



**STATE OF SOUTH DAKOTA
LEASE AGREEMENT
LEASE#: 1400-449-54**



THIS LEASE is made and entered on this 1st day of February 2019, by and between the State of South Dakota, Office of Executive Management, Bureau of Administration on behalf of the **Department of Public Safety – Drivers Licensing**, hereafter referred to as "Tenant", and **Rosebud Sioux Tribe**, hereafter referred to as "Landlord".

IN CONSIDERATION of the mutual covenants contained in this lease and the terms and conditions hereinafter set forth, the parties agree as follows:

**SECTION 1
LEASED PREMISES**

1.1) Description of Premises. Landlord leases to Tenant and Tenant leases from Landlord certain real property, hereinafter referred to as the "Premises", which includes the building and other related improvements located at:

Address: **2431 Legion Avenue**
City: **Rosebud** State: **SD** Zip: **57570**
County: **Todd**

The leased premises consist of an area of approximately **1,160** square feet within the building.

1.2) Quiet Enjoyment. Landlord covenants and agrees, so long as Tenant is not in default under the terms of this Lease, to provide quiet and peaceful possession of the Premises and that Tenant may enjoy all of the rights granted without interference.

**SECTION 2
TERM**

2.1) Term. The term of this Lease will be for a period of 5 years commencing on **February 1, 2019** and ending on **January 31, 2024**.

**SECTION 3
RENT**

3.1) Rent. Tenant agrees to pay to Landlord, at Landlord's address as set forth in Section 11 herein, equal monthly installments of **\$290.00** during the term of this Lease, which is computed at a rate of **\$3.00** per square foot per year. Rental payments will commence on February 1, 2019 and are due the first day of each month thereafter through the conclusion of the lease term.

3.2) Grace Period. Landlord agrees that Tenant will have a fifteen day grace period after each rent payment is due during which no penalty or interest will be accrued. Landlord

agrees that Tenant will not be considered in default if payment of rent is made within the fifteen day grace period.

SECTION 4
TAXES, ASSESSMENTS AND UTILITIES

4.1) Taxes and Assessments. Landlord agrees to pay, when due, all taxes of any kind, general or special, foreseen or unforeseen, of any nature whatsoever, and installments of special assessments thereof which may be taxed or imposed on the Premises, including the improvements.

4.2) Utilities and Services are to be paid to vendor by either Landlord or Tenant as indicated below if applicable and if a service does not exist then a N/A will suffice:

Electricity	Landlord	Landscaping	Landlord
Gas	Landlord	Lawn Mowing	Landlord
Water	Landlord	Janitorial	Landlord
Sewer	Landlord	Snow Removal	Landlord
Telephone	Tenant	Garbage	Landlord
Cable	Tenant	Internet	Tenant

Other: **Tenant will utilize the Annex Conference room on the first, second and Third Wednesday of each month and any fifth Wednesday where there is one in a month. Access to the Conference room will be 7:30 am until 5:30 pm on each of these days.**

4.3) Failure to Pay or Provide Services. In the event that Landlord fails to pay utility or service expenses when due, Tenant may elect to pay the vendor to avoid interruption in services. In the event that Landlord fails to provide for services within a reasonable time, Tenant may elect to complete such services. Any amounts paid by Tenant pursuant to this section shall be set off against any rent owed to Landlord. The foregoing remedy shall be in addition to remedies afforded to Tenant under applicable law. As used herein, "reasonable time" shall mean within a reasonable time after Landlord is informed or has reason to know of the need for completion of the services but shall not exceed 24 hours, absent exigent circumstances.

SECTION 5
MAINTENANCE, REPAIRS AND ALTERATIONS

5.1) Premises. Landlord shall maintain the Premises and keep them in good repair at Landlord's expense. All repairs or replacements shall be made in a manner to minimize the inconvenience to Tenant, visitors and guests and in a manner which maintains the security of the Premises.

5.2) Exterior. Landlord further agrees to maintain and repair the exterior of the Premises, including but not limited to adjacent sidewalks, parking lots, access drives, parking lot striping, building exterior, windows and roof. Landlord shall maintain the exterior of the Premises

so that the building shall be properly secure at all times. All maintenance and repair to heating units, air conditioning units, plumbing, gas and electrical systems, sewer systems, and structural repairs, regardless of their location, shall be the obligation of Landlord.

5.3) Interior. Landlord further agrees to maintain and repair the interior of the Premises, including but not limited to the ceilings, ceiling tiles, carpets, floor tile, wall coverings, fluorescent light fixtures and ballasts, electrical system and fixtures, plumbing, heating, ventilation, air conditioning, mechanical equipment, elevator, and fire extinguishers.

5.4) Failure to Maintain. In the event that Landlord fails to maintain or repair the Premises within a reasonable time, Tenant may elect to complete the maintenance or repair. Any amounts paid by Tenant for maintenance or repair shall be set off against any rent owed to Landlord. The foregoing remedy shall be in addition to remedies afforded to Tenant under applicable law. As used herein, "reasonable time" shall mean within a reasonable time after Landlord is informed or has reason to know of the need for completion of the services but shall not exceed 24 hours, absent exigent circumstances.

5.5) Alteration. Subject to the prior written consent of Landlord, Tenant shall have the right to make such additions, alterations, changes or improvements to the Premises as Tenant shall deem necessary or desirable.

5.6) Signs. Landlord grants to Tenant the right to construct, place and maintain reasonable signs designating the nature of the business being conducted in said premises including, but not limited to, lettering placed on the glass of said premises. Upon conclusion of the term of this lease or any extension thereof, Tenant will remove all such signs and will restore any damages resulting to the premises by reason of such removal of signs.

5.7) Surrender of Premises. Tenant shall, upon the expiration or earlier termination of this lease or any extension thereof, return possession of the Premises to Landlord in good order, condition and repair, reasonable wear and tear excepted. Tenant shall leave the Premises and appurtenances thereto free and clear of rubbish and broom clean.

5.8) Destruction of Premises. In the event of a partial destruction of the Premises during the term of this Lease, Landlord shall promptly repair the Premises, provided that appropriate repairs can be completed within forty-five (45) days of the destruction, pursuant to the laws and regulations of applicable governmental entities and authorities that may apply. Any partial destruction of the Premises shall entitle Tenant to a proportionate reduction of rent until the repairs are completed, any proportionate reduction being based upon the extent to which the destruction of the Premises and/or the making of the repairs shall interfere with the business carried on by Tenant on the Premises. Upon receipt of documentation that the repairs cannot be completed in the specified time set forth above, Tenant may immediately terminate the Lease.

A total destruction of the building situated on the Premises shall terminate this Lease, and Tenant shall be obligated to pay rent only to the time of destruction of the building. As used herein, total destruction means that the Premises are destroyed or so damaged as to render the Premises untenable.

SECTION 6
LANDLORD'S ACCESS TO PREMISES

6.1) Landlord shall have the right, with prior approval of Tenant, to enter the Premises at all reasonable times to inspect them, to make repairs, to maintain the building, and to perform any other work therein which may be necessary.

SECTION 7
REGULATIONS

7.1) Landlord shall comply with all applicable federal, state, and local laws, regulations, and codes, including but not limited to fire and life safety regulations, equal accessibility for the handicapped and disabled specifically conforming to, but not limited to, the Americans with Disabilities Act (ADA), and local and planning ordinances for the City of Rosebud. Landlord or its agent(s) shall be responsible for satisfying the requirements associated with compliance. Any maintenance, repairs or improvements necessary for the premises to meet any applicable regulation, law or code will be performed at Landlord's expense.

SECTION 8
INSURANCE

8.1) During the term of this lease and any extension thereof, Landlord shall maintain in effect at all times all hazard, standard extended coverage, and fire insurance on the Premises and shall provide proof of such coverage to Tenant. From and after the date of delivery of the Premises to Tenant, Landlord shall be solely responsible for and shall provide for comprehensive general liability insurance against claims for bodily injury or death and property damage liability insurance on the property in an amount not less than One Million Dollars (\$1,000,000) per occurrence.

SECTION 9
INDEMNIFICATION

9.1) Landlord agrees to indemnify and hold harmless the State, its officers, agents and employees, against and from any and all claims by or on behalf of any person arising from any condition of any street, curb, or sidewalk adjoining the Premises, or arising from any breach or default on the part of Landlord, or arising from any act or omission of Landlord or any other occupant of the Premises, or any part thereof, or of its or their agents, contractors, servants, employees or licensees, or arising from any accident, injury or damage whatsoever caused to any person or property occurring during the term of this Lease in or about the Premises, upon or under the sidewalks and the land adjacent thereto, or arising from this Lease, and from and against all judgments, costs, expenses and liabilities incurred in or about any such claim or action.

This section does not require Landlord to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees.

SECTION 10
EVENTS OF DEFAULT; REMEDIES

10.1) Events of Default. Landlord shall be in default if Landlord fails to perform any of the agreements, terms, covenants or conditions hereof on Landlord's part to be performed, and failure continues for a period of thirty days after written notice by Tenant or if default is of such a nature that it cannot be reasonably cured within the thirty day period or Landlord has not in good faith commenced performance within the thirty day period to diligently proceed curing such default.

10.2) Remedies on Default. Upon the expiration of the cure period with respect to any event of default as set forth in Section 10.1 above, Tenant shall have the right to terminate this Lease.

SECTION 11
NOTICE

11.1) All notices or demands under this Lease shall be deemed to have been given when mailed by United States mail, First Class, postage prepaid, to the addresses set out below, or, if personally delivered, when received by such party. Notice of default or termination shall be sent by registered or certified mail or personally delivered.

To Tenant:

Jane Schrank
Department of Public Safety
118 West Capitol Avenue
Pierre, SD 57501

To Landlord:

Scott Herman, Vice President
Rosebud Sioux Tribe
11 Legion Avenue
Rosebud, SD 57570

To Office of Space Management:

Office of Space Management
South Dakota Bureau of Administration
c/o 500 E. Capitol Avenue
Pierre, SD 57501

SECTION 12
CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION

12.1) Landlord certifies, by signing this Lease, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation, by any Federal department or agency, from transactions involving

the use of Federal funds. If Landlord, or any of Landlord's principals, becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in transactions by any Federal department or agency, Landlord will provide immediate written notice in accordance with the method indicated in Section 11 herein. Landlord further agrees that if this Lease involves federal funds or federally mandated compliance, then Landlord is in compliance with all applicable regulations pursuant to Executive Orders 12549 and 12689, 2 CFR part 180, including Debarment and Suspension and Participants' Responsibilities.

SECTION 13 WAIVER

13.1) Failure of any party to insist upon the strict performance of any or all of the terms or conditions of this lease shall not constitute, nor be construed as, a waiver of that party's right to enforce any such terms or conditions, but the same shall continue in full force and effect.

SECTION 14 FUNDING OUT

14.1) Landlord agrees that the continued rental of the premises for the term specified by Tenant is dependent upon receipt of both funds and expenditure authority from the Legislature. In the event that the Legislature does not provide funds or expenditure authority, then and in such event, this lease is null and void and said lease shall expire at the end of the fiscal year in which the last funding shall be made available for Tenant. Landlord agrees that a termination because of lack of funds or expenditure authority will not result in a claim against Tenant, the State of South Dakota, or any officer or employee of the State, and waives any claim against the same.

SECTION 15 CANCELLATION

15.1) Tenant or Landlord may cancel this lease upon **60** days notice in writing. The notice required shall not release either Landlord or Tenant from full performance of all terms and conditions of this lease during the continuing occupancy of Tenant after the notice of termination but before Tenant vacates the premises.

SECTION 16 GENERAL PROVISIONS

16.1) Successors and Assigns. This Lease shall bind and inure to the benefit of the parties hereto and their successors and assigns.

16.2) Construction. The language in all parts of this Lease shall be in all cases construed according to its plain meaning and not strictly for or against Landlord or Tenant.

16.3) **Severability.** If any term, covenant, condition or provision of this Lease is held by a Court of competent jurisdiction to be invalid, void or unreasonable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.


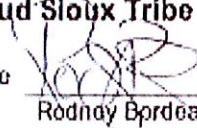
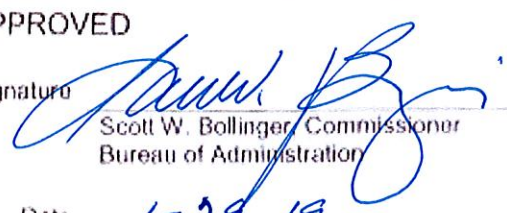
16.4) **Law Governing.** This Lease shall be governed by, construed, and enforced in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in U.S. District Court for the District of South Dakota, Central Division.

16.5) **Entire Agreement.** This Lease, together with any written modifications, addendums or amendments, hereinafter entered into, shall constitute the entire agreement between the parties and shall supersede any prior agreements or understandings, if any, whether written or oral, which the parties may have had relating to the subject matter.

16.6) **Prior Lease.** This lease shall render null and void any previous lease or agreements between Tenant and Landlord for the Premises.

16.7) **Counterparts.** This Lease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

16.8) **Modifications.** Any modification of this Lease, or additional obligation assumed by either party in connection with this Lease shall be binding only if evidenced in writing and signed by each of the parties. The parties warrant that they have the full right and authority to enter into this Lease and hereto have executed this Lease as of the day and year first above written.

STATE OF SOUTH DAKOTA Department of Public Safety	Landlord Rosebud Sioux Tribe
Signature  Craig Price, Secretary Department of Public Safety	Signature  Rodney Bordaoux, President
Date <u>1/27/2019</u>	Date <u>1/14/19</u>
APPROVED	
Signature  Scott W. Bollinger, Commissioner Bureau of Administration	
Date <u>1-29-19</u>	