

1st AMENDMENT TO LEASE #6423-A
(Amendment Template last revised June 23, 2021)

This 1st Amendment to Lease #6423-A ("Lease") for Montana Women's Prison parking at 615 South 27th Street, Billings, Montana is made by and between the Montana Department of Corrections, PO Box 201301, 5 S. Last Chance Gulch, Helena, Montana, 59620, "Lessee" and VTR Properties, LLC, 1921 Chickadee Cir, Billings, Montana, 59105, "Lessor."

The purpose of this Amendment are to (i) extend the lease for 5 years and (ii) reduce the number of parking spaces.

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

2. PREMISE DESCRIPTION

The space being leased consists of ~~50~~ 30 parking spaces and includes the right to use common areas within the leased premise. The leased premise is located at 615 South 27th Street, Billings, Montana. Lessor shall paint "Reserved" on the asphalt for 30 spaces.

3. TERM OF LEASE

The lease term is ~~two years~~, November 1, 2019 through October 31, ~~2021~~ 2026, 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 the first year is \$13,800.00, payable in equal monthly installments of \$1,150.00. This reflects a rate of approximately \$23.00 per parking space per month.~~

~~The annual amount of rent the Lessee shall pay to the Lessor for the second year is \$14,007.00, payable in equal monthly installments of \$1,167.25. This reflects a rate of approximately \$23.35 per parking space per month.~~

Effective November 1, 2021, the annual amount of rent the Lessee shall pay to the Lessor is \$8,406.00, payable in monthly payments of \$700.50. This reflects a rate of \$23.35 per parking space per month.

Except as expressly amended herein, all the terms and conditions of the Lease, including all prior amendments, remain in effect.

PARTIES TO THE LEASE

Lessee

By:  DocuSigned by:
3869A08542B943F... 9/15/2021

Date
Brian Gootkin, Director
Montana Department of Corrections

Lessor

By:  DocuSigned by:
9B2700AA56E94EB... 9/16/2021

Date
Todd Reichenbach, Manager
VTR Properties, LLC

APPROVED BY:

By:  DocuSigned by:
75F3E618151B46A... 9/15/2021


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

By:  DocuSigned by:
8E2DE9861B4E4EF... 9/15/2021

Date
Mike Manion
Department of Administration Chief Legal Counsel

By:  DocuSigned by:
EDC7654C9FDA4CB... 9/16/2021

Date
Office of Budget and Program Planning

By:  DocuSigned by:
4EE6E5CA5FE0409... 9/16/2021

Date
Misty Ann Giles, Director
Department of Administration

STATE OF MONTANA STANDARD LEASE CONTRACT
(Lease Template last revised September 19, 2018)

This Lease #6423-A ("Lease") for Montana Women's Prison parking at 615 South 27th Street, Billings, 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 VTR Properties, LLC, 1921 Chickadee Cir, Billings, Montana, 59105, "Lessor."

1. PURPOSE OF LEASE

The Lessee has a need to lease parking space in Billings, Montana, for the purpose of providing adequate parking space, per City requirements for the Montana State Women's Prison. The Lessor has space available for lease in Billings, Montana, suitable for the stated purpose.

2. PREMISE DESCRIPTION

The space being leased consists of 50 parking spaces and includes the right to use common areas within the leased premise. The leased premise is located at 615 South 27th Street, Billings, Montana.

3. TERM OF LEASE

The lease term is two years, November 1, 2019 through October 31, 2021, 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 the first year is \$13,800.00, payable in equal monthly installments of \$1,150.00. This reflects a rate of approximately \$23.00 per parking space per month.

The annual amount of rent the Lessee shall pay to the Lessor for the second year is \$14,007.00, payable in equal monthly installments of \$1,167.25. This reflects a rate of approximately \$23.35 per parking space per month.

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

Not Applicable.

7. PARKING SPACE

Lessor shall provide 50 parking spaces, including the requisite number of handicapped spaces in compliance with the Americans With Disabilities Act, as part of the leased premise at no additional charge or cost to the Lessee.

8. PARKING AREA AND SIDEWALK MAINTENANCE

Lessor shall keep the parking area and sidewalks in good repair and timely remove snow, ice, sand, gravel and debris from the parking area and sidewalks.

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 VTR Properties, LLC, 1921 Chickadee Cir, Billings, Montana, 59105.

The Lessor's representative for purposes under this lease is Todd Reichenbach, telephone (406) 698-7764, email address: pyrofx.mt@gmail.com.

The Lessee's address for the purpose of receiving demand or notice is the State of Montana, Department of Corrections, P.O. Box 201301, 5 S. Last Chance Gulch, Helena, Montana, 59601.

The Lessee's representative for purposes under this lease is Pat Schlauch, telephone: (406) 444-4939, e-mail address: pschlauch@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) maintain or 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 of scaffolding, canopies, fences, or props as may be needed.

12. MAINTENANCE OF LEASED PREMISE

Lessor 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, the following: (a) all landscaping including sprinkler systems if any; mowing of the grass, weed and tree/bush control (b) The Lessor, at its cost and expense, shall be responsible for the replacement of light bulbs, fluorescent tubes and other lighting elements, if any, and shall do so within seven working days after notification.

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

Should the Lessor fail to make or begin to make necessary repairs within 30 days of notification of damages by the Lessee to the Lessor, the Lessee may then make necessary repairs at the Lessor's expense at the lowest reasonable cost.

An itemized statement of repairs made by the Lessee under this section, including verification of labor and material, 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.

13. CASUALTY OR FIRE DAMAGE

If the leased premise becomes 25% or more destroyed or made uninhabitable, or if the premise is condemned by a proper authority, this lease may be terminated, without incurring liability, by the Lessee.

If the leased premise is less than 25% destroyed or made uninhabitable, the rent shall be reduced by the proportion the premise has been rendered uninhabitable or declared unsafe.

If the leased premise is not restored, or cannot be restored, and returned to proper condition for use and occupancy within 15 days of the casualty, then either the Lessor or the Lessee may terminate this lease, without incurring liability, on 10 days' written notice to the other party.

Upon written notice of termination under this section, the Lessor shall refund any unearned rent

paid by the Lessee, and the Lessee shall have no further obligation to the Lessor under this lease. Lessor shall continue to insure the premise until Lessee's personal property is removed from the premise. The Lessee shall have 30 days after termination of this lease to remove its property from the premise.

14. ALTERATIONS TO LEASED PREMISE

The Lessee shall not alter the leased premise without the Lessor's prior written consent.

15. SIGNS

The Lessor shall provide parking signage if needed.

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.

17. INSURANCE SPECIFICATIONS

a. Property

At its sole cost and expense, the Lessor shall keep all improvements on the premise insured throughout the term of the agreement against the following hazards:

- ☉ Loss or damage from leakage or sprinkler systems now or hereafter installed on the premise.

b. General Liability

General Liability: the Lessor 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 Best's rating of no less than A-. The Lessor must provide 30 days written notice to the Lessee of any material change in coverage including cancellation and the Lessee reserves the right to request copies of the Lessor's insurance coverage at any time. The State, 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 Lessor, including the insured's general supervision of the Lessor, products and completed operations; and the premise owned, leased, occupied, or used.

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

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. 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 Billings, 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.

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

19. ENVIRONMENTAL HAZARDS

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

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

If, at any time, the Lessee determines that the leased premise poses a significant environmental hazard to its employees, this lease may be terminated, without incurring liability, with a minimum of 10 days' written 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 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

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

28. SUBLEASE

Subject to prior approval by the Department of Administration as provided in section 26, Lessee shall have the right to sublet the premise to a sublessee, with the consent of the Lessor,

which consent shall not be unreasonably withheld.

29. SMOKE FREE ENVIRONMENT

Not applicable.

(The remainder 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: DocuSigned by: Reginald Michael 10/31/2019
9F85110F4C39476...
Reginald D. Michael, Director
Montana Department of Corrections Date

Lessor

By: DocuSigned by: Todd Reichenbach 11/6/2019
9F22F3143C8A4CA...
Todd Reichenbach, Manager
VTR Properties, LLC Date

APPROVED BY:

By: DocuSigned by: Garrett M. Bacon 10/31/2019
76F3E818151B48A...
Garrett M. Bacon, Leasing Officer
Department of Administration, General Services Division Date

By: DocuSigned by: Mike Marion 10/31/2019
Mike Marion, Chief Legal Counsel
Department of Administration Date

By: DocuSigned by: Christine Hultin 11/1/2019
EDC7054C9FDA4CB...
Tom Livers
OBPP Director/Designee Date

By: DocuSigned by: John Lewis 11/1/2019
EEF1735150E941A...
John Lewis, Director
Department of Administration Date