

**STATE OF MONTANA STANDARD LEASE CONTRACT**

This lease #6477 is made by and between the State of Montana, Department of Corrections, PO Box 201301, 5 S. Last Chance Gulch, Helena, Montana, 59601, "Lessee", and Double Haul, LLC, P.O. Box 967, Missoula, Montana, 59806, "Lessor."

**1. PURPOSE OF LEASE**

The Lessee has a need to lease a security fence at the Montana State Prison in Deer Lodge, Montana for the purpose of securing the Boot Camp facility.

**2. PREMISE DESCRIPTION**

The property being leased (Leased Premise) is approximately 36,303 square feet (i.e. 12' high by 2,468 lineal feet for the double perimeter Boot Camp area plus 12' by 557 lineal feet for the recreation area, length and height of gates is included in this estimated square footage) and includes the right to use common components required to complete fence installation found in the materials section of the project manual within the leased property. The Leased Premise is to be installed at the Montana State Prison, 1100 Conley Lake Rd, Deer Lodge, Montana, 59722.

**Leased Premise Inclusions**

The scope of the Leased Premise is defined and described in the following documents:

Addendum #1 Dated 8/17/17 (Assumed to be drawings and question responses)  
Addendum #2 Dated 8/28/17

<u>CTA Drawing</u>	<u>Revision Date</u>
G001	8/28/17
C100	8/28/17
C101	8/28/17
C102	8/28/17
C103	8/28/17
C400	8/28/17

<u>Specification</u>	<u>Name</u>
323115.25	Correction Sliding Security Pedestrian Gates

CTA Project Manual dated 8/2/17 – Sections Listed Below

**DIVISION 01 – GENERAL REQUIREMENTS**

**TOTAL PAGES**

011000 ..... SUMMARY ..... 5  
 013100 ..... PROJECT MANAGEMENT AND COORDINATION ..... 10  
 013300 ..... SUBMITTAL PROCEDURES ..... 10  
 013513.16 . SPECIAL PROJECT PROCEDURES FOR DETENTION FACILITIES ..... 5  
 014000 ..... QUALITY REQUIREMENTS ..... 7  
 015000 ..... TEMPORARY FACILITIES AND CONTROLS ..... 8  
 016000 ..... PRODUCT REQUIREMENTS ..... 5  
 017300 ..... EXECUTION ..... 6  
 017419 ..... CONSTRUCTION WASTE MANAGEMENT AND DISPOSAL ..... 5  
 017700 ..... CLOSEOUT PROCEDURES ..... 6  
 017823 ..... OPERATION AND MAINTENANCE DATA ..... 7  
 017839 ..... PROJECT RECORD DOCUMENTS ..... 3

**DIVISION 03 – CONCRETE**

033000 ..... CAST-IN-PLACE CONCRETE ..... 15

**DIVISION 31 – EARTHWORK**

311000 ..... SITE CLEARING ..... 5  
 312000 ..... EARTH MOVING ..... 5  
 312333 ..... TRENCH EXCAVATION AND BACKFILL FOR CONDUIT AND APPURTENANT STRUCTURES ..... 9

**DIVISION 32 – EXTERIOR IMPROVEMENTS**

323113.53 . HIGH-SECURITY CHAIN LINK FENCES AND GATES..... 16

**Leased Premise Exclusions**

1. Section 013200 "Construction Progress Documentation" for recording preexcavation and earth-moving progress.
3. Section 087163 "Detention Door Hardware" for detention door hinges and locks for swing and slide gates.
4. Section 281500 "Access Control Hardware Devices" for gate controls.
5. Section 281643 "Perimeter Security Systems" for fence-mounted gate-movement detectors.
6. Section 285211 "Detention Monitoring and Control Systems" for detection and alarm systems and for gate controls.

Drawings and Project Manual Specifications not specifically listed under Leased Premise Inclusions above.

**3. TERM OF LEASE**

The lease term is 20 years, January 1, 2018, through December 31, 2037, unless earlier terminated as provided in Sections 13, 18, 19, 21 or 22 of this lease.

**4. CONSIDERATION**

The annual amount of rent the Lessee shall pay to the Lessor for 2018 is \$149,815, payable in equal monthly installments of \$12,484.58. This reflects a rate of approximately \$4.13 (Year 1 - 2018) per square foot (36,303 total square feet).

The annual amount of rent the Lessee shall pay to the Lessor for each subsequent year is as follows:

Year Beginning	\$ Per Square Foot	Annual Lease Cost
January 2018	\$ 4.13	\$ 149,815
January 2019	\$ 4.20	\$ 152,503
January 2020	\$ 4.28	\$ 155,240

January 2021	\$ 4.35	\$ 158,027
January 2022	\$ 4.43	\$ 160,865
January 2023	\$ 4.51	\$ 163,755
January 2024	\$ 4.59	\$ 166,698
January 2025	\$ 4.67	\$ 169,694
January 2026	\$ 4.76	\$ 172,746
January 2027	\$ 4.84	\$ 175,853
January 2028	\$ 4.93	\$ 179,017
January 2029	\$ 5.01	\$ 182,240
January 2030	\$ 5.11	\$ 185,521
January 2031	\$ 5.20	\$ 188,863
January 2032	\$ 5.30	\$ 192,265
January 2033	\$ 5.39	\$ 195,731
January 2034	\$ 5.49	\$ 199,260
January 2035	\$ 5.59	\$ 202,853
January 2036	\$ 5.69	\$ 206,513
January 2037	\$ 5.79	\$ 210,240

Pending Legislative approval, Lessee may purchase the Leased Premise according to the buy-out amounts stated below:

Term of Lease	Buy-Out Amount
DOC FY2020 (Biennium 2020-21); Lease Years 3&4	\$ 1,255,533
DOC FY2022 (Biennium 2022-23); Lease Years 5&6	\$ 1,195,047
DOC FY2024 (Biennium 2024-25); Lease Years 7&8	\$ 1,122,624
DOC FY2026 (Biennium 2026-27); Lease Years 9&10	\$ 1,035,906
DOC FY2028 (Biennium 2028-29); Lease Years 11&12	\$ 932,074
DOC FY2030 (Biennium 2030-31); Lease Years 13&14	\$ 807,748
DOC FY2032 (Biennium 2032-33); Lease Years 15&16	\$ 658,886
DOC FY2034 (Biennium 2034-35); Lease Years 17&18	\$ 480,643
DOC FY2036 (Biennium 2036-37); Lease Year19	\$ 267,222

If Lessee has not purchased the Leased Premise by the 20<sup>th</sup> year of this lease, then pending Legislative approval, after the 20<sup>th</sup> year, ownership of the Leased Premise will automatically become Lessee property without any further consideration or obligation by either party.

If after the 20<sup>th</sup> year Lessee does not receive Legislative approval to the purchase Leased Premise, both parties mutually agree to re-negotiate this lease, unless Lessee decides that it no longer needs the Leased Premise, then Lessor shall at its expense remove the Leased Premise and return the landscape to its original condition within 90 days written notice.

The Lessee shall make monthly lease payments without the need for a separate invoice from the Lessor. The lease payments are due on the first business day of the month. Lessor may request payments be made by electronic funds transfer by submitting a completed Standard Form 1199A (Direct Deposit Sign-Up Form) to the Lessee.

Such an election shall remain in force until cancelled by Lessor with 30 days' advance written notice to the Lessee.

**5. RENEWAL OPTION**

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

**6. UTILITIES AND SERVICES**

The Lessor shall provide all utilities, material, and labor required to install and maintain the Leased Premise during the initial installation and prior to acceptance by Lessee. The Lessee will be responsible for all existing utility locates within the project limits and relocate if necessary. After installation, the Lessee shall provide all utilities, material, and labor required to maintain the Leased Premise, including all utilities and operational expenses required to operate the fence.

**7. PARKING SPACE (NIC)**

**8. PARKING AREA AND SIDEWALK MAINTENANCE (NIC)**

**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, when mailed by first class mail, postage prepaid, to the addresses specified in this section, or by e-mail with confirmation of delivery.

The Lessor's address for purpose of receiving demand or notice is P.O. Box 967, Missoula Montana 59806.

The Lessor's representative for purposes under this lease is Doug Jackson, telephone (406) 542-9150, e-mail address: [dougj@jacksoncontractorgroup.com](mailto:dougj@jacksoncontractorgroup.com)

The Lessee's address for the purpose of receiving demand or notice is the State of Montana, Department of Corrections, 400 Conley Lake Rd., Deer Lodge, Montana, 59722.

The Lessee's representative for purposes under this lease is Jim Salmonsens, Associate Warden, telephone (406) 846-1320, ext 2300, e-mail address: [jsalmonsens@mt.gov](mailto:jsalmonsens@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 has the right to quiet and peaceful enjoyment and utilization of the Leased Premise for the term of this lease upon paying rent as provided and upon Lessee's adherence to performance conditions set forth in this lease.

**11. ACCESS FOR MAINTENANCE/INSPECTION**

Upon prior notice, the Lessee shall permit the Lessor or its agent to enter into and upon the Leased Premise at all reasonable times to: (a) inspect the Leased Premise or (b) make repairs, alterations or additions to any portion of the Leased Premise, including, but not limited to, the installation and maintenance as may be requested by Lessee. Lessor shall comply with all MSP contractor requirements including tool management and

all on-site employees must pass a background check. Lessor's staging area shall be coordinated with MSP and all tool control requirements and vehicle requirements shall be strictly enforced at all times.

Failure to comply may result in loss of access to the Leased Premise and/or termination of lease.

**12. MAINTENANCE OF LEASED PREMISE**

Lessee shall, at its cost and expense, keep and maintain in good working order and repair during the term of this lease or any extension thereof, all components as a result of regularly scheduled maintenance requirements of components.

The Lessee shall notify the Lessor in writing immediately of any damage or need for repair of any sort if the cost is greater than \$1,000 or the Lessee requires the Lessor to make repairs on behalf of the Lessee. In the event the Lessor makes repairs on behalf of the Lessee, Lessee shall reimburse Lessor for actual costs plus 15%.

**13. CASUALTY DAMAGE**

If the Leased Premise is damaged, destroyed or otherwise made unusable by Lessee, Lessee shall have the obligation to restore and return the Leased Premise to its original condition regardless of amount of damage to the Leased Premise.

If the Leased Premise is not restored, or cannot be restored, and returned to proper condition for use and occupancy within 60 days of the casualty caused by Lessee, Lessee shall reimburse Lessor for the Leased Premise at the stated purchase value at the time the Leased Premise was damaged.

Upon written notice of termination under this section, the Lessor shall refund any unearned rent paid by the Lessee, and the Lessee shall purchase the premise at the value stated in the Lease Contract at the time of the Casualty Damage.

Under no circumstances or conditions, including termination, shall the Lessor prevent use of the leased property by the Lessee.

**14. ALTERATIONS TO LEASED PREMISE**

The Lessee shall not alter the Leased Premise without the Lessor's prior written notification and consent except for the following: The Lessee reserves the right, and without violating the Lease Contract, to attach, mount, fasten, or otherwise affix any items to any portion of the leased property at any time and in any manner it deems necessary and/or appropriate (such as, but not limited to, security cameras, control systems, etc.).

**15. SIGNS (NIC)**

**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 as such, 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 agrees to protect, defend, and save the Lessor, its agents, and employees, while acting within the scope of their duties as such, 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 Lessee'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 Lessee and/or its agents, employees, representatives, assigns and sublessors under this lease.

## 17. INSURANCE SPECIFICATIONS

### a. Property

At its sole cost and expense, the Lessee shall keep the leased property insured throughout the term of the agreement against the following hazards:

- Loss or damage by fire and such other risks (including earthquake damage) in an amount sufficient to permit such insurance to be written at all times on a replacement costs basis. This may be insured against by attachment of standard form extended coverage endorsement to fire insurance policies.

### b. General Liability

General Liability: the Lessee shall purchase Occurrence coverage with combined single limits of \$1 million per occurrence/\$2 million aggregate per year for bodily injury, personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the project/location or the general aggregate limit shall be twice the required occurrence limit. This insurance must be from an insurer licensed to do business in Montana or a domiciliary state and with a Bests rating of no less than A-. The Lessee must provide 30 days written notice to the Lessor of any material change in coverage including cancellation and the Lessor reserves the right to request copies of the Lessee's insurance coverage at any time. The Lessor, its officers, officials, employees, and volunteers are to be covered as additional insureds for liability arising out of activities performed by or on behalf of the Lessee, including the insured's general supervision of the Lessee, products and completed operations and the premise owned, leased, occupied, or used.

The Lessee's insurance coverage shall be primary insurance as respects the Lessor, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Lessor, its officers, officials, employees, or volunteers shall be excess of the Lessee's insurance and shall not contribute with it.

### c. Licensure

Contractor agrees to provide copies of current licenses and certifications that register Contractor and any associates performing under this Contract.

## 18. COMPLIANCE WITH LOCAL, STATE AND FEDERAL LAWS

The Lessor shall comply with all applicable state and federal laws. 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. Lessor will comply with the Prison Rape Elimination Act 42 U.S.C.A. § 15601ff, the Prison Rape Elimination Act final rule 28 CFR Part 115, MDOC Policy 1.3.14, Prison Rape Elimination Act, and ACCD 1.3.1400 PREA to include incident

reporting. Lessor shall establish a zero - tolerance policy to incidents of sexual assault/rape or sexual misconduct. Any subletting or subcontracting by Lessor subjects subcontractors to the same provisions. 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.

The Lessor shall comply with the Montana Occupational Safety and Health Act (MCA 50-71-111 et seq.) and all rules adopted thereunder. The Lessor further agrees to comply with the ordinances and laws of the City of Deer Lodge, 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 shall provide the Department of Administration, the Legislative Auditor or their authorized agents access to any records concerning this lease. A state agency may terminate a contract, without incurring liability, for the refusal of a nonstate entity to allow access to records as required in MCA 18-1-118.

The Lessor shall retain all records supporting the services rendered or goods delivered for a period of eight years after either the completion date of this lease or the conclusion of any claim, litigation or exception relating to this lease taken by the state of Montana or a third party.

## **19. ENVIRONMENTAL HAZARDS**

The Lessor hereby represents and warrants that no leak, spill, release, discharge, emission or disposal of hazardous or toxic substances will occur on or near the leased property during construction and prior to completion of the Leased Premise. After installation and completion of the Leased Premise, or at any time during the term of the lease, the Lessee hereby represents and warrants that no leak, spill, release, discharge, emission or disposal of hazardous or toxic substances will occur on or near the leased property

If, at any time, the Lessee determines that the Leased Premise poses a significant environmental hazard to its employees, Lessee shall have the right to restore or correct the significant environmental hazard without the Lease Contract being terminated. If the environmental hazard cannot be corrected or ameliorated, this lease may be terminated, with a minimum of 30 days' written notice. Upon termination, Lessee shall purchase the Leased Premise from Lessor at purchase price stated at the time of written notice from Lessee to Lessor

## **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 30 days' 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**

If either party to this Lease defaults in the performance of any term or condition of this Lease, the other party may give the defaulting party notice of the default. The notice shall specify the action required to correct the default and a period of time, not less than 30 days, within which to correct the default. If the default is not corrected within the time specified in the notice, the party not in default may terminate this lease without further obligation under this lease, other than obligations incurred or accrued to the date of termination, and pursue the remedies available under Montana 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 30 days of termination.

**23. SEVERABILITY**

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. If a lease dispute arises, the proper venue for the hearing of the case is the District Court of the First Judicial District of the State of Montana, in and for the County of Lewis and Clark.

**25. SUCCESSORS**

All rights and liabilities herein given to 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, or renewal thereof, addendum, amendment, sublease or letter of understanding, is subject to prior approval by the Department of Administration.

**27. ENTIRE LEASE/AMENDMENT/PURCHASE**

This lease, consisting of 10 pages, sections 1 through 28, and the Architectural Drawings attached as Exhibit "A", contains the entire contract between the Lessor and the Lessee. Any agreement hereafter made shall not be effective to modify this Lease Contract unless it is in writing and signed by both parties and the Department of Administration.



The Department of Corrections reserves the option to purchase the entire installation of the Security Fencing and all components, from the Lessor at any time during the term of the lease or at the end upon purchase approval and appropriation of funds by the Legislature.

**28. SUBLEASE**

Subject to prior approval by the Department of Administration as provided in section 26, Lessee shall have the right to sublet the leased property to a sublessee, with the consent of the Lessor, which consent shall not be unreasonably withheld.

**(the rest of this page is left blank intentionally)**

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

**PARTIES TO THE LEASE**

**Lessee**

By: Reginald D. Michael 9/22/17  
Reginald Michael, Director Date  
Montana Department of Corrections

**Lessor**

By: Doug Jackson 9/25/17  
Doug Jackson, Manager Date  
Double Haul, LLC

**APPROVED BY:**

By: Garett M. Bacon Sept 21, 2017  
Garett M. Bacon, Leasing Officer Date  
Department of Administration, General Services Division

By: Mike Manion Sept 21, 2017  
Mike Manion, Chief Legal Counsel Date  
Department of Administration

By: Dan Villa 9/25/17  
Dan Villa Date  
OBPP Director/Designee

By: John Lewis 9-22-17  
John Lewis, Director Date  
Department of Administration