STATE OF MONTANA STANDARD LEASE CONTRACT 2001

1. PARTIES

This lease **#6440** is entered into this 11th day of September, 2002, by the Montana Department of Corrections, PO Box 201301,1539 11th Avenue, Helena, MT 59620-1301, hereinafter referred to as the "Department" and Ernest E. Harvey and Ruby J. Harvey, PO Box 647, Dillon, MT 59725, hereinafter referred to as the "Contractor".

2. PURPOSE OF LEASE

The Department has a need to lease premises in Dillon, Montana, for the purpose of operating a probation and parole office. Ernest E. Harvey and Ruby J. Harvey have premises available for lease in Dillon, Montana, suitable for stated purpose. The Contractor and the Department therefore agree as follows:

3. PREMISES DESCRIPTION

The area of space being leased consists of **470** square feet and includes the right to use common areas within the leased premise. The premises are located at 730 North Montana, Dillon, Montana.

4. TERM OF LEASE

The lease shall originate on the 1st day of October 2002 and shall expire on the 30th day of September 2007, unless earlier terminated as provided in Sections 14, 20 or 22 of this lease.

5. CONSIDERATION

The Department shall make equal, semi-annual lease payments to the Contractor during the term of this lease. Payments will be made in accordance with the following schedule: **Year 1** - $4,230.00; **Year 2** - $4,362.00; **Year 3** - $4,494.00; **Year 4** - $4,626.00; and **Year 5** - $4,758.00. This reflects a Year 1 lease rate of $9.00 per square foot.

The Department shall make lease payments without the need for a separate invoice from the Contractor. Lease payments are due on the first business day of October and April, respectively. Contractor may, by written election, request that lease payments be made by electronic funds transfer (EFT). Such an election shall remain in force until cancelled by Contractor with 30 day's advance written notice to the Department.

6. RENEWAL OPTION

The Department shall retain the option to renew this lease for a period of up to six (6) additional year(s) upon expiration of the initial term. Lease renewals will be subject to the same terms and conditions as contained herein. The renewal rate shall be mutually agreed. The Department shall notify Contractor of their intent to renew this lease at least sixty (60) days prior to the expiration of the original term of this lease.

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

7. UTILITIES AND SERVICES

The Contractor shall furnish and pay for all utilities and janitorial services.

8. PARKING SPACE

Contractor agrees to provide at a minimum, three (3), parking spaces including the requisite number of handicapped spaces in compliance with the American With Disabilities Act as part of the leased premises at no additional charge or cost to the Department.

9. PARKING AREA AND SIDEWALK MAINTENANCE

Contractor agrees to keep the parking area and sidewalks in good repair, and to timely remove snow and ice from the parking area and sidewalks.

10. NOTICE PROTOCOL

Any notice or demand required 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 Contractor's address for purpose of receiving demand or notice is Ernest and Ruby Harvey, PO Box 647, Dillon, MT 59725. Phone (406) 683-4402.

The Department's address for the purpose of receiving notice is Ron Alsbury, Montana Department of Corrections, PO Box 201313, 111 North Rodney, Helena, MT 59602. Phone (406) 444-3052.

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

11. QUIET ENJOYMENT

The Department has the right to quiet and peaceful enjoyment and utilization of the leased premises for the term of this lease upon paying the rents as provided and upon Department adherence to performance conditions set forth by and in this lease.

12. INSPECTION

The Department shall permit upon prior notice, the Contractor or its agent to enter into and upon the premises at all reasonable times to maintain or inspect the building in which the leased premises 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.

13. MAINTENANCE OF PREMISES

Contractor shall, at its own cost and expense, keep and maintain in good working order and repair during the term of

this lease or any extension thereof, the exterior of the premises including the roof, the interior, all fixtures in the building except those owned by the Department, and all plumbing, heating, ventilation, air conditioning, and electrical circuits. The Contractor, at its own cost and expense shall be responsible for the replacement of light bulbs, fluorescent tubes and other lighting elements and shall do so within 7 working days after notification.

The Department shall notify the Contractor in writing immediately of any damage or need for repair. Contractor shall make or cause to be made the necessary repairs as soon as possible after receiving notice. The Department shall be financially responsible only in cases of damages resulting from the Department's negligence or that of its employees.

Should the Contractor fail to make or begin to make necessary repairs within thirty (30) days after U. S. Postal Service postmark of written notification of damages by the Department to the Contractor, the Department may then make necessary repairs at the Contractor's expense at the lowest reasonable cost.

An itemized statement of repairs made by the Department under this section, including receipt verification of labor and materials may be tendered in lieu of full or partial payment of rent due for the succeeding months until the cost of the work performed is fully credited against rent due under this lease.

14. CASUALTY OR FIRE DAMAGE

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

If the premises are less than twenty-five percent (25%) destroyed or made uninhabitable by fire or other casualty, the rent shall be reduced by the proportion the premises have been rendered uninhabitable or declared unsafe. For the purpose 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, then either the Contractor or the Department may terminate this lease on ten (10) days written notice to the other party.

Upon written notice of termination under this section, the Contractor shall refund any unearned rent paid by the Department, and the Department shall have no further obligation to the Contractor under this lease. Contractor shall continue to insure the premises until Department's personal property is removed from the premises. The Department shall have 30 days after termination of this lease to remove its property from the premises.

15. ALTERATIONS TO PREMISES

The Department agrees to make no substantial alteration to the premises without the prior written consent of the Contractor.

16. SIGNS

The Contractor shall install on the exterior of the premises a suitable sign or signs to advertise the Department's

presence in and on the premises.

17. HOLD HARMLESS AND INDEMNIFICATION CLAUSE

The Contractor agrees to protect, defend, and save the Department, 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 Contractor'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 Contractor and/or its agents, employees, representatives, assigns and subcontractors under this lease except for the negligence of the Department.

18. INSURANCE SPECIFICATIONS

a. Property

At its sole cost and expense, the contractor shall keep the building and all other improvements on the premises insured throughout the term of the agreement 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 costs 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 premises.

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

b. General Liability

- General Liability: the Contractor 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. The Contractor shall name the Department as an additional insured as respects general supervision, products, premises, access to the premise and completed operations. 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 Contractor must provide 30 days written notice to the Department of any material change in coverage including cancellation and that the Department reserves the right to request copies of the Contractors insurance coverage at any time.

The Contractors insurance coverage shall be primary insurance as respects the Department, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Department, its officers, officials, employees, or volunteers shall be excess of the Contractors insurance and shall not

contribute with it.

19. COMPLIANCE WITH LOCAL, STATE AND FEDERAL LAWS

The Contractor must comply with all applicable state and federal law. This includes, but is not limited to, the Montana Human Rights Act, the Civil Rights Act of 1964, the Age discrimination Act of 1975, the Americans with Disabilities Act of 1990, PL 101-336, and Section 504 of Rehabilitation Act of 1973.

The Contractor agrees to conform with all rules and regulations adopted under the Montana Safety Act and the Act itself. The Contractor further agrees to comply with the ordinances and laws of the City of Dillon, and the State of Montana, affecting the use of the premises and to assume all legal responsibility for any charges or damages for non-observance.

The Contractor agrees to provide the Department of Administration, the Legislative Auditor, the Legislative Fiscal Analyst, or their authorized agents access to any records concerning this lease.

The Contractor agrees to create and retain all records supporting the services rendered or goods delivered for a period of three 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.

The Contractor warrants that the space is ADA accessible and compliant.

20. ENVIRONMENTAL HAZARDS

The Contractor hereby represents and warrants that no leak, spill, release, discharge, emission or disposal of hazardous or toxic substances has occurred on the leased premises to date and that the soil and groundwater on or under the leased premises are free of toxic or hazardous substances as of the date that the term of this lease commences.

The Contractor represents and warrants that the leased space shall be free of all asbestos containing materials, except undamaged vinyl asbestos floor tile in the space or undamaged boiler or pipe insulation outside the space. Radon levels in the demised premises shall not equal or exceed the Environmental Protection Agency (EPA) action level for homes or 4 picocuries per liter (PCI/L).

If at any time, the Department determines that the demised premises poses a significant environmental hazard to its employees, this lease may be terminated with a minimum of thirty (30) days written notice.

21. HOLDOVER TENANCY

In the event the Department holds the premises 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 at any time by either the Contractor or the Department by means of a 30-day written notice delivered prior to the beginning of the final month.

22. TERMINATION

The Contractor acknowledges, understands, and agrees that the Department, as a state agency, is dependent upon state and federal appropriations for its funding. In the event state or federal government funds available for this purpose are reduced, the Department may cancel this lease by giving thirty (30) days written notice to the Contractor.

The Department shall not be liable to the Contractor for any amount which would have been payable had the lease not been terminated under this provision. The Department shall be liable to the Contractor only for the amount owed to the Contractor up to the date the Department vacates the premises.

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, which notice shall specify the action required to correct the default and a period of time of 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.
At the expiration or termination of this lease or any extension of it, the Department will vacate and surrender the premises to the Contractor in as good condition and repair as when it took possession, reasonable wear and tear excepted. All property and fixtures placed in the premises by the Department or owned by the State of Montana may be removed by the Department within thirty 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 Contractor and Department 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 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, or letter of understanding, is subject to prior approval by the Department of Administration.

27. ENTIRE LEASE

This lease, consisting of Sections 1 through 29, contains the entire agreement between the Contractor and the Department. Any lease hereafter made shall not be effective to modify this lease unless such agreement is in writing and is signed by both parties to the original lease and the Department of Administration.

28. SUBLEASE

The Department shall have the right to sublet the premises to a Sublessee, with the consent of the Contractor, which consent shall not be unreasonably withheld.

29. SMOKE FREE ENVIRONMENT

The Contractor shall make the portions of the building occupied by state agencies smoke-free. "Smoke" means smoke from a lighted cigar, cigarette, or pipe or any other lighted tobacco product as defined in MCA 50-40-202.

IN WITNESS THEREOF, the Contractor and the Department have entered into and executed this lease:

CONTRACTOR (S)

By: Ernest Harvey 9-18-02
Ernest Harvey Date

By: Ruby Harvey 9-18-02
Ruby Harvey Date

DEPARTMENT

By: Mike Ferriter 9/16/02
Mike Ferriter, Administrator Date
Adult Community Corrections Division

PRIOR APPROVAL BY THE DEPARTMENT OF ADMINISTRATION

By: Garett M. Bacon 9-11-2002
Garett Bacon Date
Leasing Officer

THIS LEASE HAS BEEN APPROVED FOR LEGAL CONTENT BY THE DEPARTMENT OF ADMINISTRATION'S LEGAL COUNSEL.

LEASE AMENDMENT
LEASE #6440

THIS LEASE AMENDMENT (**Amendment #1**) is made and entered into by and between the Montana Department of Corrections (DEPARTMENT) 1539 11th Ave., Helena, Montana 59620-1301 and ~~Ernest E. Harvey and Rudy J. Harvey~~ **Harvey Investments, L.P.** (CONTRACTOR) PO Box 647, Dillon Montana 59725 and is effective upon receipt of all signatures.

WHEREAS, the parties have entered a Lease with an original effective date of October 1, 2002 and Section 10 provides that the parties may modify their agreement in writing;

NOW THEREFORE, the parties agree to amend the Lease as follows **(new language underlined, old language interlined)**:

10. NOTICE PROTOCOL

Any notice or demand required 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.

Effective March 1, 2006, t~~T~~he Contractor's name/address for purpose of receiving payment, demand, or notice is Harvey Investments, L.P., ~~Ernest and Ruby Harvey~~, PO Box 647, Dillon, MT 59725. Phone (406) 683-4402.

The Department's address for the purpose of receiving notice is Ron Alsbury, Montana Department of Corrections, PO Box 201313, 111 North Rodney, Helena, MT 59602. Phone (406) 444-3052.

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

This constitutes the Amendment to the Lease. All other provisions contained in the original Lease, as amended, shall remain unchanged.

CONTRACTOR

By: _____ May 25-06
Ernest Harvey
Harvey Investments, L.P.
DATE

By: _____ May 25, 2006
Ruby Harvey
Harvey Investments, L.P.
DATE

DEPARTMENT

By: _____ 3-23-06
Mike Ferriter, Administrator
Adult Community Corrections Division
DATE

APPROVED BY THE DEPARTMENT OF ADMINISTRATION

_____ 3-27-2006
Garett M. Bacon, Leasing Officer
Department of Administration
DATE

2nd AMENDMENT AND SUPPLEMENT TO LEASE #6440

This 2nd Amendment and Supplement to Lease #6440 for space in Montana is made this 6th day of July, 2007, by and between the **Department of Corrections**, hereinafter referred to as the DEPARTMENT and **Harvey Investments, L.P.**, hereinafter referred to as the CONTRACTOR.

WHEREAS, the parties have entered a Lease with an original effective date of October 1, 2002 and Section 27 provides that the parties may modify their agreement in writing; and

WHEREAS, the Contract expires on September 30, 2007 and Section 6 provides that the parties may extend the expiration date of the Contract.

NOW THEREFORE, the parties agree to amend the Lease as follows **(new language underlined, old language interlined)**:

4. TERM OF LEASE

The lease shall originate on the 1st day of October 2002 and shall expire on the 30th day of September ~~2007~~ 2013, unless earlier terminated as provided in Sections 14, 20 or 22 of this lease.

5. CONSIDERATION

The Department shall make equal, semi-annual lease payments to the Contractor during the term of this lease. Payments will be made in accordance with the following schedule: **Year 1** - $4,230.00; **Year 2** - $4,362.00; **Year 3** - $4,494.00; **Year 4** - $4,626.00; ~~and~~ **Year 5** - $4,758.00; **Year 6** - $4,991.40; **Year 7** - $5,141.14; **Year 8** - $5,295.37; **Year 9** - $5,454.23; **Year 10** - $5,617.86; and **Year 11** - $5,786.40. This reflects a Year 1 lease rate of $9.00 per square foot and a Year 6 rate of $10.62 per square foot.

The Department shall make lease payments without the need for a separate invoice from the Contractor. Lease payments are due on the first business day of October and April, respectively. Contractor may, by written election, request that lease payments be made by electronic funds transfer (EFT). Such an election shall remain in force until cancelled by Contractor with 30 day's advance written notice to the Department.

6. RENEWAL OPTION

~~The Department shall retain the option to renew this lease for a period of up to six (6) additional year(s) upon expiration of the initial term. Lease renewals will be subject to the same terms and conditions as contained herein. The renewal rate shall be mutually agreed. The Department shall notify Contractor of their intent to renew this lease at least sixty (60) days prior to the expiration of the original term of this lease.~~

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

Aug 17 07 11:26a Ernie and Ruby Harvey 406-683-4402 p.1

This constitutes the Amendment to the Lease. All other provisions contained in the original Lease, as amended, shall remain unchanged.

IN WITNESS HEREOF ALL PARTIES HAVE ENTERED INTO AND EXECUTED THIS AMENDMENT AND SUPPLEMENT TO LEASE;

CONTRACTOR

Ernest Harvey — DATE 7/20/07
Ernest Harvey
Harvey Investments, L.P.

Ruby Harvey — DATE 7/20/07
Ruby Harvey
Harvey Investments, L.P.

DEPARTMENT

Pam Bunke — DATE 7-19-07
Pam Bunke, Administrator
Adult Community Corrections Division

PRIOR APPROVAL BY
DEPARTMENT OF ADMINISTRATION

Garett M. Bacon — DATE July 19, 2007
Garett M. Bacon, Leasing Officer
Department of Administration