

STATE OF MONTANA STANDARD LEASE CONTRACT -- COUNTIES --
(County lease template last revised February 24, 2016)

This lease #6416-C is made by and between the State of Montana, Department of Corrections, PO Box 201301, 5 S. Last Chance Gulch, Helena, Montana, 59620, "Lessee" and Big Horn County, a political subdivision of the State of Montana, 121 West Third, Hardin, Montana, 59034, "Lessor".

1. PURPOSE OF LEASE

The Lessee has a need to lease premises in Hardin, Montana for the specific purpose of conducting Lessee's business. The Lessor has space available for lease which is suitable for the stated purpose.

2. PREMISES DESCRIPTION

The area to be leased consists of 362 square feet and includes the right to use the common areas within the leased premises. The leased area is more particularly described as room #309. The leased area is located in the County Courthouse building at 121 West Third, in Hardin, Montana. Lessor shall retain in its control for its use the bookshelves in the leased premises. Lessor shall have access to these bookshelves through the remainder of the leased premises at reasonable times and reasonable notice.

3. TERM OF LEASE

The term of this lease is five years, effective September 1, 2016 through August 31, 2021, unless earlier terminated as provided in sections 13, 18, 19, 21 and 22 of this lease or renewed as provided in Section 5.

4. CONSIDERATION

The Lessee shall make monthly payments to the Lessor in the amount of \$301.67. This reflects an annual rental cost of \$3,620.00 with a rate of approximately \$10.00 per square foot per year.

The Lessee shall pay the Lessor rent due by the 10th of the month that any rent payment is due.

5. RENEWAL OPTION

All lease renewals are subject to prior approval by the Department of Administration, as provided in Section 26, the County and the Lessee.

6. UTILITIES AND SERVICES

The Lessor shall furnish and pay all utilities including water, gas, electricity, garbage removal, and sewage charges. The Lessor shall also replace all light bulbs, fluorescent tubes, and other lighting elements at its expense and shall do so within seven working days after notification of needed replacement.

Any increase in the number of telephone, electrical, or computer network lines or change in location shall be done, with Lessor approval, at the Lessee's expense.

At its own expense, Lessor shall provide janitorial services and all supplies consistent with janitorial services provided for other portions of the premise. This service shall provide, at a minimum:

Daily

Cleaning all bathrooms, including toilet and lavatory bowls
Refilling paper towel and toilet tissue dispensers
Emptying all trash containers

Weekly

Disposing of materials specified by the Lessee

Bi-Weekly

Vacuuming carpets
Dusting furniture
Mopping floors

As needed, but not less than semi-annually

Waxing floors
Shampooing carpets
Washing interior windows
Cleaning light fixtures

7. PARKING SPACE

As part of the leased premise, Lessor shall provide adequate parking spaces for the Lessee's employees, including the requisite number of handicapped parking spaces to comply with the Americans with Disabilities Act at no additional charge or cost to the Lessee.

8. PARKING AREA AND SIDEWALK MAINTENANCE

The Lessor shall keep the parking area and sidewalks in good repair, and shall timely remove snow and ice from the parking area and sidewalk.

9. NOTICE PROTOCOL

Any notice or demand required or permitted to be given under this lease must be in writing. Written notice shall be deemed given when hand delivered, or when mailed by first class mail, postage prepaid, to the addresses specified in this section.

The Lessor's address for purposes of receiving notice or demand is Big Horn County, PO Box 908, Hardin, Montana, 59034.

The Lessor's representative for purposes under this lease is Board of Commissioners, telephone (406) 665-9700.

The Lessee's address for the purpose of receiving notice or demand is State of Montana, Department of Corrections, PO Box 201301, 5 S. Last Chance Gulch, Helena, Montana, 59620.

The Lessee's representative for purposes under this lease is Chris Evans, telephone (406) 896-5411, E-mail cevans@mt.gov.

If either party changes its address or contact person, it must notify the other party in writing at the address provided in this section.

10. QUIET ENJOYMENT

The Lessee, shall peaceably and quietly have, hold, and enjoy the leased premise and all rights, easements, covenants, and privileges belonging or in any way appertaining thereto, during the term of this lease. The Lessee also agrees the Lessor and its employees are entitled to peaceably have, hold, and enjoy the remainder of the premise which has not been rented by Lessee.

11. ACCESS FOR MAINTENANCE/INSPECTION

The Lessee shall permit upon prior notice, the Lessor or its agent to enter into and upon the premise at all reasonable times to maintain or inspect the building in which the leased premise are located or to make repairs, alterations, or additions to any portion of the building, including, but not limited to, the erection and maintenance of scaffolding, canopies, fences, or props as may be needed. In the event of an emergency, Lessor may enter the premise without prior notice to the Lessee. Lessor shall have 24-hour access to the leased premise to perform janitorial services pursuant to section 6 of this lease.

12. MAINTENANCE OF PREMISE

The Lessor shall, at its own cost and expense, make repairs, keep the leased premise in a fit and usable condition, and maintain in good working order and condition the exterior of the premise including the roof, the interior of the premise, all fixtures, and all related electrical, plumbing, sanitary, heating, ventilating, and air-conditioning owned by the Lessor.

13. CASUALTY OR FIRE DAMAGE

In the event the leased premise becomes twenty-five percent (25%) or more destroyed or made uninhabitable by fire or other casualty, or if the premise is condemned by a proper authority, this lease may be terminated by either party.

If the premise is less than twenty-five percent (25%) destroyed or made uninhabitable by fire or other casualty, and lessee remains in the premise, the rent shall be reduced by the proportion of the premise that has been rendered uninhabitable or declared unsafe. For purposes of this section, other casualty includes but is not limited to vandalism.

If the premises are not restored, or cannot be restored, and returned to proper condition for use and occupancy within thirty (30) days of the casualty, the Lessor or the Lessee may terminate the lease upon ten (10) days written notice to the other party.

Upon written notice of termination pursuant to this section, the Lessor shall refund any unearned rent paid and the Lessee shall have no further obligation to the Lessor under this lease. Lessor shall continue to insure the premise until the Lessee's personal property is removed from the premise. The Lessee shall have thirty (30) days after termination of this lease to remove its property from the premise.

14. ALTERATIONS TO PREMISE

The Lessee agrees to make no substantial alteration to the premise without the prior written consent of the Lessor. Permanent improvements or alterations shall remain the property of the Lessor at the termination of this lease. Fixtures, including but not limited to cubicles, shall remain the property of the Lessee.

The Lessee shall surrender the premise at the end of the lease term, or any extension thereof, in a condition substantially similar to the condition of the premise at the commencement of the lease, notwithstanding exceptions for alterations agreed to by the Lessor and reasonable wear and tear alone.

15. SIGNS

If Lessor allows signage and the Lessee wishes to advertise its location in the building, Lessee shall pay the Lessor for installation of a suitable sign on the exterior of the premise at a location mutually agreeable to the Lessor and Lessee.

16. HOLD HARMLESS AND INDEMNIFICATION CLAUSE

The Lessor agrees to protect, defend, and save the Lessee, its elected and appointed officials, agents, and employees, while acting within the scope of their duties, and hold harmless from and against all claims, demands, and causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Lessor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the Lessor and/or its agents, employees, representatives, assigns, and sublessors under this lease.

The Lessee also agrees to assume the same duties and responsibilities specified above in defending and holding the Lessor and its elected and appointed officials, agents, and employees harmless from all claims or causes of action arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the Lessee and/or its agents, employees, representatives, assigns, and sublessees.

17. INSURANCE SPECIFICATIONS

At its sole cost and expense, Lessor shall maintain property insurance upon the leased premise and Lessor fixtures for the term of the lease against the following hazards:

Loss or damage by fire and such other risks (not including earthquake damage) in an amount sufficient to permit such insurance to be written at all times on a replacement cost basis. This may be insured against by attachment of standard form extended coverage endorsement to fire insurance policies.

Loss or damage from leakage or sprinkler systems now or hereafter installed in any building on the premise.

Loss or damage by explosion of steam boilers, pressure vessels, and oil or gasoline storage tanks, or similar apparatus now or hereafter installed in a building or buildings on the premise.

The Lessor shall also purchase Occurrence coverage with combined single limits of \$1 million per occurrence / \$2 million aggregate per year or if a political subdivision of the state as defined by statute, then limits of \$750,000 / claim, \$1,500,000 / occurrence as provided by the MACo/JPIA property and liability self-insured pool coverage. This insurance must be from an insurer licensed to do business in Montana or by a domiciliary state and with a Best's rating of no less than A- or by a public entity self-insured program either individually or on a pool basis as provided by Title 2, MCA.

Lessee shall maintain its own insurance on the contents of the leased premise and its own property and Lessor shall not be liable for any damage done to or loss of personal property belonging to Lessee or its employees or for damage or loss suffered by the business or occupation of the Lessee arising from any acts or neglect of Lessee, its employees, or other occupants of the leased premise. Lessee agrees to carry public liability insurance or be self-insured for bodily injury and property damage in which the limits of liability shall not be less than \$750,000 for each claim and \$1,500,000 for each occurrence.

18. COMPLIANCE WITH LOCAL, STATE AND FEDERAL LAWS

The Lessor and Lessee each respectively understands that they are bound by applicable state and federal law and local ordinances. This includes, but is not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, PL 101-336, Section 504 of Rehabilitation Act of 1973, the Patient Protection and Affordable Care Act, [P.L. 111-48, 124 Stat. 119], if applicable, and 18-5-401, MCA et seq. concerning the Blind Enterprise Program's vending facility rules. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016, Lessor agrees that (i) the hiring of persons, if any, to perform this Lease will be made on the basis of merit and qualifications and (ii) there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this lease.

Lessor warrants that the leased premises are ADA accessible.

The Lessor shall comply with the Montana Occupational Safety and Health Act (MCA 50-71-111 et seq.) and all rules adopted thereunder. The Lessee and Lessor further agree to comply with the ordinances and laws of the City of Hardin, and the State of Montana, affecting the use of the premise and to assume all legal responsibility for any charges or damages for non-observance.

The Lessor agrees to provide the Department of Administration, Legislative Auditor, or their authorized agents, access to any records relating to this lease and will create and retain records relating to the lease for a period of eight years from lease termination or the conclusion of any claim, litigation, or exception relating to the lease or a time period established by the local government records retention committee, whichever is longer.

19. ENVIRONMENTAL HAZARDS

The Lessor represents that, to the best of its knowledge, any use, storage, treatment or transportation of hazardous substances which has occurred in or on the premise prior to the lease date has been in compliance with all applicable federal, state and local laws, regulations, and ordinances.

The Lessor further represents that, to the best of its knowledge, no release, leak, discharge, spill, disposal, or emission of hazardous substances has occurred in, on or under the premise and that the leased premise is free of hazardous substances as of the lease date.

If either party to this agreement discovers that a release, leak, discharge, spill, disposal, or emission of hazardous substances has occurred in, on or under the premise or that the premise are not free from hazardous substances, the party shall immediately notify the other party.

If the Lessee determines at any time that the leased premise poses significant environmental hazard to its employees, the Lessee may terminate the lease with a written thirty (30) day notice.

20. HOLDOVER TENANCY

If the Lessee holds the premise beyond the terms of this lease, in the absence of a written agreement to the contrary, it shall be deemed a month-to-month tenancy subject to all terms and conditions of this lease. This holdover tenancy may be terminated, without incurring liability, at any time by either the Lessor or the Lessee by means of a thirty (30) day written notice delivered prior to the beginning of the final month.

21. TERMINATION FOR LACK OF FUNDING

The Lessor acknowledges, understands, and agrees that the Lessee, as a state agency, is dependent upon state and federal appropriations for its funding. If state or federal

government funds are not appropriated or otherwise made available to support continued performance of this lease in subsequent fiscal periods, the Lessee shall terminate this lease. The Lessee shall provide Lessor the date Lessee's termination shall take effect. The Lessee shall not be liable to the Lessor for any rental payment that would have been payable had the lease not been terminated under this provision. The Lessee shall be liable to the Lessor only for the rental payment, or prorated portion of that payment, owed to the Lessor under Section 4 up to the date the Lessee's termination takes effect. This is the Lessor's sole remedy. Lessee shall not be liable to the Lessor for any other payments or damages, including but not limited to general, special or consequential damages such as lost profits.

22. DEFAULT

Other than termination for lack of funding or appropriations under section 20, failure of either party to this lease to fully perform under any or all of the terms and conditions shall constitute a breach of this lease, entitling the non-defaulting party to take any and all such action as may be provided by law.

Any breach or default alleged under this lease shall be occasioned by a thirty (30) day written notice of the same to the defaulting party. If at the end of such thirty (30) day period the defaulting party has not cured the breach, the non-defaulting party may take any and all such actions as may be provided by law.

At the expiration or termination of this lease or any extension of it, the Lessee will vacate and surrender the premise to the Lessor in as good condition and repair as when it took possession, reasonable wear and tear excepted. All property and fixtures placed in the premise by the Lessee or owned by the State of Montana may be removed by the Lessee within thirty (30) days of termination.

23. SEVERABILITY

It is understood and agreed by the parties hereto that if any term or provision of this lease is held to be illegal, void, or in conflict with any Montana law, the validity of the remaining terms and conditions shall not be affected. The rights and obligations of the parties shall be construed and enforced as if this lease did not contain the particular term, condition, or provision held to be invalid.

24. VENUE AND INTERPRETATION

The Lessor and Lessee agree that this lease shall be governed and interpreted according to the laws of the State of Montana. In the event of a dispute arising over this lease, the proper venue for the hearing of the case is the Big Horn County and the 22nd Judicial District. Each party shall be responsible for its own attorney's fees and costs.

25. SUCCESSORS

All rights and liabilities herein given to and/or imposed upon both parties shall extend to, be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

26. LEASE APPROVAL

This entire lease, in addition to any change, alteration, renewal, addendum, amendment, or letter of understanding is subject to prior approval of the Department of Administration.

27. ENTIRE LEASE

This Agreement, consisting of nine pages, sections 1 through 29 contains the entire contract between the Lessee and the Lessor. Any lease hereafter made shall not be effective to modify this lease unless such agreement is in writing and signed by the Lessor, the Lessee, and the Department of Administration.

28. SUBLEASE

If the Lessee would like to assign or sublet the leased premise, the Lessee shall first offer the leased premise back to the Lessor. If the Lessor does not agree to resume control of the leased premise and to discharge the Lessee's obligations under the lease, the Lessee agrees that it will not assign or sublet in whole or part any portion of the leased premise without the prior written consent of the Lessor. If the Lessor withholds consent, the Lessee's obligations under this lease shall be discharged.

29. SMOKE FREE ENVIRONMENT

The Lessor shall make all parts of the building smoke-free. "Smoke" means smoke from a lighted cigar, cigarette, or pipe or any other lighted tobacco product as defined in MCA 50-40-103.

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IN WITNESS HEREOF, all parties have entered into and executed this Lease on the dates stated below:

BOARD OF COUNTY COMMISSIONERS

By: _____ Date: _____

By: _____

By: _____

(MUST BE SIGNED BY AT LEAST TWO COMMISSIONERS)

Approved for legal content
County Attorney

Lessee

By: Mike Batista 8/17/16
Mike Batista, Director Date
Department of Corrections

APPROVED BY:

By: Garrett M. Bacon August 4, 2016
Garrett M. Bacon, Leasing Officer Date
Department of Administration, General Services Division

By: Mike Manion August 9, 2016
Mike Manion, Chief Legal Counsel Date
Department of Administration

By: Dan Villa 10/5/16
Dan Villa Date
OBPP Director/Designee

By: Sheila Hogan 10/11/16
Sheila Hogan, Director Date
Department of Administration

IN WITNESS HEREOF, all parties have entered into and executed this Lease on the dates stated below:

BOARD OF COUNTY COMMISSIONERS

By: _____

Date: 11-13-2014

By: A. Reiser

By: _____

(MUST BE SIGNED BY AT LEAST TWO COMMISSIONERS)

[Signature]

Approved for legal content
County Attorney for the commissioners

Lessee

By: _____

Mike Batista, Director
Department of Corrections

Date

APPROVED BY:

By: _____

Garett M. Bacon, Leasing Officer
Department of Administration, General Services Division

Date

By: _____

Mike Manion, Chief Legal Counsel
Department of Administration

Date

By: _____

Dan Villa
OBPP Director/Designee

Date

By: _____

Sheila Hogan, Director
Department of Administration

Date