

STATE OF NEBRASKA  
DEPARTMENT OF ADMINISTRATIVE SERVICES  
STATE BUILDING DIVISION CA - 65101025  
LEASE AGREEMENT



This Lease Agreement, hereinafter this "Lease," executed in duplicate, is by and between **City of Lexington**, a municipality organized under the laws of the State of Nebraska, hereinafter known as "Lessor," and the **Department of Administrative Services, State Building Division**, an agency of the State of Nebraska, hereinafter known as "Lessee," acting on behalf of **Department of Health and Human Services**, an agency of the State of Nebraska, hereinafter known as "Tenant Agency," collectively hereinafter the "Parties."

**1. Premises.** Lessor hereby leases, subject to the terms, covenants and conditions set forth in this Lease, to the Lessee, the premises located at:

**Opportunity Center**  
**1501 S Plum Creek Parkway, Suite [REDACTED]**  
**Lexington, Nebraska**

hereinafter "Demised Premises", which consists of ten thousand five hundred thirteen (10,513) square feet of leasable area, not including any Common Area, shown on the floor plan attached hereto and incorporated herein as *Exhibit A, Floor Plan*. Lessor warrants and represents that it is the owner of the Demised Premises.

**1.1 Common Areas – Definition.** "Common Areas" are all areas and facilities outside the Demised Premises and within the exterior boundary line of the building and grounds and interior utility raceways within the Demised Premises that are provided and designated by the Lessor from time to time for the general non-exclusive use of Lessor, Lessee/Tenant Agency and other tenants of the building and their respective employees, suppliers, shippers, tenants, contractors and invitees.

**1.2 Common Areas – Lessee/Tenant Agency's Rights.** Lessor hereby grants to Lessee, for the benefit of Tenant Agency and its employees, suppliers, shippers, contractors, customers and invitees, during the term of this Lease, the non-exclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by Lessor under the terms hereof.

**2. Term.**

**2.1** The term of this Lease, hereinafter "Term," shall be for an initial period of **ten (10) years**, commencing on **November 1, 2011**, hereinafter the "Commencement Date" and ending on **October 31, 2021**, hereinafter the "Expiration Date" unless sooner terminated as hereinafter provided. This Lease shall in no case become effective until all required signatures have been obtained, the Tenant Improvements, attached hereto and incorporated herein as *Exhibit B, Tenant Improvements*, for the Demised Premises have been completed to the satisfaction of Tenant Agency and the Demised Premises are ready for full legal occupancy. If Tenant Agency occupies said Demised Premises prior to Commencement Date, rental will commence at time of said occupancy. The Expiration Date shall remain despite the earlier occupation by Tenant Agency.

2.2 If for any reason Lessor cannot deliver possession of the Demised Premises to Lessee by the Commencement Date, Tenant Agency shall not, except as otherwise provided herein, be obligated to pay rent or perform any other obligation of Lessee under the terms of this Lease until Lessor delivers possession of the Demised Premises to Tenant Agency. The Term of the Lease shall commence on the earlier of (i) the date Tenant Agency takes possession of the Demised Premises for the conduct of business or (ii) ten (10) days following notice to Lessee that Lessor has substantially completed the Tenant Improvements, provided such notice is no earlier than ten (10 ) days prior to the commencement date. If possession of the Demised Premises is not delivered to Tenant Agency within sixty (60) days after the Commencement Date and such delay is not due to Lessee’s acts, failure to act or omissions Lessee may by notice in writing to Lessor within ten (10) days after the end of said sixty (60) day period cancel this Lease and the Parties shall be discharged from all obligations hereunder.

2.3 It is agreed between the Lessor and the Lessee that in the event the Lessor, Lessee and Tenant Agency have fully complied with all the terms and conditions of this Lease, in that event, the Lessee prior to the expiration of the original Term of this Lease shall have the right exercisable at its sole option to renew the Lease for two (2) additional five (5) year Terms as mutually agreed by all Parties, upon the same terms and conditions as those set forth in the original Lease, including the right to negotiate the rental rate, provided Lessee notifies Lessor in writing of its exercise of such right within forty-five (45) calendar days before the end of the original Term of the Lease. If any of the terms or conditions of this Lease are to be changed for the extension of the Lease as per this Section 2, said changes must be mutually agreed to in writing between all Parties.

**3. Rent.**

3.1 Lessee shall pay Lessor rent in equal monthly installments payable in advance on the first (1<sup>st</sup>) day of each month throughout the Term of this Lease. Rent payable hereunder for any period of time less than one (1) month shall be determined by prorating the monthly rent herein specified based on the actual number of days in the month.

Rent shall be made payable to “CITY OF LEXINGTON” and sent to the Lessor at the address specified in Section 5, hereunder, or to such other address as the Lessor designates in writing and served as notice to Lessee.

3.2 Tenant Agency will occupy ten thousand five hundred thirteen (10,513) square feet of general office space. The actual rentable area of the Demised Premises shall be determined in accordance with the Net Useable Space Definition, acknowledged and accepted by Lessor, attached hereto and incorporated herein as *Exhibit C, Acknowledgment and Acceptance of the Use of Net Useable Space Definition*.

The payment schedule for the Term of this Lease shall be as follows:

<u>Lease Term</u>	<u>Rate per SF</u>	<u>Total Annual Rent</u>	<u>Monthly Rent</u>
09/01/2011 to 08/31/2021	\$7.00	\$73,591.00	\$6,132.58

**4. Termination.**

4.1 This Lease may be terminated by Lessee by written notice to Lessor if sufficient appropriated funds are not available to Lessee and/or Tenant Agency for the purpose of paying necessary operating expenses of the Tenant Agency, including rent on the Demised Premises. If any Governor’s budget message

is such that it does not include sufficient appropriated funds to pay necessary operating expenses of the Tenant Agency, including rent hereunder, notice of such fact shall be given promptly to Lessor, and if at any time it appears that appropriated funds will be depleted in the future, or such funds are not sufficient to pay necessary operating expenses of Tenant Agency including rent hereunder, notice of such fact and the estimated date of depletion shall be given promptly to Lessor. If only a portion of the funds sufficient to pay the necessary operating expenses of the Tenant Agency including rent hereunder are appropriated, this Lease may be kept in force with a prorata share of the space and corresponding rent decreased. Any such reduction shall be agreed upon by Lessor, Lessee and Tenant Agency.

4.2 Lessor and Lessee each shall have the right to cancel this Lease, for any reason whatsoever including no reason, upon giving one hundred eighty (180) days notice of such cancellation in writing to the other party.

4.3 Lessee may terminate this Lease immediately for the following reasons: (a) if directed to do so by statute; (b) if Lessor has made an assignment for the benefit of creditors, has admitted in writing its inability to pay debts as they mature, or has ceased operating in the normal course of business; (c) if a trustee or receiver of Lessor or of any substantial part of Lessor's assets has been appointed by any court; (d) in the case of fraud, misappropriation embezzlement, malfeasance, misfeasance, or illegal conduct by Lessor, its employees, officers, directors, or shareholders; (e) if an involuntary proceeding has been commenced by any party against Lessor under any one of the chapters of Title 11 of the United States Code and (i) if the involuntary proceeding has been pending for at least sixty (60) days; or (ii) Lessor has consented, either expressly or by operation of law, to the entry of an order for relief; or (iii) Lessor has been decreed or adjudged a debtor; (f) A voluntary petition has been filed by Lessor under any of the chapters of Title 11 of the United States Code.

4.4 Lessee may terminate this Lease, in whole or in part, if Lessor fails to perform its obligations under this Lease in a timely and proper manner. Lessee may, by providing a written notice of default to Lessor, allow Lessor to cure a failure or breach of this Lease within a period of thirty (30) days. Allowing Lessor time to cure a failure or breach of contract does not waive Lessee's right to immediately terminate this Lease for the same or different contract breach which may occur at a different time.

4.5 If the whole or substantial part of the building or Demised Premises shall be taken or condemned by any competent authority for any public use or purpose, unless otherwise agreed upon in writing by the Parties, this Lease shall end upon and not before the date when possession of the part so taken shall be required for such use or purchase, and without apportionment of the award, and current rent shall be apportioned to the date of termination.

4.6 If Lessee opts to terminate this Agreement during the Term for any reason other than failure of Lessor to comply with the terms and conditions, Tenant Agency will be responsible for any outstanding Tenant Improvement costs and such amount shall be based on the number of years remaining on the agreed to original Term.

**5. Notices.** All notices herein provided to be given, or which may be given, by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States mail, postage prepaid, and addressed as follows:

To the Lessor at:           City of Lexington  
                                  Attn: Joe Pepplitsch, City Manager  
                                  PO Box 70

Lexington, NE 68850  
Phone: (308) 324 2341

To the Lessee at: AS/State Building Division  
Attn: Leasing Coordinator  
PO Box 98940  
Lincoln, NE 68509-8940  
Phone: (402) 471 0450

## **6. Assignment and Subletting.**

6.1 Lessee shall not assign this Lease without the written consent of the Lessor, which shall not be unreasonably withheld. Any occupant, assignee, or sub-lessee must agree to abide by all of the terms and provisions of this Lease. Lessor shall not assign this Lease without the written consent of Lessee, which shall not be unreasonably withheld.

6.2 Notwithstanding the provisions of Section 6.1, above, Lessee may assign or sublet the Demised Premises, or any portion thereof, to any agency, board or commission of the State of Nebraska provided that said assignee assumes, in full the obligations of Lessee under this Lease.

**7. Inspection.** Lessee and/or Tenant Agency agree to permit Lessor and/or its authorized representative to enter the Demised Premises during usual business hours for the purposes of inspecting the same. Lessee and/or Tenant Agency agree that Lessor may enter the Demised Premises at any reasonable time for the purpose of making necessary repairs for which Lessor is responsible for such repairs that are demonstrably necessary for the safety and preservation of the Demised Premises.

**8. Fixtures and Personal Property.** Any trade fixtures, equipment or personal property installed in or attached to the Demised Premises by or at the expense of the Lessee and/or Tenant Agency, shall be and remain the property of the Lessee and/or Tenant Agency and Lessor agrees that Lessee and/or Tenant Agency shall have the right to remove any or all of its personal property, trade fixtures and equipment. Equipment and other personal property which may have been stored or installed by or at the expense of Lessor shall be and remain the property of Lessor. Tenant Agency agrees that it will, at its expense, repair any damage occasioned to the Demised Premises by reason of the removal of its trade fixtures, equipment and other personal property.

**9. Alterations.** Lessee and Tenant Agency will not permit any alterations or additions to any part of the Demised Premises, except by written consent of Lessor, which consent shall not be unreasonably withheld. All alterations to the Demised Premises shall remain for the benefit of Lessor unless otherwise provided in said consent. Notwithstanding the foregoing, Tenant Agency may, without consent of Lessor, make additions, alterations, repairs or décor changes to the Demised Premises of a non-structural nature, provided that upon completion of such alterations and additions, the fair market value of the Demised Premises and rental value thereof will not be less than the fair market value and rental value of the Demised Premises immediately prior to such alterations and additions. Said fair market value and rental value shall be determined by a licensed real estate appraiser, in good standing in the State of Nebraska, mutually agreed to by Lessee and Lessor.

**10. Return of Premises.** At the conclusion of this Lease or any extension thereof, Lessee shall return the Demised Premises to Lessor in the same condition as it was received at origination of this Lease, normal wear and tear or alterations permitted as per Section 9, above, excepted. If at the conclusion of this Lease or



any extension thereof, Lessor is of the opinion that Tenant Agency is not leaving the Demised Premises in the same condition as it was received, normal wear and tear excepted, then such costs of restoration will be mutually agreed upon between the Parties. If the costs cannot be agreed upon, the costs will be determined by a panel of three (3) persons consisting of Lessee, Lessor, and one (1) person selected by mutual consent of the Parties.

## **11. Destruction of Premises.**

11.1 If a portion of the Demised Premises or the building is damaged by fire, unavoidable casualty, Act of God, or some other event that renders the Demised Premises unfit ("Event") such that Lessee is prevented from conducting its business in the premises in a manner reasonably comparable to that conducted immediately before such Event, then Lessee may terminate this Lease by delivering written notice to Lessor of its election to terminate immediately within thirty (30) days after the Event. The portion of any lease payment which is attributed to the period of time after the Lease has been terminated in the above manner shall be refunded by Lessor to Lessee. If Lessee does not so timely terminate this Lease, then Lessor shall repair the building or the Demised Premises, as the case may be, as provided below, and the lease payment for the portion of the Demised Premises rendered unusable for Tenant Agency's purposes by the damage or repair shall be abated on a reasonable basis from the date of damage until the completion of the repair, unless a Tenant Agency agent, invitee, or employee caused such damage, in which case, Tenant Agency shall continue to pay the lease payment without abatement.

11.2 Lessor shall, within fifteen (15) days after such Event, deliver to Lessee a good faith estimate of the time needed to repair the damage caused by such Event. Lessor shall be responsible for repairing the same in a timely manner at Lessor's own expense and the lease payments shall be suspended from the time of the Event until the Demised Premises have been put in substantially the same condition as they existed immediately before such Event.

**12. Repair and Maintenance.** During the Term of this Lease, Lessor shall maintain the premises including, but not limited to, general landscaping, sidewalks, building entrances and parking areas, the roof, exterior walls, exterior doors, exterior windows and corridors of the building, and the building equipment in good repair and tenantable condition. Lessor's obligations include, but are not limited to, the maintenance and repair of the plumbing, heating, electrical, air-conditioning and ventilating equipment and fixtures, and consequential damages that result from plumbing, window and roof leaks to the end that all such facilities are kept in good operative condition except in case of damage arising from a willful or negligent act of the Lessee's and/or Tenant Agency's agent, invitee, or employee. In addition, it is the responsibility of the Lessor to ensure that the electrical power to the Demised Premises is distributed in such a way to make it convenient to provide reasonably adequate outlets to general office space and Common Areas; this is in addition to reasonably adequate electrical power required for general lighting and heating, ventilating and air conditioning equipment. Lessor's obligations shall also include, but are not limited to, furnishing and replacing electrical light bulbs, fluorescent tubes, ballasts and starters and air conditioning and ventilating equipment filters.

## **13. Services and Utilities.**

13.1 Utilities: All utility services for use by Tenant Agency in the Demised Premises and associated building and associated fees shall be the responsibility of the Lessor. In the event of any outage of utility services to the Demised Premises, Lessor shall use its best efforts to restore said utility services promptly.

13.2 Janitorial Services/Supplies: Lessor shall be responsible for all janitorial services and/or supplies for the Demised Premises, as shown on attached *Exhibit D, Custodial Performance Requirements*. Lessor shall be responsible for all janitorial services and/or supplies for the remaining square footage of the associated building

13.3 Parking stalls: Lessor shall provide no less than seven (7) marked stalls for State labeled vehicles and visitors, with an additional fifty (50) employee designated stalls and two (2) ADA compliant stalls located at or near the entry for the Demised Premises, as shown on *Exhibit E, Parking Lot Plan* attached hereto and incorporated herein.

13.4 Other: Lessor will provide trash removal, snow/ice removal from parking lots, building entrances, exits and surrounding sidewalks, lawn care, and interior and exterior pest control and to correct any unsafe condition in a timely manner. All maintenance-related services including, but not limited to, electrical (including light tube/bulb/ballast replacement and installation), mechanical (including furnace filters installation and replacement and other routine maintenance services), plumbing (including clearing clogged toilets and drains within twenty-four (24) hours of notification), structural, roof, lawn services, pest control, etc., shall be provided by the Lessor as part of the rental rate.

Prior to the start of each business day, the Lessor is responsible for snow and ice removal for building entrances/exits, sidewalks, driveways and parking areas. If conditions warrant, additional snow and ice removal may be needed during the business day based on conditions and the accumulation of snow, sleet, and ice. The Lessor is responsible to correct all unsafe conditions relating to freezing and thawing.

Lessor agrees to paint the walls of the Demised Premises every ten (10) years with at least one (1) coat of paint; to repair/replace carpet that is worn or becomes hazardous; will have the carpet cleaned annually and spot cleaning will be performed, as needed, throughout the year, all at Lessor's expense.

13.5 Tenant Agency agrees to pay the monthly charges to provide telephone and/or computer networking services supplied to the Demised Premises for the use of Tenant Agency. It is the responsibility of Lessor to ensure adequate entrance facilities are provided by the local communications company for the services required. Lessor shall provide communication cabling to each desk and/or work station. Each desk and/or work station shall have a telephone and computer network jack provided. Each telephone and computer jack shall be terminated on separate cables, which shall be terminated to separate connecting blocks/patch panels at the appropriate central locations. All voice/data cabling will originate from a central communications closet to all requested locations/work stations/offices. Each voice and data faceplate and closet termination point shall be labeled and a copy of the labeling scheme shall be made a part of this Lease and incorporated herein as *Exhibit F, Voice and Data Faceplate and Closet Termination Point Labeling Scheme* (WAIVED) as a reference schematic for Tenant Agency and Lessor. A current copy of the labeling scheme shall be provided to both the Tenant Agency and the Lessor by the installer upon request by either Party.

13.6 Tenant Agency agrees to pay all costs and monthly charges to provide cable service.

13.7 Communications installation methods and procedures shall meet the ANSI/TIA/EIA-568-B wiring standards and those set by the State of Nebraska, Office of the Chief Information Officer, by this reference shall be made a part of this Lease and all work shall be performed by qualified personnel in the telecommunications field.

**14. Holding Over.** In the event Lessee remains in possession of the Demised Premises after the expiration of the Term or any extension thereof, this Lease shall be automatically extended on a month-to-

month basis, subject to termination by either party by providing thirty (30) days written notice of termination to the other party, and otherwise on the terms and conditions herein specified. The lease payment payable during any holdover period shall be the same as the monthly lease payment payable in the last month prior to expiration unless another amount is mutually agreed upon in writing by Tenant Agency, Lessee and Lessor.

## 15. Compliance with Law.

15.1 Lessor shall, at its expense, comply with all applicable statutes, charters, laws, ordinances, building and maintenance codes, rules, regulations, requirements and orders of duly constituted public authorities now or hereafter in any manner affecting the Demised Premises, or the use thereof, or the sidewalks, alleys, streets, and ways adjacent thereto, whether or not any such statutes, charters, laws, ordinances, rules, regulations, requirements, or orders which may be hereinafter enacted involve a change of policy on the part of the governmental body enacting the same.

15.2 The Demised Premises shall meet all current applicable code requirements, including but not limited to fire/life safety codes and the Americans with Disabilities Act Accessibility Guidelines.

15.3 The Lessor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

*If the Lessor is an individual or sole proprietorship, the following applies:*

15.3.1 The Lessor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at [www.das.state.ne.us](http://www.das.state.ne.us). See Exhibit G, *United States Citizenship Attestation Form*.

15.3.2 If the Lessor indicates on such attestation form that he or she is a qualified alien, the Lessor agrees to provide the US Citizenship and Immigration Services documentation required to verify the Lessor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.

15.3.3 The Lessor understands and agrees that lawful presence in the United States is required and the Lessor may be disqualified or the lease terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

**16. Liabilities – Limited or Negligent Acts.** Lessee and/or Tenant Agency shall not be responsible for any liabilities resulting from negligent acts or omissions of the Lessor, its agents, invitees or employees, and Lessor will hold the Lessee and/or Tenant Agency harmless from any damages or injuries caused by the Lessor, its agents, invitees or employees. Lessor shall not be responsible for any liabilities resulting from the negligent acts or omissions of Lessee and/or Tenant Agency, its agents, employees or invitees.

## 17. Default.



17.1 In the event Tenant Agency and/or Lessee fails to pay any lease payment due herein or fails to keep and perform any of the other terms or conditions hereof, Lessor may serve written notice of default upon Lessee. Upon such receipt, Lessee and/or Tenant Agency shall have thirty (30) days to cure the default so noted in the notice of default. If, after said cure period the default has not been cured, the Lessor may resort to any and all legal remedies or combination of remedies which Lessor may desire to assert, including but not limited to one or more of the following: (1) Declare the Lease terminated; (2) file a claim for the lease payment due under the Lease and/or for any damages sustained by Lessor; (3) continue the Lease in effect and relet the Demised Premises on such terms and conditions as Lessor may deem advisable with Lessee and/or Tenant Agency remaining liable for the monthly lease payment until the Demised Premises is relet.

17.2 No action by Lessor shall be construed as an election to terminate the Lease unless written notice of such intention is given to Lessee by certified mail, return receipt requested.

17.3 In the event Lessor fails or refuses to comply with any requirements of the Lease within thirty (30) days of the event giving rise to the requirement or in the event of an emergency constituting a hazard to the health or safety of the Lessee's and/or Tenant Agency's employees, property, or invitees, the Lessee and/or Tenant Agency may perform such maintenance or make such repair at its own cost and, in addition to any other remedy the Lessee and/or Tenant Agency may have, may deduct the amount thereof from the lease payment that may then be or thereafter become due hereunder.

**18. Compliance with Civil Rights Laws and Equal Opportunity Employment.** Lessor shall comply with all applicable local, state and federal statutes and regulations regarding civil rights and equal opportunity employment. Neither Lessor nor any subcontractors of Lessor shall discriminate against any employee or applicant for employment, to be employed in the performance of this Lease, with respect to the employee or applicant's hire, tenure, terms, conditions or privileges of employment, because of his or her race, color, religion, sex, disability or national origin.

**19. Drug Free Workplace.** Lessor certifies that it maintains a drug free workplace environment to ensure worker safety and workplace integrity. Lessor agrees to provide a copy of its drug free workplace policy at any time upon request by Lessee.

**20. Lessor Site Rules and Regulations/Signage Criteria/Smoking Policy.** Tenant Agency shall use its best efforts to ensure that its employees, agents and subcontractors comply with Lessor's site Rules and Regulations, while on Lessor's premises, attached hereto and incorporated herein as *Exhibit H-1, Rules and Regulations*. Tenant Agency shall use its best efforts to ensure the policies, rules and regulations are adhered to inside and outside the Demised Premises.

If the Tenant Agency must perform on-site work outside of the daily operational hours as provided to Lessor, Tenant Agency must make arrangements with the Lessor to ensure access to the facility and Tenant Agency equipment.

Tenant Agency shall use its best efforts to ensure the requirements, as applicable, are met when placing signage, inside or outside of Demised Premises. *See Exhibit H-2, Signage Criteria.*

Tenant Agency shall use its best efforts to ensure the smoking policy is complied with on Lessor's Demised Premises, both inside and outside the building. *See Exhibit H-3, Smoking Policy.*

**21. Insurance and Notice of Self-Insurance.** Lessor shall provide proof it has obtained all the insurance required hereunder and such insurance shall be approved by the Lessee. Approval of the insurance



by the Lessee does not relieve or decrease the liability of the Lessor hereunder. If by the terms of any insurance, a mandatory deductible is required or if Lessor elects to increase the mandatory deductible amount, Lessor shall be responsible for payment of the amount of the deductible in the event of a paid claim. This Section 21 shall in no way affect the indemnification, remedy, or warranty provisions set forth in this Lease or the Lessee's right of recovery thereunder.

21.1 Lessor shall take out and maintain during the life of this Lease the statutory Workers' Compensation and Employers' Liability Insurance for all of its employees to be engaged in work for Lessor. Lessor shall require any subcontractor similarly to provide Workers' Compensation and Employers' Liability Insurance for all of the latter's employees to be engaged in such work. This policy shall be written to meet the statutory requirements for the state in which the work is being performed, including Occupational Disease. This policy shall include a waiver of subrogation in favor of the Lessee. The amounts of the insurance shall not be less than the limits stated hereinafter.

21.2 Lessor shall take out and maintain during the life of this Lease such Commercial General Liability insurance as shall protect it and any subcontractor performing work covered by this Lease from claims for damages for bodily injury, including death, as well as from claims for property damage, which may arise from operations under this Lease, whether such operation be by the Lessor or any subcontractor or by anyone directly or indirectly employed by either of them, and the amounts of such insurance shall not be less than the limits stated hereinafter. The Commercial General Liability insurance shall be written on an occurrence basis, and provide Premises/Operations, Products/Completed Operations, Independent Contractors, Personal Injury and Contractual Liability coverage. The policy shall include the Lessee as an Additional Insured. This policy shall be primary, and any insurance or self-insurance carried by the State shall be considered excess and non-contributory.

21.3 Lessor shall take out and maintain during the life of this Lease such Commercial Automobile Liability insurance as shall protect it and any subcontractor performing work covered by this Lease from claims for damages for bodily injury, including death, as well as from claims for property damage, which may arise from operations under this Lease whether such operation be by the Lessor or any subcontractor or by anyone directly or indirectly employed by either of them, and the amounts of such insurance shall not be less than the limits stated hereinafter. The Commercial Auto Liability insurance shall be written to cover all Owned, Non-owned and Hired vehicles.

#### 21.4 Insurance Coverage Amounts Required.

##### 21.4.1 Workers' Compensation and Employer's Liability

*Coverage A – Statutory*

*Coverage B –*

<i>Bodily Injury by Accident -</i>	\$100,000 each accident
<i>Bodily Injury by Disease -</i>	\$500,000 policy limit
<i>Bodily Injury by Disease -</i>	\$100,000 each employee

##### 21.4.2 Commercial General Liability

<i>General Aggregate -</i>	\$2,000,000
<i>Products/Completed Operations Aggregate-</i>	\$2,000,000
<i>Personal/Advertising Injury -</i>	\$1,000,000 any one person
<i>Bodily Injury/Property Damage -</i>	\$1,000,000 per occurrence

*Fire Damage -* \$50,000 any one fire  
*Medical Payments -* \$5,000 any one person

21.4.3 Commercial Automobile Liability

*Bodily Injury/Property Damage -* \$1,000,000 combined single limit

21.4.4 Umbrella/Excess Liability

*Over primary insurance -* \$1,000,000 per occurrence

21.5 Lessor shall furnish the Lessee with certificates of insurance coverage, attached hereto and incorporated herein as *Exhibit I, Certificate of Insurance*, which shall be submitted in duplicate, one for this Lease file and one to the Division of Risk Management, to the Lessee *annually* thereafter through the Term of this Lease as shown in Section 5. Notices. These certificates shall include the name of the company, policy numbers, effective dates, dates of expiration and amounts and types of coverage afforded. If the Lessee is damaged by the failure of Lessor to maintain such insurance, then the Lessor shall be responsible for all reasonable costs properly attributable thereto.

21.6 The Lessee, under the provisions of R.R.S., 1943, Section 81-8,239.01, self-insures all such exposures and is financially capable of retaining those losses should they occur. If there is a liability loss under the provisions of this Lease, a claim may be filed with the State Claims Board and, if approved, will be paid from the State Tort Claims Act, R.R.S., 1943, Section 81.8,2098, et al., and any other provision of law. Workers' Compensation is statutorily required in Nebraska and the Lessee is fully self-insured. Occupational diseases are fully covered by law.

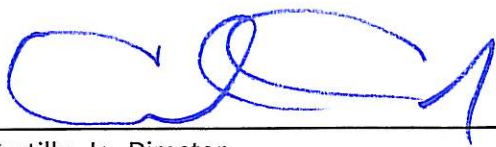
**22. Amendments and Binding Effect.** This Lease may not be amended except by instrument in writing signed by Lessor, Lessee and the Tenant Agency. No provision of this Lease shall be deemed to have been waived by either party unless such waiver is in writing signed by the applicable party and no custom or practice which may evolve between the Parties in the administration in the terms hereof shall waive or diminish the right of either party to insist on the performance of the other party in strict accordance with the terms hereof.

**23. Severability.** If any clause or provision of this Lease is illegal, invalid, or unenforceable under present or future laws, then the remainder of this Lease shall not be affected thereby and in lieu of such clause or provision, there shall be added as a part of this Lease a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

**24. Entire Agreement.** This Lease constitutes the entire agreement between Lessor and Lessee regarding the subject matter hereof and supersedes all oral statements and prior writings relating thereto. Except for those set forth in this Lease, no representations, warranties or agreements have been made by Lessor or Lessee to the other with respect to this Lease or the obligations of Lessor or Lessee in connection therewith. The normal rule of construction that any ambiguities be resolved against the drafting party shall not apply to the interpretation of this Lease or any exhibits or amendments hereto.

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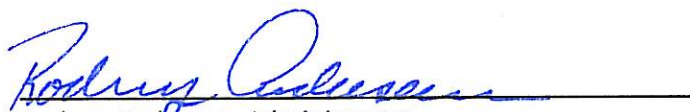
LESSEE:



Carlos Castillo, Jr., Director  
Department of Administrative Services

11-11-10

Date



Rodney Anderson, Administrator  
AS/State Building Division

11-4-10

Date

LESSOR:

John Fagot, Mayor  
City of Lexington

Date

Federal I.D. Number: 47-6006255

ACKNOWLEDGMENT

STATE OF NEBRASKA, COUNTY OF DAWSON

The foregoing instrument was acknowledged before me this \_\_\_\_\_ of \_\_\_\_\_ 2010 by John Fagot, Mayor, City of Lexington, a municipality organized under the laws of the State of Nebraska, on behalf of the municipality.

\_\_\_\_\_  
Notary Public

Affix seal here.

Exhibit A – Demised Premises Floor Plan (Section 1)



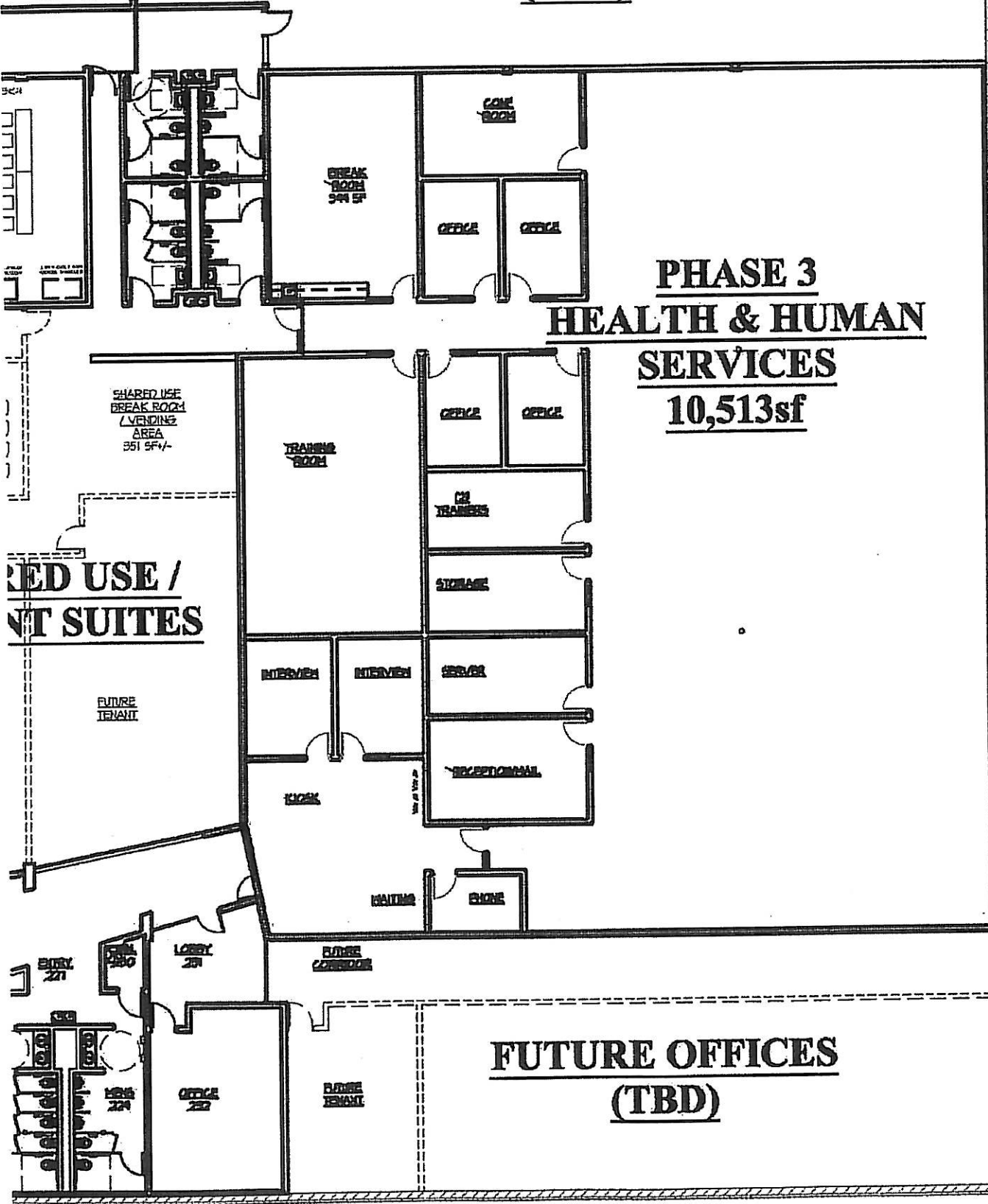
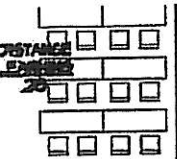
# Exhibit C

*Chris Coffey*  
10-20-10



## FUTURE (TBD)

### PHASE 3 HEALTH & HUMAN SERVICES 10,513sf



### FUTURE USE / SUITES

SHARED USE  
BREAK ROOM  
/ LUNGING  
AREA  
351 SF +/-

TRAINING  
ROOM

CONF  
ROOM

BREAK  
ROOM  
994 SF

OFFICE

OFFICE

OFFICE

OFFICE

CB  
TRAINERS

STORAGE

MEETING

MEETING

RECEPTION

RECEPTIONAL

RECEPTION

WAITING

PHONE

ENTRY  
277

LOBBY  
291

FUTURE  
CORRIDOR

### FUTURE OFFICES (TBD)

OFFICE  
282

FUTURE  
TENANT

Exhibit B – Tenant Improvements (Section 2)

Exhibit C - Acknowledgement and Acceptance of the use of Net Useable Space Definition (Section 3)

**Acknowledgement and Acceptance  
of  
Net Useable Space Definition**

Address of Demised Premises: 1501 S Plum Creek Parkway, Suite \_\_\_\_\_, Lexington, NE

Net Useable Space is defined as the method of measurement for determining the area for which the Lessee will pay a square foot rate. It is determined as follows:

The measurement shall be the actual area of the building, floor or office suite leased by the Lessee which will be occupied by Tenant Agency.

Building Area (if Lessee is sole tenant): The building area shall be computed by measuring the inside finished surface of all permanent and major walls excluding stairwells, elevator/escalator shafts, mechanical and building equipment rooms, public restrooms and any area used by the Lessor.

Floor or Suite Area (if Multi-tenanted building): The floor or office suite area shall be computed by measuring the inside finished surface of the office side of corridors and other inside finished surface of the office side of corridors and other permanent walls, to the inside wall or partitions that separate the office from adjoining now-leased, usable areas, and to the finished surface of the dominant portion of the permanent outer building walls excluding stairwells, elevator/escalator shafts, mechanical and building equipment rooms, common lobbies, hallways, and corridors, and public restrooms that serve the entire building.

In all measurements make deductions for columns, chases, and projections enclosing the structural elements of the building.

The net usable area of a floor shall be equal to the sum of all net usable areas on that floor.

Unless otherwise noted, all references in this solicitation to square feet shall mean net useable square feet.

NOTE: Space normally excluded from above definition, (i.e. mechanical, restrooms, equipment rooms, etc.) specifically requested by the Tenant Agency, may be included in this useable space definition provided the normally excluded space is included in the Tenant Agency proposed square feet of the RFP.

\_\_\_\_\_  
John Fagot, Mayor

\_\_\_\_\_  
Date



Exhibit D – Custodial General Performance Requirements (Section 13)

## CUSTODIAL GENERAL PERFORMANCE REQUIREMENTS

The custodial general performance requirements attached as part of this Lease Agreement are the tasks and frequencies of work to be performed, as well as supplies to be provided, by the custodial contractor throughout the Lease term. These requirements establish the performance expectations.

It is understood that all possible contingencies cannot be itemized and scheduled. Extra seasonal traffic and inclement weather can change the frequencies of many of these duties. Therefore, all work will be performed in a professional manner and done in the best interests of maintaining a clean, presentable building.

NOTE: The performance requirements herein stated have been established from past experience. Meeting the expectations and requirements outlined herein will be monitored by a Tenant Agency representative. Failure to adhere to the expectations and requirements as outlined herein will be grounds for termination of the janitorial contract and Lessor will be required to contract the janitorial services with another company.

NIGHTLY CLEANING shall include the following (unless otherwise indicated):

1. Empty all waste receptacles and change liners as needed.
2. Remove trash from building to proper bins.
3. Dust mop all hard surface floor areas.
4. Damp mop hard surface floors.
5. Spot clean and/or spot vacuum carpets nightly, as needed.
6. Spot clean all door and partition glass to remove smudges and fingerprints.
7. Dust all horizontal surfaces (files, tables, chairs, wearing apparel racks, etc.) with a dust cloth (excluding desk tops).
8. Clean and sanitize all drinking fountains.
9. Clean entryway glass inside and out.
10. Clean entrance floor mats.
11. Clean custodial closets/rooms and slop sinks.
12. Restrooms and Break rooms:
  - a) Empty all waste receptacles and replace liners, as needed.
  - b) Clean and service all restroom dispensers, including replenishing paper towels, soap, toilet paper, etc.
  - c) Clean all fixtures including stainless steel with a germicidal cleaner.
  - d) Clean all sinks, toilets and urinals with a germicidal cleaner.
  - e) Clean walls, doors, shelves and partitions with a germicidal cleaner.
  - f) Sweep and wet mop all hard surface floor areas with a germicidal cleaner.

WEEKLY CLEANING shall include the following (unless otherwise indicated):

1. Clean kick plates, door knobs and switch plates (including elevator).
2. Clean and buff all hard surface floors and refinish, as needed.
3. Vacuum all carpeting, using upright and detail vacuums.

MONTHLY CLEANING shall include the following (unless otherwise indicated):

1. Dust all blinds.

QUARTERLY CLEANING shall include the following (unless otherwise indicated):

1. Wash all larger-than-desk-size waste receptacles, as needed.
2. Shampoo carpeting in corridors (3 feet or wider).

SEMI-ANNUAL SERVICES shall include the following (unless otherwise indicated):

1. Wash all desk-size waste receptacles, as needed.
2. Clean all exterior glass.
3. Clean all interior glass on a semi-annual basis or more often, as needed.
4. Clean all building air diffusers and vents.
5. Shampoo carpeting in conference rooms.
6. Strip wax and refinish all hard surface floors.

ANNUAL SERVICES shall include the following (unless otherwise indicated):

1. Clean all light fixtures (wash reflectors, both sides of lenses and dry wipe tubes).

SERVICES TO BE PERFORMED ON AN 'AS NEEDED' BASIS:

1. Spot clean upholstered chairs.

A written report showing date of completion of all weekly, monthly, quarterly, semi-annual and annual cleaning must be mailed or hand-delivered to the designated Tenant Agency representative. Upon request of Tenant Agency, the Lessor/janitorial contractor will visit the Demised Premises with the Tenant Agency's local representative to review the quality of services provided, on a periodic basis.

Tenant Agency representative: \_\_\_\_\_

Representative phone no. \_\_\_\_\_

Representative email address: \_\_\_\_\_

Exhibit E - Demised Premises Parking Lot Plan (Section 13)



# Exhibit E - Parking Lot Plan

*Cohwin City* 10-20-10

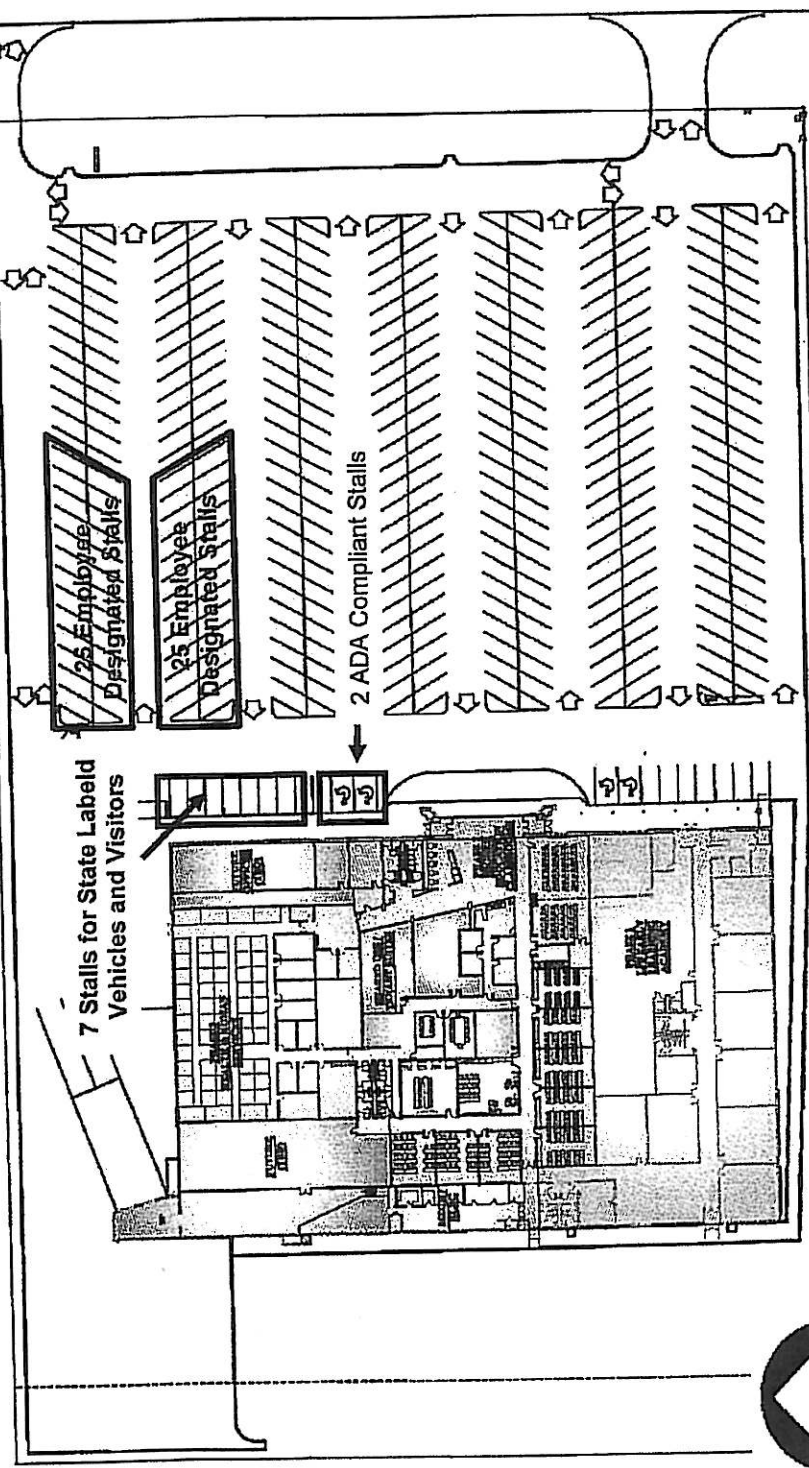


Exhibit F - Voice and Data Faceplate and Closet Termination Point Labeling Scheme (Section 13) WAIVED

Exhibit G – United States Citizenship Attestation Form, if an Individual person (Section 15.3) WAIVED

Exhibit H-1 - Lessor Site - Rules and Regulations (Section 20)

## EXHIBIT H-1 - RULES AND REGULATIONS

These Rules and Regulations are attached to and made a part of the Lease. Failure to observe these Rules and Regulations shall be a default under the Lease.

1. Notwithstanding any provision of this Lease to the contrary, Lessor shall take all steps necessary to maintain the Demised Premises in a manner that provides a safe environment for Tenant Agency's employees and invitees. Such steps shall include, but not be limited to the prompt (i) removal of snow and ice from the immediate entryway and sidewalk, (ii) spreading ice melt product, and (iii) taking of all other action steps reasonably required to provide a safe environment for employees and invitees.
2. Lessee shall not:
  - A. Keep animals or birds in the rooms;
  - B. Use rooms as sleeping apartments; and
  - C. In cases of a keyed entry, permit duplicate keys to be made, such keys shall be provided by Lessor at Lessee's expense.
3. Without written permission of the Lessor, Lessee shall not:
  - A. Place or change locks upon any doors in the Demised Premises;
  - B. Conduct any auction on said Demised Premises and shall not store goods, wares or merchandise on the Demised Premises, except for Lessee's own personal use;
  - C. Install and/or maintain ATM's in the interior or on or around the exterior of the premises; and
  - D. Use any electric heating or cooling devices.
4. Lessor reserves the right, at all times, and, from time to time, to:
  - A. Rescind any one or more of these rules and regulations, or to make such other and further reasonable rules and regulations as in the Lessor's judgment may from time to time be necessary for the safety, care and cleanliness of the Demised Premises, and for the preservation of order herein;
  - B. Possess a pass key to all Demised Premises and shall be allowed admittance in the event of any emergency such as fire and to conduct building inspections; and
  - C. Exclude or eject from the Demised Premises all animals, vehicular traffic of every kind and all canvassers and other persons who conduct themselves in such a manner to be, in the judgment of the Lessor, an annoyance to Tenant Agency or a detriment to the Demised Premises.

Exhibit H-2 - Lessor Site - Signage Criteria (Section 20)



## EXHIBIT H-2 - TENANT AGENCY SIGN CRITERIA

The purpose of these instructions is to outline the criteria, which has been established to control the design, fabrication, and installation of Tenant Agency signs. The reason for establishing certain basic guidelines which must be followed by sign contractor's serves two purposes: 1) it will ensure the Tenant Agency of purchasing a sign which meets good standards of material, workmanship, and appearance; 2) it will assure the tenants, owners, and developers of an attractive community, unmarred by poorly designed, badly proportioned signage. Good sign design and balance is necessary to maintain an attractive and successful business community.

### A. GENERAL REQUIREMENTS:

1. Tenant Agency shall submit, or cause to be submitted, to the Lessor for written approval before fabrication, at least three (3) copies of detailed drawings indicating the location(s), size, layout, design, and color of the proposed signs including all lettering and/or graphics. Elevation drawings to be  $\frac{1}{2}$  = 1'-0"
2. The Tenant Agency representative shall obtain permits, if required, for Tenant Agency signs and sign installation.
3. All signs shall be constructed and installed at Tenant Agency's expense.
4. All sign companies must be licensed under their name by the City and must have property liability insurance. Furthermore, the Tenant Agency shall be responsible for, and shall bear all cost of, removal and/or correction of sign installation, damage to the building by signs that do not conform to sign criteria and for all costs of restoration of the building at the time any signage is removed.
5. Tenant Agency shall be responsible for the fulfillment of all Tenant Sign Criteria.

### B. STIPULATIONS:

1. No animated, flashing, or audible signs will be permitted;
2. No exposed lamps or tubing shall be permitted;
3. All signs and their installation shall comply with all local building and electrical codes;
4. No exposed crossovers or conduit will be preempted;
5. All transformers shall be mounted behind sign parapet;
6. Electrical service to all signs shall be on the Tenant Agency's electric meter;
7. Painted lettering shall not be permitted; and
8. All attaching bolts shall be of non-corrosive metal.

### C. DESIGN REQUIREMENTS:

1. All Tenant Agency storefront entrance and store identification designs shall be subject to the written approval of Lessor. Imaginative designs, which depart from traditional methods and placements, will be encouraged.

2. Wording of signs shall not include the product sold, except as part of Tenant Agency trade name or insignia.
3. Tenant Agency is encouraged to have signs designed as an integral part of the building design, with letter size and location appropriately scaled and proportioned to the overall storefront design. The design of all signs, including style and placement of lettering, size, color, materials, and method of illumination shall be subject to the approval of the Lessor. (NOTE: Innovative designs of high quality which do not strictly adhere to these criteria may be submitted for special consideration)

D. SIZE OF SIGNS: Sign size shall be determined by the already existing space or designated sign mount on the surface or face of the building, or as directed by the Lessor in or near the front or main entrance of the building away from or above the exterior of the building.

E. TYPES OF SIGNS:

1. All signs shall be located only on the spaces on the surfaces specifically provided for on the building face at Tenant Agency's expense.
2. No box type signs will be permitted.

F. CONSTRUCTION REQUIREMENTS:

1. All signs, bolts, fastenings, and clips shall be stainless steel, aluminum, brass or bronze. No black iron materials of any type will be permitted;
2. All signs must be centered;
3. All letters shall be fabricated using full-welded construction or approved equal;
4. Location of all openings for conduit in sign panels of building walls shall be indicated by the sign contractor on drawings submitted to the Lessor;
5. All penetrations of the building structure required for sign installation shall be indicated by the sign contractor on drawings submitted to the Lessor;
6. No labels will be permitted on the exposed surface of signs except those required by local ordinance, which shall be applied in an inconspicuous location;
7. Sign contractor shall repair any damage to any work caused by his work; and
8. Tenant Agency shall be fully responsible for the work performed by Tenant Agency's sign contractor.

G. MISCELLANEOUS REQUIREMENTS:

1. Painted plexi-glass will not be permitted;
2. All letter retainer caps shall be 3/8" trim cap edge. Retaining screws shall be #7 x 3/4" trim cap edge. Retaining screws shall be painted a minimum of 2 coats of acrylic enamel;

3. Letter returns shall be painted a minimum of 2 coats of acrylic enamel;
4. At no time shall building structure or framing be cut or altered in any way without Lessor's prior written authorization;
5. All signs shall be fabricated and installed with U.L. label, if required by local authorities, in an inconspicuous location;
6. No conduit or electrical runs allowed over rooftop; and
7. All Tenant Agency signage shall be connected to Tenant Agency's parcel or Demised Premise.

H. NON-CONFORMANCE:

1. No field installation changes are permitted without first notifying Lessor in writing. If in the event any signs changed as to placement, location and size which differs from approved sign plan, Tenant Agency will be responsible to properly repair, change, and/or relocate sign to proper placement at Tenant Agency's expense.
2. Tenant Agency shall correct any sign installed by Tenant Agency or its sign contractor, which is not in conformance to the approved drawings, within (15) days after written notice by Lessor. In the event Tenant Agency's sign is not brought into conformance within said fifteen (15) day period, then Lessor shall have the option to correct said sign at Tenant Agency's expense.
3. Except as provided herein, no advertising placards, banners, pennants, names, insignia, trademarks, or other descriptive material shall be affixed or maintained upon the glass panes and/or supports of the windows and doors, or upon the exterior walls of the building.

I. THE FOLLOWING ARE PROHIBITED:

1. Temporary trailer signs;
2. Animated moving or flashing signs;
3. Iridescent painted signs;
4. Exposed neon, florescent or incandescent illumination;
5. Dayglo colors; and
6. Signs which make or create noise.

Exhibit H-3 - Lessor Site – Smoking Policy (Section 20)

**EXHIBIT H-3 - SMOKING POLICY**

1. The Lessor currently maintains a smoke and tobacco-free campus.
2. Smoking or other use of tobacco products, including, but not limited to, cigarettes, pipes, cigars, smokeless tobacco – snuff or chewing tobacco, is not permitted inside the Demised Premises or any other interior area of the building.
3. This means you may smoke in your vehicle and/or in the parking lot adjacent to your Demised Premises entrance or in a designated smoking area.(See Parking Lot Plan Exhibit H3)
4. Please do not stand at or near an entrance while smoking and dispose of your smoking materials in a proper manner.
5. All employees and invitees of Tenant Agency or anyone representing Lessee are expected to abide by this policy in all respects while on or at this site.

# Exhibit H3 – Designated Smoking Area

10-20-10

*Cathryn City*

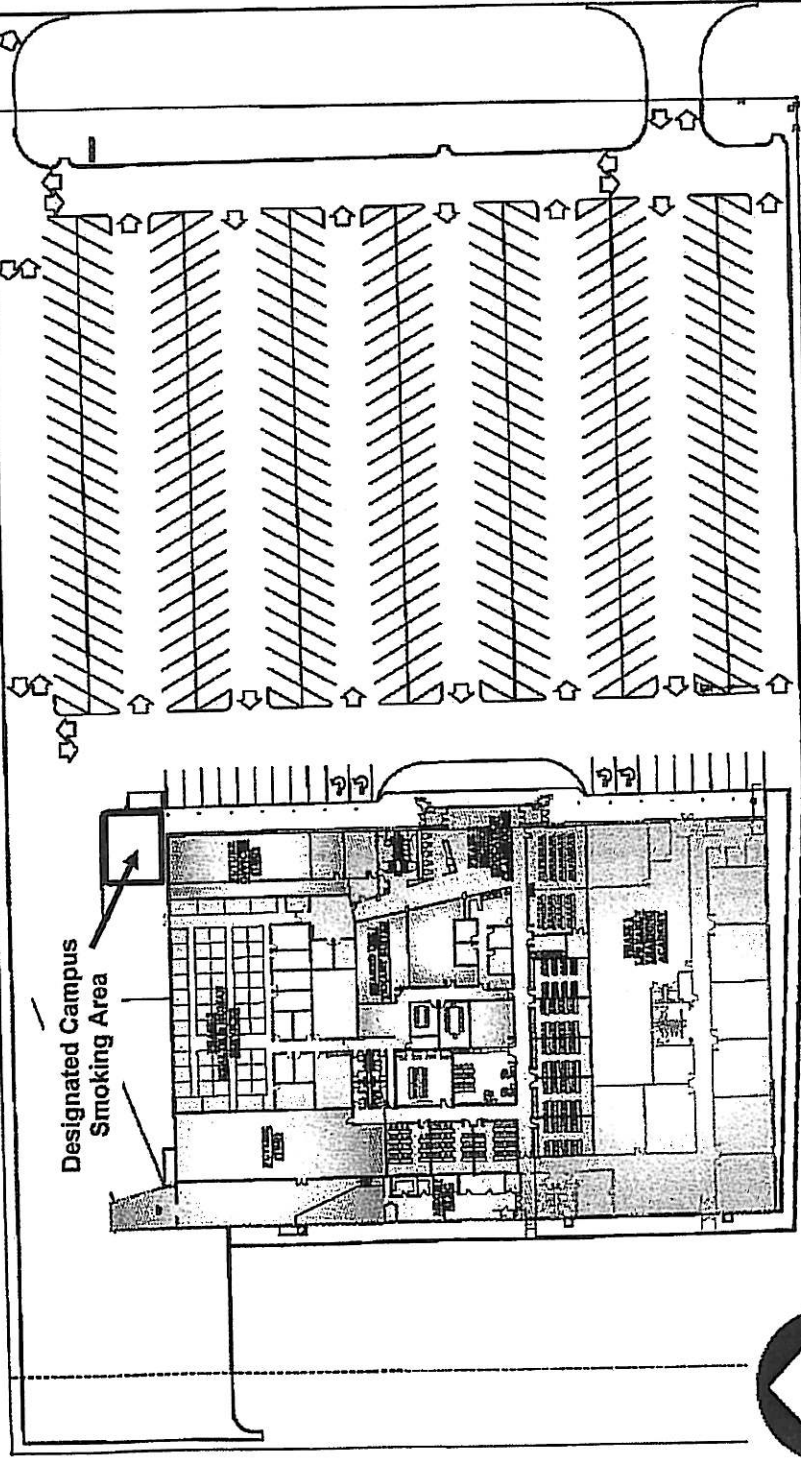




Exhibit I - Certificates of Insurance Coverage (Section 21) including the name of the insurance company, policy numbers, effective dates, dates of expiration and amounts and types of coverage afforded, as follows.

I-1 Workers' Compensation and Employers' Liability Insurance for all of its employees to be engaged in work for Lessor. Lessor shall require any subcontractor similarly to provide Workers' Compensation and Employers' Liability Insurance for all of the latter's employees to be engaged in such work. This policy shall be written to meet the statutory requirements for the state in which the work is being performed, including Occupational Disease. *This policy shall include a waiver of subrogation in favor of the Lessee.* The amounts of the insurance shall not be less than the limits stated hereinafter.

*Coverage A – Statutory*

*Coverage B –*

<i>Bodily Injury by Accident -</i>	\$100,000 each accident
<i>Bodily Injury by Disease -</i>	\$500,000 policy limit
<i>Bodily Injury by Disease -</i>	\$100,000 each employee

I-2 Commercial General Liability Insurance as shall protect it and any subcontractor performing work covered by this Lease from claims for damages for bodily injury, including death, as well as from claims for property damage, which may arise from operations under this Lease, whether such operation be by the Lessor or any subcontractor or by anyone directly or indirectly employed by either of them, and the amounts of such insurance shall not be less than the limits stated hereinafter. The insurance shall be written on an occurrence basis, and provide Premises/Operations, Products/Completed Operations, Independent Contractors, Personal Injury and Contractual Liability coverage. *The policy shall include the Lessee as an Additional Insured.* This policy shall be primary, and any insurance or self-insurance carried by the State shall be considered excess and non-contributory.

<i>General Aggregate -</i>	\$2,000,000
<i>Products/Completed Operations Aggregate-</i>	\$2,000,000
<i>Personal/Advertising Injury -</i>	\$1,000,000 any one person
<i>Bodily Injury/Property Damage -</i>	\$1,000,000 per occurrence
<i>Fire Damage -</i>	\$50,000 any one fire
<i>Medical Payments -</i>	\$5,000 any one person

I-3 Commercial Automobile Liability Insurance as shall protect it and any subcontractor performing work covered by this Lease from claims for damages for bodily injury, including death, as well as from claims for property damage, which may arise from operations under this Lease whether such operation be by the Lessor or any subcontractor or by anyone directly or indirectly employed by either of them, and the amounts of such insurance shall not be less than the limits stated hereinafter. The Commercial Auto Liability insurance shall be written to cover all Owned, Non-owned and Hired vehicles.

<i>Bodily Injury/Property Damage -</i>	\$1,000,000 combined single limit
<i>Over primary insurance -</i>	\$1,000,000 per occurrence