

**STATE OF MONTANA STANDARD LEASE CONTRACT -- COUNTIES --**  
(County lease template last revised September 19, 2018)

This lease #6473-C is made by and between the State of Montana, Department of Corrections, P.O. Box 201301, 5 S. Last Chance Gulch, Helena, Montana, 59601, "Lessee" and Park County, a political subdivision of the State of Montana, 414 East Callender Street, Livingston, Montana, 59047, "Lessor."

**1. PURPOSE OF LEASE**

The Lessee has a need to lease space in Livingston, 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. PREMISE DESCRIPTION**

The area to be leased consists of 855 gross square feet and includes the right to use the common areas within the leased premise. The leased area is 414 East Callender Street, Livingston, Montana.

**3. TERM OF LEASE**

The term of this lease is five years, July 1, 2019 through June 30, 2024, 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 \$1,140.00. This reflects an annual rental cost of \$13,680.00, with a rate of approximately \$16.00 per gross square foot per year.

Except if (i) the Lessor and Lessee otherwise agree in writing to a different increase or no increase in the Base Rent or (ii) Montana law prohibits an increase in the Base Rent—which prohibition Lessor agrees to be bound by and shall govern over any increase in this lease—this Base Rent rate will increase by (1.5%) on each July 1<sup>st</sup>, beginning July 1, 2020 according to the following schedule:

Year	per sf	Annual	Monthly
2019	\$16.00	\$13,680.00	\$1,140.00
2020	\$16.24	\$13,885.20	\$1,157.10
2021	\$16.48	\$14,093.48	\$1,174.46
2022	\$16.73	\$14,304.88	\$1,192.07
2023	\$16.98	\$14,519.45	\$1,209.95

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 (Monday through Friday, excluding holidays)

- 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 Park County, 414 East Callender Street, Livingston, Montana, 59047.

The Lessor's representative for purposes under this lease is Parks Frady, telephone (406) 222-4114, E-mail is [pfrady@parkcounty.org](mailto:pfrady@parkcounty.org) .

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 Kevin Olson, telephone (406) 444-4333, E-mail [kolson@mt.gov](mailto:kolson@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, indemnify and save the Lessee, its elected and appointed officials, agents, and employees, while acting within the scope of their duties, harmless from and against all claims, demands, and causes of action of any kind or character, liabilities, damages and fees 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 and assigns 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 and assigns.

#### **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.

The Lessor agrees to provide an additional alternative accessible site, other than the leased premise, for use by the Lessee if it is necessary to provide services, benefits, or communication to individuals with a disability. In the event an alternative ADA site is not available or economically feasible for the Lessor to provide within thirty (30) days of a written request thereof by the Lessee, the Lessee may terminate the lease with a thirty (30) day written notice.

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 Livingston, 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 21, 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 District Court of the First Judicial District of the State of Montana, in and for the County of Lewis and Clark. 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 leased premise smoke-free. "Smoke" means smoke from a lighted cigar, pipe, cigarette, any kind or variety of e-cigarette or vapor cigarette, or any other smokable product. Refer to Montana Clean Indoor Air Act, 50-40-101, et seq., MCA.

(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:

Lessor

**BOARD OF COUNTY COMMISSIONERS**

By: \_\_\_\_\_ Date: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

**(MUST BE SIGNED BY AT LEAST TWO COMMISSIONERS)**

Deborah J. Jaramila  
Approved for legal content  
County Attorney

Lessee

By: Reginald D. Michael 9/10/19  
Reginald D. Michael, Director Date  
Montana Department of Corrections

**APPROVED BY:**

By: Garett M. Bacon Sept 3, 2019  
Garett M. Bacon, Leasing Officer Date  
Department of Administration, General Services Division

By: Mike Manion Sept 4, 2019  
Mike Manion, Chief Legal Counsel Date  
Department of Administration

By: Christine Hultin Sept 13, 2019  
Tom Livers Date  
OBPP Director/Designee

By: John Lewis 9.18.19  
John Lewis, Director Date  
Department of Administration