARTIES, INCLUDING (WITHOUT LIMITATION) ANY CLAIM FOR ANY DEDUCTIBLE.

20. Waiver of Insurable Claims. Notwithstanding anything to the contrary set forth hereinabove, Landlord and Tenant do hereby waive any and all claims against one another for damage to or destruction of real or personal property to the extent such damage or destruction can be covered by commercially available "all risks" property insurance. The risk to be borne by each party shall also include the satisfaction of any deductible amounts required to be paid under the applicable "all risks" fire and casualty insurance carried by the party whose property is damaged,

and each party agrees that the other party shall not be responsible for satisfaction of such deductible. These waivers shall apply if the damage would have been covered by a customary “all risks” insurance policy, even if the party fails to obtain such coverage. The intent of this provision is that each party shall look solely to its insurance with respect to property damage or destruction which can be covered by commercially available “all risks” property insurance. Each such policy shall include a waiver of all rights of subrogation by the insurance carrier against the other party, its agents and employees with respect to property damage covered by the applicable “all risks” fire and casualty insurance policy.

21. Assignment and Subletting. Tenant shall be permitted to sublease all or a portion of the Premises to one or more third parties; provided that Tenant shall not enter into any sublease with any “tax-exempt entity” as that term is defined in Section 168(h) of the Internal Revenue Code of 1986, as amended, including the United States, any state or political subdivision thereof, or any agency or instrumentality of any of the foregoing; any organization exempt from federal income tax; or any foreign person or entity, if such sublease results in any portion of the Property being treated as “tax-exempt use property” as that term is defined in Section 168(h) of the Code (as modified by Section 47(c)(2)(B)(v) of the Code; the parties recognize that none of the Ground Lease, the Lease Purchase Agreement, the Ground Sublease and the County Lease violates this provision). Landlord acknowledges that the Premises is currently subject to that certain Lease for a Portion of the Third Floor of the Stillwater Building between Tenant, as lessor, and Yellowstone County, a political subdivision of the State of Montana, as lessee, dated January 23, 2018 (the “County Lease”). The parties acknowledge and agree that the County Lease shall be treated as a sublease for all intents and purposes under this Lease. Landlord acknowledges and agrees that it shall not disturb the County’s rights under the County Lease for any reason except for County’s failure to pay rent under the County Lease and that Landlord shall honor the County Lease in the event of any default and early termination of this Lease.

22. Damage, Destruction and Condemnation. If all or a substantial portion of the Premises is destroyed or damaged by fire or other casualty, or if title to or the use of all or a substantial portion of the Premises, or the interest of the Landlord or the Tenant in all or a substantial portion of the Premises shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, the Tenant shall apply all Net Proceeds as set forth in the Lease Purchase Agreement.

23. Defaults. An Event of Default (“Event of Default”) exists under this Lease if (a) Tenant fails to pay Rent or other amounts under this Lease within 10 business days after the date on which Tenant receives Landlord’s written notice that such payment is past due; or (b) Tenant fails to perform any other obligation under this Lease and Tenant fails to commence to cure such failure within sixty (60) days after written notice by Landlord to Tenant and to thereafter diligently pursue such cure. Landlord may, with or without terminating this Lease, cure the Event of Default and charge Tenant all costs of doing so. Landlord also may elect by written notice to Tenant, after an Event of Default, to terminate this Lease and to require Tenant to pay to Landlord all past due amounts under this Lease. No right or remedy will preclude any other right or remedy, no right or remedy will be exclusive of or dependent upon any other right or remedy, and any right or remedy may be exercised independently or in combination.

24. Effect of Nonappropriation. This Lease may be terminated by the Tenant by Nonappropriation. In the event of termination of this Lease by the Tenant by Nonappropriation, the Tenant shall surrender possession of the Premises to the Landlord. “Nonappropriation” means the determination of the governing body of the Tenant not to appropriate money for any fiscal year of the Tenant sufficient for the continued performance of the Lease-Purchase Agreement. Notwithstanding anything herein to the contrary, Nonappropriation shall not constitute an Event of Default under Section 23.

25. Landlord Default. For purposes hereof, a “Landlord Default” exists if Landlord fails to perform any of its obligations under this Lease within 30 days after receiving notice from Tenant specifying the nature and extent of such failure; provided, however, if the obligation is not reasonably curable within such 30 day period, the time for curing will be extended so long as Landlord continues to use reasonable efforts to effect a cure. If a Landlord Default has occurred, then, in addition to all rights, powers or remedies permitted by law or in equity, Tenant may cure such Landlord Default and charge the cost thereof to Landlord, or sue for specific performance or sue for damages. Landlord is liable for, and shall pay to Tenant within 30 days after receiving Tenant’s invoice, all reasonable attorneys’ fees and other costs incurred by Tenant as a result of a Landlord Default. If Landlord fails to pay within such 30-day period the amount due, Tenant has the right to offset such amounts against the next installments of Rent due hereunder.

26. Waiver of Lease Provisions. No waiver of any provision of this Lease will be deemed a waiver of any other provision, and waiver of a right or remedy in one instance will not preclude enforcement of that same right or remedy in the future.

27. Return of Possession to Landlord. On expiration or termination of this Lease, Tenant will return possession of the Premises to Landlord, without notice from Landlord, in good order and condition, except for ordinary wear. Tenant will give Landlord all keys for the Premises and will inform Landlord of combinations on any locks and safes on the Premises.

28. Notices. All notices and other communications given or made pursuant hereto will be in writing and will be deemed effectively given: (a) upon personal delivery to the party to be notified; (b) when sent by email, *provided* that a copy is also mailed by registered mail, return receipt requested; (c) five days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (d) one day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications will be sent to the respective parties at the addresses shown below (or to such other addresses and fax numbers as a party may designate by notice to the other parties):

	If to the Tenant:	City of Billings, Montana P.O. Box 1178 Billings, Montana 59103 Attention: City Finance Director
	If to the Landlord:	Former Federal Building Landlord, LLC P.O. Box 1178 Billings, Montana 59103 Attn: City Finance Director

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29. Broker's Commission. Landlord and Tenant represent and warrant to each other that they have dealt with no brokers, finders or the like in connection with this Lease and to the extent permitted by law agree to indemnify each other and to hold each other harmless against all claims, damages, costs or expenses of or for any other such fees or commissions resulting from their actions or agreements regarding the execution or performance of this Lease, and will pay all costs of defending any action or lawsuit brought to recover any such fees or commissions incurred by the other party, including reasonable attorney's fees.

30. Governing Law; Waiver of Jury Trial. THIS LEASE SHALL BE GOVERNED BY THE LAWS OF THE STATE OF MONTANA WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES. EACH OF THE UNDERSIGNED DOES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED ON OR WITH RESPECT TO THIS LEASE OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR RELATING OR INCIDENTAL HERETO.

31. Jurisdiction. Each of the parties submits to the exclusive jurisdiction of any state court sitting in or federal court with jurisdiction over Yellowstone County, Montana, in any action or proceeding arising out of or relating to this Lease, and agrees that all claims in respect of the action or proceeding may be heard and determined in any such court. Each party also agrees not to bring any action or proceeding arising out of or relating to this Lease in any other court. Each of the parties waives any defense of inconvenient forum to the maintenance of any action or proceeding so brought and waives any bond, surety or other security that might be required of any other party with respect to any such action or proceeding.

32. Amendment. This Lease may not be amended except by a written agreement executed by the party to be charged with the amendment.

33. Successors and Assigns. All provisions of this Lease will be binding on and for the benefit of the successors and assigns of Landlord and Tenant, except that no person or entity holding under or through Tenant in violation of any provision of this Lease will have any right or interest in this Lease or the Premises.

34. Holding Over. In the event Tenant remains in possession of the Premises after the expiration or termination of this Lease, it shall be deemed to be occupying said premises as a tenant from month-to-month, subject to all of the conditions, provisions and obligations of this Lease insofar as the same are applicable to a month-to-month tenancy until the termination of such tenancy. .

35. Limitation of Liability. Neither Landlord nor Tenant is liable to the other under, or in connection with, this Lease for any consequential damages, and both Landlord and Tenant waive, to the full extent permitted by law, any claim for consequential damages.

36. Counterparts. This Lease may be executed in one or more counterparts, each of which shall be an original, and all of which constitutes one and the same Lease.

IN WITNESS WHEREOF, the parties hereto have executed this Master Lease Agreement as of the date first written above.

LANDLORD:
FORMER FEDERAL BUILDING LANDLORD,
LLC,
a Montana limited liability company

By: FORMER FEDERAL BUILDING
MANAGER, LLC, its managing member

By: _____
Name: Andy Zoeller
Its: Manager

TENANT:

CITY OF BILLINGS, MONTANA

By: _____
Its: Mayor

By: _____
Its: City Administrator

EXHIBIT A

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12, Block 43, of the Original Town (now City) of Billings, in the City of Billings, Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document No. 16312.

EXHIBIT B

Schedule of Rental Payments