

SAM BROWNBACK
Governor



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TOM HAWK, Ph.D.
Executive Director (cell phone 341-4162)

Behavioral Sciences Regulatory Board

April 5, 2012

To: Chair Dwayne Umbarger and Members of the Joint Building Committee

RE: Request for Meeting and Approval of BSRB Office Space Lease

I am in a double bind: The Department of Administration Facilities has told me that our Fee Funded Agency must move into a state building (Eisenhower) to help fill empty space. The Legislature's Budget Committees of the House and Senate have told us not to move if it is an increase from private sector space. Those Budget Committees also declined my request to increase our budget if forced to move. The BSRB Board has given me a directive not to move and only to consider Eisenhower if the cost is comparable to our private sector space. Our current lease expires on May 1. I have arranged an extension to June 1 if necessary.

Facts and Background: The **first year extra cost** for us to move to Eisenhower is **\$28,829.75** (higher rent, moving and construction costs) more than staying in our current location with the rent reduction I have negotiated with our private sector landlord. That **cost increases** over a five year period to **\$59,314.00 more**. Initially, DofA indicated they would help us write an RFP and negotiate a savings of perhaps \$10,000 from our current location. I was able to negotiate a savings of \$16,548.00 by staying in our current location. That is a **private sector five year savings** from our current rent of **\$82,740.00**.

Fairness: I believe **Fee Funded agencies should be treated differently** than tax funded state agencies on space rental issues. I can see how it might be a net savings to the tax payer to have state office buildings filled by state agencies. It is **not fair to "tax" our licensees** who pay fees with a bad business decision and increase in rent when we can stay in our current location, not pay the moving costs of \$21,208.75, not disrupt our work for several weeks with a move and construction, and put a severe stress on our budget. (Note: Facilities has offered to finance our moving costs over 3 years...however that still adds costs that make for a budget hardship and it is still not a good business decision.) In addition, we already pay \$12,765.76 per year out of our budget for the "Capitol Plaza Office Buildings—Monumental Building Surcharge". We are happy to keep making that payment for the good of the state office buildings and to pay the required 10% surcharge of our Fee Fund collections as further support for State Government. We are told we are not being "forced to move", but that DofA will not approve any private lease for us. Nor will they give us a five year lease (like our private sector landlord) that guarantees us that we can stay once we pay for the move and improvements.

Best Business Decision: Simply put, this is **not a good business decision** for our Board. I believe State Government, whenever possible, should operate as a good private business would. We have asked DofA to match our private sector offer and to grant us a five year lease so we will not face these moving costs again soon. They were unable to do that. I ask the Joint Committee to approve our lease so that we can "hunker down" and get back to work knowing we will not be disrupted with an expensive move when it is not necessary and it is not a sound business decision for us or the state. Thank you.

Attached are spreadsheets summarizing the private sector lease and the Eisenhower lease.

Attachment 4
JCSBC 4-25-12

House and Senate Budget Committee Reports

Statements on BSRB Rental/Office Lease Problem:

House notation:

1. The Budget Committee recommends the agency not be required to move from its current leased location to a state owned property at a higher cost in order to maintain the agency rental costs at its current level.

Senate notation:

1. The Subcommittee is concerned that the agency would be required to move from its current leased location to a state owned property at a higher cost than the agency rental costs at its current location.

See the following complete report on the BSRB Budget Report with Agency Request, Governor's Recommendation and the Committee recommendations above.

House Budget Committee Report

Agency: Behavioral Sciences Regulatory Board Bill No. 2493

Bill Sec. 6

Analyst: Mariani

Analysis Pg. No. --

Budget Page No. 492

Expenditure Summary	Agency Request FY 2013	Governor Recommendation FY 2013	House Budget Committee Adjustments
Operating Expenditures:			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	687,539	685,539	
Subtotal	<u>\$ 687,539</u>	<u>\$ 685,539</u>	<u>\$ 0</u>
Capital Improvements:			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds			
Subtotal	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
TOTAL	<u><u>\$ 687,539</u></u>	<u><u>\$ 685,539</u></u>	<u><u>\$ 0</u></u>
FTE positions	9.0	9.0	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	<u><u>9.0</u></u>	<u><u>9.0</u></u>	<u><u>0.0</u></u>

Agency Request

The agency requests \$687,539, all from special revenue funds, which represents an increase of \$50,953, or 8.0 percent, above the FY 2013 approved budget. This also includes an increase of 1.0 FTE position, from 8.0 FTE positions to 9.0 FTE positions. The increase is due to a supplemental request of \$50,953 to fund the License Specialist for the new Addiction Counselor licenses. Absent the supplemental, the agency request is \$636,586, the same as the approved amount.

Governor's Recommendation

The Governor recommends \$685,539, an increase of \$48,953, or 7.7 percent, and 1.0 FTE positions above the FY 2013 approved budget. The increase funds the enhancement request of \$50,953 to add 1.0 FTE positions to maintain the additional workload of over 1,300 new licensee as a result of the passage of the Addiction Counselor Licensure Act. This increase is partially offset by a reduction of overtime pay in the salary and wages expenditures which should no longer be needed with the addition of a new position.

House Budget Committee Recommendation

The Budget Committee concurs with the Governors recommendation for FY 2013 with the following notation:

1. The Budget Committee recommends the agency not be required to move from its current leased location to a state owned property at a higher cost in order to maintain the agency rental costs at its current level.

House Committee Recommendation

The Committee concurs with the Budget Committee recommendation.

Senate Subcommittee Report

Agency: Behavioral Sciences Regulatory Board

Bill No. --

Bill Sec. --

Analyst: Mariani

Analysis Pg. No. --

Budget Page No. 492

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Other Funds	0	0	0
Subtotal	\$ 0	\$ 0	\$ 0
TOTAL	\$ 687,539	\$ 685,539	\$ 0
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Agency Request

The **agency** requests \$687,539, all from special revenue funds, which represents an increase of \$50,953, or 8.0 percent, above the FY 2013 approved budget. This also includes an increase of 1.0 FTE position, from 8.0 FTE positions to 9.0 FTE positions. The increase is due to a supplemental request of \$50,953 to fund the License Specialist for the new Addition Counselor licenses. The agency states this has increased the workload by approximately 20.0 percent. Absent the supplemental, the agency request is \$636,586, the same as the approved amount.

Governor's Recommendation

The **Governor** recommends \$685,539, an increase of \$48,953, or 7.7 percent, and 1.0 FTE positions above the FY 2013 approved budget. The increase funds the enhancement request of \$50,953 to add 1.0 FTE positions to maintain the additional workload of over 1,300 new licensee as a result of the passage of the Addiction Counselor Licensure Act. This increase is partially offset by a reduction of overtime pay in the salary and wages expenditures which should no longer be needed with the addition of a new position.

Senate Subcommittee Recommendation

The **Subcommittee** concurs with the Governors recommendation for FY 2013 with the following notation:

1. The Subcommittee is concerned that the agency would be required to move from its current leased location to a state owned property at a higher cost than the agency rental costs at its current location.

Senate Committee Recommendation

The **Committee** concurs with the Subcommittee's recommendation.

Cost Proposal Sheet

Behavioral Science

Office space located in current info



A	B	C	
GENERAL INFORMATION	Behavioral Sciences Regulatory Board	Behavioral Sciences Regulatory Board	
	Behavioral Sciences Regulatory Board	Behavioral Sciences Regulatory Board	
	1 State Agency	712 S. Kansas Topeka	712 S. Kansas Topeka
	2 Address of Proposed Location	Gray Horse Farms, LLC	Gray Horse Farms, LLC
	3 City Location (market)		
	4 Vendor Name		
	5 Lease Space (sq. ft.)	Office Sq. Ft. 3,878	2,065
	6	Storage Sq. Ft. 714	689
	S.	Total Sq. Ft. 4,592	2,754
	8 Full Time Equivalency (FTE) employees/workstations	8	9
	9 Lease Begin Date (initial lease period)	5/1/2007	5/1/2012
	10 Lease End Date (initial lease period + renewals/extensions)	4/30/2012	4/30/2017
11 Years of Lease	5	5	
12 Space Standards Check (sq. ft. per FTE/workstation)	574	229	
LEASE COSTS - provided by 1st Party Landlord within the lease			
		Annual Cost per Sq. Ft.	
13 Base Lease Cost (annual per sq. ft.)	\$12.00	\$14.00	
14 Storage			
15 Real Estate Taxes	incl in base	incl in base	
16 Insurance	incl in base	incl in base	
17 Major Maintenance	incl in base	incl in base	
18 Utilities - total	incl in base	incl in base	
19	Electricity	incl in base	
20	Gas	incl in base	
21	Water/Sewer/etc.	incl in base	
22 Trash Pickup/Removal	incl in base	incl in base	
23 Custodial/Janitorial	incl in base	incl in base	
24 Pest Control	incl in base	incl in base	
25 Grounds Maintenance (inc. snow removal)	incl in base	incl in base	
26 Common Area	incl in base	incl in base	
27 Other Services - Bldg Operating Expense Stops	incl in base	incl in base	
28 Parking	incl in base	incl in base	
29	No. of Parking Spaces Included 8		
30 SUBTOTAL - Lease Costs w/o Additional Services	\$12.00	\$14.00	
Additional Services			
31 please specify			
32 SUBTOTAL - Additional Services	\$0.00	\$0.00	
OTHER BUILDING OCCUPANCY COSTS - funded by State Agency separate from the lease			
33 Building Operating Cost (not included in base rent)			
34 Utilities - total (estimated)			
35	Electricity	\$0.00	
36	Gas	\$0.00	
37	Water/Sewer/etc.	\$0.00	
38 Trash Pickup/Removal	\$0.00	\$0.00	
39 Custodial/Janitorial	\$0.00	\$0.00	
40 Pest Control	\$0.00	\$0.00	
41 Grounds Maintenance (inc. snow removal)	\$0.00	\$0.00	
42 Parking	\$0.00	\$0.00	
43	No. of Parking Spaces Included	\$0.00	
44 Other Services - please specify			
45 Total Other Bldg Optg Costs (not included in lease)	\$0.00	\$0.00	
IMPROVEMENTS			
46 Improvements (if not included in base rent)	\$0.00	\$0.00	
47 Subtotal - Improvements	\$0.00	\$0.00	
48 Annual Cost per Sq. Ft. (estimated)	\$12.00	\$14.00	
49 Annual Cost (estimated)	\$55,104	\$38,556	
50 Total Cost of Lease (estimated)	\$275,520	\$192,780	

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Cost Proposal Sheet
Behavioral Science

Office space located in Topeka, Kansas

GENERAL INFORMATION	Proposal for Downsizing		
	Current Behavioral Sciences Regulatory Board	Proposed Behavioral Sciences Regulatory Board	Proposed Behavioral Sciences Regulatory Board
State Agency	712 S Kansas	Eisenhower	712 S. Kansas
Address of Proposed Location	Topeka	Topeka	Topeka
City Location (market)			
Vendor Name	Gray Horse Farms, LLC	State of Kansas	Gray Horse Farms, LLC
Lease Space (sq. ft.)	Office Sq. Ft. 3,878	2,702	2,065
	Storage Sq. Ft. 714	0	689
	Total Sq. Ft. 4,592	2,702	2,754
Full Time Equivalency (FTE) employees/workstations	8	9	9
Lease Begin Date (initial lease period)	5/1/2007	5/1/2012	5/1/2012
Lease End Date (initial lease period + renewals/extensions)	4/30/2012	4/30/2017	4/30/2017
Years of Lease	5	5	5
Space Standards Check (sq. ft. per FTE/workstation)	485	300	229
LEASE COSTS - provided by 1st Party Landlord within the lease			
Base Lease Cost (annual per sq. ft.)	\$12.00	\$17.09	\$14.00
Storage			
Real Estate Taxes	Included in base	Included in base	Included in base
Insurance	Included in base	Included in base	Included in base
Major Maintenance	Included in base	Included in base	Included in base
Utilities - total	Included in base	Included in base	Included in base
	Electricity	Included in base	Included in base
	Gas	Included in base	Included in base
	Water/Sewer/etc.	Included in base	Included in base
Trash Pickup/Removal	Included in base	Included in base	Included in base
Custodial/Janitorial	Included in base	Included in base	Included in base
Pest Control	Included in base	Included in base	Included in base
Grounds Maintenance (inc. snow removal)	Included in base	Included in base	Included in base
Common Area	Included in base	Included in base	Included in base
Other Services - Bldg Operating Expense Stops	Included in base	Included in base	Included in base
Parking: 8 parking spaces at \$55/mo/space equates to \$440/month	Included in base	Included in base	Included in base
No. of parking spaces	8	8	8
SUBTOTAL - Lease Costs w/o Additional Services	\$12.00	\$17.09	\$14.00
Additional Services			
please specify			
SUBTOTAL - Additional Services	\$0.00	\$0.00	\$0.00
OTHER BUILDING OCCUPANCY COSTS			
Building Operating Cost (not included in base rent)	\$0.00	\$0.00	\$0.00
Utilities - total (estimated)	\$0.00	\$0.00	\$0.00
	Electricity	\$0.00	\$0.00
	Gas	\$0.00	\$0.00
	Water/Sewer/etc.	\$0.00	\$0.00
Trash Pickup/Removal	\$0.00	\$0.00	\$0.00
Custodial/Janitorial	\$0.00	\$0.00	\$0.00
Pest Control	\$0.00	\$0.00	\$0.00
Grounds Maintenance (inc. snow removal)	\$0.00	\$0.00	\$0.00
Parking	\$0.00	\$0.00	\$0.00
No. of Parking Spaces included	\$0.00	\$0.00	\$0.00
Other Services - please specify	\$0.00	\$0.00	\$0.00
Total Other Bldg Optg Costs (not included in lease)	\$0.00	\$0.00	\$0.00
IMPROVEMENTS			
Improvements Improvement (estimated)	\$0.00	\$10,000.00	\$0.00
Moving Expenses (estimated)		\$11,208.75	
Subtotal - Improvements/Moving	\$0.00	\$21,208.75	\$0.00
Annual Cost per Sq. Ft. (estimated)	\$12.00	\$17.09	\$14.00
Annual Cost (estimated)	\$55,104	\$46,177	\$38,556
Total Cost of Lease (estimated)	\$275,520	\$252,094	\$192,780

The Agency will have use of the equipped 975 sq ft conference room in 712 Kansas space at no additional cost. State rate does not include construction/moving expense, which Facilities can finance over a three year period.

REAL ESTATE LEASE AGREEMENT

Requisition No. _____
Agency Contact No. _____

NOTICE TO LESSOR AND LESSEE: PURSUANT TO THE REQUIREMENTS OF K.S.A. 75-3730, 3739(1) and 3743, as amended. NO LEASE

AGREEMENT IS EFFECTIVE NOR MAY EXPENDITURES BE MADE UNTIL THE AGREEMENT HAS BEEN SIGNED AND THE REQUIRED APPROVALS AFFIXED HERETO.

This Lease Agreement should be completed well in advance of the proposed effective date of the lease and submitted for the approval of the Department of Administration. Clauses printed in this contract are considered mandatory and may only be supplemented by a special provision approved by the Department of Administration.

CONTRACT PARTIES

LESSOR (First Party or 1st Party)

Contact Person: Ann Adams-Kerl, Property Manager

LESSOR NAME: Gray Horse Farms, LLC

Address: 201 South Kansas Avenue

City: Topeka

State: Kansas

Zip Code: 66603

Telephone: 785-232-0747

Fax: 785-232-3613

Email Address: adamsa@htpaul.com

Type of Firm: Individual Partnership Corporation Government L.L.C.

Taxpayer Identification No. 74-2819011

LESSEE (Second Party or 2nd Party)

Contact Person: Tom Hawk

LESSEE NAME: Behavioral Sciences Regulatory Board

Address: 712 S. Kansas Avenue

City: Topeka

State: Kansas

Zip Code: 66603-3817

Email Address: Tom.Hawk@bsrb.state.ks.us

Telephone: 785-296-3240

Fax: 785-296-3112

Leased Property Description: 1st floor office and storage space with conference room availability.

Street Address: 712 South Kansas Avenue

City: Topeka

County: Shawnee

State: KS

Zip Code: 66603-3817

WITNESSETH, that First Party, in consideration of the rents, covenants, and agreements of Second Party, hereinafter set forth, does let, lease and rent to Second Party the above described property.

Real Estate Lease Agreement

1. TERM:

To have and hold the same for the term of:

- (a) Lease Term begin date: 05/01/2012 (mm/dd/yyyy)
- (b) Lease Term end date: 04/30/2017 (mm/dd/yyyy)
- (c) Length: five years, _____ months

2. RENTAL PAYMENTS:

Second Party agrees to pay equal () monthly () quarterly () semi-annual or () annual installments of \$ 3,213.00 commencing on the 1st day of May, 2012 and on the 1st day of each corresponding payment period thereafter until the term of his lease ends; or in concurrence with payment schedule in Special Provision _____.

Rental payment for the first month shall be prorated if the above described property is not available for occupancy by the beginning date of the lease. The final payment shall be prorated for any partial month payment that may be due.

The space herein above described contains 2754 square feet of space for office use at the rate of \$ 14.00 per square foot per annum; square feet of floor space for records and property storage use at the rate of \$ _____ per square foot per annum; and (square feet of floor space) (acres, more or less); for other use (specify): _____

3. USE OF PREMISES:

Second Party shall have the full and unrestricted use of the premises for the term of this lease or any renewals thereof, for the following purpose: office, conference/meeting and storage/file

The approximate Full-Time Equivalent (FTE) employees working on these premises is 9

4. UTILITIES:

Public utilities shall be paid for by First (1st) Party, Second (2nd) Party, Third (3rd) Party, Occupant or Other as follows:

- | | | | |
|-----------------|------------|-----------|------------|
| (a) Electricity | <u>1st</u> | (b) Gas | <u>1st</u> |
| (c) Water | <u>1st</u> | (d) Heat | <u>1st</u> |
| (e) Telephone | <u>2nd</u> | (f) Other | _____ |

5. ADDITIONAL SERVICES:

Additional Services shall be paid for by First (1st) Party, Second (2nd) Party, Third (3rd) Party, Occupant or Other as follows:

(a) Grounds maintenance, landscaping, parking areas, entrances and sidewalks	1st
(b) Snow Removal	1st
(c) Pest Control	1st
(d) Custodial Service of Leased Area	1st
(e) Custodial Service of Common Area	1st
(f) Other _____	_____

Refer to Special Provision(s) _____ for additional explanation (i.e. frequency or level of service) if needed.

6. SUBLETTING:

Second Party shall have the right to sublet any or all of the space herein leased to any other State agency for the same or a comparable use. Second Party may not assign or sublet said premises to any private person without the written consent of First Party. Lessee will notify Lessor if any sublet action occurs. If Second Party sublets to another State agency, Second Party's obligation to pay the rental herein shall cease, provided, however, any such subtenant shall be bound by all conditions of this lease for the balance of the term.

7. REPAIR OF PREMISES:

The First Party will pay the costs and maintain in good repair the walls, windows, floor coverings, shell, structure, elevators, stairs, roof, grounds, sidewalk and off-street parking areas of the leased facility. Such items shall be maintained at a condition not less than the condition of the said items at initial lease signing. First Party will be responsible for repairs and/or replacements to heating, ventilation and air conditioning (HVAC), plumbing, electrical, mechanical and related fixtures and appliances. The First Party is responsible for meeting all applicable local and State building codes, ordinances, standards and regulations. The First Party will provide Second Party with a list of persons or firms to contact in case of an emergency due to failure of the above facility components. If the facility, fixtures or Second Party contents are damaged as a result of failure of the items listed in Section 7, paragraph 1, First Party agrees to pay the costs to repair or replace the contents and fixtures and to restore the facility to a condition not less than the condition at the time of initial lease signing. In order to assure prompt response to maintenance notifications, First Party agrees to authorize the Second Party to contract with a Third Party for maintenance repairs that are not corrected within three days of notification. The First Party further agrees to authorize the Second Party to pay invoices for the maintenance repairs that remain unpaid 30 days after their submittal to the First Party. First Party authorizes Second party to deduct the amount of said paid invoices from rental payments due and owing. Interior repairs of damage caused by Second Party shall be paid for by Second Party. Second Party will submit written requests for decoration and other remodeling items to First Party for approval. Approved decoration or remodeling will be provided by First Party and upon receipt of invoice, Second party will reimburse First Party for said decoration or remodeling costs.

8. UN-TENANTABLE PREMISES:

(If building space, otherwise not applicable.) If these premises shall be damaged by fire, casualty, natural disaster or other cause so as to be un-tenantable, the rental payments shall abate from the date of such damage and shall not resume until premises are restored to tenantable condition, provided, however, if the damage so caused shall render restoration by First Party impossible within sixty (60) days of the time of such damage, Second Party may elect to void this lease and the obligation to occupy and make rental payments shall cease from the date of said damage. Any prepaid rent shall be returned to Second Party for the period the premises are un-tenantable.

Should, at any time, during the term of this lease, hazardous substances, chemicals or odors be discovered in the lease building in amounts determined by the appropriate State agency to be unacceptable, the Lessor will have sixty (60) days from date of written notice by the Lessee to satisfactorily dispose of the hazardous substances, chemicals or odors by a State pre-approved vendor or the Lessee may terminate the lease after sixty (60) days with no penalty to the Lessee.

In the alternative, if the Lessor fails to comply with the terms of this provision, the Lessee may contract for the abatement and disposal of the above hazardous substances, chemicals or odors and the Lessor consents to the reduction of lease payments for the costs of abatement and disposal. In addition, the obligation to occupy the leased premises, and to make rental payments shall cease from the date the discovery of the hazardous substances. If conditions require the evacuation of the premises and relocation, Second Party may elect to void this lease and the obligation to occupy and make rental payments shall cease from the date of discovery of the hazardous substances. The Lessor shall be responsible for relocation costs. Any prepaid rent shall be returned to Second Party for the period the premises are un-tenantable.

9. TERMINATION FOR FISCAL NECESSITY:

Notwithstanding any other provision of this lease, if funds anticipated for the continued fulfillment of this lease agreement are at any time not forthcoming, either through failure of the Legislature to appropriate funds specifically budgeted for this lease or the discontinuance or material alteration of the program under which funds were provided, then Second Party shall have the right to terminate this lease by giving First Party a reasonable notice specifying the reasons for such necessary termination. The termination of the lease pursuant to this paragraph shall not cause any penalty to be charged to the State agency. Any prepaid rent shall be returned to Second Party for the period following the termination date.

10. AUTOMATIC HOLD OVER: This lease agreement, if not previously terminated, shall automatically expire at the end of the term specified unless Second Party shall have renewed the lease pursuant to Special Provision 2. However, Second Party shall be allowed to hold over after the end of the term and Second Party shall be a tenant from month to month at the same terms and conditions as contained herein. This hold over tenancy shall expire after a maximum of six (6) months unless written approval of the Secretary of Administration is secured.

11. REMOVAL OF PERSONAL PROPERTY:

All personal property placed, installed or constructed upon the premises by Second Party during occupancy, which may be removed at any time by Second Party at the end of the term without substantial damage to the real estate, shall be and remains the sole property of Second party and may be removed. If substantial damage would occur, Second party may elect to remove the property and restore the premises.

12. AGREEMENT WITH KANSAS LAW:

This Lease Agreement shall be subject to, governed by and construed according to the laws of the State of Kansas.

13. ANTI-DISCRIMINATION CLAUSE:

First Party agrees:

- (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 *et seq.*) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 *et seq.*) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. S 12101 *et seq.*) ("ADA") and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry or age in the admission or access to, or treatment or employment in its programs or activities;
- (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer";
- (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116;
- (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor;
- (e) that failure to comply with the reporting requirements (c) above, or if First Party is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of the contract;
- (f) if Second Party determines that First Party has violated applicable provisions of the ADA, that violation shall constitute a breach of contract;
- (g) if (e) or (f) occurs, the contract may be canceled, terminated or suspended in whole or in part by the State. The obligation to occupy and to pay any unpaid balance of rental payments shall cease from the date of cancellation, termination or suspension. Any prepaid rent shall be returned to Second Party from that date.

Parties to this contract understand that subsection (b) through (e) of this paragraph, number 13 are not applicable to First Party who employ fewer than four (4) employees or whose contract with this State agency totals \$5,000 or less during any fiscal year.

14. BINDING EFFECT:

The terms and conditions of this Lease shall be binding upon the parties, their heirs, agents, administrators, executors or legal successors.

15. RESPONSIBILITY FOR TAXES:

The State of Kansas shall not be responsible for, nor indemnify, First Party for any federal, state or local taxes, fees or assessments which may be imposed or levied upon the subject matter of the lease.

16. LIABILITY FOR DAMAGES:

Notwithstanding any language to the contrary, the State shall not be responsible for any damages caused by the public or its employees except as provided in the Kansas Tort Claims Act, K.S.A. 75-6101 *et seq.*, as amended.

17. ACCESSIBILITY:

If the Department of Administration determines that improvements or changes are required for Second Party to comply with the minimum standards for accessible design, First Party agrees to make all improvements or changes within a reasonable period of time as determined by the Department of Administration. (Refer to the Americans with Disability Act Accessibility Guidelines ADAAG: also reference K.S.A. 58-1301 *et seq.*). If the improvements or changes have not or cannot be completed, the Department of Administration may require Second Party to terminate this lease upon the giving of 120 days notice in writing to First Party. The obligation to occupy and make rental payments shall cease from the date of termination. Any prepaid rent shall be returned to Second Party from that date.

Waiver of any element of this provision must be sought through application to the Director of Facilities Management with the recommendation of the ADA Coordinator and can only be granted by the Secretary of Administration. Such waiver must be attached to and incorporated into this contract (reference: Special Provision 4).

The following minimum standards for accessible space shall be required (ADA Checklist, Checklist for Existing Facilities):

1. Accessible parking, if parking is included in this contract.
2. An accessible route from an accessible entrance to primary function areas (includes elevator if required to access other levels).
3. Accessible toilets.

18. ENERGY:

HVAC specifications: General office and common areas shall be heated in the winter to maintain the space environment at 68-74 degrees Fahrenheit (F) with a relative humidity of 20-30% and cooled in the summer at 68-78 degrees F with a relative humidity of 40-60%. The HVAC system must be capable of maintaining +/- two (2) degrees F of the thermostat setting. As a guide, an adequately sized air distribution system shall provide 4-10 air changes per hour. HVAC equipment shall be properly sized and balanced to meet design conditions. Each zone provided shall be equipped with programmable thermostatic controls, capable of a 55 degree F night/weekend setback in the heating mode and a 85 degree F night/weekend set-up in the cooling mode. Controls shall prevent reheating, re-cooling and simultaneous heating and cooling in the same zone (where multiple system controls exist).

Heating system efficiency will not be less than 80% steady state at full load for natural gas boilers or furnaces. Air conditioning equipment will meet or exceed the performance ratings required under

Federal and State guidelines. A seven-day programmable time device will control all air handling systems, where applicable controls exist. Minimum ventilation rates will be capable of 15 cubic feet per minute per person during occupied hours and automatically reduced during off-work hours. Buildings are to be in full compliance with the ANSI/ASHRAE/IESNA Standard 90.1 latest edition, Energy Design of New/Existing Commercial Buildings.

Telecommunication, Computer, UPS and server room(s) require air conditioning systems designed to ensure proper environmental requirements are met. These rooms shall be maintained between 65 & 72 degrees F. The HVAC system must be capable of maintaining +/- two (2) degrees F of the thermostat setting. This condition must be maintained 24 hours a day, seven (7) days a week. HVAC shall be thermostatically controlled within the room and be independent of the house system.

19. SPECIAL PROVISIONS:

The following Special Provisions indicated by an X and numbered as listed hereafter or those additional numbered Special Provisions contained on an attachment, are made a part hereof and incorporated into this contract.

The following Special Provisions apply: → 3 marked by an (X) in the boxes below:

- Spec. Prov. 1. Termination Prior to Expiration of Term: Notwithstanding the length of the term, Second Party may terminate this lease at any time prior to the expiration of the term upon the giving of _____ days notice in writing to First Party.
- Spec. Prov. 2. Renewal: By the giving of notice in writing to First party at _____ days prior to the end of the term specified, Second Party may renew this lease for an additional term of _____ under the same rent, conditions and terms set out herein.
- Spec. Prov. 3. Parking: First Party shall furnish to Second party off-street parking for _____ motor vehicles upon land adjacent to the leased facility.
- Spec. Prov. 4. Waiver: A waiver to the Accessibility Standards as specified in paragraph 17 above is attached and incorporated in this contract and made a part hereof.
- Spec. Prov. 5. Should the premises not be available for occupancy on the first day of the lease term, the Lessee will have no obligation to make rental payments until occupancy is available. The Lessor agrees that liquidated damages in the amount of _____ per day shall be deducted from subsequent rental payments due from the Lessee, for the period from the first day of the lease term until the premises are ready for occupancy. If the premises are not available for occupancy _____ days after the first day of the lease term, the lessee may terminate the Real Estate Lease Agreement.
- Spec. Prov. 6. The Request For Proposal and the Bidder's Response to the RFP, # _____, including the Bidder's counter offer and best and final offer and all supporting Documents, shall be incorporated into and made a part of this lease agreement.

20. ADDITIONAL SPECIAL PROVISIONS:

Additional Special Provisions, if any, should be set out on a separate sheet beginning with Number Six (6). Special Provisions must be listed in numerical order to be considered effective to bind the First Party and Second Party, to this agreement. Additionally First Party and Second Party must sign their names immediately following the last listed Additional Special Provisions on the attached sheet.

The following Additional Special Provision apply → 6, 7, 8, 9 and 10

APPROVALS OF LESSOR & LESSEE

Lessor	Date
--------	------

CERTIFICATION STATEMENT: I certify that the lease agreement in entered into within the authority of law, is with my approval, and that the person signing the same for the State immediately below is authorized to do so.

Lessee: State Agency Head	Date
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APPROVALS OF STATE OF KANSAS: For Use by State of Kansas Signatories Only

Attorney, Department of Administration	Date
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Director of Facilities Management, Department of Administration	Date
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Secretary of Administration	Date
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SPECIAL PROVISIONS TO LEASE DATED _____

Spec. Prov. 6. Additional Rent:

As additional rent, Tenant agrees to pay its pro rata share of any increase in utility costs, property taxes, building insurance, common area janitorial costs, building security, and common area maintenance incurred by Landlord, over and above such costs incurred during the base year. The base year shall be the calendar year of 2011 beginning January 1, 2011 and ending December 31, 2011. Said pro rata share shall be determined by dividing the area leased by Tenant by the total available net leasable office space in the building. Then, Tenant's pro rata share shall be multiplied by the dollar amount by which said expenses have increased during any given year over the base year. At the end of 2012 and Landlord shall compare the total of the above mentioned costs for the base year (2011) and at the end of each year thereafter to the base year 2011 and determine whether the total costs for the lease year in question increased over the base year and calculate Behavioral Sciences' pro rata share of any such increase. Landlord shall provide copies of all records relied upon to determine the amount of additional rent upon request. In no event shall the total increase be more than 3% per year of the total lease costs:

Spec Prov. 7. Change to Section 7 – Repair of Premises

Delete the sentence in Section 7, Repair of Premises, page 3, "In order to assure prompt response to maintenance notifications, First Party agrees to authorize the Second Party to contract with a Third Party for maintenance repairs that are not corrected with three days of notification", and replace with the following:

"In order to assure prompt response to maintenance notifications, First Party agrees to authorize the Second Party to contract with a Third Party for maintenance repairs that are not corrected within three days of faxed written notification."

Spec. Prov. 8. Change to Section 9, Termination for Fiscal Necessity.

Change "reasonable notice" to Ninety(90) days written notice.

Spec. Prov. 9. Change to Section 18. Energy.

The Second Party does not require the HVAC to have thermostatically controlled room independent of the house system. The First Party request that this be eliminated from the Lease Agreement.

Spec. Prov. 10. Building Rules

Rules of the Building are provided to all Tenants of this multi-tenant Building and Owner shall provide Tenant with these Rules of the Building and Tenant shall make every effort to comply with same. Owner requests the Tenant also comply with DFM Building Rules and Information as provided by Kansas Department of Administration Facilities, where applicable, "to ensure that employees of the State of Kansas enjoy a clean, safe, efficient and comfortable environment in the buildings it manages."

APPROVALS OF LESSOR & LESSEE

Lessor: Gray Horse Farms, LLC
A Kansas Limited Liability Company
By: Paul Properties Management, Inc.
A Kansas Corporation, Manager

By: _____
Howard T. Paul, President

Date

Lessee: Kansas Behavioral Regulatory Board

By: _____
Tom Hawk, State Agency Head

Date

Approvals of State of Kansas:

Attorney, Department of Administration

Date

Director of Facilities Management, Department of Administration

Date

Secretary of Administration

Date

Rules of the Building

1. Tenants shall not in any manner use the name of the Building for any purpose other than that of the business address of the tenant, or use any picture or likeness of the Building or the name "The Bank Building" in any circulars, notices or advertisements without Landlord's express consent in writing.
2. Tenants shall not take or permit to be taken in or out of other entrances of the Building, or take or permit to be taken on other elevators, any item normally taken in or out through service doors or in or on freight elevators; and Tenants shall not, whether temporarily, accidentally or otherwise, allow anything to remain in, place or store anything in, or obstruct in any way, any passage way, entrance, exit, stairway, court, corridor, hall, elevator or shipping platform. Tenant shall lend its full cooperation to keep such areas free from all obstruction and in a clean and sightly condition, and move all supplies, furniture and equipment as soon as received directly to the Premises, and shall move all such items and waste (other than waste customarily removed by Building Employees) that are at any time being taken from the Premises directly to the loading platform at or about the time arranged for removal therefrom.
3. Tenants shall not place anything or allow anything to be placed near the glass of any door, partition, wall or window which may be unsightly from outside the Premises. Blinds, shades, or other forms of inside window coverings, or similar devices, shall not be placed in or about the outside windows in the Premises except to the extent, if any, that the character, shape, color, material and make thereof is approved by the Landlord, and Tenants shall not do any painting or decorating in the Premises or make, paint, cut or drill into, drive nails or screws into, or in any way deface any part of the Premises or Building without the written consent of Landlord. Blinds, shades, or other forms of inside window coverings currently installed or to be installed, shall not be raised but shall remain flush with the bottom of the window sill in order to provide a uniform appearance from the outside of the building. Tenants shall not overload any floor or part thereof in the Premises, or any facility in the Building or any public corridors or elevators therein in bringing in or removing any large or heavy articles, and the Landlord may direct and control the location of safes and all other heavy articles.
4. No sign, notice or advertisement shall be put in or upon any part of the Building except upon the doors of the Premises leased herein, and then only in such wording, size and form as may be designated by the Landlord.
5. Tenants shall not attach or permit to be attached additional locks or similar devices to any door, transom or window, change existing locks or the mechanism thereof, or make or permit to be made any keys for any door other than those provided by Landlord. If more than two keys for one lock are desired, Landlord will provide them upon payment therefor by Tenant. Upon termination of this lease or of the Tenant's possession, the Tenant shall surrender all keys to the Premises.
6. The Tenant shall not install or operate any refrigerating or heating device, or air conditioning apparatus, in or about the premises, or install or operate any machinery which may disturb or annoy other occupants of the Building, or use the Premises for lodging or sleeping purposes, or do any cooking therein, or use in or permit to be brought into the Building any inflammable, explosives or other articles deemed hazardous to life, limb or property.

7. Tenant will refer all contractors, contractor's representatives and installation technicians rendering any service to Tenant for Landlord's supervision, approval and control before performance of any contractual service. This provision shall apply to all work performed in the Building including installation of telephones, telegraph equipment, electrical devices and attachments, and installations of any nature affecting floors, walls, woodwork, trim, windows, ceilings, equipment or any other physical portion of the Building.
8. The maximum weight per square foot in each room shall not exceed seventy-five (75) pounds, without prior written approval of Landlord.
9. **Smoking is prohibited in the building.** An ash tray has been provided in the designated smoking area on the fifth floor of the parking garage. No smoking is allowed in the elevator lobbies, stairways, in front of the building entries or on the dock. The management would appreciate your assistance in relaying and enforcing this with any of your employees and will ask security to enforce this.
10. Gray Horse Farms, LLC and Paul Properties Management, Inc. desire to maintain the highest standards of environmental comfort and convenience for its tenants. It will be appreciated if any undesirable conditions or lack of courtesy or attention are reported directly to Management.

Initial _____