

Appendix 4

**REAL PROPERTY LEASE AGREEMENT NO. 8-09651 BETWEEN
PERSHING CIRCLE, LLC
AND
STATE OF WYOMING, DEPARTMENT OF ADMINISTRATION & INFORMATION,
CONSTRUCTION MANAGEMENT**

In consideration of the mutual covenants contained herein, the parties agree as follows:

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1. Parties. This Real Property Lease Agreement (Lease) is made between Pershing Circle, LLC (Lessor), whose address is: PO Box 2390, Casper, Wyoming 82601 and the State of Wyoming, Department of Administration & Information, Construction Management (Tenant) whose address is: 700 West 21st Street, Cheyenne, Wyoming 82002. ~~In consideration of the mutual covenants contained herein, the parties agree as follows:~~

A. Lessor's contact information is:
Pershing Circle, LLC
PO Box 2390
Casper, Wyoming

B. Tenant's contact information is:

Department of Administration and Information
Construction Management
700 West 21st Street
Cheyenne, WY 82002
307-777-7769

C. In the event that any of the above information changes, the party whose information has changed shall immediately notify the other party in writing at the addresses noted above.

2. Premises.

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Lessor desires to lease to Tenant, and Tenant desires to lease from Lessor the following described real property (Premises):

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Fifty-four thousand five hundred twenty-one (54,521) square feet of office space located at 3001 Pershing Boulevard, Cheyenne, WY 82001, more particularly described below, plus full use of all adjacent parking and outbuildings, sanitary disposal facilities and other appurtenances located on the Premises. A full legal description of the building and site upon which the leased Premises is located is:

MOUNTVIEW PARK, 7TH FILING: (PAR 1) THE EAST 2' OF BLOCK 44, THE EAST 307.83' OF OLIVE DR, MOUNTVIEW PARK, 8TH FILING; ALL OF BLOCK 47, MOUNTVIEW PARK, 9TH FILING; AND ALL LOT 1, BLOCK 48 MOUNTVIEW PARK, 10TH FILING; AKA: ALL THAT PART OF THE NE1/4 SEC 33-14-66, DESC AS: BEG AT THE PNT OF INTERSECTION OF THE SOUTH R/W LINE OF PERSHING BLVD AND THE EAST BNDRY OF SD SEC 33, WHICH PNT OF BEG IS 40' SOUTH OF THE NE COR OF SD SEC 33; TH S 0 DEG 01' W, ALONG THE EAST BNDRY OF SD SEC 33, 278.09', TH S 0 DEG 00' 40" E,

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132.81' TO A PNT ON THE EAST LINE OF SD SEC 33; TH S 0 DEG 02' 10" W, ALONG THE EAST LINE OF SD SEC 33, 161.90', WHICH PNT IS ON THE NORTH LINE OF THE REALIGNMENT OF OMAHA RD; TH N 89 DEG 43' 30" W, 87.55' TO A PNT OF CURVE TO THE LEFT, WHOSE RADIUS IS 686.62'. (LONG CHORD BEARS S 85 DEG 36' 00" W, 111.95', TO A PNT ON THE SOUTHERLY R/W LINE OF THE EXISTING OMAHA RD); TH CONT ALONG THE CURVE TO THE LEFT WHOSE RADIUS IS 686.62', THE LONG CHORD BEARS S 65 DEG 12' 10" W, 372.06' TO A PNT ON THE NORTHERLY R/W OF OMAHA RD; TH S 49 DEG 29' W, 130.45', ALONG THE NORTHERLY R/W OF OMAHA RD TO A PNT; TH N 89 DEG 58' W, 421.43', ALONG THE NORTH R/W LINE OF PINE DR; TH N 0 DEG 02' E, 336.0'; TH S 89 DEG 58' E, 305.83'; TH N 0 DEG 05' E, 486.00', TO A PNT ON THE SOUTH R/W LINE OF PERSHING BLVD; TH S 89 DEG 59' E, ALONG THE SOUTH R/W LINE OF PERSHING BLVD, 750.56' TO THE POB. LESS (22559 SF) A POR OF LOT 1 BLK 48, MOUNTVIEW PARK, 10TH FILING AND A POR OF OMAHA RD AS VAC IN ORD NO. 1727, DESC AS: BEG AT A PNT THAT LIES 462.80' SOUTH OF THE NE COR OF SEC 33-14-66, SD PNT IS ON THE EAST BNDRY LINE OF SEC 33; TH N 89 DEG 43' 30" W, 150.00'; TH S 00 DEG 02' 10" W, 152.85', TO THE R/W OF VAC OMAHA RD; TH ALONG THE SD R/W ON A CURVE TO THE RIGHT WITH RADIUS 686.82' (CHORD BEARING N 87 DEG 39' 39" E, 62.50), THRU AN ARC OF 62.52 TO THE PT OF TANGENCY; TH S 89 DEG 43' 30" E, 87.55', TO THE EAST BNDRY LINE OF SEC 33; TH N 00 DEG 02' 10" E ALONG THE EAST LINE OF SEC 33, 150.0 0' TO THE POB. *insert legal description*.

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Lessor and Tenant agree that the final, total square footage to be leased by Tenant is subject to revision depending upon final Tenant Improvement decisions and security needs. In the event the total leased square footage is adjusted from the 54, 521 square feet noted above, the final and total leased square footage will be added to this lease by amendment and the total base rent noted in paragraph 5, below, will be adjusted based upon a square footage rent calculation at \$16.00 per square foot per year.

Calculation of the initially contemplated square footage of the leased premises is based upon the following:

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<u>Area of Building</u>	<u>Useable Sq. Ft.</u>	<u>Rentable Sq. Ft.</u>
<u>Senate Chamber & LSO</u>	17,557	21,017
<u>Senate Committee Rooms</u>	4,071	4,873
<u>JAC, Fiscal & School</u>	3,581	4,287
<u>House Chamber Area</u>	5,730	6,859
<u>House Office Area</u>	5,373	6,432
<u>(T3 Space)</u>		
<u>Warehouse Area</u>	3,685	4,412
<u>Total of 12/9/14</u>		
<u>Proposed Space</u>	39,997	47,880
<u>VA Center Space</u>	4,243	5,079
<u>Governor's Space</u>		
<u>Adjacent to Atrium</u>	1,305	1,562
<u>Adjusted Total Space</u>	<u>45,545</u>	<u>54,521</u>

A visual depiction of the building and site is attached as Attachment "A" and a floorplan of the leased premises is attached as Attachment "B".

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23. Purpose of Lease.

A. Lessor is the sole owner of the ~~building and land~~ (Premises) described ~~below~~above, and desires to lease the Premises to ~~a suitable lessee~~ (Tenant) for ~~business purposes-use by the State of Wyoming as a time-limited, temporary facility for the Wyoming State Legislature, its staff and its functions, which functions may include State of Wyoming executive branch functions as well.~~

B. Tenant desires to lease a portion of the Premises for conducting legislative and other government business. ~~The Premises shall be occupied by the State of Wyoming.~~

C. ~~The parties desire to enter into an agreement (Lease) defining their rights, duties, and liabilities relating to the lease of the Premises.~~

DC. For consideration, Lessor leases to Tenant the ~~building and land~~ (Premises) located ~~in the County of Laramie, State of Wyoming, and more particularly described as follows:~~

~~Fifty four thousand five hundred twenty one (54,521) square feet of office space located at 3001 Pershing Boulevard, Cheyenne, WY 82001.~~

~~It is agreed that within forty five (45) days from the Effective Date of this lease, the Tenant will notify the Lessor of any reduction of the amount of square feet of office space to be leased. Upon mutual agreement, rent payment will be adjusted by the base rent of Sixteen 00/100 Dollars (\$16.00) per square foot. in accordance with the terms of this Lease.~~

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34. Term of Lease.

A. Lessor leases the above Premises for a single term of three (3) years, commencing July 1, 2015, and terminating June 30, 2018 or sooner as provided herein. This Lease is not valid and shall not become effective until it is signed by an authorized representative of the Lessor and an authorized representative of the Tenant, has been approved and signed by an authorized representative of the Department of Administration and Information, approved as to form by the Office of the Wyoming Attorney General, and, ~~if required by Wyo. Stat. § 9-2-1016(b)(iv)(D),~~ approved by the Governor or his designee. The effective date of this Lease shall be the date of the last signature, and the Lease shall commence on the date of the last signature or on the date specified in the Term of Lease provision, whichever is later.

B. Tenant shall have an unrestricted option to extend this Lease ~~This Lease may be extended~~ under the same terms and conditions set forth herein by mutual written

~~agreement of the parties to this Lease~~ for two (2), three (3) month terms with three (3) months prior written notice.

C. In the event Tenant needs to continue to use the Premises past the Term set forth herein, Lessor agrees to extend this Lease for one (1) additional year beyond the terms noted above upon the same terms and conditions set forth herein. In the event Tenant needs to continue to use the Premises past the one year extended term, Lessor agrees to extend this Lease for another additional year with an increase in base rent of 3%.

D. Subject to progress of Tenant Improvements noted in paragraph 6, below, and to the needs of Tenant, Tenant shall have the ability to occupy portions of the leased premises in advance of the commencement date of this lease. In the event of early occupancy for these purposes, all provisions of this lease shall apply as if the formal term of the lease had commenced except that identification of the early occupancy portions of the premises and their respective square footages shall be added to this lease by amendment and an early occupancy monthly rental payment shall be calculated based upon the annual rate of \$16.00 per square foot.

E. From the date of final execution of this lease, Tenant is granted to right to "opt-out" of, and terminate the lease. If this right is exercised, Tenant shall pay for all Tenant Improvements performed through the date of notice of the "opt-out", and shall pay for the cost of any construction or design services which are necessary to bring Tenant Improvements to an end.

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45. Rent Payment. The annual rent to be paid by Tenant to Lessor shall be ~~Nine Hundred Sixty Three Thousand Two Hundred Eighty Nine 21/100 Dollars (\$963,289.21) wEight Hundred Seventy Two Thousand Three Hundred Thirty Six and no/100 Dollars (\$872,336.00)~~ which shall be paid ~~in advance~~ prior to commencement of this lease and thereafter on or before the first (1st) day of each succeeding July. The total amount of rent paid under this Lease shall not exceed ~~Two Million Eight Hundred Eighty Nine Thousand Eight Hundred Sixty Seven 63/100 Dollars (\$2,889,867.63);~~ Two Million Six Hundred Seventeen Thousand Eight and no/100 Dollars (\$2,617,008.00) unless the lease is extended according to the terms set forth herein. No payment shall be made under this Lease for any tenancy occurring prior to the date upon which the last required signature is affixed to this Lease. ~~Payment detail is defined in Lease Proposal from The Property Exchange dated 12/22/14, which is hereto attached as Attachment A, and made part of this Lease.~~

6. Tenant Improvements.

A. Lessor agrees to perform Tenant Improvements (TI's) to the Premises, in advance of the commencement of this Lease, as described herein.

B. Tenant Improvements are necessary for the Premises to function as a time-limited, temporary facility for the Wyoming State Legislature, its staff and its functions, which

functions may include State of Wyoming executive branch functions as well. Tenant Improvements in accordance with the terms set forth herein are a term of essence of this lease. Failure of Lessor to install and maintain Tenant Improvements in accordance with the terms of this Lease allow the Tenant to immediately terminate this lease without further financial obligation to the Tenant and subject the Lessor to all remedies available to the Tenant for damages under Wyoming law, including consequential damages.

C. Lessor agrees to perform Tenant Improvements in accordance with design requirements provided by Tenant to Lessor. In general, Tenant will require Tenant Improvements to be performed in a workmanlike, quality manner which delivers standard grade commercial finish tenant space to Tenant for its use during the term of the lease. Standard grade commercial finish, for the purposes of this Lease, means finish of a like kind and quality to that found in the building on the date of execution of this lease. Spaces within the building which are currently unfinished are to be brought to "white room" quality before commencement of TI's. White room quality means painted walls, ceilings in place, carpeted floors and full functionality of lights, electrical and utilities.

D. Subject to approval by Tenant, Lessor agrees to perform and bear the cost of Tenant Improvements in an amount up to seven hundred fifty thousand dollars (\$750,000), payable at Lessor's expense in advance of commencement of this lease.

E. Tenant shall be responsible to pay for any Tenant Improvement which exceed the sum of \$750,000 provided that Lessor has otherwise complied with the terms of this Lease.

F. Tenant shall repay Lessor the cost of Tenant Improvements as described in this paragraph upon the following basis:

i. Three Hundred Seventy Five Thousand and no/100 Dollars (\$375,000.00) of the total cost of TI's shall be payable by Tenant upon execution of this lease. The balance shall be paid in two installments on or before the 1st of July of each of the two succeeding years of the base lease term.

ii. TI's shall only occur for purposes of Tenant's use of the premises and not for general upgrade of the premises premises or other aspects of the building or site upon and within which the leased premises are located. All TI's must be approved in writing by Tenant in order to become subject to the repayment provisions of this paragraph.

G. Lessor and Tenant agree that the build-out of the TI's will require supplemental documents, often characterized as Construction Directives, to further define the phases of TI design and construction, the scope of those phases and the costs of those phases. Lessor and Tenant agree to negotiate in good faith to develop those supplemental documents with an eye toward moving the TI aspect along as rapidly as possible while trying not to allow the project to exceed the anticipated budget of \$750,000.00.

7. Exclusive Use.

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A. Tenant shall have exclusive use of the leased premises during the term of the lease. Lessor shall provide appropriate locking doors and other security measures in order to assure the security of Wyoming state officials and others using the Premises during the term of the lease.

B. Lessor shall not allow any other uses of the leased premises or other areas of the facility for any purposes which are inconsistent with the purposes of this lease or the security needs of the Tenant during the term of this lease.

C. Lessor acknowledges that Tenant has unique needs regarding use of the premises for critical activities of state government. Lessor further acknowledges that Tenant has unique security needs for its use of the premises. Tenant's unique needs arise from use of the premises for these critical activities but also from the needs and risks presented by the premises being used as the effective seat of government, including public demonstrations, potential acts of violence or terrorism. Lessor covenants and warrants that Tenant has exclusive use of the Premises for all of these purposes and that Lessor has obtained appropriate insurance coverage for the potential risks involved.

D. Tenant agrees that any public protests which occur near the building or site must be confined to the north sidewalk of the site along Pershing Blvd. Uses of the atrium of the building for public activities for which the State grants a permit are permissible upon obtaining the verbal approval of Lessor, which approval shall not unreasonably be withheld.

58. Responsibilities of Lessor.

A. Tenant Improvements. Lessor shall perform Tenant Improvements as described above.

~~A. per
Attachment A.~~

B. Parking. Lessor shall provide parking on a first come first served basis on Lessor's property described in paragraph 2, above. Lessor shall ensure that a minimum of two hundred (200) parking spaces exist for Tenant's use on the property. Subject to approval in writing by Tenant, Lessor shall arrange for access to a minimum of one hundred (100) additional parking spaces on adjacent properties during Legislative sessions which will occur February 8, 2016 through March 4, 2016, January 10, 2017 through March 3, 2017 and February 12, 2018 through March 9, 2018. Subject to approval of Tenant, Lessor shall also provide dedicated parking and a secure entrance to the building for the Governor of the State of Wyoming.

~~Parking. Lessor shall provide parking on a first come first served basis on Lessor's property. Lessor shall arrange access to additional parking on adjacent properties during Legislative sessions which will occur February 8, 2016 through March 4, 2016, January 10, 2017 through March 3, 2017 and February 12, 2018 through March 9, 2018.~~

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C. Quiet Enjoyment. Lessor warrants that Tenant shall be granted peaceable and quiet enjoyment of the Premises free from any eviction or interference by Lessor if Tenant pays the rent, and otherwise fully and punctually performs the terms and conditions imposed on Tenant. Tenant's quiet enjoyment of the Premises shall be at all times of the day and on all days of the year during the term of the lease. Tenant's use of the premises shall be for critical functions of state government, including use by the public for demonstrations and other public events.

D. Taxes. Lessor shall pay all taxes, assessments, or other governmental charges that shall or may during the lease term be imposed on, or arise in connection with the Premises.

E. Janitorial. Subject to approval of Tenant, Lessor will provide janitorial services that may be required to keep the building, furniture and fixtures in neat, clean and sanitary condition. All cleaning supplies, to include soap, waxes, disinfectants and trash can liners are to be provided by Lessor. Expendable restroom supplies are to include toilet paper, paper towels and hand soap and are to be provided by the Lessor. Snow removal is to be provided by Lessor. Heating, cooling, light bulbs, carpet cleaning and all maintenance shall be provided by Lessor. Tenant shall have an unrestricted option to assume responsibility for janitorial services as described in this paragraph if, in Tenant's opinion, such is necessary for security or other reasons. In the event of exercise of this option, a commensurate reduction in the base rent shall be negotiated.

F. Utilities. All applications and connections for necessary utility services on the Premises, with the exception of telephone, shall be made in the name of Lessor only, and Lessor shall be solely liable for utility charges as they become due, including those for sewer, water, gas, electricity, snow removal and garbage removal. Lessor is obligated to provide all noted utilities at all times throughout the term of the lease and in such quantities and quality as will appropriately provide for the needs of Tenant to conduct legislative and other governmental functions on and within the premises. Tenant will provide and install its own broadband and wireless internet services in the premises.

G. Security. Tenant shall use the facility for critical functions of state government and requires special security provisions to protect those who use and attend functions in and about the building and site. State security personnel shall be provided reasonable access to the Premises for security reasons and emergencies. Local police shall also be provided this same access. Access is not limited to the actual leased portions of the Premises, but shall include all aspects of the building and site as determined necessary by state security personnel or local police while being mindful of the rights of quiet enjoyment of leased premises held by the other tenants of the building.

H. Representations. Lessor covenants and warrants that it is the sole owner of the Premises and has full authority to enter into this lease. Lessor further covenants and warrants that no encumbrances exist on the premises which could affect Tenant's use of the premises.

69. Responsibilities of Tenant.

A. Access to Premises. Tenant shall permit Lessor or its agents to enter the portion of the Premises occupied by Tenant at all reasonable hours to inspect the Premises or make repairs, provided Tenant's use of the Premises shall not be unreasonably impaired.

B. Non-assignment. Neither Tenant nor its successors or assigns shall, without Lessor's consent, assign, mortgage, pledge, or encumber this Lease or sublet the Premises in whole or in part, or permit the Premises to be used or occupied by others.

C. Surrender of Possession. Tenant shall, on the last day of the term, or on earlier termination and forfeiture of the Lease, or on the last day of any extended term, peaceably and quietly surrender and deliver the Premises to Lessor free of subtenants, including all buildings, additions, and improvements constructed or placed thereon by Tenant, except moveable trade fixtures, all in good condition and repair. Lessor shall remove any unique seals, emblems, historical plaques, signs and the like that it installed in the premises and restore any damage caused by such items to like condition of the remainder of the premises.

710. Special Provisions.

A. Alterations, Additions and Improvements.

(i) In addition to the Tenant Improvements noted above, Tenant may, with the Lessor's prior written approval and at Tenant's own expense, at any time during the lease term, make alterations, additions, or improvements in and to the Premises. No structural or substantial portion of the Premises shall be demolished or removed by Tenant without the prior written consent of Lessor. Alterations shall be performed in a workmanlike manner and shall not weaken or impair the structural strength, or lessen the value, of the Premises.

(ii) All alterations, additions, and improvements on or in the Premises at the commencement of the term or erected or installed during the term, shall become part of the Premises and the sole property of Lessor, except that all moveable trade fixtures installed by Tenant shall remain the property of Tenant.

B. Condition of Premises.

(i) **Tenant:** Tenant has examined and knows the condition of the Premises to be leased.

(ii) **Lessor:** Lessor agrees to provide the leased Premises in good order and repair. Lessor shall disclose all known contamination or hazardous conditions and substantial defects to Tenant. In the event Lessor fails to disclose any known contamination or hazardous conditions or substantial defects, Tenant may immediately terminate this Lease.

C. Destruction of Premises.

(i) **Partial to Substantial Destruction.** In the event of partial destruction of the Premises, Tenant shall be entitled to a proportionate reduction of rent while repairs are being made by Lessor. The amount of the proportionate reduction shall be based on the extent to which the destruction and repairs interfere with the business carried on by Tenant. If the Premises are damaged by fire or other casualty which, in the opinion of Tenant, makes the Premises substantially unusable, the obligation to make payment under this Lease shall cease until the Premises are substantially usable by Tenant. Lessor is responsible for performance of all needed repairs unless otherwise agreed to in writing by Tenant.

(a) **Repair.** Tenant and Lessor shall, as soon as reasonably practicable, prepare and sign a written itemized list of damages and required repairs, known as the "Substantial/Partial Destruction and Repair List." The list shall contain the following:

- (1) Damage to be repaired by either Lessor or Tenant;
- (2) Damage that will not be repaired; and
- (3) The dates by which either Lessor or Tenant shall complete repairs.

(b) **Failure to Repair.** If the repairs, as specified in the Substantial/Partial Destruction and Repair List, are not completed within the time therein specified, or as otherwise mutually agreed upon by Tenant and Lessor, this Lease may be terminated by either party.

(ii) **Partial Total Destruction.** ~~In the event of partial destruction of the Premises to such an extent that Tenant, in the opinion of Tenant, can no longer use the Premises, Tenant shall be entitled to terminate this lease without any further financial obligation to Lessor., Tenant shall be entitled to a proportionate reduction of rent while repairs are being made. The amount of the proportionate reduction shall be based on the extent to which the destruction and repairs interfere with the business carried on by Tenant.~~

~~(a) **Repair.** Tenant and Lessor shall, as soon as reasonably practicable, prepare and sign a written itemized list of damages and required repairs, known as the "Substantial/Partial Destruction and Repair List." The list shall contain the following:~~

- ~~(1) Damages to be repaired by either Lessor or Tenant;~~
- ~~(2) Damages that will not be repaired; and~~
- ~~(3) The dates by which Lessor or Tenant shall complete repairs.~~

~~(b) **Failure to Repair.** If the repairs, as specified in the Substantial/Partial Destruction and Repair List are not completed within the time specified, or as otherwise mutually agreed upon by Tenant and Lessor, Tenant may terminate this Lease.~~

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(iii) **Potential Causes of Destruction.** Lessor acknowledges that Tenant's use of the premises for critical functions of state government carries risks above and beyond those normally associated with leases of commercial office space, including, but not limited to, damage by crowds, acts of civil disobedience, acts of violence and acts of terrorism.

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~~D. **Easements, Contracts, or Encumbrances.** The parties shall be bound by all existing easements, contracts, and encumbrances of record relating to the Premises.~~

ED. Insurance.

(i) **Lessor:** During the term of this Lease ~~and for any further time that Lessor shall hold the Premises~~, Lessor shall obtain and maintain, at its expense, insurance on all buildings, improvements, and equipment on the Premises, including all alterations, additions, and improvements, with all standard extended coverage that may be required by any first mortgagee, including insurance against loss or damage by fire in the minimum amounts noted below. Tenant shall be named as an "additional insured" on all policies of insurance carried by Lessor and related to the Premises. Lessor acknowledges the risks involved in leasing to Tenant as described in this Lease and agrees to carry insurance coverage which protects the premises and Tenant from those potential activities. No exclusions to insurance coverage are permitted without the express written consent of Tenant, including exclusions for negligent acts or omissions of the Tenant or its agents or employees.

(a) **Commercial General Liability Insurance.** Lessor shall provide coverage, during the entire term of the Lease, against claims arising out of bodily injury, death, damage to or destruction of the property of others, including loss of use thereof, and including products and completed operations in an amount not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.

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(b) **Business Automobile Liability Insurance.** Lessor shall maintain, during the entire term of the Lease, automobile liability insurance in an amount not less than Five Hundred Thousand Dollars (\$500,000) per occurrence.

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(c) **Workers' Compensation and Employer's Liability Insurance.** The Lessor shall provide proof of workers' compensation coverage for all its employees who are to work on the premises described in this Lease.

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Lessor's coverage shall be under the Wyoming Workers' Safety and Compensation program, if statutorily required or such workers' compensation insurance as appropriate. Non-Wyoming Lessor's insurance coverage shall also include Employer's Liability "Stop Gap" coverage, in an amount not less than Five Hundred Thousand Dollars (\$500,000) per employee for each accident and disease.

(d) Unemployment Insurance. The Lessor shall be duly registered with the Department of Workforce Services, Unemployment Insurance Division.

(e) Payment of Premiums and Notice of Revocation. All required coverages under this Lease shall be in effect for the duration of this Lease. All policies shall be primary and not contributory. Lessor shall pay the premiums on all insurance policies and provide thirty (30) days written notice to the Tenant of any cancellation or non renewal of any coverage required under this Contract.~~insert insurance coverages and limits~~

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(ii) **Tenant:** During the term of this Lease and for any further time that the Tenant shall hold the Premises, Tenant shall provide coverage through its commercial insurance program for personal property kept at the Premises. To the extent allowable under the Governmental Claims Act, the Tenant shall be self-insured for liability through the State Self Insurance Program (SSIP).

(iii) Intent of Insurance Coverage Provisions: It is the intent of Lessor and Tenant that Lessor shall obtain and maintain insurance coverage on the building and site which is in sufficient amounts to insure the full fair market value of the building including the value of the TI's performed by the Tenant. Lessor agrees to provide this level of insurance coverage.

FE. Repairs.

(i) **Lessor:** Lessor shall keep in good repair all structural components of the building and grounds, exterior and interior walls, floors and ceilings of the Premises. Lessor shall also keep in good repair all of the Premises' operating systems, including but not limited to plumbing, electrical, heating, ventilation and air-conditioning systems.

(ii) **Tenant:** ~~Tenant, at its own expense, shall repair any damage or injuries caused by Tenant, its customers, members, invitees, agents or employees, but not including normal wear and tear.~~ Tenant shall not be responsible for maintenance or repair of the premises, but shall in good faith endeavor to utilize the premises in a responsible, prudent manner which does not give rise to abnormal or unusual repair costs for Lessor.

GF. Successors and Assigns. This Lease and the terms and conditions hereof apply to and are binding on the purchasers, heirs, legal representatives, successors, assigns, agents and employees of both parties.

HG. Time is of the Essence. Time is of the essence in all provisions of this Lease.

811. General Provisions.

A. Amendments. Any changes, modifications, revisions, or amendments to this Lease which are mutually agreed upon by the parties to this Lease shall be incorporated by written instrument, executed and signed by all parties to this Lease.

B. Americans with Disabilities Act and Nondiscrimination. Lessor shall be responsible for the Premises compliance with the Americans with Disabilities Act (ADA), 42 U.S.C. 12101, et seq. In connection with this Lease, the Lessor and Tenant shall assure that no person is discriminated against on the basis of sex, race, religion, national origin or disability.

C. Applicable Law/Venue. The construction, interpretation and enforcement of this Lease shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have jurisdiction over this Lease and the parties, and the venue shall be the First Judicial District, Laramie County, Wyoming.

D. Assignment/Contract Not Used as Collateral. Neither party shall assign or otherwise transfer any of the rights or delegate any of the duties set forth in this Lease without the prior written consent of the other party.

E. Availability of Funds. Each payment obligation of the Tenant is conditioned upon the availability of government funds which are appropriated or allocated for the payment of this obligation. If funds are not allocated and available for the continuance of this Lease, this Lease may be terminated by the Tenant at the end of the period for which the funds are available. Tenant shall notify the Lessor at the earliest possible time that the Lease will or may be affected by a shortage of funds. No penalty shall accrue to Tenant in the event this provision is exercised, and Tenant shall not be obligated or liable for any future payments due or for any damages as a result of termination under this provision. This provision shall not be construed to permit Tenant to terminate this Lease to acquire a similar rental from another party.

F. Entirety of Lease. This Lease, consisting of ~~nine (9)~~ fourteen (14) pages, ~~together with Attachment A, consisting of four (4) pages,~~ constitutes the entire Lease Agreement between the parties and supersedes all prior negotiations, representations or contracts, either written or oral.

G. Indemnification. The Lessor shall release, indemnify, and hold harmless the State, the Agency, and their officers, agents, employees, successors and assigns from any cause of action, or claims or demands arising out of pre-existing conditions, Lessor's

nondisclosure of known contamination, or Lessor's performance or failure to perform under this Lease.

H. Notice. All notices to be given with respect to this Lease shall be in writing. Each notice shall be sent by registered or certified mail, postage prepaid and return receipt requested, to the party to be notified at the address set forth above. Every notice shall be deemed to have been given at the time it shall be deposited in the United States mail in the manner prescribed herein. Nothing contained herein shall be construed to preclude personal service of any notice in the manner prescribed for personal service of a summons or other legal process.

I. Sovereign Immunity. The State of Wyoming and Tenant do not waive sovereign immunity by entering into this Lease, and specifically retain immunity and all defenses available to them as sovereigns pursuant to Wyo. Stat. § 1-39-104(a) and all other applicable law. Designations of venue, choice of law, enforcement actions, and similar provisions should not be construed as a waiver of sovereign immunity. The parties agree that any ambiguity in this Contract shall not be strictly construed, either against or for either party, except that any ambiguity as to sovereign immunity shall be construed in favor of sovereign immunity.

J. Termination. In addition to any other cause provided herein, whereby this Lease may be terminated, ~~either party~~ Tenant may terminate this Lease upon ninety (90) days written notice of termination. In the event that ~~either party~~ Tenant should exercise its right to terminate this Lease by provision of written notice as above provided, all prepaid rents shall be refunded to Tenant. Occupation of the Premises by Tenant for any part of a calendar month shall be deemed occupation for the entire month for the purpose of computing the refund. Upon early termination of this Lease, Tenant agrees to pay any remaining balance of tenant improvement costs scheduled in [Attachment A-paragraph 6, above](#).

K. Third Party Beneficiary Rights. The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Lease shall not be construed so as to create such status. The rights, duties and obligations contained in this Lease shall operate only between the parties to this Lease, and shall inure solely to the benefit of the parties to this Lease. The provisions of this Lease are intended only to assist the parties in determining and performing their obligations under this Lease. The parties to this Lease intend and expressly agree that only parties signatory to this Lease shall have any legal or equitable right to seek to enforce this Lease, to seek any remedy arising out of a party's performance or failure to perform any term or condition of this Lease, or to bring an action for the breach of this Lease.

L. Unlawful or Ultrahazardous Activity. Neither party shall use or occupy the Premises or any part thereof for any unlawful or ultrahazardous purpose. A violation of this section by either party shall constitute sufficient grounds for immediate termination of this Lease by the non-violating party. Tenant agrees to use the Premises in full compliance with all state and federal laws, rules and regulations, and with all city ordinances.

M. Waiver. The failure by Lessor or Tenant to insist upon the strict performance of any term or condition of this Lease, or to exercise any right, power or remedy consequent upon a breach, shall not constitute a waiver of any such breach of such term or condition. A waiver of any breach shall not affect or alter this Lease, and each and every term and condition of this Lease shall continue in full force and effect regardless of any breach.

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| ~~Robert L. Lanter, Senior Assistant~~ Peter K. Michael, Attorney General

Date