

SPECIAL MEETING OF THE  
MONTANA BOARD OF INVESTMENTS  
*Zoom Conference*  
June 26, 2025  
2:00 PM

**CALL TO ORDER – Jeff Meredith, Chair**

1. Notice of Video/Audio Recording
2. Roll Call
3. Public Comment – *Public Comment on issues with Board Jurisdiction*
4. Development Agreement – **Decision**
5. Adjournment

## Development Agreement

THIS AGREEMENT is made and entered into as of June 30 by and between Governor's Office of Budget and Program Planning, "OBPP", Montana Department of Labor, "DLI", and the Montana Board of Investments, "BOI". In the collective, all three are referred to as the "Parties."

OBPP will transfer \$5 million to the BOI to build or acquire a new building suitable for DLI to lease for use as a new facility for their Weights and Measures Bureau, "WMB". The facility will be as an investment security of the Trust Funds Investment Pool (TFIP).

BOI may use independent contractors to build, acquire, and manage the building as appropriate and allowed by law. Such use will be treated as investment activity and not governmental direct building.

### Section 1. All Parties are Government Entities.

All Parties are governmental entities and are expected to act in good faith. BOI has a fiduciary duty to manage the property and funds invested with them.

### Section 2. Term of Contract

The term of this Agreement shall be for a period of 20 years, from signing until the last year of the lease of the building, unless terminated prior thereto upon the mutual written agreement of the Parties, or as otherwise provided.

### Section 3. Acceptance of Responsibilities and Duties

- a. BOI will build or acquire a building suitable for DLI to lease for their WMB use for the next 20 years as an additional security asset of the TFIP.
- b. DLI will provide all mandatory specifications for the building to BOI for their WMB use and will enter a 20-year lease once it is complete. A DRAFT sample lease (Attachment A) is provided.

### Section 4. Compensation

Within 24 hours of final signature of this MOU, OBPP will transfer to BOI \$5 million for the purposes of building or acquiring a building suitable for leasing to DLI for their WMB use. This will be the extent of OBPP's involvement in this agreement.

BOI will return all unspent funds to OBPP.

## Section 5. Insurance

All Parties are represented by the same risk pool and, therefore, there is no need for insurance betwixt them.

## Section 6. Indemnification

All Parties are part of the State of Montana; therefore, indemnification would serve no purpose.

## Section 7. Other Parties' Insurance and Indemnification

It shall be the responsibility of the BOI to make sure the proper insurance, bonds, or indemnifications are in place if a 3<sup>rd</sup> party is used to acquire, build, or manage the property.

## Section 8. Termination

BOI may terminate by giving notice to the other Parties if it is unable to complete the project for any reason. All uninvested funds will be returned to the OBPP.

## Section 9. Limitation of Liability

All Parties are part of the State of Montana; therefore, indemnification would serve no purpose.

## Section 10. Consents and Approvals

This Agreement may only be modified by a written amendment signed by all three parties.

## Section 11. Waiver of Subrogation

All Parties are part of the State of Montana; therefore, indemnification would serve no purpose.

## Section 12. Notices

Proper Notice is to Executive Director Dan Villa (BOI), Commissioner Sarah Swanson (DLI), and Director Ryan Osmundson (OBPP).

## Section 13. Assignment

This core agreement cannot be assigned. The BOI may assign the actual acquisition, building, or management by written agreement with a 3<sup>rd</sup> party. The final lease will list any allowed Assignments.

## Section 14. Venue

In the event of litigation concerning this Agreement, venue shall be the First Judicial District in and for the County of Lewis and Clark, Montana, and the Contract shall be interpreted according to the laws of the State of Montana.

## Section 15. Signatures

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

Office of Budget and Program Planning

By: \_\_\_\_\_  
RYAN OSMUNDSON, Director

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

Department of Labor and Industry

By: \_\_\_\_\_  
SARAH SWANSON, Commissioner

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

MONTANA BOARD OF INVESTMENTS

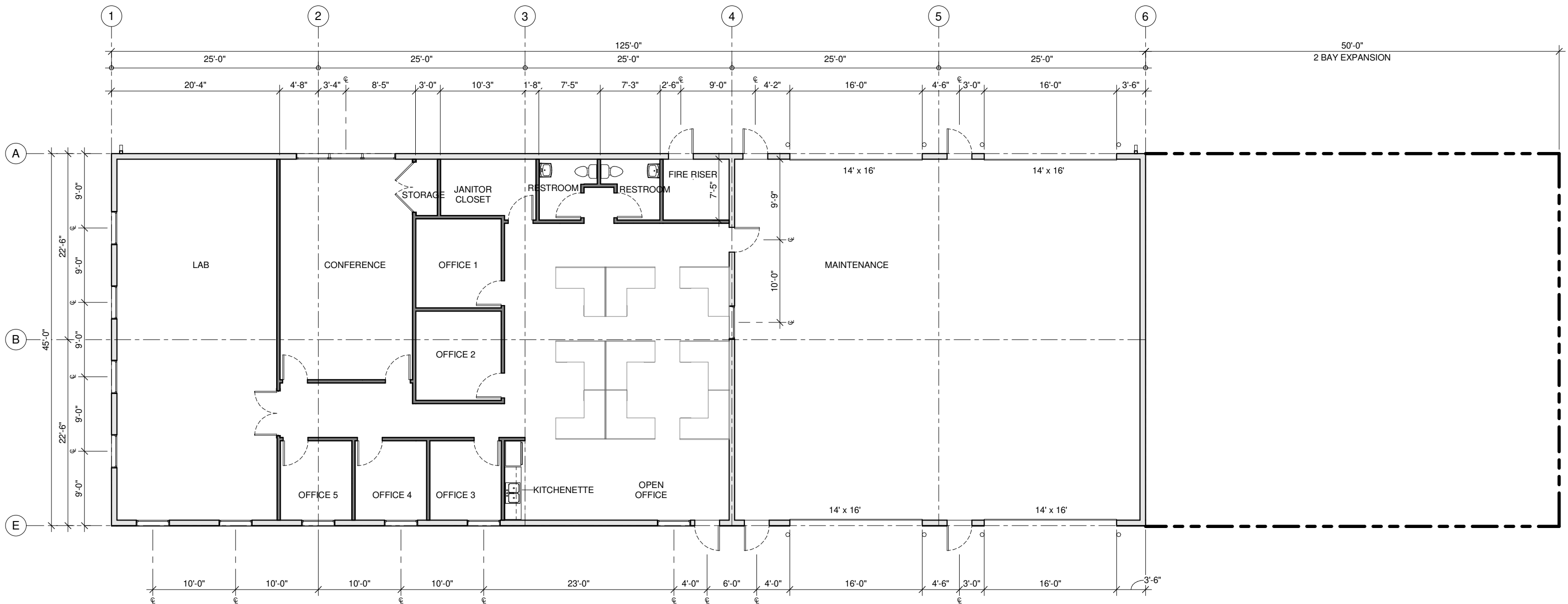
By: \_\_\_\_\_  
DAN VILLA, Executive Director

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

Approved as to Legal Content:

By: \_\_\_\_\_  
Cort Jensen, BOI Chief Legal Counsel

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



## **LEASE AGREEMENT**

### **BETWEEN THE MONTANA BOARD OF INVESTMENTS AND MONTANA DEPARTMENT OF LABOR**

**x, 2026 through x, 2046**

This contract XXXX-X ("Lease") for space in Helena, Montana, is made by and between the Montana Department of Labor, 1315 Lockey Ave, Helena, Montana, 59601, (Lessee) and the Montana Board of Investments, 2401 Colonial Drive 3rd Floor, Helena, Montana, 59601, (Lessor), each a party and collectively, the "Parties".

#### **1. PURPOSE OF LEASE**

The purpose of this Agreement is for the Department of Labor to lease the (New Building Name) in Helena, Montana, for use by their Weights and Measures Bureau from the Montana Board of Investment.

#### **2. PREMISES DESCRIPTIONS GENERALLY**

- 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.
- B. The leased space (Premise) is X gross square feet. The physical address of the Premise is (New Address).

#### **3. TERM OF LEASE**

- A. The lease term is effective X, 2026 through X, 2046, unless earlier terminated as provided in Section 13, 18, 19, 21, or 22 of 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 Premise 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 Premise 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

Fiscal Year	Rent per Square Foot	Increase	Annual Lease Rate	Monthly Lease Rate
2026	\$ 11.85	3%	\$ 59,225.00	\$ 4,935.42
2027	\$ 12.20	3%	\$ 61,000.00	\$ 5,083.33
2028	\$ 12.57	3%	\$ 62,850.00	\$ 5,237.50
2029	\$ 12.95	3%	\$ 64,750.00	\$ 5,395.83
2030	\$ 13.34	3%	\$ 66,700.00	\$ 5,558.33
2031	\$ 13.74	3%	\$ 68,700.00	\$ 5,725.00
2032	\$ 14.15	3%	\$ 70,750.00	\$ 5,895.83
2033	\$ 14.57	3%	\$ 72,850.00	\$ 6,070.83
2034	\$ 15.01	3%	\$ 75,050.00	\$ 6,254.17
2035	\$ 15.46	3%	\$ 77,300.00	\$ 6,441.67
2036	\$ 15.92	3%	\$ 79,600.00	\$ 6,633.33
2037	\$ 16.40	3%	\$ 82,000.00	\$ 6,833.33
2038	\$ 16.89	3%	\$ 84,450.00	\$ 7,037.50
2039	\$ 17.40	3%	\$ 87,000.00	\$ 7,250.00
2040	\$ 17.92	3%	\$ 89,600.00	\$ 7,466.67
2041	\$ 18.46	3%	\$ 92,300.00	\$ 7,691.67
2042	\$ 19.01	3%	\$ 95,050.00	\$ 7,920.83
2043	\$ 19.58	3%	\$ 97,900.00	\$ 8,158.33
2044	\$ 20.17	3%	\$ 100,850.00	\$ 8,404.17
2045	\$ 20.78	3%	\$ 103,900.00	\$ 8,658.33
2046	\$ 21.40	3%	\$ 107,000.00	\$ 8,916.67

A. 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.

B. Lessor requests Lessee to pay monthly rent by electronic funds transfer (EFT). Lessor has established the necessary information in the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) for EFT processing. Lessor may cancel EFT payment with thirty (30) days prior written notice to Lessee.

## **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 and with Lessor's approval, Lessee shall replace lost keys or re-key the Premise, as necessary.
- D. At its expense, Lessor shall provide janitorial services and all janitorial supplies for the Premise. Lessor shall perform the janitorial work safely, including notifying occupants of any dangerous conditions like slippery or wet floors, or unstable walking areas.

## **6. PARKING SPACE**

There is some parking provided at the location but if additional parking is required by the Lessee, the Lessee will be responsible for obtaining it from the city.

## **7. PARKING AREA AND SIDEWALK MAINTENANCE**

Lessor shall keep the parking area and sidewalks of the Premises in good repair, and timely remove snow, ice, sand, gravel and debris from the parking area and sidewalks. If Lessee is aware of potential hazards from ice or accumulation of snow, it is the responsibility of Lessee to contact Lessor for additional snow removal or remediation.



## **8. NOTICE PROTOCOL**

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 the Montana Board of Investments, 2401 Colonial Drive, 3rd Floor, Helena, Montana, 59601.

The Lessor's representative for purposes under this lease is Sam Holman, telephone (406) 444-1214, e-mail address: [samantha.holman@mt.gov](mailto:samantha.holman@mt.gov).

The Lessee's address for the purpose of receiving notice is Montana Department of Labor, 1315 Lockey Ave, Helena, Montana, 59601.

The Lessee's representative for purposes under this lease is Rhonda Morgan, telephone (406) 444-9091, email address: [rmorgan@mt.gov](mailto:rmorgan@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 (i) the Premise and common areas and (ii) the rights and interests appurtenant to the Premise and common areas.

## **10. ACCESS FOR MAINTENANCE/INSPECTION**

- A. Upon prior notice, the Lessee shall permit the Lessor or its agents to enter into and upon the Premise at reasonable times to maintain, repair, or inspect the Premise.
- B. If an emergency arises, Lessor may enter the Premise without prior notice to Lessee. Lessor has 24-hour access to the Premise to perform the janitorial services.

## **11. MAINTENANCE/REPAIR OF PREMISE**

- A. At its cost and expense, Lessor shall maintain and repair in a good, safe, and usable condition the Premise and the interior of the building in which the Premise is located—including hallways, corridors, stairs, lobbies, and related mechanical, electrical, plumbing, sanitary, heating, ventilation, air conditioning, fire extinguisher systems, elevators (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 Premise, 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 Premise (such as heating, ventilation plumbing, lighting, or electrical services) or Lessor fails to maintain or repair the Premise 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.
- D. Lessee shall maintain the Premises in good condition. Lessee shall be responsible for repair of damages to the Premise solely caused by Lessee, normal wear and tear excepted.

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

- A. If the Premise 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 Premise wholly unusable for Lessee's purposes, Lessor shall promptly restore the damaged portion of the Premise 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 Premise.

"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 Premise until Lessee's personal property is removed from the Premise.

### **13. ALTERATIONS TO PREMISE**

Lessee may not make structural, mechanical, electrical, or plumbing improvements or alterations to the Premise 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 Premise is located, Lessee shall pay the Lessor for installation of a suitable sign on the exterior of the Premise at a location mutually agreeable to Lessor and Lessee.

### **15. INSURANCE**

- A. Lessor shall ensure the building in which the Premise is located and any improvements and alterations installed in the building thereafter have sufficient property insurance 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 Premise 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 Premise is located.
- B. Lessor shall maintain occurrence coverage with combined single limits for bodily injury or death, personal injury, and property damage of at least \$750,000 each claim and \$1.5 million per occurrence. 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 Premise location or the general aggregate limit shall be twice the required claim limit.
- C. 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.

## **16. 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 locate, install, test, and maintain fire extinguishers as required by law.
- D. Lessor shall comply with the Montana Occupational Safety and Health Act (MCA 50-71-111 et seq.) and all rules adopted thereunder.
- E. 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.

## **17. 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 Premise 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 Premise and (ii) that the Premise 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 Premise or that the Premise is not free from hazardous substances, the party shall immediately notify the other party.
- D. If Lessee determines at any time that the Premise poses an environmental hazard to its employees, Lessee may without incurring a penalty or liability immediately terminate the lease with 10 days' written 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 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 Premise shall not equal or exceed the Environmental Protection Agency action level for homes or 4 Pico curies per liter.

**18. HOLDOVER TENANCY**

- A. None

**19. 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 this lease, Lessee must terminate this lease. 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. Lessee is also responsible for repairs for any damage to the Premise caused solely by Lessee, normal wear and tear excepted, and that occurred prior 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.

**20. BREACH**

- A. Other than termination for lack of funding under section 19, 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 Premise, 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 Premise.

**21. 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.

**22. 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.

**23. SMOKE FREE ENVIRONMENT**

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. Montana Clean Indoor Air Act, 50-40-101, et seq., MCA.

**24. SUBLEASE**

The Lessee shall not have the right to sublet the leased Premise to a sub-lessee.

**PARTIES TO THE LEASE**

Lessee:

By: \_\_\_\_\_  
Sarah Swanson Date  
Director, Department of Labor

Lessor

By: \_\_\_\_\_  
DAN VILLA Date  
Executive Director, Montana Board of Investments

**APPROVED BY:**

By: \_\_\_\_\_  
Scott McHugh, Leasing Officer  
Department of Administration, General Services Division

By: \_\_\_\_\_  
Chief Legal Counsel  
Department of Administration

By: \_\_\_\_\_  
Ryan Osmundson, Director  
Office of Budget and Program Planning

By: \_\_\_\_\_  
Cort Jensen, Chief Legal Counsel  
Board of Investments

By: \_\_\_\_\_ Date \_\_\_\_\_  
 Chief Legal Counsel  
 Department of Administration

By: \_\_\_\_\_ Date \_\_\_\_\_  
Cort Jensen, Chief Legal Counsel  
Board of Investments



MOCK UP NUMBERS NOT FINAL