

STATE OF MONTANA STANDARD LEASE CONTRACT -- COUNTIES --

Last revised January 1, 2010

1. PARTIES

This lease #6416-B is entered made by and between the Montana Department of Corrections, located at 1539 11th Avenue, Helena, Montana, 59620, hereinafter referred to as, "Lessee" and Big Horn County, a political subdivision of the State of Montana, located at 121 West Third, Hardin, Montana, 59034, hereinafter referred to as, "Lessor".

2. 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.

3. 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 #308. The leased area is located in the County Courthouse building at 121 West Third, in Hardin, Montana.

4. TERM OF LEASE

The term of this lease shall be two (2) years, effective July 1, 2010 through June 30, 2012, unless earlier terminated as provided in sections 14, 19, 20, 21 and 22 of this lease or renewed as provided in Section 5.

5. RENEWAL OPTION

This agreement may be renewed by the mutual consent of Lessor and Lessee for a successive two (2) year period by the following procedure:

The Lessor may notify the Lessee at least one hundred and twenty (120) days prior to the lease expiration date of its intent not to renew the lease, and the lease shall terminate at the end of the lease period. If the Lessor fails to notify the Lessee of its intent to not renew the lease, the Lessee may request lease renewal at least thirty (30) days prior to the lease expiration date.

If the Lessor rejects the request to renew within ten (10) days of the lease expiration date, the lease shall not be renewed. In the event the Lessor notifies the Lessee of such rejection within the ten (10) days, the Lessee may holdover in the leased premises for up to one hundred and twenty days (120) days following receipt by the Lessee of notification of rejection.

If the Lessor fails to notify the Lessee of its rejection, the Lessor shall be presumed to have accepted the request to renew the lease under the same terms and conditions, except for the rental rates.

6. CONSIDERATION

The Lessee shall monthly payments to the Lessor in the amount \$248.57. This reflects \$2,982.88 annually and a rate of \$8.24 per square foot per year. The Contractor may request that the Department make lease payments according to a different payment schedule.

The Department shall pay the Contractor rent due by the 10th of the month. Payment shall be made by written check.

7. 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 premises. 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

8. PARKING SPACE

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

9. 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.

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

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

The Department's address for the purpose of receiving notice is, Montana Department of Corrections, 2615 4th Avenue South, Billings, Montana 59107.

The Department's representative for purposes under this lease is John Williams, telephone (406) 896-5400 johnwil@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.

11. QUIET ENJOYMENT

The Lessee, shall peaceably and quietly have, hold and enjoy the leased premises 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 premises which have not been rented by Lessee.

12. INSPECTION

The Lessee shall permit upon prior notice, the Lessor 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. In the event of an emergency, Lessor may enter the premises without prior notice to the Lessee. Lessor shall have 24-hour access to the leased premises to perform janitorial services pursuant to section 7 of this lease.

13. MAINTENANCE OF PREMISES

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

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 either party.

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 of the premises that have 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 premises until the Lessee's personal property is removed from the premises. The Lessee shall have 30 days after termination of this lease to remove its property from the premises.

15. ALTERATIONS TO PREMISES

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

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

16. 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 premises at a location mutually agreeable to the Lessor and Lessee.

17. HOLD HARMLESS AND INDEMNIFICATION

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 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 subLessors.

18. INSURANCE SPECIFICATIONS

At its sole cost and expense, Lessor shall maintain property insurance upon the leased premises 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 premises.

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 premises.

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 premises 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 premises. Lessee agrees to carry public liability insurance 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.

19. COMPLIANCE WITH LOCAL, STATE AND FEDERAL LAWS

The Lessor and Lessee each respectively understand 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 Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, PL 101-336, Section 504 of the Rehabilitation Act of 1973, the Montana Safety Culture Act and 18-5-401, MCA et seq. concerning the Blind Enterprise Program's vending facility rules.

The Lessor agrees to provide an additional alternative accessible site, other than the leased premises, for use by the Lessee in the event 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 Lessee and Lessor respectively agree to conform to all rules and regulations adopted under the Montana Safety Act and the Act itself. 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 premises 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.

20. 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 premises 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 premises and that the leased premises are 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 premises or that the premises are not free from hazardous substances, the party shall immediately notify the other party.

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

21. TERMINATION

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 6 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

The 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 premises 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 premises by the Lessee or owned by the State of Montana may be removed by the Lessee 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 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 (9) 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 premises, the Lessee shall first offer the leased premises back to the Lessor. If the Lessor does not agree to resume control of the leased premises 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 premises 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.

(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:

BOARD OF COUNTY COMMISSIONERS

By: [Signature] Date: 2/2/10

By: [Signature] Date: 7-26-10

By: [Signature] Date: 7-26-10

(MUST BE SIGNED BY AT LEAST TWO COMMISSIONERS)

[Signature] Date: 8.3.10
Approved for legal content.
County Attorney

Lessee

By: [Signature] 6.29.10
Mike Ferriter, Director Date
Department of Corrections

APPROVED BY:

By: [Signature] June 18, 2010
Garett M. Bacon, Leasing Officer Date
Department of Administration, General Services Division

By: [Signature] June 21, 2010
Mike Marion, Chief Legal Counsel Date
Department of Administration

By: [Signature] 7/7/10
David Ewer Date
OBPP Director/Designee

By: [Signature] 7/15/10
Janet R. Kelly, Director Date
Department of Administration