

STATE OF MONTANA STANDARD LEASE CONTRACT -- COUNTIES --
(County lease template last revised June 4, 2021)

This lease #5935 is made by and between the Montana Department of Revenue, 125 North Roberts, Helena, Montana, 59601, “Lessee” and Broadwater County, a political subdivision of the State of Montana, 515 Broadway Street, Townsend, Montana, 59644, “Lessor.”

1. PURPOSE OF LEASE

The Lessee has a need to lease space in Townsend, Montana to conduct its business, and the Lessor has space available for this purpose.

2. PREMISES DESCRIPTION

The leased space (Premises) is 754 gross square feet and includes the right to use the common areas (such as stairs, elevators, hallways, and available storage) within the building in which the Premises is located. The physical address is 515 Broadway Street, Townsend, Montana. Lessor shall have access to the storage area during normal business hours (Monday-Friday from 8 am to 5 pm excluding State holidays).

3. TERM OF LEASE/CONDITION OF PREMISES AT END OF TERM

A. The lease term is two years, effective July 1, 2021, through June 30, 2023, unless earlier terminated as provided in sections 12, 13, 17, 18, 20 and 21 or renewed as provided in Section 5.

B. Upon termination of this lease or any extension of it, the Lessee shall vacate and surrender the Premises to the Lessor in as good condition and repair as when it took possession, reasonable wear and tear and Lessor-authorized alterations and improvements excepted. Lessee shall remove all personal property that it placed within the Premises within 30 days of termination.

C. Lessee at its expense shall provide its office furniture and supplies.

If the Lessee does not remove its personal property within the 30 days, then Lessee shall pay Lessor a full month’s rent even if the Lessee’s personal property is removed before the month has expired.

4. CONSIDERATION

A. The annual amount of rent the Lessee shall pay to the Lessor is \$3,000.00, payable in equal monthly installments of \$250.00. This reflects a rate of approximately \$3.98 per gross square foot per year. It is noted that this payment is to cover utilities and janitorial costs.

B. The Lessee shall pay the Lessor rent due by the 10th of the month.

5. RENEWAL OPTION

All lease renewals are subject to prior approval by the Department of Administration (under Section 23), the Lessor, and the Lessee.

6. UTILITIES AND JANITORIAL SERVICES

A. The Lessor shall furnish and pay for all utilities including interior and landscape and irrigation water (hot and cold for the interior), gas, electricity, air conditioning (if available), garbage removal, pest control (if necessary), and sewer. The Lessor at its expense shall promptly replace all light bulbs, fluorescent tubes, and other lighting elements, but in any event within five working days after notification of needed replacement.

B. Lessee at its expense and 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 provide janitorial services and all janitorial supplies for the Premises. The Lessor shall perform the janitorial work safely, including notifying occupants of any dangerous conditions like slippery or wet floors, or unstable walking areas. The services must include at a minimum:

Daily (Monday through Friday, excluding holidays)

- Cleaning all bathrooms, including toilet and lavatory bowls
- Refilling paper towel and toilet tissue dispensers
- Emptying all trash containers

Weekly

- Disposing of materials specified by the Lessee

Bi-Weekly

- Vacuuming carpets
- Dusting furniture
- Mopping floors

As needed, but not less than semi-annually

- Waxing floors
- Shampooing carpets
- Washing interior windows
- Cleaning light fixtures and window blinds (if the blinds are provided and owned by the Lessor)

7. PARKING SPACE

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

8. PARKING AREA AND SIDEWALK MAINTENANCE

The 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 sidewalk.

9. 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 purposes of receiving notice or demand is Broadwater County 515 Broadway Street, Townsend, Montana, 59644

The Lessor's representative is Darrel Folkvord, e-mail: dfolkvord@co.broadwater.mt.us.

The Lessee's address for the purpose of receiving notice or demand is Montana Department of Revenue, Helena, Montana 59604.

The Lessee's representative for purposes under this lease is Brett Boutin, Contract Manager, telephone (406) 444-4073, E-mail BrettBoutin@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.

10. QUIET ENJOYMENT

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

11. ACCESS FOR MAINTENANCE/INSPECTION

A. Upon 24-hours' prior notice to the Lessee, the 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 the Lessee. Lessor has 24-hour access to the Premises to perform janitorial services under section 6 above.

12. 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 related mechanical, electrical, plumbing, sanitary, heating, ventilation, and air conditioning systems and elevator (if any).

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, 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, Lessee must receive an abatement of rent for this period. If such interruption continues beyond this five-day period, Lessee may terminate this lease without penalty, and Lessor shall refund Lessee for the unearned rent paid. Lessee may also pursue any remedies available to it under this lease or Montana law.

13. FIRE OR OTHER CASUALTY 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 unusable for Lessee's purposes, Lessor shall promptly repair such damage at Lessor's cost. In this case, Lessee's rental payment must be reduced by the same ratio as the net square feet the Lessee is precluded from occupying bears to the total net square feet in the Premises.

"Net square feet" means actual inside dimensions and does not include public corridors, stairwells, elevators, and restrooms. If the 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 the Lessee's personal property is removed from the Premises.

14. ALTERATIONS TO PREMISES

The Lessee may not make permanent improvements or alterations to the Premise without the Lessor's prior written consent. Permanent improvements or alterations will remain the Lessor's property upon lease termination unless Lessor allows Lessee to remove the alterations or improvements. Lessee's personal property including but not limited to cubicles remains the Lessee's property and may be removed upon lease termination.

15. SIGNS

If Lessor allows signage and the 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 the Lessor and Lessee.

16. INSURANCE SPECIFICATIONS

A. Lessor Property. Lessor has property insurance as provided by the MACo Property & Casualty Trust (MACo PCT), which is a property and liability self- insured risk sharing pool. Such insurance provides coverage for among other things:

(i) Loss or damage by fire and such other risks (not including earthquake damage) in an amount sufficient to permit such insurance to be written at all times on a replacement cost basis.

(ii) Loss or damage from leakage or sprinkler systems now or hereafter installed in the Premises.

(iii) 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 within which the Premises is located.

B. Lessor Liability. The Lessor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$750,000 per claim and \$1,500,000 per occurrence to cover such claims as may be caused by any act, omission, or negligence of the Lessor and its officers, employees, or agents in accordance with § 2-9-108, MCA.

C. Lessee Insurance. Lessee shall maintain insurance covering its property and shall be self-insured for personal injury and property damage as required by law.

17. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

A. The Lessor and Lessee shall comply with all applicable federal, state, and local laws (which includes rules and regulations) and ordinances.

B. Following § 49-3-207, MCA, and Executive Order No. 04-2016, Lessor agrees:

(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.

C. The Lessor shall provide an additional alternative accessible site, other than the Premises, for use by the 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 the Lessor to provide within thirty (30) days of a written request thereof by the Lessee, the 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 Montana law.

E. The 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 if the parties have complied with the lease terms and condition. § 18-1-118, MCA. It shall retain these records for eight years following termination of this lease or the time established by the Lessor's record retention schedule, whichever is longer.

18. ENVIRONMENTAL HAZARDS

A. The 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. The 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 the Lessee determines at any time that the Premises poses an environmental hazard to its employees, the Lessee may without incurring a penalty or liability immediately terminate the lease with notice to the 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 laws (which includes rules and regulations) and, ordinances.

19. HOLDOVER TENANCY

A. Absent a written agreement stating otherwise, if the 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) day written notice of termination before the beginning of the final month.

20. TERMINATION FOR LACK OF FUNDING

A. The Lessor understands that the 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 in subsequent fiscal periods, the Lessee must by law terminate this lease. § 2-17-101(6), MCA. The Lessee shall provide Lessor the date Lessee's termination will take effect.

B. The Lessee is responsible 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 will not be liable to the 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 perform the lease's terms and conditions 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.

Except as provide in subsection C. below, 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 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 the Lessee, the 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 the Lessee reasonably incurs and documents in performing or arranging for performance of the cure.

If the nonbreaching party is the 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 contractual 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. Nothing herein removes or lessens either party's obligation to mitigate damages.

D. 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. Such notice shall explain why the cure is not reasonably possible with due diligence to complete within 24 hours (if an emergency) or 30 days (if a non-emergency) and provide the earliest date that the work can be completed as soon as reasonably possible.

It is not a justifiable ground for delay that the 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.

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. Notice under this paragraph may be by the means allowed in the Notice section 9, but in addition includes actual notice/awareness that Lessor has of a condition independent of any such notice.

22. VENUE

If a dispute arises over this lease and a party chooses to file a suit, the proper venue for the case is the District Court of the Montana, First Judicial District, Lewis and Clark County. Each party shall pay its own attorney fees and costs.

23. LEASE APPROVAL

The Department of Administration must approve any lease amendment or renewal.

24. ENTIRE LEASE/INTERPRETATION

This lease, consisting of nine pages, sections 1 through 25, contains the entire agreement between the Lessee and the Lessor. If an ambiguity exists in this Lease, this lease may not be interpreted against the drafter.

25. SMOKE FREE ENVIRONMENT

The Lessor shall make all parts of the Premises smoke-free, and Lessee may not allow its employees or visitors to smoke in the Premises. "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)

The parties' authorized representatives have executed this lease as indicated below.

Lessor

BOARD OF COUNTY COMMISSIONERS

By: _____ Date: _____

By: _____

By: _____

(MUST BE SIGNED BY AT LEAST TWO COMMISSIONERS)

Approved for legal content
County Attorney

Lessee

By: _____
Teresa G. Whitney, Legal Counsel Date
Montana Department of Revenue

By: _____
Brendan Beatty, Director Date
Montana Department of Revenue

APPROVED BY:

By: _____
Garett M. Bacon, Leasing Officer Date
Montana Department of Administration, General Services Division

By: _____
Mike Manion, Chief Legal Counsel Date
Montana Department of Administration

By: _____
Office of Budget and Program Planning Date

By: _____
Misty Ann Giles, Director Date
Montana Department of Administration