
LEASE AGREEMENT

THIS LEASE, effective on July 1, 2019, is by and between CJ Schorch and partners, hereinafter referred to as Lessor, and Bismarck State College, hereinafter referred to as Lessee.

WITNESSETH: That Lessor hereby leases to the Lessee upon the terms herein set forth those certain premises in the City of Bismarck, County of Burleigh, State of North Dakota, described as follows:

That part of the Southeast Quarter of the Southeast Quarter (SE%SE%) of Section Thirty (30), Township One Hundred Thirty-nine (139) North, Range Eighty (80) West, beginning at the southeast corner of said SE%SE%, thence running north along the east line of said section a distance of 208.71 feet, thence running west parallel to the south line of said section a distance of 208.71 feet, thence running south parallel with the east line of said section a distance of 208.71 feet, thence running east along the south line of said section a distance of 208.71 feet to the point of beginning, being one square acre located in the southeast corner of the SE%SE% of said Section 30, Township 139 North, Range 80 West, also known as 1700 Shafer Street less footage for improvements to Canary Street.

1. INITIAL TERM: This Lease shall commence on July 1, 2019 and terminate on June 30, 2029.

2. RENTAL: The rent shall be payable in monthly installments of Eleven Thousand Forty Dollars (\$11,040.00) each. Lessee agrees to pay rent for the premises consisting of seven thousand six hundred eighty (7,680) square feet at Seventeen Dollars and 25/100 (\$17.25) per square foot per annum for the ground floor and lower (basement) floor. Rent will be paid in advance by the fifth (5th) day

of each month in a monthly amount of Eleven Thousand Forty Dollars (\$11,040.00) which is one-twelfth (1/12th) of the annual amount commencing on the date described in Section 1, and continuing monthly thereafter for the term of the lease. Rent shall be payable to: Parkway Property Management via eft.

3. **OPTIONS TO RENEW:** Provided Lessee is not in default under this Lease Agreement, Lessee may, at its option, renew the term of this Lease Agreement for a further term of ten (10) years at the monthly rent to be calculated as described below and otherwise on the same terms and conditions contained in this Lease Agreement by giving notice to Lessor of its intention to renew at least three (3) months prior to the end of the initial term of this Lease Agreement.

If the term of this Lease Agreement is renewed as described above and Lessee is not in default under this Lease Agreement beyond any applicable period of notice and grace, Lessee may, at its option, renew the term of this Lease Agreement for an additional term of ten (10) years at the monthly rent to be calculated as described below and otherwise on the same terms and conditions contained in this Lease Agreement by giving notice to Lessor of its intention to renew at least three (3) months prior to the end of the first option term of this Lease Agreement.

At the conclusion of the initial term lease period and at the conclusion of the subsequent ten (10) year renewal period, the monthly rental shall be increased in proportion to the increase, if any, in the United States City Average Consumers Price Index for all items as determined by the United States Department of Labor, Bureau of Labor Statistics.

The rent shall be adjusted on July 1st at the end of the first lease period and each two (2) year subsequent periods in proportion to the change in the index for the same time periods. The adjustment may be an increase or a decrease, but will not be decreased below the original monthly rental of Eleven Thousand Forty Dollars (\$11,040.00). It is agreed by the parties that if such index shall no longer be published, then another index generally recognized as authoritative shall be substituted by agreement, it being the intention of the parties that the rental is to be adjusted on a basis that reflects the change in the consumer price index. However, in the event the Price Index decreases during said period, the monthly rent shall not be less than Eleven Thousand Forty Dollars (\$11,040.00).

06/30/2019-07/1/2020	Eleven thousand forty dollars (\$11040.00)
06/30/2020-07/1/2021	Eleven thousand forty dollars (\$11260.80)
06/30/2021-07/1/2022	Eleven thousand forty dollars (\$11486.02)
06/30/2022-07/1/2023	Eleven thousand forty dollars (\$11715.74)
06/30/2023-07/1/2024	Eleven thousand forty dollars (\$11950.05)
06/30/2024-07/1/2025	Eleven thousand forty dollars (\$12189.05)
06/30/2025-07/1/2026	Eleven thousand forty dollars (\$12432.83)
06/30/2026-07/1/2027	Eleven thousand forty dollars (\$12681.49)
06/30/2027-07/1/2028	Eleven thousand forty dollars (\$12935.12)
06/30/2028-07/1/2029	Eleven thousand forty dollars (\$13193.82)

4. NON-APPROPRIATION OF FUNDS

The Lessee reasonably believes that funds can be obtained sufficient to make all payments required under the terms of this lease. The Lessee hereby covenants that it will make every bona fide effort to obtain and maintain funds from which rent payments can be made, including making provisions in biennial budgets submitted to the North Dakota State Higher Board of Higher Education. Should, in spite of the bona fide efforts of the Lessee, sufficient funds not be appropriated by the North Dakota Legislative Assembly for any biennium during the term of this lease agreement, Lessee may terminate this lease agreement, with 60 days notice to Lessor, on June 30th preceding the biennium for which funds were not appropriated. In the event of such termination, Lessee shall not be obligated to make any payment whatsoever, after said June 30th. In the event of non-appropriation of funds, LESSOR shall have only the right and remedy to take possession of the demised premises after said June 30th.

5. SALE OF THE PROPERTY

In the event LESSOR determines to sell the building at 1700 Schafer Street during the term of this lease or any extension thereof, BISMARCK STATE COLLEGE FOUNDATION (Purchaser) shall have the first option to purchase the building and property. The conditions and price of the property shall be determined as follows:

- (1) Bona Fide Offer. If Lessor shall desire to sell said property and shall have received a bona fide offer to purchase the same, it shall give written notice

to the Purchaser of its desire to sell, which notice shall be accompanied by satisfactory written evidence of the offer to purchase received by Seller, including both the purchase price and payment terms offered.

For a period of thirty (30) days following such notice, the Purchaser shall first right to purchase the property at the price and on the terms and conditions specified in the bona fide offer received by Seller. Exercise of the right to purchase herein provided shall be by delivery to the Seller of written notice of exercise specifying a time for closing which shall be within thirty (30) days thereafter. At the closing, payment to Seller shall be made in accordance with the payment terms in the original bona fide offer to purchase.

(2) Or, a price that is mutually agreeable to the Seller and Purchaser.

6. CONDITION OF PREMISES: Lessee takes the leased property in an "as is" condition.

7. DEFAULT OR BREACH: Should the Lessee at any time be in default hereunder with respect to any rental payments or other charges to the Lessee hereunder, and should such default continue for a period of ten (10) days after written notice from the Lessor to Lessee, or should the Lessee be in default of the full performance of any other of its promises, covenants, or agreements herein contained and should such default or breach or performance continue for more than a reasonable time (in no event to exceed thirty (30) days after written notice thereof from

~~the Lessor to Lessee specifying the particulars of such default or breach of~~

performance), then the Lessor may treat the occurrence as a breach of this Lease, and in addition to any and all other rights or remedies of the Lessor hereunder and by law provided, it shall be, at the option of the Lessor, without further notice or demand of any kind to Lessee or any other person:

(1) The right of the Lessor to declare the term hereof ended and re-enter the demised premises and take possession thereof and remove all persons therefrom pursuant to applicable law and the Lessee shall have no further claim thereon or thereunder; or

(2) The right of the Lessor without declaring this Lease ended to re-enter the demised premises and occupy or lease the whole or any part thereof for or on account of the Lessee and upon such terms and conditions and for such rent as may be commercially reasonable and to collect said rent and any other rent that may thereafter become payable and apply the same toward the amount due thereafter to become due from the Lessee and on account of such expense of such subletting and other damage sustained by the Lessor; and should such rental be less than herein agreed to be paid by the Lessee, the Lessee agrees to pay such deficiency to the Lessor in advance on the day of Each month herein before specified for payment of rent and to pay the Lessor forthwith, upon any such reletting the reasonable costs and expenses the Lessor may incur by reason of reletting of the premises for the remainder of the term, excluding attorneys' fees and any commissions for reletting of the premises.

Notwithstanding any other provision of this paragraph, the Lessor agrees that if the default complained of, other than for payment of rent, is of such a nature that the same cannot be rectified or cured within the thirty (30) day period requiring such curing as specified in the written notice relating thereto, then such default shall be deemed to be cured if the Lessee within such period of thirty (30) days shall have commenced the curing thereof and shall continue thereafter with all due diligence to cause the curing and does so complete the same with the use of diligence as foresaid.

The remedies given to the Lessor in this paragraph shall be in addition to and supplemental to all other rights or remedies which the Lessor may have under the laws of the State of North Dakota.

In the event Lessor defaults in the performance of its obligations, covenants, and warranties hereunder, and such default shall exist for a period of thirty (30) days after written notice from the Lessee thereof, or for a longer period of time in the event the nature of the default reasonably requires; provided that Lessor commences such cure within the initial thirty (30) day period and diligently pursues the cure thereafter. Lessee may (at its option) in addition to all other rights and remedies available to Lessee under applicable law: (i) cure the same, whereupon the reasonable costs of cure shall be immediately due and payable to Lessee from Lessor, or (ii) terminate this Lease without further liability to Lessor. Lessor's failure to reimburse Lessee shall entitle Lessee to deduct the reasonable costs thereof from the next subsequent rents due hereunder.

~~6. ACCESS TO PREMISES:~~ Lessee shall permit Lessor to enter the demised premises at all reasonable times upon reasonable notice in order to inspect the premises, to maintain the building in which the premises are located; to make such repairs to the demised premises as Lessor is obligated or may elect to make; to install, use and maintain pipes, ducts, conduits, wires, and equipment for services to outside areas of the demised premises and to relocate any pipes, ducts, conduits, wires, or other equipment included in the demised premises so long as Lessor does not disturb or interfere with Lessee's use of the premises.

7. REMOVAL OF FIXTURES: The Lessee shall have the right at the expiration of the Lease to remove fixtures, shelving, exterior signs or other equipment which have been paid for and installed by Lessee in or on said premises, with no damage to the building without the Lessor's approval, however, window treatments may not be removed by the Lessee. Any damage caused by such removal shall be repaired at the expenses of the Lessee.

8. MAINTENANCE AND REPAIRS: Lessee will maintain and repair the interior and exterior of the leased premises, including repairs and maintenance of the paved areas on the leased premises, except that Lessor shall be responsible for the maintenance and repairs of the roof, heating and air conditioning equipment, and the water heater. Lessee shall at its expense keep the interior and exterior of the leased premises in clean, neat and in good order. Lessee shall keep all sidewalks and parking areas and areas adjacent thereto, safe and clean, specifically including, but not by limitation, snow and ice clearance in conformity with the lawful and valid requirements of any governmental authority having jurisdiction

over the leased premises. Any damage to the building or any part thereof resulting from use by the Lessee or any visitors or customers thereof shall be the expense of the Lessee.

9. HEATING, WATER, AND ELECTRICITY: All utilities for the leased area are the responsibility of the Lessee. Lessee is responsible for replacing light bulbs for the leased premises.

10. SIGNAGE: No signage shall be attached or displayed without the consent of Lessor, which shall not be unreasonably withheld.

11. SUBLET CLAUSE: The Lessee may assign this Lease or sublet the above-described premises in whole or any part thereof only upon the written consent of the Lessor which shall not be unreasonably withheld.

12. INSURANCE: Lessee liability coverage is provided through the North Dakota Risk Management Fund with limits of Two Hundred Fifty Thousand Dollars (\$250,000.00) per person, One Million Dollars (\$1,000,000.00) per occurrence. Lessee will provide Lessor with a certificate of Financial Responsibility evidencing such coverage. Lessee acknowledges that Lessor will not provide any insurance coverage for the Lessee's fixtures and personal property located or stored upon the leased premises and that Lessee shall determine and be responsible for such insurance coverage. Lessor shall secure and keep in force during the term of this Lease, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

(1) Commercial general liability, including premises or operations, contractual, and products or completed operations coverages, (if applicable) with minimum liability limits of Two Hundred Fifty Thousand Dollars (\$250,000.00) per person and One Million Dollars (\$1,000,000.00) per occurrence.

(2) Automobile liability, including owned (if any), hired, and non-owned automobiles, with minimum liability limits of Two Hundred Fifty Thousand Dollars (\$250,000.00) per person and One Million Dollars (\$1,000,000.00) per occurrence.

(3) Workers compensation coverage meeting all statutory requirements. The policy shall provide coverage for all states of operation that apply to the performance of this Lease.

(4) Property insurance insuring the full and true value of all Lessor's real and personal property located on or in the building in which the leased premises are located for all losses.

The insurance coverages listed above must meet the following additional requirements:

(1) Any deductible or self-insured retention amount or other similar obligation under the policies is the sole responsibility of Lessor.

(2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than 'A-' rating must be approved by Lessee. The policies shall be in form and terms approved by Lessee.

(3) The duty to indemnify Lessee under this Lease must not be limited by the insurance required in this Lease.

(4) That State of North Dakota and its agencies, officers, and employees (Lessee) shall be endorsed on the commercial general liability policy, including any excess policies (to the extent applicable), as additional insured. Lessee shall have all the benefits, rights and coverages as an additional insured under these policies.

(5) The insurance required in this Lease, through a policy or endorsement, shall include:

(a) a "Waiver of Subrogation" waiving any right to recovery the insurance company may have against Lessee;

(b) a provision that the policy and endorsements may not be canceled or modified without thirty (30) days prior written notice to the undersigned Lessee representative;

(c) a provision that any attorney who represents Lessee under this policy must first qualify as, and be appointed by, the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. § 54-12-08;

(d) a provision that Lessor's insurance coverage will be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by Lessee and that any insurance, self-insurance or self-retention maintained by Lessee must be in excess of Lessor's insurance and shall not contribute with it;

(e) cross liability/severability of interest for all policies and endorsements;

(f) the legal defense provided to Lessee under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for Lessee is necessary;

(g) the insolvency or bankruptcy of the insured Lessor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Lessor from meeting the retention limit under the policy.

(6) Failure to provide insurance as required in this Lease is a material breach of contract entitling Lessee to terminate this Lease immediately.

13. TAX CLAUSE: Lessor agrees to pay all real estate taxes and special assessments on the premises during the lease term.

14. FIRE CLAUSE: If the leased premises are partially damaged by fire or other casualty, the Lessor may, at its option, repair and restore the same. If such repairs and restoration are not completed within ninety (90) days, the Lessee may,

at its option, terminate the Lease by written notice directed to the Lessor. If during any period of repair and restoration the entire demised premises are untenable, the Lessee shall be obligated to pay no rent for that period of repair and restoration, shall said period of repair and restoration extend the term of this Lease. If during any period of repair and restoration the Lessee uses and occupies a part of the demised premises as such may be tenantable, a reduced rent will be paid based upon a pro rata ratio that the tenantable portion bear to the demised premises.

15. **PHONE, INTERNET, AND COMPUTER WIRING:** It shall be the Lessee's responsibility to install whatever phone, internet, and /or computer wiring that Lessee desires.

16. **NOTICE:** Whenever the term "written notice" or "in writing" is used in this Lease, mailing of the notice must be by certified mail sent to:

CJS
c/o CJ Schorsch
1001 Gateway Ave
Bismarck, ND 58503

Bismarck State College
1500 Edwards Avenue
Bismarck, ND 58501

This Lease is governed by and construed in Notice provided under this provision does not meet the notice requirements at N.D.C.C. § 32-12.2-04(1).

17. APPLICABLE LAW: This Lease is governed by and construed in accordance with the laws of the State of North Dakota. Any action commenced to enforce this Lease must be brought and solely litigated in the District Court of Burleigh County, North Dakota.

18. SPOILIATION-NOTICE OF POTENTIAL CLAIMS: Lessor agrees to promptly notify Lessee of all potential claims that arise from or result from this Lease. Lessor shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim while maintaining public safety, and grants to Lessee the opportunity to review and inspect the evidence, including the scene of an accident.

19. INDEMNITY: Lessor agrees to defend, indemnify, and hold harmless the Bismarck State College, State of North Dakota, its agencies, officers and employees (Lessee), from and against claims based on the vicarious liability of the Lessee or its agents, but not against claims based on the Lessee's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by Lessor to the Lessee under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Lessee is necessary. Lessor also agrees to defend, indemnify, and hold the Lessee harmless for all costs, expenses and attorneys' fees incurred if the Lessee prevails in an action against

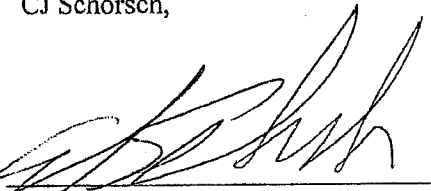
Lessor in establishing and litigating the indemnification coverage provided herein.

This obligation shall continue after the termination of this Lease.

CJ Schorsch,

BISMARCK STATE COLLEGE

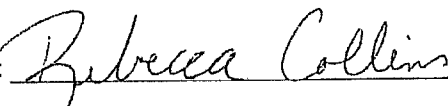
BY:



CJ Schorsch, Partner

5/22/19

BY:



Its:

VP for Operations / CFO