

FIRST AMENDMENT TO LEASE #9300-B  
(Amendment Template last revised June 23, 2021)

This 1<sup>st</sup> Amendment to Lease #9300-B is made by and between the State of Montana, Office of the State Public Defender, ~~44 West Park 17 W Galena~~, Butte, Montana, 59701, "Lessee" and Pro Se Properties, L.L.P., 615 Second Avenue North, Great Falls, Montana, "Lessor."

The purpose of this Amendment is to (i) add 360 square feet to the leased space at the current rate; (ii) modify the rent payment; and (iii) update representative information.

The parties agree as follows (new language underlined, old language interlined):

**2. PREMISE DESCRIPTION**

The space being leased (leased premise) is 4,956 (gross) square feet, and includes the right to use common areas within the leased premise. Effective November 1, 2021, the leased premise will increase to 5,316 (gross) square feet. The leased premise is located at 615 Second Avenue North, Great Falls, Montana.

**4. CONSIDERATION**

The annual amount of rent the Lessee shall pay to the Lessor September 1, 2017 through October 31, 2021~~August 31, 2022~~ is \$66,658.20 payable in equal monthly installments of \$5,554.85. Effective November 1, 2021 through August 31, 2022, the annual amount of rent is \$71,500.20, payable in equal monthly installments of \$5,958.35. This reflects a rate of approximately \$13.45 per square foot per year

**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 PO Box 3505, Great Falls, Montana, 59403.

The Lessor's representative for purposes under this lease is ~~Michael J. George~~ Charles S. Lucero, telephone (406) ~~315-3434~~ 771-1515, or ~~(406) 899-7465~~, Email address if available: ~~mike@georgelaw-mt.com~~ charlie@charlielucero.com.

The Lessee's address for the purpose of receiving demand or notice is Office of the State Public Defender, ~~44 West Park~~ 17 W Galena, Butte, Montana, 59701.

The Lessee's representative for purposes under this lease is ~~Harry Freebourn~~, ~~Administrative Director~~, telephone ~~(406) 496-6084~~, E mail address ~~hfreebourn@mt.gov~~ Tyna Wright,

telephone: (406) 496-6091, e-mail address: tyna.wright@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.

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

(the remainder of this page is left blank intentionally)

**PARTIES TO THE LEASE**

Lessee  
By: DocuSigned by:  
*Rhonda Lindquist*  
EE63A1C7A62946C... 10/28/2021  
Rhonda Lindquist, Executive Director Date  
State of Montana, Office of the State Public Defender

Lessor  
By: DocuSigned by:  
*Charles S. Lucero*  
8A490F8EA3E74E5... 10/28/2021  
Charles S Lucero , Managing Partner Date  
Pro Se Properties, L.L.P.

**APPROVED BY:**

By: DocuSigned by:  
*Scott McHugh*  
DE2F2B0B6DB984D9... 10/28/2021  
Garett M. Bacon Date  
Leasing Officer, Department of Administration, General Services Division

By: DocuSigned by:  
*Terri Hogan*  
2369A44EEC1C447... 10/28/2021  
Terri Hogan, Attorney Date  
Department of Administration

By: DocuSigned by:  
*Brent Doig*  
B6213532F0784E7... 10/28/2021  
Office of Budget and Program Planning Date

By: DocuSigned by:  
*Misty Ann Giles*  
4EE6E5CA5FE0409... 11/2/2021  
Misty Ann Giles, Director Date  
Department of Administration

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OCT 25 2017

OPD Central Services

**STATE OF MONTANA STANDARD LEASE CONTRACT**  
**(Lease Template last revised January 3, 2017)**

This lease #9300-B is made by and between the State of Montana, Office of the State Public Defender, 44 West Park, Butte, Montana, 59701, "Lessee" and Pro Se Properties, L.L.P., 615 Second Avenue North, Great Falls, Montana, "Lessor."

**1. PURPOSE OF LEASE**

The Lessee has a need to lease space in Great Falls, Montana, for the purpose of the Office of the State Public Defender. The Lessor has space available for lease in Great Falls, Montana, suitable for the stated purpose.

**2. PREMISE DESCRIPTION**

The space being leased (leased premise) is 4,956 (gross) square feet, and includes the right to use common areas within the leased premise. The leased premise is located at 615 Second Avenue North, Great Falls, Montana.

**3. TERM OF LEASE**

The lease term is five years, September 1, 2017 through August 31, 2022, 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 September 1, 2017 through August 31, 2022 is \$66,658.20, payable in equal monthly installments of \$5,554.85. This reflects a rate of approximately \$13.45 per square foot per year.

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, including water, gas, electricity, heat, grounds maintenance, building maintenance, garbage removal, sewer use charges and weed and pest control.

The Lessor shall provide janitorial services as listed in Attachment "A," at Lessor's expense.

The Lessee shall provide its own office equipment, telecommunications equipment and installation, and is responsible for all use charges related to the equipment/service.

**7. PARKING SPACE**

Lessor shall provide 25 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 PO Box 2505, Great Falls, Montana, 59403-2505.

The Lessor's representative for purposes under this lease is Michael J. George, telephone (406) 315-3434 or (406) 899-7465, E mail address if available: [mike@georgelaw-mt.com](mailto:mike@georgelaw-mt.com) .

The Lessee's address for the purpose of receiving demand or notice is Office of the State Public Defender, 44 W. Park, Butte, Montana, 59701.

The Lessee's representative for purposes under this lease is Harry Freebourn, Administrative Director, telephone (406) 496-6084, E mail address [hfreebourn@mt.gov](mailto:hfreebourn@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) the exterior of the leased premise including the roof; (b) the foundation; (c) all landscaping including sprinkler systems if any; mowing of the grass, weed and tree/bush control; (d) the interior, including all fixtures in the building (except those owned by the Lessee); and (e) all plumbing, heating, ventilation, air conditioning, window treatments/blinds and electrical circuits. The Lessor, at its cost and expense, shall be responsible for the replacement of light bulbs, fluorescent tubes and other lighting elements 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.

Lessor shall provide, at its expense, window blinds, shades and treatments.

**15. SIGNS**

The Lessor shall provide and install on the exterior of the leased premise a mutually acceptable sign or signs to advertise the Lessee's presence in and on the leased premise at Lessee's expense.

**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 the building and all other improvements on the premise 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 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.

**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 Great Falls, 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 10 pages, sections 1 through 29 and the attached Janitorial Specifications, 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 sub-lessee, with the consent of the Lessor, which consent shall not be unreasonably withheld.

**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:

**PARTIES TO THE LEASE**

Lessee

By: HJFL 8/3/17  
H. J. Freebourn, Interim Director Date  
Office of the State Public Defender

Lessor

By: Michael J. George 10-20-17  
Michael J. George, Managing Partner Date  
Pro Se Properties, L.L.P.

**APPROVED BY:**

By: Garett M. Bacon July 25, 2017  
Garett M. Bacon, Leasing Officer Date  
Department of Administration, General Services Division

By: Mike Manion July 27, 2017  
Mike Manion, Chief Legal Counsel Date  
Department of Administration

By: Dan Villa 10/10/17  
Dan Villa Date  
OBPP Director/Designee

By: John Lewis 10.16.17  
John Lewis, Director Date  
Department of Administration

**ATTACHMENT "A"**  
**JANITORIAL SPECIFICATIONS**

All janitorial work, equipment and supplies necessary to accomplish the duties described will be furnished by the Lessor.

1. The janitorial supply list includes but is not limited to:
  - a. Hand towels and toilet tissue;
  - b. Restroom hand soap for dispensers;
  - c. Trash can liners; and
  - d. Entrance or walk-off mats.
  
2. Daily Requirements:
  - a. Floor sweeping and damp mopping all tiled areas.
  - b. Clean and sanitize plumbing fixtures, and toilet rooms (sinks, showers, toilets, mirrors, etc.)
  - c. Vacuum carpet, using industrial type vacuum cleaner with a power head in entrance area and hallways.
  - d. Remove all trash from building.
  - e. Cleaning supplies: re-stock toilet tissue, towels, soap, etc. in restrooms.
  
3. Weekly Requirements:
  - a. Vacuum all areas of carpeting.
  - b. Clean interior glass by each doorway.
  
4. Quarterly Requirements:
  - a. Complete dusting of all offices.
  
5. Semi-annual Requirements:
  - a. Glass Cleaning - all interior/external windows and window dressings (shades, curtains, blinds) in space leased by the Lessee (October and May).
  - b. Carpet Cleaning - all carpeted areas in space leased by the Lessee shall be cleaned using professional process carpet cleaning equipment.
  - c. Clean all light fixtures.

1<sup>st</sup> AMENDMENT TO LEASE #9300-C  
(Amendment Template last revised June 2022)

This 1<sup>st</sup> Amendment to Lease 9300-C is made by and between the State of Montana, Office of the State Public Defender, 17 W Galena, Butte, Montana, 59701, "Lessee" and Pro Se Properties, L.L.P., 615 Second Avenue North, Great Falls, Montana, "Lessor", each a party and collectively, the parties.

The purpose of this Amendment is to exercise the option of first refusal for space becoming available on the second floor.

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

**2. PREMISES OWNERSHIP AND DESCRIPTION**

- B. Beginning January 1, 2023, the leased space (Premises) is ~~5,316~~ 7,016 gross square feet and includes common areas such as stairs, elevators, hallways, public restrooms, mechanical rooms, and available storage space or any proration thereof within the building in which the Premises is located. The physical address of the Premises is 615 Second Avenue, Great Falls, Montana.

**4. CONSIDERATION**

- A. Lessee's monthly rent is ~~\$6,977.25~~ \$9,208.50. This reflects an annual payment of ~~\$83,727.00~~ \$110,502.00 with a rate of \$15.75 per gross square foot per year.

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

(the remainder of this page is left blank intentionally)

**PARTIES TO THE LEASE**

Lessee

By: DocuSigned by:  
*Brett Schandelson*  
C3C69AC67A9348D... 11/23/2022

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Brett Schandelson, Acting Director Date  
State of Montana, Office of the State Public Defender

Lessor

By: DocuSigned by:  
*Charles S. Lucero*  
8A490F6FA3E74E5 12/18/2022

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Charles S. Lucero, Managing Partner Date  
Pro Se Properties, L.L.P.

**APPROVED BY:**

By: DocuSigned by:  
*Scott McHugh*  
DE2F2B0BCD984D9... 11/23/2022

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

By: DocuSigned by:  
*[Signature]*  
2A096CEE8D1F4C9... 11/23/2022

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Julia W. Swingley, Legal Counsel Date  
Department of Administration

By: DocuSigned by:  
*brent doig*  
B6213532F0784E7 11/23/2022

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Office of Budget and Program Planning Date

By: DocuSigned by:  
*Misty Ann Giles*  
4EE6E5CA5FE0489... 12/18/2022

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Misty Ann Giles, Director Date  
Department of Administration

**STATE OF MONTANA STANDARD LEASE CONTRACT**

(Lease Template last revised June 2022)

This lease #9300-C is made by and between the State of Montana, Office of the State Public Defender, 17 W Galena, Butte, Montana, 59701, "Lessee" and Pro Se Properties, L.L.P., 615 Second Avenue North, Great Falls, Montana, "Lessor", each a party and collectively, the parties.

**1. PURPOSE OF LEASE**

Lessee has a need to lease space in Great Falls, Montana, to conduct its business. Lessor has space available for this purpose.

**2. PREMISES OWNERSHIP AND DESCRIPTION**

- A. Lessor represents that Lessor is the owner of the building or the building owner's agent, and the building is free and clear of all encumbrances, except for easements, covenants, and restrictions of record as of the date of this lease. If this lease is to be subordinated to a new building mortgage or ground lease during the lease term, the subordination must be conditioned on the Lessor's mortgagee or ground lessor, or both, agreement not to disturb the Lessee's right to possession of the Premises.
- B. The leased space (Premises) is 5,316 gross square feet and includes common areas such as stairs, elevators, hallways, public restrooms, mechanical rooms, and available storage space or any proration thereof within the building in which the Premises is located. The physical address of the Premises is 615 Second Avenue, Great Falls, Montana.
- C. Lessee shall have the right of first refusal for any space that may become available on the second floor. The rental rate shall be at the same rate in this lease that is \$15.75 per gross square foot.

**3. TERM OF LEASE**

- A. The lease term is five years, effective September 1, 2022, through August 31, 2027, unless earlier terminated as provided for in this lease.
- B. Lease renewals are subject to prior approval by the Department of Administration. If the department does not approve a renewal, the lease is voidable at the Lessee's option.
- C. Upon termination or expiration of this lease or any extension of it, Lessee shall vacate and surrender the Premises to Lessor in as good condition and repair as when it took possession, reasonable wear and tear and Lessor-authorized changes, alterations, and improvements excepted. Lessee shall remove all personal property that it placed within the Premises when the lease terminates or expires.
- D. If Lessee does not remove its personal property when the lease terminates or expires,



Lessee has an additional 30 days to do so, but Lessee shall pay Lessor one monthly rent payment, even if Lessee's personal property is removed before the 30-day period has expired.

**4. CONSIDERATION**

- A. Lessee's monthly rent is \$6,977.25. This reflects an annual payment of \$83,727.00 with a rate of \$15.75 per gross square foot per year.
- B. Monthly rent is due on the first business day of each month. Lessee shall pay monthly rent without the need for a separate invoice from Lessor.
- C. If requested by Lessor, Lessee may pay monthly rent by electronic funds transfer (EFT). To request EFT payment, Lessor may submit a completed Standard Form 1199A (Direct Deposit Sign-Up Form) to Lessee. Lessor may cancel EFT payment with thirty (30) days prior written notice to Lessee.
- D. Lessor shall be liable for all real estate taxes and assessments against the Premises.

**5. UTILITIES AND SERVICES**

- A. Lessor shall furnish and pay for all utilities including but not limited to interior water (hot and cold), landscape and irrigation water, gas, electricity, air conditioning (if available), garbage removal, pest control, and sewer. Lessor shall at its expense promptly replace all light bulbs, fluorescent tubes, and other lighting elements but in any event within five business days following receipt of notice from Lessee.
- B. At its expense, Lessee --with Lessor's approval-- may install additional telephone, electrical, or computer network lines or change the location of such existing facilities.
- C. At its expense, Lessor shall re-key all doors that provide direct access to the Premises, whether access is from the interior or the exterior of the building in which the Premises is located and provide adequate keys for the Premises prior to occupancy. After occupancy and at its expense, Lessee shall replace lost keys or re-key the Premises, as necessary.
- D. At its expense, Lessor shall provide janitorial services and all janitorial supplies for the Premises. Lessor shall perform the janitorial work safely, including notifying occupants of any dangerous conditions like slippery or wet floors, or unstable walking areas. Services must include at a minimum the services described in Attachment A.

**6. PARKING SPACE**

At no additional charge or cost to Lessee, Lessor shall provide 25 parking spaces for Lessee's employees, including the requisite number of handicapped parking spaces required by the Americans with Disabilities Act.

**7. PARKING AREA AND SIDEWALK MAINTENANCE**

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

**8. NOTICE**

For a notice under this lease to be valid, it must be in writing and must be personally delivered or sent by email, fax, or first-class mail. Notice personally delivered or sent via email or fax is effective on receipt. If email is used and the sender receives a machine-generated notice that delivery has failed, then the sender must provide notice by another means allowed by this section. Notice sent by first class mail is effective within three days of mailing.

The Lessor's address for purpose of receiving demand or notice is PO Box 3505, Great Falls, Montana, 59403.

The Lessor's representative for purposes under this lease is Charles S. Lucero, telephone (406) 771-1515, Email address if available: [charlie@charlielucero.com](mailto:charlie@charlielucero.com).

The Lessee's address for the purpose of receiving demand or notice is Office of the State Public Defender, 17 W Galena, Butte, Montana, 59701.

Lessee's representative is Brett Schandelson, telephone (406) 523-5166, e-mail: Brett.  
[Schandelson@mt.gov](mailto:Schandelson@mt.gov) .

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

**9. QUIET ENJOYMENT**

Without interference from Lessor or third parties, Lessee has the right to peaceful and quiet possession and use of the Premises and common areas and the rights and interests appurtenant to the Premises and common areas.

**10. ACCESS FOR MAINTENANCE/INSPECTION**

- A. Upon 24-hours' prior notice to Lessee, Lessor or its agent(s) may enter the Premises at reasonable times to maintain, repair, or inspect the Premises.
- B. If an emergency arises, Lessor may enter the Premises without prior notice to Lessee. Lessor has 24-hour access to the Premises to perform the janitorial services in section 5.

**11. MAINTENANCE/REPAIR OF PREMISES**

- A. At its cost and expense, Lessor shall maintain and repair in a good, safe, and usable condition the Premises and the interior of the building in which the Premises is located—including hallways, corridors, stairs, lobbies and related mechanical, electrical, plumbing, sanitary, heating, ventilation, and air conditioning and fire extinguisher systems, elevator (if any), and windows.
- B. At its cost and expense, Lessor shall maintain and repair in a good, safe, and usable condition the exterior of the building and the Premises, including the roof, foundation, walls, doors, fixtures, outside corridors, outdoor lighting, lawns and other landscaping, drainage, and related sidewalks, stairways, and parking areas.
- C. If there is an interruption in essential services to the Premises (such as heating, ventilation plumbing, lighting, or electrical services) or Lessor fails to maintain or repair the Premises in a good, safe, and usable condition for five consecutive days following notice from Lessee, Lessee must receive a prorated abatement of rent for the entire period of service interruption. If the interruption continues beyond this five-day period, Lessee may terminate this lease without penalty or further notice and receive a refund for the unearned rent paid. Lessee may also pursue any remedies available to it under this lease or Montana law.

## **12. CASUALTY OR FIRE DAMAGE**

- A. If the Premises or any part of it becomes so damaged by fire, earthquake, other casualty, or structural defects that it cannot be used for Lessee's business purposes, then Lessee may without penalty terminate this lease by giving Lessor five days' notice. Lessor shall refund Lessee any unearned rent paid if Lessee so terminates.
- B. If such damage does not render the Premises wholly unusable for Lessee's purposes, Lessor shall promptly restore the damaged portion of the Premises to the same condition as existed prior to such damage at Lessor's cost. In this case, Lessee's monthly rent payment must be reduced by the same ratio of the amount of gross square feet that Lessee is precluded from occupying to the total gross square feet of the Premises.

"Gross square feet" means the square footage stated in section 2.B and includes stairs, elevators, hallways, public restrooms, mechanical rooms, and available storage space or any proration thereof. If Lessor does not complete the repairs within 30 days following the initial damage, Lessee may without penalty immediately terminate this lease.

- C. Lessor shall continue to insure the Premises until Lessee's personal property is removed from the Premises.

## **13. ALTERATIONS TO PREMISES**

Lessee may not make structural, mechanical, electrical, or plumbing improvements or alterations to the Premises without the Lessor's prior written consent. Any structural, mechanical, electrical,

or plumbing improvements or alterations will remain Lessor's property upon lease termination or expiration. Lessee's personal property, equipment, trade fixtures and temporary installations including but not limited to cubicles remain Lessee's property and may be removed upon lease termination or expiration.

#### **14. SIGNAGE**

If Lessor allows signage and Lessee wishes to advertise its location in the building where the Premises is located, Lessee shall pay the Lessor for installation of a suitable sign on the exterior of the Premises at a location mutually agreeable to Lessor and Lessee.

#### **15. DEFENSE/INDEMNIFICATION**

- A. Lessor, at its sole cost and expense, shall defend Lessee and the state of Montana, their employees, officers, officials, agents, and volunteers (collectively, Indemnitees) from and against all claims, allegations, lawsuits, or any other action (Claim or Claims) relating to personal injury, death, damage to property, financial loss or other obligation arising or allegedly arising out of or in connection with Lessor's duties under this lease.
- B. Lessor shall indemnify the Indemnitees against losses, liabilities, damages, judgments, settlements, penalties, fines, reasonable attorney/expert fees, expenses, and court costs arising from the Claims.
- C. Lessee shall give Lessor prompt notice of any Claim, and at Lessor's expense, Lessee shall cooperate in the defense of the Claim. Lessor acknowledges that under Montana law, the Montana Attorney General may participate in an action involving the state of Montana.
- D. If Lessor fails to comply with its defense obligations under this section, Lessee may undertake its own defense. If Lessee undertakes its own defense, Lessor shall reimburse Lessee for all: (i) losses, liabilities, damages, judgments, settlements, penalties and fines arising from the Claim, and (ii) costs arising from defense of the Claim, including but not limited to attorney fees, court costs, and costs of investigation, discovery, and experts. Lessor shall reimburse Lessee within 30 days after receiving Lessee's justification for these expenditures.

#### **16. INSURANCE**

- A. Lessor shall carry commercial property insurance sufficient to insure the building in which the Premises is located and any improvements and alterations installed in the building thereafter throughout all lease terms against the following:
  - 1. 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.

2. Loss or damage from leakage or sprinkler systems now or hereafter installed in any building in which the Premises is located.
3. 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 in which the Premises is located.

Lessor agrees that insurance carried or required to be carried by Lessor against loss or damage to property by fire, flood, earthquake, acts of terrorism, acts of war, or other casualty shall contain a clause whereby the insurer waives its right to subrogation against Lessee, and Lessor shall indemnify Lessee against any loss or expense, including reasonable attorneys' fees, resulting from the failure to obtain such waiver.

- B. Lessor shall purchase and maintain occurrence coverage with combined single limits for bodily injury or death, personal injury, and property damage of \$1,000,000 per occurrence and \$2 million aggregate per year. 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 Premises location or the general aggregate limit shall be twice the required occurrence limit.
- C. Lessor's 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-. Lessor shall provide 30 days advance written notice to Lessee of any material change in coverage including cancellation and upon request, an original Certificate of Insurance including any required amendatory endorsements. Lessee may request copies of Lessor's insurance coverage at any time. The state of Montana and Lessee shall be named as additional insureds on Lessor's insurance coverage. Lessor's insurance coverage shall be primary insurance with respect to Lessee.
- D. Lessee shall maintain insurance coverage of its personal property and shall self-insure for personal injury and property damage. Any insurance or self-insurance maintained by Lessee, or the state of Montana on Lessee's behalf, shall be excess of Lessor's insurance and shall not contribute with it.

## **17. COMPLIANCE WITH LOCAL, STATE AND FEDERAL LAWS**

- A. Lessor and Lessee shall comply with applicable federal, state, and local laws and ordinances.
- B. Pursuant to 49-3-207, MCA, and Executive Order No. 04-2016, Lessor agrees:
  1. the hiring of persons, if any, to perform its obligations in this lease will be made on the basis of merit and qualifications, and

2. 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 its obligations in this lease.
- C. Lessor shall provide an additional alternative accessible site, other than the Premises, for use by Lessee if it is necessary to provide services, benefits, or communication to individuals with a disability. If an alternative ADA site is not available or economically feasible for Lessor to provide within thirty (30) days of a written request thereof by Lessee, Lessee may without a penalty terminate the lease with a thirty (30) day written notice.
- D. Lessor shall locate, install, test, and maintain fire extinguishers as required by law.
- E. Lessor shall comply with the Montana Occupational Safety and Health Act (MCA 50-71-111 et seq.) and all rules adopted thereunder.
- F. Lessor shall provide the Department of Administration, the Montana legislative auditor, or their authorized agents reasonable access to any records relating to this lease to determine compliance with the lease. Lessor shall retain these records for eight years following termination or expiration of this lease or the time established by Lessor's record retention schedule, whichever is longer.

## **18. ENVIRONMENTAL HAZARDS**

- A. Lessor represents that, to the best of its knowledge, any use, storage, treatment, or transportation of hazardous substances that has occurred within, under or from the Premises before the lease date has complied with all applicable federal, state, and local laws, regulations, and ordinances.
- B. Lessor represents that, to the best of its knowledge, (i) no release, discharge, or disposal of hazardous substances has occurred within or under the Premises and (ii) that the Premises is free of hazardous substances as of the starting lease date.
- C. If either party to this lease discovers that a release, discharge, or disposal of hazardous substances has occurred within or under the Premises or that the Premises is not free from hazardous substances, the party shall immediately notify the other party.
- D. If Lessee determines at any time that the Premises poses an environmental hazard to its employees, Lessee may without incurring a penalty or liability immediately terminate the lease with notice to Lessor.
- E. "Hazardous substances" means those substances designated by the United States

Environmental Protection Agency as hazardous or those substances defined as hazardous by federal, state, or local statutes, rules, ordinances, or regulations.

- F. Lessor represents that, to the best of its knowledge, the Premises shall be free of all asbestos containing materials, except undamaged vinyl asbestos floor tile in the premises or undamaged boiler or pipe insulation outside the leased premises. Radon levels in the Premises shall not equal or exceed the Environmental Protection Agency action level for homes or 4 Pico curies per liter.

**19. HOLDOVER TENANCY**

- A. Absent a written agreement stating otherwise, if Lessee holds the Premises beyond the lease term, the lease will be deemed a month-to-month tenancy subject to all terms and conditions of this Lease.
- B. Either party may terminate the holdover tenancy, without incurring a penalty, by providing the other party thirty (30) days written notice of termination before the beginning of the final month.

**20. TERMINATION FOR LACK OF FUNDING**

- A. Lessor understands that Lessee, as a state agency, is dependent upon state and/or federal appropriations for its funding. If state or federal government funds are not appropriated or otherwise made available to support continued performance of the lease in subsequent fiscal periods, the lease must be canceled *See* Section 2-17-101(6), MCA. Lessee shall provide Lessor the date Lessee's termination will take effect.
- B. Lessee is responsible only for the monthly rent payment, or prorated portion of that payment, owed to Lessor under section 4 up to the date Lessee's termination takes effect. This is Lessor's sole remedy. Lessee shall not be liable to Lessor for any other payments or damages arising from termination for lack of funding, including but not limited to general, special, or consequential damages.

**21. BREACH**

- A. Other than termination for lack of funding under section 20, either party's failure to comply with any term or condition is a breach.
- B. If a breach arises, the non-breaching party may send the breaching party a written notice, identifying in reasonable detail the breach and the requested remedy.

The breaching party shall cure the breach as soon as reasonably possible but no longer than 30 days, except if an emergency condition exists requiring a cure to be immediately started and completed within 24 hours if reasonably possible given the circumstances.

- C. If it is not reasonably possible to cure an emergency or non-emergency condition within 24-hours or 30 days, respectively, the breaching party shall so notify the non-breaching party within 24-hours or 10 days, respectively. The notice shall explain why the cure is not reasonably possible with due diligence to complete and provide the earliest date reasonably possible that the work can be completed. If the non-breaching party is not satisfied with the breaching party's explanation, the non-breaching party may pursue its remedies under this lease and law.

It is not a justifiable ground for delay that Lessor does not have available funding to accomplish the cure or that a preferred contractor has limited availability if other contractors can satisfactorily perform the work sooner at reasonable cost.

- D. If the breaching party does not cure the breach, the nonbreaching party may cure all or part of the default after providing notice to the breaching party of its intent to perform such cure, and, if applicable, recover the costs incurred in curing the default.

If the nonbreaching party is Lessee, Lessee may deduct all costs incurred from rent or other charges owed to Lessor. Lessee's costs incurred to cure include, but are not limited to, all reasonable out-of-pocket expenses, payment of unpaid utility or services charges for which Lessor is responsible, and all administrative costs Lessee reasonably incurs and documents in performing or arranging for performance of the cure.

If the nonbreaching party is Lessor, Lessor will submit properly executed vouchers and proof of payment to Lessee and Lessee shall remit payment to Lessor within 30 days or as soon as is practicable.

The nonbreaching party is under no obligation to cure some or all the default of the breaching party. To the extent that the nonbreaching party does not cure the default, the nonbreaching party may pursue its legal and lease remedies against the breaching party.

The nonbreaching party's failure to cure the breaching party's default does not waive the nonbreaching party's rights to relief. The parties acknowledge they have a duty to reasonably mitigate damages, and nothing in this lease removes or lessens either party's obligation to mitigate damages.

- E. "Emergency condition" means a condition requiring a cure that (i) prevents or substantially disrupts the Lessee from using all or a substantial part of the Premises, or (ii) causes or substantially threatens to cause injury to persons or damage to property or raises a substantial danger to the health or safety of any persons on or using the Premises.

## **22. GOVERNING LAW AND VENUE**

This lease shall be governed and interpreted according to Montana law. Any litigation concerning this lease shall be brought only in the First Judicial District Court in and for Lewis and Clark County, State of Montana. Each party shall pay its own costs and attorney fees, except



as otherwise stated in this lease.

**23. ENTIRE LEASE/AMENDMENT**

This lease and all attachments thereto, contains the entire agreement between Lessor and Lessee. Any amendment 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.

**24. SMOKE FREE ENVIRONMENT**

Lessor shall make all parts of the leased premises 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. Montana Clean Indoor Air Act, 50-40-101, et seq., MCA.

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**ATTACHMENT "A"**  
**JANITORIAL SPECIFICATIONS**

Lessor shall furnish all janitorial work, equipment and supplies necessary to accomplish the duties described in the lease and this attachment.

1. The janitorial supply list includes but is not limited to:
  - a. Hand towels and toilet tissue;
  - b. Restroom hand soap for dispensers;
  - c. Trash can liners; and
  - d. Entrance or walk-off mats.
  
2. Daily Requirements (Monday through Friday, excluding holidays):
  - a. Floor sweeping and damp mopping all tiled areas.
  - b. Clean and sanitize plumbing fixtures, and toilet rooms (sinks, showers, toilets, mirrors, etc.)
  - c. Vacuum carpet, using industrial type vacuum cleaner with a power head in entrance area and hallways.
  - d. Remove all trash from building.
  - e. Cleaning supplies: re-stock toilet tissue, towels, soap, etc. in restrooms.
  
3. Weekly Requirements:
  - a. Vacuum all areas of carpeting.
  - b. Clean interior glass by each doorway.
  
4. Quarterly Requirements:
  - a. Complete dusting of all offices.
  
5. Semi-annual Requirements:
  - a. Glass Cleaning - all interior/external windows and window dressings (shades, curtains, blinds) in space leased by the Lessee (October and May).
  - b. Carpet Cleaning - all carpeted areas in space leased by the Lessee shall be cleaned using professional process carpet cleaning equipment.
  - c. Clean all light fixtures.

1<sup>st</sup> AMENDMENT TO LEASE #9300-C  
(Amendment Template last revised June 2022)

This 1<sup>st</sup> Amendment to Lease 9300-C is made by and between the State of Montana, Office of the State Public Defender, 17 W Galena, Butte, Montana, 59701, "Lessee" and Pro Se Properties, L.L.P., 615 Second Avenue North, Great Falls, Montana, "Lessor", each a party and collectively, the parties.

The purpose of this Amendment is to exercise the option of first refusal for space becoming available on the second floor.

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

**2. PREMISES OWNERSHIP AND DESCRIPTION**

- B. Beginning January 1, 2023, the leased space (Premises) is ~~5,316~~ 7,016 gross square feet and includes common areas such as stairs, elevators, hallways, public restrooms, mechanical rooms, and available storage space or any proration thereof within the building in which the Premises is located. The physical address of the Premises is 615 Second Avenue, Great Falls, Montana.

**4. CONSIDERATION**

- A. Lessee's monthly rent is ~~\$6,977.25~~ \$9,208.50. This reflects an annual payment of ~~\$83,727.00~~ \$110,502.00 with a rate of \$15.75 per gross square foot per year.

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

(the remainder of this page is left blank intentionally)

**PARTIES TO THE LEASE**

Lessee

By: DocuSigned by:  
*Brett Schandelson*  
C3C69AC67A9348D... 11/23/2022

---

Brett Schandelson, Acting Director Date  
State of Montana, Office of the State Public Defender

Lessor

By: DocuSigned by:  
*Charles S. Lucero*  
8A490F6FA3E74E5 12/18/2022

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Charles S. Lucero, Managing Partner Date  
Pro Se Properties, L.L.P.

**APPROVED BY:**

By: DocuSigned by:  
*Scott McHugh*  
DE2F2B0BCD984D9... 11/23/2022

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

By: DocuSigned by:  
*[Signature]*  
2A096CEE8D1F4C9... 11/23/2022

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Julia W. Swingley, Legal Counsel Date  
Department of Administration

By: DocuSigned by:  
*brent doig*  
B6213532F0784E7 11/23/2022

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Office of Budget and Program Planning Date

By: DocuSigned by:  
*Misty Ann Giles*  
4EE6E5CA5FE0489... 12/18/2022

---

Misty Ann Giles, Director Date  
Department of Administration

**STATE OF MONTANA STANDARD LEASE CONTRACT**

(Lease Template last revised June 2022)

This lease #9300-C is made by and between the State of Montana, Office of the State Public Defender, 17 W Galena, Butte, Montana, 59701, "Lessee" and Pro Se Properties, L.L.P., 615 Second Avenue North, Great Falls, Montana, "Lessor", each a party and collectively, the parties.

**1. PURPOSE OF LEASE**

Lessee has a need to lease space in Great Falls, Montana, to conduct its business. Lessor has space available for this purpose.

**2. PREMISES OWNERSHIP AND DESCRIPTION**

- A. Lessor represents that Lessor is the owner of the building or the building owner's agent, and the building is free and clear of all encumbrances, except for easements, covenants, and restrictions of record as of the date of this lease. If this lease is to be subordinated to a new building mortgage or ground lease during the lease term, the subordination must be conditioned on the Lessor's mortgagee or ground lessor, or both, agreement not to disturb the Lessee's right to possession of the Premises.
- B. The leased space (Premises) is 5,316 gross square feet and includes common areas such as stairs, elevators, hallways, public restrooms, mechanical rooms, and available storage space or any proration thereof within the building in which the Premises is located. The physical address of the Premises is 615 Second Avenue, Great Falls, Montana.
- C. Lessee shall have the right of first refusal for any space that may become available on the second floor. The rental rate shall be at the same rate in this lease that is \$15.75 per gross square foot.

**3. TERM OF LEASE**

- A. The lease term is five years, effective September 1, 2022, through August 31, 2027, unless earlier terminated as provided for in this lease.
- B. Lease renewals are subject to prior approval by the Department of Administration. If the department does not approve a renewal, the lease is voidable at the Lessee's option.
- C. Upon termination or expiration of this lease or any extension of it, Lessee shall vacate and surrender the Premises to Lessor in as good condition and repair as when it took possession, reasonable wear and tear and Lessor-authorized changes, alterations, and improvements excepted. Lessee shall remove all personal property that it placed within the Premises when the lease terminates or expires.
- D. If Lessee does not remove its personal property when the lease terminates or expires,

Lessee has an additional 30 days to do so, but Lessee shall pay Lessor one monthly rent payment, even if Lessee's personal property is removed before the 30-day period has expired.

**4. CONSIDERATION**

- A. Lessee's monthly rent is \$6,977.25. This reflects an annual payment of \$83,727.00 with a rate of \$15.75 per gross square foot per year.
- B. Monthly rent is due on the first business day of each month. Lessee shall pay monthly rent without the need for a separate invoice from Lessor.
- C. If requested by Lessor, Lessee may pay monthly rent by electronic funds transfer (EFT). To request EFT payment, Lessor may submit a completed Standard Form 1199A (Direct Deposit Sign-Up Form) to Lessee. Lessor may cancel EFT payment with thirty (30) days prior written notice to Lessee.
- D. Lessor shall be liable for all real estate taxes and assessments against the Premises.

**5. UTILITIES AND SERVICES**

- A. Lessor shall furnish and pay for all utilities including but not limited to interior water (hot and cold), landscape and irrigation water, gas, electricity, air conditioning (if available), garbage removal, pest control, and sewer. Lessor shall at its expense promptly replace all light bulbs, fluorescent tubes, and other lighting elements but in any event within five business days following receipt of notice from Lessee.
- B. At its expense, Lessee --with Lessor's approval-- may install additional telephone, electrical, or computer network lines or change the location of such existing facilities.
- C. At its expense, Lessor shall re-key all doors that provide direct access to the Premises, whether access is from the interior or the exterior of the building in which the Premises is located and provide adequate keys for the Premises prior to occupancy. After occupancy and at its expense, Lessee shall replace lost keys or re-key the Premises, as necessary.
- D. At its expense, Lessor shall provide janitorial services and all janitorial supplies for the Premises. Lessor shall perform the janitorial work safely, including notifying occupants of any dangerous conditions like slippery or wet floors, or unstable walking areas. Services must include at a minimum the services described in Attachment A.

**6. PARKING SPACE**

At no additional charge or cost to Lessee, Lessor shall provide 25 parking spaces for Lessee's employees, including the requisite number of handicapped parking spaces required by the Americans with Disabilities Act.

**7. PARKING AREA AND SIDEWALK MAINTENANCE**

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

**8. NOTICE**

For a notice under this lease to be valid, it must be in writing and must be personally delivered or sent by email, fax, or first-class mail. Notice personally delivered or sent via email or fax is effective on receipt. If email is used and the sender receives a machine-generated notice that delivery has failed, then the sender must provide notice by another means allowed by this section. Notice sent by first class mail is effective within three days of mailing.

The Lessor's address for purpose of receiving demand or notice is PO Box 3505, Great Falls, Montana, 59403.

The Lessor's representative for purposes under this lease is Charles S. Lucero, telephone (406) 771-1515, Email address if available: [charlie@charlielucero.com](mailto:charlie@charlielucero.com).

The Lessee's address for the purpose of receiving demand or notice is Office of the State Public Defender, 17 W Galena, Butte, Montana, 59701.

Lessee's representative is Brett Schandelson, telephone (406) 523-5166, e-mail: Brett.  
[Schandelson@mt.gov](mailto:Schandelson@mt.gov) .

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

**9. QUIET ENJOYMENT**

Without interference from Lessor or third parties, Lessee has the right to peaceful and quiet possession and use of the Premises and common areas and the rights and interests appurtenant to the Premises and common areas.

**10. ACCESS FOR MAINTENANCE/INSPECTION**

- A. Upon 24-hours' prior notice to Lessee, Lessor or its agent(s) may enter the Premises at reasonable times to maintain, repair, or inspect the Premises.
- B. If an emergency arises, Lessor may enter the Premises without prior notice to Lessee. Lessor has 24-hour access to the Premises to perform the janitorial services in section 5.

**11. MAINTENANCE/REPAIR OF PREMISES**



- A. At its cost and expense, Lessor shall maintain and repair in a good, safe, and usable condition the Premises and the interior of the building in which the Premises is located—including hallways, corridors, stairs, lobbies and related mechanical, electrical, plumbing, sanitary, heating, ventilation, and air conditioning and fire extinguisher systems, elevator (if any), and windows.
- B. At its cost and expense, Lessor shall maintain and repair in a good, safe, and usable condition the exterior of the building and the Premises, including the roof, foundation, walls, doors, fixtures, outside corridors, outdoor lighting, lawns and other landscaping, drainage, and related sidewalks, stairways, and parking areas.
- C. If there is an interruption in essential services to the Premises (such as heating, ventilation plumbing, lighting, or electrical services) or Lessor fails to maintain or repair the Premises in a good, safe, and usable condition for five consecutive days following notice from Lessee, Lessee must receive a prorated abatement of rent for the entire period of service interruption. If the interruption continues beyond this five-day period, Lessee may terminate this lease without penalty or further notice and receive a refund for the unearned rent paid. Lessee may also pursue any remedies available to it under this lease or Montana law.

## **12. CASUALTY OR FIRE DAMAGE**

- A. If the Premises or any part of it becomes so damaged by fire, earthquake, other casualty, or structural defects that it cannot be used for Lessee's business purposes, then Lessee may without penalty terminate this lease by giving Lessor five days' notice. Lessor shall refund Lessee any unearned rent paid if Lessee so terminates.
- B. If such damage does not render the Premises wholly unusable for Lessee's purposes, Lessor shall promptly restore the damaged portion of the Premises to the same condition as existed prior to such damage at Lessor's cost. In this case, Lessee's monthly rent payment must be reduced by the same ratio of the amount of gross square feet that Lessee is precluded from occupying to the total gross square feet of the Premises.

"Gross square feet" means the square footage stated in section 2.B and includes stairs, elevators, hallways, public restrooms, mechanical rooms, and available storage space or any proration thereof. If Lessor does not complete the repairs within 30 days following the initial damage, Lessee may without penalty immediately terminate this lease.

- C. Lessor shall continue to insure the Premises until Lessee's personal property is removed from the Premises.

## **13. ALTERATIONS TO PREMISES**

Lessee may not make structural, mechanical, electrical, or plumbing improvements or alterations to the Premises without the Lessor's prior written consent. Any structural, mechanical, electrical,

or plumbing improvements or alterations will remain Lessor's property upon lease termination or expiration. Lessee's personal property, equipment, trade fixtures and temporary installations including but not limited to cubicles remain Lessee's property and may be removed upon lease termination or expiration.

#### **14. SIGNAGE**

If Lessor allows signage and Lessee wishes to advertise its location in the building where the Premises is located, Lessee shall pay the Lessor for installation of a suitable sign on the exterior of the Premises at a location mutually agreeable to Lessor and Lessee.

#### **15. DEFENSE/INDEMNIFICATION**

- A. Lessor, at its sole cost and expense, shall defend Lessee and the state of Montana, their employees, officers, officials, agents, and volunteers (collectively, Indemnitees) from and against all claims, allegations, lawsuits, or any other action (Claim or Claims) relating to personal injury, death, damage to property, financial loss or other obligation arising or allegedly arising out of or in connection with Lessor's duties under this lease.
- B. Lessor shall indemnify the Indemnitees against losses, liabilities, damages, judgments, settlements, penalties, fines, reasonable attorney/expert fees, expenses, and court costs arising from the Claims.
- C. Lessee shall give Lessor prompt notice of any Claim, and at Lessor's expense, Lessee shall cooperate in the defense of the Claim. Lessor acknowledges that under Montana law, the Montana Attorney General may participate in an action involving the state of Montana.
- D. If Lessor fails to comply with its defense obligations under this section, Lessee may undertake its own defense. If Lessee undertakes its own defense, Lessor shall reimburse Lessee for all: (i) losses, liabilities, damages, judgments, settlements, penalties and fines arising from the Claim, and (ii) costs arising from defense of the Claim, including but not limited to attorney fees, court costs, and costs of investigation, discovery, and experts. Lessor shall reimburse Lessee within 30 days after receiving Lessee's justification for these expenditures.

#### **16. INSURANCE**

- A. Lessor shall carry commercial property insurance sufficient to insure the building in which the Premises is located and any improvements and alterations installed in the building thereafter throughout all lease terms against the following:
  - 1. 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.

2. Loss or damage from leakage or sprinkler systems now or hereafter installed in any building in which the Premises is located.
3. 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 in which the Premises is located.

Lessor agrees that insurance carried or required to be carried by Lessor against loss or damage to property by fire, flood, earthquake, acts of terrorism, acts of war, or other casualty shall contain a clause whereby the insurer waives its right to subrogation against Lessee, and Lessor shall indemnify Lessee against any loss or expense, including reasonable attorneys' fees, resulting from the failure to obtain such waiver.

- B. Lessor shall purchase and maintain occurrence coverage with combined single limits for bodily injury or death, personal injury, and property damage of \$1,000,000 per occurrence and \$2 million aggregate per year. 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 Premises location or the general aggregate limit shall be twice the required occurrence limit.
- C. Lessor's 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-. Lessor shall provide 30 days advance written notice to Lessee of any material change in coverage including cancellation and upon request, an original Certificate of Insurance including any required amendatory endorsements. Lessee may request copies of Lessor's insurance coverage at any time. The state of Montana and Lessee shall be named as additional insureds on Lessor's insurance coverage. Lessor's insurance coverage shall be primary insurance with respect to Lessee.
- D. Lessee shall maintain insurance coverage of its personal property and shall self-insure for personal injury and property damage. Any insurance or self-insurance maintained by Lessee, or the state of Montana on Lessee's behalf, shall be excess of Lessor's insurance and shall not contribute with it.

## **17. COMPLIANCE WITH LOCAL, STATE AND FEDERAL LAWS**

- A. Lessor and Lessee shall comply with applicable federal, state, and local laws and ordinances.
- B. Pursuant to 49-3-207, MCA, and Executive Order No. 04-2016, Lessor agrees:
  1. the hiring of persons, if any, to perform its obligations in this lease will be made on the basis of merit and qualifications, and

2. 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 its obligations in this lease.
- C. Lessor shall provide an additional alternative accessible site, other than the Premises, for use by Lessee if it is necessary to provide services, benefits, or communication to individuals with a disability. If an alternative ADA site is not available or economically feasible for Lessor to provide within thirty (30) days of a written request thereof by Lessee, Lessee may without a penalty terminate the lease with a thirty (30) day written notice.
- D. Lessor shall locate, install, test, and maintain fire extinguishers as required by law.
- E. Lessor shall comply with the Montana Occupational Safety and Health Act (MCA 50-71-111 et seq.) and all rules adopted thereunder.
- F. Lessor shall provide the Department of Administration, the Montana legislative auditor, or their authorized agents reasonable access to any records relating to this lease to determine compliance with the lease. Lessor shall retain these records for eight years following termination or expiration of this lease or the time established by Lessor's record retention schedule, whichever is longer.

**18. ENVIRONMENTAL HAZARDS**

- A. Lessor represents that, to the best of its knowledge, any use, storage, treatment, or transportation of hazardous substances that has occurred within, under or from the Premises before the lease date has complied with all applicable federal, state, and local laws, regulations, and ordinances.
- B. Lessor represents that, to the best of its knowledge, (i) no release, discharge, or disposal of hazardous substances has occurred within or under the Premises and (ii) that the Premises is free of hazardous substances as of the starting lease date.
- C. If either party to this lease discovers that a release, discharge, or disposal of hazardous substances has occurred within or under the Premises or that the Premises is not free from hazardous substances, the party shall immediately notify the other party.
- D. If Lessee determines at any time that the Premises poses an environmental hazard to its employees, Lessee may without incurring a penalty or liability immediately terminate the lease with notice to Lessor.
- E. "Hazardous substances" means those substances designated by the United States

Environmental Protection Agency as hazardous or those substances defined as hazardous by federal, state, or local statutes, rules, ordinances, or regulations.

- F. Lessor represents that, to the best of its knowledge, the Premises shall be free of all asbestos containing materials, except undamaged vinyl asbestos floor tile in the premises or undamaged boiler or pipe insulation outside the leased premises. Radon levels in the Premises shall not equal or exceed the Environmental Protection Agency action level for homes or 4 Pico curies per liter.

**19. HOLDOVER TENANCY**

- A. Absent a written agreement stating otherwise, if Lessee holds the Premises beyond the lease term, the lease will be deemed a month-to-month tenancy subject to all terms and conditions of this Lease.
- B. Either party may terminate the holdover tenancy, without incurring a penalty, by providing the other party thirty (30) days written notice of termination before the beginning of the final month.

**20. TERMINATION FOR LACK OF FUNDING**

- A. Lessor understands that Lessee, as a state agency, is dependent upon state and/or federal appropriations for its funding. If state or federal government funds are not appropriated or otherwise made available to support continued performance of the lease in subsequent fiscal periods, the lease must be canceled *See* Section 2-17-101(6), MCA. Lessee shall provide Lessor the date Lessee's termination will take effect.
- B. Lessee is responsible only for the monthly rent payment, or prorated portion of that payment, owed to Lessor under section 4 up to the date Lessee's termination takes effect. This is Lessor's sole remedy. Lessee shall not be liable to Lessor for any other payments or damages arising from termination for lack of funding, including but not limited to general, special, or consequential damages.

**21. BREACH**

- A. Other than termination for lack of funding under section 20, either party's failure to comply with any term or condition is a breach.
- B. If a breach arises, the non-breaching party may send the breaching party a written notice, identifying in reasonable detail the breach and the requested remedy.

The breaching party shall cure the breach as soon as reasonably possible but no longer than 30 days, except if an emergency condition exists requiring a cure to be immediately started and completed within 24 hours if reasonably possible given the circumstances.

- C. If it is not reasonably possible to cure an emergency or non-emergency condition within 24-hours or 30 days, respectively, the breaching party shall so notify the non-breaching party within 24-hours or 10 days, respectively. The notice shall explain why the cure is not reasonably possible with due diligence to complete and provide the earliest date reasonably possible that the work can be completed. If the non-breaching party is not satisfied with the breaching party's explanation, the non-breaching party may pursue its remedies under this lease and law.

It is not a justifiable ground for delay that Lessor does not have available funding to accomplish the cure or that a preferred contractor has limited availability if other contractors can satisfactorily perform the work sooner at reasonable cost.

- D. If the breaching party does not cure the breach, the nonbreaching party may cure all or part of the default after providing notice to the breaching party of its intent to perform such cure, and, if applicable, recover the costs incurred in curing the default.

If the nonbreaching party is Lessee, Lessee may deduct all costs incurred from rent or other charges owed to Lessor. Lessee's costs incurred to cure include, but are not limited to, all reasonable out-of-pocket expenses, payment of unpaid utility or services charges for which Lessor is responsible, and all administrative costs Lessee reasonably incurs and documents in performing or arranging for performance of the cure.

If the nonbreaching party is Lessor, Lessor will submit properly executed vouchers and proof of payment to Lessee and Lessee shall remit payment to Lessor within 30 days or as soon as is practicable.

The nonbreaching party is under no obligation to cure some or all the default of the breaching party. To the extent that the nonbreaching party does not cure the default, the nonbreaching party may pursue its legal and lease remedies against the breaching party.

The nonbreaching party's failure to cure the breaching party's default does not waive the nonbreaching party's rights to relief. The parties acknowledge they have a duty to reasonably mitigate damages, and nothing in this lease removes or lessens either party's obligation to mitigate damages.

- E. "Emergency condition" means a condition requiring a cure that (i) prevents or substantially disrupts the Lessee from using all or a substantial part of the Premises, or (ii) causes or substantially threatens to cause injury to persons or damage to property or raises a substantial danger to the health or safety of any persons on or using the Premises.

## **22. GOVERNING LAW AND VENUE**

This lease shall be governed and interpreted according to Montana law. Any litigation concerning this lease shall be brought only in the First Judicial District Court in and for Lewis and Clark County, State of Montana. Each party shall pay its own costs and attorney fees, except

as otherwise stated in this lease.

**23. ENTIRE LEASE/AMENDMENT**

This lease and all attachments thereto, contains the entire agreement between Lessor and Lessee. Any amendment 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.

**24. SMOKE FREE ENVIRONMENT**

Lessor shall make all parts of the leased premises 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. Montana Clean Indoor Air Act, 50-40-101, et seq., MCA.

(The remainder of this page is left blank intentionally)





**ATTACHMENT "A"**  
**JANITORIAL SPECIFICATIONS**

Lessor shall furnish all janitorial work, equipment and supplies necessary to accomplish the duties described in the lease and this attachment.

1. The janitorial supply list includes but is not limited to:
  - a. Hand towels and toilet tissue;
  - b. Restroom hand soap for dispensers;
  - c. Trash can liners; and
  - d. Entrance or walk-off mats.
  
2. Daily Requirements (Monday through Friday, excluding holidays):
  - a. Floor sweeping and damp mopping all tiled areas.
  - b. Clean and sanitize plumbing fixtures, and toilet rooms (sinks, showers, toilets, mirrors, etc.)
  - c. Vacuum carpet, using industrial type vacuum cleaner with a power head in entrance area and hallways.
  - d. Remove all trash from building.
  - e. Cleaning supplies: re-stock toilet tissue, towels, soap, etc. in restrooms.
  
3. Weekly Requirements:
  - a. Vacuum all areas of carpeting.
  - b. Clean interior glass by each doorway.
  
4. Quarterly Requirements:
  - a. Complete dusting of all offices.
  
5. Semi-annual Requirements:
  - a. Glass Cleaning - all interior/external windows and window dressings (shades, curtains, blinds) in space leased by the Lessee (October and May).
  - b. Carpet Cleaning - all carpeted areas in space leased by the Lessee shall be cleaned using professional process carpet cleaning equipment.
  - c. Clean all light fixtures.

1<sup>st</sup> AMENDMENT TO LEASE #9300-C  
(Amendment Template last revised June 2022)

This 1<sup>st</sup> Amendment to Lease 9300-C is made by and between the State of Montana, Office of the State Public Defender, 17 W Galena, Butte, Montana, 59701, "Lessee" and Pro Se Properties, L.L.P., 615 Second Avenue North, Great Falls, Montana, "Lessor", each a party and collectively, the parties.

The purpose of this Amendment is to exercise the option of first refusal for space becoming available on the second floor.

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

**2. PREMISES OWNERSHIP AND DESCRIPTION**

- B. Beginning January 1, 2023, the leased space (Premises) is ~~5,316~~ 7,016 gross square feet and includes common areas such as stairs, elevators, hallways, public restrooms, mechanical rooms, and available storage space or any proration thereof within the building in which the Premises is located. The physical address of the Premises is 615 Second Avenue, Great Falls, Montana.

**4. CONSIDERATION**

- A. Lessee's monthly rent is ~~\$6,977.25~~ \$9,208.50. This reflects an annual payment of ~~\$83,727.00~~ \$110,502.00 with a rate of \$15.75 per gross square foot per year.

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

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**PARTIES TO THE LEASE**

Lessee

By: DocuSigned by:  
*Brett Schandelson*  
C3C69AC67A9348D... 11/23/2022

---

Brett Schandelson, Acting Director Date  
State of Montana, Office of the State Public Defender

Lessor

By: DocuSigned by:  
*Charles S. Lucero*  
8A490F6FA3E74E5 12/18/2022

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Charles S. Lucero, Managing Partner Date  
Pro Se Properties, L.L.P.

**APPROVED BY:**

By: DocuSigned by:  
*Scott McHugh*  
DE2F2B0BCD984D9... 11/23/2022

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

By: DocuSigned by:  
*[Signature]*  
2A096CEE8D1F4C9... 11/23/2022

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Julia W. Swingley, Legal Counsel Date  
Department of Administration

By: DocuSigned by:  
*brent doig*  
B6213532F0784E7 11/23/2022

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Office of Budget and Program Planning Date

By: DocuSigned by:  
*Misty Ann Giles*  
4EE6E5CA5FE0489... 12/18/2022

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Misty Ann Giles, Director Date  
Department of Administration

**STATE OF MONTANA STANDARD LEASE CONTRACT**

(Lease Template last revised June 2022)

This lease #9300-C is made by and between the State of Montana, Office of the State Public Defender, 17 W Galena, Butte, Montana, 59701, "Lessee" and Pro Se Properties, L.L.P., 615 Second Avenue North, Great Falls, Montana, "Lessor", each a party and collectively, the parties.

**1. PURPOSE OF LEASE**

Lessee has a need to lease space in Great Falls, Montana, to conduct its business. Lessor has space available for this purpose.

**2. PREMISES OWNERSHIP AND DESCRIPTION**

- A. Lessor represents that Lessor is the owner of the building or the building owner's agent, and the building is free and clear of all encumbrances, except for easements, covenants, and restrictions of record as of the date of this lease. If this lease is to be subordinated to a new building mortgage or ground lease during the lease term, the subordination must be conditioned on the Lessor's mortgagee or ground lessor, or both, agreement not to disturb the Lessee's right to possession of the Premises.
- B. The leased space (Premises) is 5,316 gross square feet and includes common areas such as stairs, elevators, hallways, public restrooms, mechanical rooms, and available storage space or any proration thereof within the building in which the Premises is located. The physical address of the Premises is 615 Second Avenue, Great Falls, Montana.
- C. Lessee shall have the right of first refusal for any space that may become available on the second floor. The rental rate shall be at the same rate in this lease that is \$15.75 per gross square foot.

**3. TERM OF LEASE**

- A. The lease term is five years, effective September 1, 2022, through August 31, 2027, unless earlier terminated as provided for in this lease.
- B. Lease renewals are subject to prior approval by the Department of Administration. If the department does not approve a renewal, the lease is voidable at the Lessee's option.
- C. Upon termination or expiration of this lease or any extension of it, Lessee shall vacate and surrender the Premises to Lessor in as good condition and repair as when it took possession, reasonable wear and tear and Lessor-authorized changes, alterations, and improvements excepted. Lessee shall remove all personal property that it placed within the Premises when the lease terminates or expires.
- D. If Lessee does not remove its personal property when the lease terminates or expires,

Lessee has an additional 30 days to do so, but Lessee shall pay Lessor one monthly rent payment, even if Lessee's personal property is removed before the 30-day period has expired.

**4. CONSIDERATION**

- A. Lessee's monthly rent is \$6,977.25. This reflects an annual payment of \$83,727.00 with a rate of \$15.75 per gross square foot per year.
- B. Monthly rent is due on the first business day of each month. Lessee shall pay monthly rent without the need for a separate invoice from Lessor.
- C. If requested by Lessor, Lessee may pay monthly rent by electronic funds transfer (EFT). To request EFT payment, Lessor may submit a completed Standard Form 1199A (Direct Deposit Sign-Up Form) to Lessee. Lessor may cancel EFT payment with thirty (30) days prior written notice to Lessee.
- D. Lessor shall be liable for all real estate taxes and assessments against the Premises.

**5. UTILITIES AND SERVICES**

- A. Lessor shall furnish and pay for all utilities including but not limited to interior water (hot and cold), landscape and irrigation water, gas, electricity, air conditioning (if available), garbage removal, pest control, and sewer. Lessor shall at its expense promptly replace all light bulbs, fluorescent tubes, and other lighting elements but in any event within five business days following receipt of notice from Lessee.
- B. At its expense, Lessee --with Lessor's approval-- may install additional telephone, electrical, or computer network lines or change the location of such existing facilities.
- C. At its expense, Lessor shall re-key all doors that provide direct access to the Premises, whether access is from the interior or the exterior of the building in which the Premises is located and provide adequate keys for the Premises prior to occupancy. After occupancy and at its expense, Lessee shall replace lost keys or re-key the Premises, as necessary.
- D. At its expense, Lessor shall provide janitorial services and all janitorial supplies for the Premises. Lessor shall perform the janitorial work safely, including notifying occupants of any dangerous conditions like slippery or wet floors, or unstable walking areas. Services must include at a minimum the services described in Attachment A.

**6. PARKING SPACE**

At no additional charge or cost to Lessee, Lessor shall provide 25 parking spaces for Lessee's employees, including the requisite number of handicapped parking spaces required by the Americans with Disabilities Act.

**7. PARKING AREA AND SIDEWALK MAINTENANCE**

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

**8. NOTICE**

For a notice under this lease to be valid, it must be in writing and must be personally delivered or sent by email, fax, or first-class mail. Notice personally delivered or sent via email or fax is effective on receipt. If email is used and the sender receives a machine-generated notice that delivery has failed, then the sender must provide notice by another means allowed by this section. Notice sent by first class mail is effective within three days of mailing.

The Lessor's address for purpose of receiving demand or notice is PO Box 3505, Great Falls, Montana, 59403.

The Lessor's representative for purposes under this lease is Charles S. Lucero, telephone (406) 771-1515, Email address if available: [charlie@charlielucero.com](mailto:charlie@charlielucero.com).

The Lessee's address for the purpose of receiving demand or notice is Office of the State Public Defender, 17 W Galena, Butte, Montana, 59701.

Lessee's representative is Brett Schandelson, telephone (406) 523-5166, e-mail: Brett.  
[Schandelson@mt.gov](mailto:Schandelson@mt.gov) .

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

**9. QUIET ENJOYMENT**

Without interference from Lessor or third parties, Lessee has the right to peaceful and quiet possession and use of the Premises and common areas and the rights and interests appurtenant to the Premises and common areas.

**10. ACCESS FOR MAINTENANCE/INSPECTION**

- A. Upon 24-hours' prior notice to Lessee, Lessor or its agent(s) may enter the Premises at reasonable times to maintain, repair, or inspect the Premises.
- B. If an emergency arises, Lessor may enter the Premises without prior notice to Lessee. Lessor has 24-hour access to the Premises to perform the janitorial services in section 5.

**11. MAINTENANCE/REPAIR OF PREMISES**

- A. At its cost and expense, Lessor shall maintain and repair in a good, safe, and usable condition the Premises and the interior of the building in which the Premises is located—including hallways, corridors, stairs, lobbies and related mechanical, electrical, plumbing, sanitary, heating, ventilation, and air conditioning and fire extinguisher systems, elevator (if any), and windows.
- B. At its cost and expense, Lessor shall maintain and repair in a good, safe, and usable condition the exterior of the building and the Premises, including the roof, foundation, walls, doors, fixtures, outside corridors, outdoor lighting, lawns and other landscaping, drainage, and related sidewalks, stairways, and parking areas.
- C. If there is an interruption in essential services to the Premises (such as heating, ventilation plumbing, lighting, or electrical services) or Lessor fails to maintain or repair the Premises in a good, safe, and usable condition for five consecutive days following notice from Lessee, Lessee must receive a prorated abatement of rent for the entire period of service interruption. If the interruption continues beyond this five-day period, Lessee may terminate this lease without penalty or further notice and receive a refund for the unearned rent paid. Lessee may also pursue any remedies available to it under this lease or Montana law.

## **12. CASUALTY OR FIRE DAMAGE**

- A. If the Premises or any part of it becomes so damaged by fire, earthquake, other casualty, or structural defects that it cannot be used for Lessee's business purposes, then Lessee may without penalty terminate this lease by giving Lessor five days' notice. Lessor shall refund Lessee any unearned rent paid if Lessee so terminates.
- B. If such damage does not render the Premises wholly unusable for Lessee's purposes, Lessor shall promptly restore the damaged portion of the Premises to the same condition as existed prior to such damage at Lessor's cost. In this case, Lessee's monthly rent payment must be reduced by the same ratio of the amount of gross square feet that Lessee is precluded from occupying to the total gross square feet of the Premises.

"Gross square feet" means the square footage stated in section 2.B and includes stairs, elevators, hallways, public restrooms, mechanical rooms, and available storage space or any proration thereof. If Lessor does not complete the repairs within 30 days following the initial damage, Lessee may without penalty immediately terminate this lease.

- C. Lessor shall continue to insure the Premises until Lessee's personal property is removed from the Premises.

## **13. ALTERATIONS TO PREMISES**

Lessee may not make structural, mechanical, electrical, or plumbing improvements or alterations to the Premises without the Lessor's prior written consent. Any structural, mechanical, electrical,

or plumbing improvements or alterations will remain Lessor's property upon lease termination or expiration. Lessee's personal property, equipment, trade fixtures and temporary installations including but not limited to cubicles remain Lessee's property and may be removed upon lease termination or expiration.

#### **14. SIGNAGE**

If Lessor allows signage and Lessee wishes to advertise its location in the building where the Premises is located, Lessee shall pay the Lessor for installation of a suitable sign on the exterior of the Premises at a location mutually agreeable to Lessor and Lessee.

#### **15. DEFENSE/INDEMNIFICATION**

- A. Lessor, at its sole cost and expense, shall defend Lessee and the state of Montana, their employees, officers, officials, agents, and volunteers (collectively, Indemnitees) from and against all claims, allegations, lawsuits, or any other action (Claim or Claims) relating to personal injury, death, damage to property, financial loss or other obligation arising or allegedly arising out of or in connection with Lessor's duties under this lease.
- B. Lessor shall indemnify the Indemnitees against losses, liabilities, damages, judgments, settlements, penalties, fines, reasonable attorney/expert fees, expenses, and court costs arising from the Claims.
- C. Lessee shall give Lessor prompt notice of any Claim, and at Lessor's expense, Lessee shall cooperate in the defense of the Claim. Lessor acknowledges that under Montana law, the Montana Attorney General may participate in an action involving the state of Montana.
- D. If Lessor fails to comply with its defense obligations under this section, Lessee may undertake its own defense. If Lessee undertakes its own defense, Lessor shall reimburse Lessee for all: (i) losses, liabilities, damages, judgments, settlements, penalties and fines arising from the Claim, and (ii) costs arising from defense of the Claim, including but not limited to attorney fees, court costs, and costs of investigation, discovery, and experts. Lessor shall reimburse Lessee within 30 days after receiving Lessee's justification for these expenditures.

#### **16. INSURANCE**

- A. Lessor shall carry commercial property insurance sufficient to insure the building in which the Premises is located and any improvements and alterations installed in the building thereafter throughout all lease terms against the following:
  - 1. 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.

2. Loss or damage from leakage or sprinkler systems now or hereafter installed in any building in which the Premises is located.
3. 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 in which the Premises is located.

Lessor agrees that insurance carried or required to be carried by Lessor against loss or damage to property by fire, flood, earthquake, acts of terrorism, acts of war, or other casualty shall contain a clause whereby the insurer waives its right to subrogation against Lessee, and Lessor shall indemnify Lessee against any loss or expense, including reasonable attorneys' fees, resulting from the failure to obtain such waiver.

- B. Lessor shall purchase and maintain occurrence coverage with combined single limits for bodily injury or death, personal injury, and property damage of \$1,000,000 per occurrence and \$2 million aggregate per year. 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 Premises location or the general aggregate limit shall be twice the required occurrence limit.
- C. Lessor's 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-. Lessor shall provide 30 days advance written notice to Lessee of any material change in coverage including cancellation and upon request, an original Certificate of Insurance including any required amendatory endorsements. Lessee may request copies of Lessor's insurance coverage at any time. The state of Montana and Lessee shall be named as additional insureds on Lessor's insurance coverage. Lessor's insurance coverage shall be primary insurance with respect to Lessee.
- D. Lessee shall maintain insurance coverage of its personal property and shall self-insure for personal injury and property damage. Any insurance or self-insurance maintained by Lessee, or the state of Montana on Lessee's behalf, shall be excess of Lessor's insurance and shall not contribute with it.

## **17. COMPLIANCE WITH LOCAL, STATE AND FEDERAL LAWS**

- A. Lessor and Lessee shall comply with applicable federal, state, and local laws and ordinances.
- B. Pursuant to 49-3-207, MCA, and Executive Order No. 04-2016, Lessor agrees:
  1. the hiring of persons, if any, to perform its obligations in this lease will be made on the basis of merit and qualifications, and

2. 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 its obligations in this lease.
- C. Lessor shall provide an additional alternative accessible site, other than the Premises, for use by Lessee if it is necessary to provide services, benefits, or communication to individuals with a disability. If an alternative ADA site is not available or economically feasible for Lessor to provide within thirty (30) days of a written request thereof by Lessee, Lessee may without a penalty terminate the lease with a thirty (30) day written notice.
- D. Lessor shall locate, install, test, and maintain fire extinguishers as required by law.
- E. Lessor shall comply with the Montana Occupational Safety and Health Act (MCA 50-71-111 et seq.) and all rules adopted thereunder.
- F. Lessor shall provide the Department of Administration, the Montana legislative auditor, or their authorized agents reasonable access to any records relating to this lease to determine compliance with the lease. Lessor shall retain these records for eight years following termination or expiration of this lease or the time established by Lessor's record retention schedule, whichever is longer.

**18. ENVIRONMENTAL HAZARDS**

- A. Lessor represents that, to the best of its knowledge, any use, storage, treatment, or transportation of hazardous substances that has occurred within, under or from the Premises before the lease date has complied with all applicable federal, state, and local laws, regulations, and ordinances.
- B. Lessor represents that, to the best of its knowledge, (i) no release, discharge, or disposal of hazardous substances has occurred within or under the Premises and (ii) that the Premises is free of hazardous substances as of the starting lease date.
- C. If either party to this lease discovers that a release, discharge, or disposal of hazardous substances has occurred within or under the Premises or that the Premises is not free from hazardous substances, the party shall immediately notify the other party.
- D. If Lessee determines at any time that the Premises poses an environmental hazard to its employees, Lessee may without incurring a penalty or liability immediately terminate the lease with notice to Lessor.
- E. "Hazardous substances" means those substances designated by the United States

Environmental Protection Agency as hazardous or those substances defined as hazardous by federal, state, or local statutes, rules, ordinances, or regulations.

- F. Lessor represents that, to the best of its knowledge, the Premises shall be free of all asbestos containing materials, except undamaged vinyl asbestos floor tile in the premises or undamaged boiler or pipe insulation outside the leased premises. Radon levels in the Premises shall not equal or exceed the Environmental Protection Agency action level for homes or 4 Pico curies per liter.

**19. HOLDOVER TENANCY**

- A. Absent a written agreement stating otherwise, if Lessee holds the Premises beyond the lease term, the lease will be deemed a month-to-month tenancy subject to all terms and conditions of this Lease.
- B. Either party may terminate the holdover tenancy, without incurring a penalty, by providing the other party thirty (30) days written notice of termination before the beginning of the final month.

**20. TERMINATION FOR LACK OF FUNDING**

- A. Lessor understands that Lessee, as a state agency, is dependent upon state and/or federal appropriations for its funding. If state or federal government funds are not appropriated or otherwise made available to support continued performance of the lease in subsequent fiscal periods, the lease must be canceled *See* Section 2-17-101(6), MCA. Lessee shall provide Lessor the date Lessee's termination will take effect.
- B. Lessee is responsible only for the monthly rent payment, or prorated portion of that payment, owed to Lessor under section 4 up to the date Lessee's termination takes effect. This is Lessor's sole remedy. Lessee shall not be liable to Lessor for any other payments or damages arising from termination for lack of funding, including but not limited to general, special, or consequential damages.

**21. BREACH**

- A. Other than termination for lack of funding under section 20, either party's failure to comply with any term or condition is a breach.
- B. If a breach arises, the non-breaching party may send the breaching party a written notice, identifying in reasonable detail the breach and the requested remedy.

The breaching party shall cure the breach as soon as reasonably possible but no longer than 30 days, except if an emergency condition exists requiring a cure to be immediately started and completed within 24 hours if reasonably possible given the circumstances.

- C. If it is not reasonably possible to cure an emergency or non-emergency condition within 24-hours or 30 days, respectively, the breaching party shall so notify the non-breaching party within 24-hours or 10 days, respectively. The notice shall explain why the cure is not reasonably possible with due diligence to complete and provide the earliest date reasonably possible that the work can be completed. If the non-breaching party is not satisfied with the breaching party's explanation, the non-breaching party may pursue its remedies under this lease and law.

It is not a justifiable ground for delay that Lessor does not have available funding to accomplish the cure or that a preferred contractor has limited availability if other contractors can satisfactorily perform the work sooner at reasonable cost.

- D. If the breaching party does not cure the breach, the nonbreaching party may cure all or part of the default after providing notice to the breaching party of its intent to perform such cure, and, if applicable, recover the costs incurred in curing the default.

If the nonbreaching party is Lessee, Lessee may deduct all costs incurred from rent or other charges owed to Lessor. Lessee's costs incurred to cure include, but are not limited to, all reasonable out-of-pocket expenses, payment of unpaid utility or services charges for which Lessor is responsible, and all administrative costs Lessee reasonably incurs and documents in performing or arranging for performance of the cure.

If the nonbreaching party is Lessor, Lessor will submit properly executed vouchers and proof of payment to Lessee and Lessee shall remit payment to Lessor within 30 days or as soon as is practicable.

The nonbreaching party is under no obligation to cure some or all the default of the breaching party. To the extent that the nonbreaching party does not cure the default, the nonbreaching party may pursue its legal and lease remedies against the breaching party.

The nonbreaching party's failure to cure the breaching party's default does not waive the nonbreaching party's rights to relief. The parties acknowledge they have a duty to reasonably mitigate damages, and nothing in this lease removes or lessens either party's obligation to mitigate damages.

- E. "Emergency condition" means a condition requiring a cure that (i) prevents or substantially disrupts the Lessee from using all or a substantial part of the Premises, or (ii) causes or substantially threatens to cause injury to persons or damage to property or raises a substantial danger to the health or safety of any persons on or using the Premises.

## **22. GOVERNING LAW AND VENUE**

This lease shall be governed and interpreted according to Montana law. Any litigation concerning this lease shall be brought only in the First Judicial District Court in and for Lewis and Clark County, State of Montana. Each party shall pay its own costs and attorney fees, except

as otherwise stated in this lease.

**23. ENTIRE LEASE/AMENDMENT**

This lease and all attachments thereto, contains the entire agreement between Lessor and Lessee. Any amendment 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.

**24. SMOKE FREE ENVIRONMENT**

Lessor shall make all parts of the leased premises 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. Montana Clean Indoor Air Act, 50-40-101, et seq., MCA.

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**ATTACHMENT "A"**  
**JANITORIAL SPECIFICATIONS**

Lessor shall furnish all janitorial work, equipment and supplies necessary to accomplish the duties described in the lease and this attachment.

1. The janitorial supply list includes but is not limited to:
  - a. Hand towels and toilet tissue;
  - b. Restroom hand soap for dispensers;
  - c. Trash can liners; and
  - d. Entrance or walk-off mats.
  
2. Daily Requirements (Monday through Friday, excluding holidays):
  - a. Floor sweeping and damp mopping all tiled areas.
  - b. Clean and sanitize plumbing fixtures, and toilet rooms (sinks, showers, toilets, mirrors, etc.)
  - c. Vacuum carpet, using industrial type vacuum cleaner with a power head in entrance area and hallways.
  - d. Remove all trash from building.
  - e. Cleaning supplies: re-stock toilet tissue, towels, soap, etc. in restrooms.
  
3. Weekly Requirements:
  - a. Vacuum all areas of carpeting.
  - b. Clean interior glass by each doorway.
  
4. Quarterly Requirements:
  - a. Complete dusting of all offices.
  
5. Semi-annual Requirements:
  - a. Glass Cleaning - all interior/external windows and window dressings (shades, curtains, blinds) in space leased by the Lessee (October and May).
  - b. Carpet Cleaning - all carpeted areas in space leased by the Lessee shall be cleaned using professional process carpet cleaning equipment.
  - c. Clean all light fixtures.

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

This lease #6303 is made by and between the State of Montana, Office of the State Public Defender, 44 West Park, Butte, Montana, 59701, "Lessee", and Stromberg Properties, P.O. Box 638, Great Falls, Montana, 59403, "Lessor."

**1. PURPOSE OF LEASE**

The Lessee has a need to lease space in Great Falls, Montana, for the purpose of office space. The Lessor has space available for lease in Great Falls, Montana, suitable for the stated purpose.

**2. PREMISE DESCRIPTION**

The space being leased (gross leased premise) is approximately 1,508 gross square feet and includes the right to use common areas within the leased premise. The leased premise is located at 600 Central Plaza, Suite 327, Great Falls, Montana.

**3. TERM OF LEASE**

The lease term is five years, August 1, 2019 through July 31, 2024, 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 is \$17,568.00, payable in equal monthly installments of \$1,464.00. This reflects a rate of approximately \$11.65 per gross square foot per year.

This rate will increase by (1.5%) on each August 1<sup>st</sup>, beginning August 1, 2020.

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.

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**6. UTILITIES AND SERVICES**

The Lessor shall provide all utilities, including water, gas, electricity, heat, grounds maintenance, building maintenance, garbage removal, sewer use charges and weed and pest control.

The Lessor shall re-key all access doors and provide adequate keys for the space at Lessor's expense prior to occupancy. After occupancy, the Lessee is responsible for lost keys or re-keying if caused by Lessee.

The Lessor shall provide janitorial services as listed in Attachment "A," at Lessor's expense.

The Lessee shall provide its own office equipment, telecommunications equipment and installation, and is responsible for all use charges related to the equipment/service.

**7. PARKING SPACE**

Lessor shall provide four 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 Stromberg Properties, P.O. Box 638, Great Falls, Montana, 59403, "Lessor."

The Lessor's representative for purposes under this lease is Stacey Schaefer, Property Manager, telephone (406) 453-2410, e-mail address: [strop@isomedia.com](mailto:strop@isomedia.com) .

The Lessee's address for the purpose of receiving demand or notice is the State of Montana, Office of the State Public Defender, 44 West Park, Butte, Montana, 59701.

The Lessee's representative for purposes under this lease is Carleen Green, telephone (406) 496-6085, e-mail address: [cgreen@mt.gov](mailto:cgreen@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) the exterior of the leased premise including the roof; (b) the foundation; (c) all landscaping including sprinkler systems if any; mowing of the grass, weed and tree/bush control; (d) the interior, including all fixtures in the building (except those owned by the Lessee); and (e) all plumbing, heating, ventilation, air conditioning, window treatments/blinds and electrical circuits. The Lessor, at its cost and expense, shall be responsible for the replacement of light bulbs, fluorescent tubes and other lighting elements 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.

Lessor shall provide, at its expense, window blinds, shades and treatments.

**15. SIGNS**

The Lessor shall provide and install on the exterior of the leased premise a mutually acceptable sign or signs to advertise the Lessee's presence in and on the leased premise at Lessee's expense.

**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 the building and all other improvements on the premise 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 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.

### 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 Great Falls, 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 10 pages, sections 1 through 29 and the attached Janitorial Specifications, 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**

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:

**PARTIES TO THE LEASE**

Lessee

By: Rhonda Schaffer 7/9/19  
Rhonda Schaffer, Executive Director Date  
State of Montana, Office of the State Public Defender

Lessor:

By: Stacey Schaefer 7/25/19  
Stacey Schaefer Date  
Property Manager

**APPROVED BY:**

By: Garett M. Bacon June 24, 2019  
Garett M. Bacon, Leasing Officer Date  
Department of Administration, General Services Division

By: Mike Manion June 26, 2019  
Mike Manion, Chief Legal Counsel Date  
Department of Administration

By: Christine Hultin July 12, 2019  
Tom Livers Date  
OBPP Director/Designee

By: John Lewis 7.22.19  
John Lewis, Director Date  
Department of Administration



**ATTACHMENT "A"**  
**JANITORIAL SPECIFICATIONS**

All janitorial work, equipment and supplies necessary to accomplish the duties described will be furnished by the Lessor.

1. The janitorial supply list includes but is not limited to:
  - a. Hand towels and toilet tissue;
  - b. Restroom hand soap for dispensers;
  - c. Trash can liners; and
  - d. Entrance or walk-off mats.
  
2. Daily Requirements (Monday through Friday, excluding holidays):
  - a. Floor sweeping and damp mopping all tiled areas.
  - b. Clean and sanitize plumbing fixtures, and toilet rooms (sinks, showers, toilets, mirrors, etc.)
  - c. Vacuum carpet, using industrial type vacuum cleaner with a power head in entrance area and hallways.
  - d. Remove all trash from building.
  - e. Cleaning supplies: re-stock toilet tissue, towels, soap, etc. in restrooms.
  
3. Weekly Requirements:
  - a. Vacuum all areas of carpeting.
  - b. Clean interior glass by each doorway.
  
4. Quarterly Requirements:
  - a. Complete dusting of all offices.
  
5. Semi-annual Requirements:
  - a. Glass Cleaning - all interior/external windows and window dressings (shades, curtains, blinds) in space leased by the Lessee (October and May).
  - b. Carpet Cleaning - all carpeted areas in space leased by the Lessee shall be cleaned using professional process carpet cleaning equipment.
  - c. Clean all light fixtures.