

RESOLUTION NO. 23-15

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
CASTLE PINES, COLORADO, APPROVING A FIRST AMENDMENT
TO LEASE AGREEMENT BY AND BETWEEN DOUGLAS COUNTY
LIBRARIES AND THE CITY OF CASTLE PINES**

WHEREAS, the City of Castle Pines, Colorado (“City”) and Douglas County Libraries (the “Library”) previously entered into a Lease Agreement on June 30, 2016 (“Lease Agreement”) for use of the Castle Pines Library as city office space, the Event Hall for city public meetings and hearings, the conference room for city council executive sessions, and storage spaces for storing equipment related to city public meetings and hearings; and

WHEREAS, the City now intends to move its city offices to a different location, but desires to still use the Event Hall, the conference room, and the storage spaces; and

WHEREAS, the City and the Library desire to amend the Lease Agreement to reflect such changes in a First Amendment that is attached hereto and incorporated herein as **Exhibit 1**.

**THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
CASTLE PINES, COLORADO, THAT:**

Section 1. The City Council hereby: (a) approves the First Amendment to the Lease Agreement by and between Douglas County Libraries and the City of Castle Pines, Colorado in substantially the same form as attached hereto and incorporated herein as **Exhibit 1**; (b) authorizes the City Attorney, in consultation with the City Manager, to make such changes as may be necessary to correct any non-material errors that do not increase the obligations of the City; and (c) authorizes the Mayor to execute the Agreement.

Section 2. If any section, paragraph, clause, or provision of this Resolution is held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining sections, paragraphs, clauses, or provisions of this Resolution.

Section 3. This Resolution shall take effect upon its approval by the City Council.

[Remainder of this page intentionally left blank.]

INTRODUCED, READ, AND ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES BY A VOTE OF 6 IN FAVOR AND 0 AGAINST THIS 14th DAY OF MARCH 2023.



ATTEST:

Tobi Duffey

Tobi Duffey, MMC, City Clerk

Tracy Engerman

Tracy Engerman (Mar 22, 2023 10:56 MDT)

Tracy Engerman, Mayor

APPROVED AS TO FORM:

Linda C. Michow

Linda C. Michow, City Attorney

EXHIBIT 1
FIRST AMENDMENT TO LEASE AGREEMENT BY AND BETWEEN DOUGLAS
COUNTY LIBRARIES AND THE CITY OF CASTLE PINES, COLORADO

**FIRST AMENDMENT TO LEASE AGREEMENT
BY AND BETWEEN
DOUGLAS COUNTY LIBRARIES
AND
THE CITY OF CASTLE PINES, COLORADO**

This First Amendment to Lease Agreement (the “**First Amendment**”) is made and entered into as of the 1st day of April 2023 (the “**Effective Date**”), by and between Douglas County Libraries, a library district formed in Douglas County pursuant to the provisions of C.R.S. §§ 24-90-101 through 119 (the “**Landlord**”), and the City of Castle Pines, Colorado, a Colorado municipal corporation (the “**Tenant**,” and together with Landlord, the “**Parties**,” or either of the Parties individually, the “**Party**”).

RECITALS

A. **WHEREAS**, The Parties have previously entered into that certain Lease Agreement dated June 30, 2016, (the “**Lease Agreement**”) pursuant to which the Landlord agreed to make space within the Castle Pines Library available for lease to Tenant as described therein; and

B. **WHEREAS**, the Parties desire to modify the terms of the Lease Agreement through a writing executed by both the Landlord and the Tenant.

THEREFORE, in consideration of the mutual promises herein, contained and other good and valuable consideration, the Lease Agreement is modified as follows:

TERMS AND CONDITIONS

1. **Defined Terms**. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Lease Agreement.

2. **Amendment to Paragraph 1**. Paragraph 1 of the Lease Agreement is hereby deleted in its entirety and replaced with the following:

“1. **Leased Premises**.

Landlord hereby makes available for lease to Tenant for the following space for the term, at the rental and upon the covenants, conditions and provisions set forth in this Lease:

- A. Exclusive use of a 2,056 square foot portion of the Building designated as Suite B and described in **Exhibit B** within the Building (the “**City Space**”); and
- B. The following spaces shall be collectively referenced herein as the (“**Shared Spaces**”):
 - (i) Shared use with the Landlord of a meeting/hearing room suitable for public and municipal meetings and functions within the Building

described in **Exhibit C** (the “**Event Hall**”), provided that the Tenant shall be entitled to exclusive use of the Event Hall for the following City of Castle Pines meetings and purposes:

- (a) City Council meetings scheduled for the 1st, 2nd and 4th Tuesday of each month from 4:00 p.m. to when the meeting concludes.
- (b) Planning Commission meetings scheduled for the 4th Thursday of each month from 4:00 p.m. to when the meeting concludes.
- (c) Parks and Recreation Advisory Board meetings scheduled for the 3rd^h Thursday of each month from 4:00 p.m. to when the meeting concludes.
- (d) Municipal Court meetings scheduled for the 1st Friday of each month from 6:30 am to 10:30 am.

The Landlord’s Community Engagement Department (the “**Community Engagement Department**”) shall be notified annually of the Tenant’s next year’s meeting schedule on or before October 31 of the prior year, which meeting schedule will be subject to final approval by the City Council in January. Landlord and the Community Engagement Department shall be notified of any and all proposed changes to scheduled meetings at least ten (10) business days in advance of the changed meeting via electronic mail at the address provided in Paragraph 18. Use of the Event Hall at other times should be scheduled in advance with the Community Engagement Department. Landlord does not make any representation or guarantee of availability for the Event Hall for Tenant meetings other than those specifically described in Paragraph 1(B)(i);

(ii) Shared use with the Landlord of study and conference rooms available to the public, provided that the Tenant shall be entitled to the exclusive use of a conference room for the following City of Castle Pines meetings and purposes:

- (a) City Council executive session meetings scheduled on the 2nd and 4th Tuesday of each month from 4:00 p.m. to close.

The Landlord’s Community Engagement Department shall be notified annually of the Tenant’s next year’s meeting schedule on or before October 31 of the prior year, which meeting schedule will be subject to final approval by the City Council in January. Landlord and the Community Engagement Department shall be notified of any and all proposed changes to scheduled meetings at

least five (5) business days in advance of the changed meeting via electronic mail at the address provided in Paragraph 18. Use of the study and conference rooms at other times shall be scheduled in advance through the Landlord's customary meeting room scheduling process with the Community Engagement Department. This process provides for advance scheduling of specific study and conference rooms up to one year in advance.

(iii) Shared use with the Landlord of one storage area adjacent to the Event Hall for the sole purpose of storing one dais, Council and staff tables and chairs used for City Council meetings. The Tenant shall not store anything other than the dais, public podium, flags, AV rack, council and staff tables and chairs in the storage area and the Tenant agrees to work with the Landlord to organize the dais and chairs so as to maximize space available within the storage area for the Landlord's storage needs.

(iv) Shared use with the Landlord of one storage area under the stairs within the City Space for the sole purpose of storing microphones used for City Council meetings. The Tenant shall not store anything other than the microphones in the storage area and the Tenant agrees to work with the Landlord to organize the microphones so as to maximize space available within the storage area for the Landlord's storage needs.

The City Space and the Shared Spaces shall be referenced collectively herein as (the "Leased Premises")."

3. **Amendment to Paragraph 2.** Paragraph 2 of the Lease Agreement is hereby deleted in its entirety and replaced with the following:

"2. **Term.**

- A. **City Space Term.** The Landlord hereby leases the City Space to the Tenant, and the Tenant hereby leases the same from the Landlord beginning on the Effective Date and ending on April 1, 2023 or as soon as reasonably practicable thereafter, but not to extend beyond May 1, 2023 (the "**City Space Term**").
- B. **Shared Space Initial Term.** The Landlord hereby leases the Shared Space to the Tenant, and the Tenant hereby leases the same from the Landlord beginning on the Effective Date for a duration of one year (the "**Initial Term**").
- C. **Shared Space Renewal Term.** Ninety (90) days prior to the expiration of the Initial Term, the Parties shall meet to determine whether to renew the Lease beyond the Initial Term (a "**Renewal Term**"). The rent for any Renewal Term shall be calculated as set forth in Paragraph 3(C) below. All of the other covenants, conditions and provisions provided in this

Lease shall remain in full force and effect unless modified in writing by the Parties.”

4. **Amendment to Paragraph 3.** Paragraph 3 of the Lease Agreement is hereby deleted in its entirety and replaced with the following:

“3. **Rent.**

- A. **City Space Term Rent.** The Tenant shall pay to the Landlord on the Effective Date, rent in the amount of twelve dollars (\$12.00) (the “**City Space Term Rent**”). The City Space Term Rent shall be remitted to: Director of Finance, Douglas County Libraries at the Philip S. Miller Library located at 100 S. Wilcox, Castle Rock, CO 80104.
- B. **Shared Space Initial Term Rent.** The Tenant shall pay to the Landlord on the Effective Date, rent in the amount of twelve dollars (\$12.00) (the “**Shared Space Initial Term Rent,**” together with the City Space Term Rent, the “**Rent**”). The Shared Space Initial Term Rent shall be remitted to: Director of Finance, Douglas County Libraries at the Philip S. Miller Library located at 100 S. Wilcox, Castle Rock, CO 80104.
- C. **Shared Space Renewal Term Rent.** If the Parties determine to enter into a Renewal Term for the Lease as provided in Paragraph 2(c), the Parties shall either: (i) reach agreement on the appropriate Renewal Term lease rate for the Shared Space based on market conditions or, (ii) if the Parties cannot agree on a Renewal Term lease rate on or before sixty (60) days prior to the expiration of the Initial Term, then they shall expediently and collectively engage a neutral third party commercial office real estate broker with commercial office real estate experience in Douglas County (the “**Broker**”) to determine the then-current fair market rental value for the Shared Space. The costs of the Broker’s determination shall be borne equally by the Parties. The Broker’s determination, once made, shall become the Tenant’s Renewal Term rent.”

5. **Amendment to Paragraph 5(A).** Paragraph 5(A) of the Lease Agreement is hereby deleted in its entirety and replaced with the following:

“5. **Use of Leased Premises.**

- A. **Access to Leased Premises.** The Tenant’s employees may access the Building via use of key cards to be issued by the Landlord which key cards shall provide 24 hour/7 day per week access. The Tenant shall be responsible for opening, closing and locking and otherwise ensuring the security of the Building and all of the Landlord’s property at all times which are outside the hours and operation of the Building.

The Tenant shall notify the Landlord and the Community Engagement Department in writing of any key card access changes so that the Landlord may timely process key card access changes.”

6. **Amendment to Paragraph 7(A)**. Paragraph 7(A) of the Lease Agreement is hereby deleted in its entirety and replaced with the following:

“7. **Repairs, Alterations and Improvements.**

A. **Damages and Repairs.** The Landlord expects the Tenant to exercise reasonable care in its use of the Leased Premises and the Building. The Landlord will perform or cause to be performed all repairs including but not limited to repairs of floors, walls, ceilings and other parts of the Leased Premises or Building damaged or worn through normal occupancy (reasonable wear and tear).

The Tenant shall bear full and sole responsibility, and will be billed separately, for repairs to the Leased Premises or the Building to the extent the Landlord determines the damage necessitating repair to be beyond normal occupancy (reasonable wear and tear) and have been caused by the Tenant or any of the Tenant’s employees, invitees, licensees, contractors or other permitted assigns or the public attending any of the Tenant’s public meetings. The cost incurred by the Landlord in making such repairs, including the Landlord’s staff time, shall be billed to the Tenant and reimbursement shall be done to the Landlord within thirty (30) days of the date the repair bill is provided to the Tenant.”

7. **Amendment to Paragraph 7(C)**. Paragraph 7(C) of the Lease Agreement is hereby deleted in its entirety and replaced with the following:

“7. **Repairs, Alterations and Improvements.**

C. **Tenant Maintenance Requests.** The Tenant shall make requests to the Landlord for all maintenance, repair and Alterations/Improvements needs. The Tenant shall direct such requests to the Landlord at (303) 791-7323.”

8. **Amendment to Paragraph 9(A)**. Paragraph 9(A) of the Lease Agreement is hereby deleted in its entirety and replaced with the following:

“9. **Insurance.**

A. **Tenant Insurance – General.** The Tenant shall secure and maintain for the City Space Term and the Initial Term and any and all Renewal Terms, adequate statutory workers’ compensation insurance coverage, commercial automobile liability insurance, comprehensive general liability insurance, professional liability insurance, errors and omissions insurance, crime insurance and excess liability coverage, from companies licensed in the State of Colorado, as will protect itself and the Landlord

from claims for bodily injuries, death, personal injury, or property damage, which may arise out of or result from the Tenant's meetings, the Tenant's actions or the Tenant's licensees or invitees acts, errors, or omissions. Tenant shall be responsible, at its expense, for fire and extended coverage insurance on all of its personal property, including removable trade fixtures located in the City Space."

9. **Amendment to Paragraph 9(B)**. Paragraph 9(B) of the Lease Agreement is hereby deleted in its entirety and replaced with the following:

"9. Insurance.

B. **Landlord Insurance.** The Landlord shall secure and maintain for the City Space Term and the Initial Term and any and all Renewal Terms, adequate statutory workers' compensation insurance coverage, commercial automobile liability insurance, comprehensive general liability insurance, professional liability insurance, errors and omissions insurance, crime insurance and excess liability coverage from companies licensed in the State of Colorado, as will protect itself and the Tenant from claims for bodily injuries, death, personal injury, or property damage, which may arise out of or result from the Landlord's events and meetings, the Landlord's actions or the Landlord's licensees or invitees acts, errors, or omissions. Landlord shall maintain fire and extended coverage insurance on the Building and the Leased Premises in such amounts as Landlord deems appropriate."

10. **Amendment to Paragraph 14(A)(i)**. Paragraph 14(A)(i) of the Lease Agreement is hereby deleted in its entirety and replaced with the following:

"14. Default and Remedies.

A. **Tenant Default.** Occurrence of any of the events listed below shall constitute a Tenant default of this Lease (a "**Tenant Default**")

(i) The Tenant's failure to appropriate funds for or to pay Rent ("**Rent Default**")."

11. **Amendment to Paragraph 14(A)(i)**. Paragraph 14(A)(i) of the Lease Agreement is hereby deleted in its entirety and replaced with the following:

"14. Default and Remedies.

C. **Dispute Resolution and Remedies.** Any and all controversies, disputes or claims of any nature arising out of or relating to this Lease shall first be presented to the Parties' respective Representatives to attempt to effect a mutually agreeable resolution. If the Representatives are unable to resolve the dispute within a reasonable time but no more than thirty (30) days, or such other time frame as mutually agreed upon by the Representatives, the

Parties may, by mutual agreement, elect to resolve the dispute by mediation or either Party may seek judicial enforcement of this Lease. In no event, however, shall any Tenant Default result in termination of the Lease or eviction of the Tenant from the Building during the City Space Term or the Initial Term. Prior to judicial enforcement, and in order to cure a Tenant's or Landlord's Default, the non-defaulting Party shall provide written notice of the particular Default to the Tenant or Landlord, as applicable, and afford the Tenant or Landlord sixty (60) days from the date of the notice in which to cure the Tenant or Landlord Default (the "Cure Period"). If the defaulting Party fails to cure the Default on or before the expiration of the Cure Period, the non-defaulting Party may bring an action in civil court to seek monetary damages or other relief excluding the right of termination or evection of the Tenant from the Leased Premises. If a Tenant Rent Default occurs and is not cured within the Cure Period, the Tenant shall pay interest at a rate of one percent (1%) compounded quarterly on all amounts due from the date of the Rent Default up to and including the date the Rent Default is cured, and the Tenant shall be responsible for any and all attorney's fees incurred by the Landlord in the process of collecting any amounts due."

12. **Amendment to Paragraph 18.** Paragraph 18 of the Lease Agreement is hereby deleted in its entirety and replaced with the following:

"18. Notices and Designated Representatives.

Any notice required or permitted by this Lease shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the Party to whom such notice is to be given, at the address set forth below, or at such other address as has been previously furnished in writing, to the other Party. Such notice shall be deemed to have been given when deposited in the United States mail. The following individuals of each Party are designated as the Party's respective Representative who is authorized to administer, coordinate and oversee the terms of this Lease, provided that any amendments to this Lease shall only be authorized by written amendment approved by the governing bodies of each Party.

To the Tenant:

City of Castle Pines
360 Village Square Lane, Suite B
Castle Pines, Colorado 80108
Attn: City Manager ("Representative")
Michael.penny@castlepinesco.gov

With copy to:

Linda Michow, City Attorney
Michow Cox & McAskin LLP
6530 S. Yosemite St., Suite 200
Greenwood Village, CO 80111
Linda@mcm-legal.com

To the Landlord: Douglas County Libraries
100 South Wilcox Street
Castle Rock, CO 80104
help@dclibraries.org

If to Community Engagement: Douglas County Libraries
100 South Wilcox Street
Castle Rock, CO 80104
Attn: Community Engagement Department
EventandHospitality@dclibraries.org”

13. **Prior Provisions Effective.** Except as specifically provided herein and amended hereby, all of the terms and provisions of the Lease Agreement shall remain in full force and effect.

14. **Amendment.** This First Amendment may be amended, in whole or in part, by a written instrument executed by each Party.

15. **Counterpart Execution.** This First Amendment may be executed in counterparts, each of which shall constitute an original and all of which when taken together shall constitute one and the same instrument.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Parties have executed this First Amendment as of the Effective Date.

DOUGLAS COUNTY LIBRARIES

By: _____
Title: Board President

Attest:
By: _____
Title: Board Secretary

THE CITY OF CASTLE PINES

By: _____
Title: City Manager

Attest:
By: _____
Title: City Attorney