

RECORD OF ORDINANCES

Dayton Legal Blank, Inc.

Form No. 30050

Ordinance No. 3608 Passed May 23, 2017

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO SIGN A LEASE AGREEMENT WITH THE STATE OF OHIO DEPARTMENT OF PUBLIC SAFETY FOR THE WEST CARROLLTON BRANCH OF THE DEPUTY REGISTRAR LICENSE AGENCY AND DECLARING AN EMERGENCY.

WHEREAS, the City acquired the Carrollton Plaza Shopping Center on May 1st, 2017, and;

WHEREAS, the State of Ohio Department of Public Safety leases space in the Center, said lease due to expire at the end of June, 2017, and;

WHEREAS, in order to facilitate an orderly relocation to a new facility, the Department has asked for an extension of the lease terms for an additional six months, beginning July 1, 2017 through December 31, 2017, and;

WHEREAS, it is the desire of the majority of the members of the City Council to agree to said extension.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WEST CARROLLTON, OHIO, THAT:

Section 1: the City Manager is hereby authorized to sign a lease extension with the State of Ohio Department of Public Safety, beginning July 1, 2017 through December 31, 2017, attached hereto, and made part of this resolution, and do all things necessary to complete the transaction.

Section 2: That this Ordinance is hereby declared to be an emergency measure due to the necessity to provide for adequate time for the facility to be relocated by the end of the year, thereby preserving the welfare of the community.

Passed: 5/23/17

Mayor 

Attest: Carie Cottongin
Assh. Clerk of Council

RECORD OF ORDINANCES

Dayton Legal Blank, Inc.

Form No. 30050

Ordinance No. _____

Passed _____, 20____

**STATE OF OHIO
DEPARTMENT OF PUBLIC SAFETY**

L-E-A-S-E

- I. THIS LEASE WITNESSETH: THAT in consideration of the rentals herein reserved and mutual covenants expressed,

**City of West Carrollton, Ohio
300 East Central Avenue
West Carrollton, OH 45449**

hereinafter referred to as the **Lessor**, does hereby demise and lease to:

**Ohio Department of Public Safety
1970 West Broad Street, Suite 225
Columbus, Ohio 43223**

hereinafter referred to as the **Lessee**, all those premises known and described as:

**Ohio Bureau of Motor Vehicles
West Carrollton Deputy Registrar License Agency
1162 East Dixie Drive
West Carrollton, Ohio 45449**

The **Lessee**, does hereby rent and leases from Lessor, upon and subject to the terms and provisions of this lease, certain premises, such premises being the space consisting of approximately **2,113** rentable square feet of space and a minimum of **28** non-exclusive parking spaces with additional parking spaces, as near as possible to our customer entrance, properly marked that meet all ADA requirements.

- II. TO HAVE AND TO HOLD the same with any appurtenances included, unto the said Lessee from the 1st day of May, 2017 for and during the full term ending on the 30th day of June, 2017, with an automatic renewal of six months from July 1, 2017 through December 31, 2017, then month to month at the \$2,380.17 monthly rate shown below and subject to the same terms and conditions, contingent on appropriation of such funds by the Ohio General Assembly in accordance with Ohio Revised Code §126.07; yielding and paying therefore during the term an annual rental rate of approximately **\$28,562.04**, for the entire demised premises.

This sum is payable directly to the Lessor by the Deputy Registrar on the first day of each month in the amount of \$2,380.17.

- III. It is understood and agreed that the Lessee SUBLEASES the demised premises to an independent contractor to operate as a Deputy Registrar at this location.
- IV. It is agreed that this lease and any renewal thereof is subject to the appropriation and certification of **AVAILABLE FUNDS**, pursuant to Ohio Revised Code, section 126.07 and approval by the State Controlling Board if deemed applicable by the Director of Public Safety.
- V. Lessee agrees to refrain from committing **WASTE** on said premises and to deliver possession thereof to the Lessor at the conclusion of this lease in substantially as good condition as at the commencement of this lease, damages arising from any circumstances beyond the control of the Lessee and normal wear and tear excepted. If such waste should occur, Lessee may be held responsible for damages.

- VI. Lessor covenants that it is in **RIGHTFUL POSSESSION** of the premises and that upon payment of the rental fee it will warrant and defend the title of the Lessee against any and all claims whatsoever, not arising out of this Lease. Lessor further warrants that the Lessee shall, at all times during the term of this Lease, peaceably and quietly have, hold and enjoy the premises.
- VII. Lessor shall comply with all federal, state and local building codes, zoning codes, occupancy permits, fire codes applicable to this lease. Lessor shall during the term of this lease keep the premises in compliance with any and all **APPLICABLE STANDARDS** which have been or will be promulgated by the Federal Occupational Safety and Health Administration pursuant to the Federal Safety and Health Act of 1970, 29 U.S.C. 651 to 678 (1970).

The Lessor shall maintain the premises in accordance with the Federal Americans with Disabilities Act of 1990, Public Law 101-336, 42 U.S.C. sections 12101 to 12213 (1990), as amended, and with all applicable regulations.

The Lessor shall comply with all applicable Affirmative Action and Equal Employment Opportunity laws, including: 29 U.S.C. Sections 621 to 634 (*The Age Discrimination in Employment Act of 1967*), 42 U.S.C. Sections 2000e to 2000e-17 (*Title VII of the Civil Rights Act of 1964*, as amended), Ohio Revised Code Chapter 4112 and Ohio Administrative Code 123:1-49.

- VIII. **SERVICES BY THE LESSOR.** The Lessor agrees to perform all of the following functions at its own expense during the term of this lease or any renewal thereof:

A. Maintenance services

1. Pay all taxes and assessments accruing against said premises.
2. Maintain the premises including but not limited to roof, heating, air conditioning, electrical and plumbing facilities. Coordinate all such maintenance with the Lessee. Repair or replace any fixtures attached to the building such as doors, sinks, faucets, etc., if they fail to be in good working order.
3. Provide and maintain HVAC capable of maintaining 72 degrees Fahrenheit throughout the premises regardless of outside temperatures.
4. Provide hot and cold running water.
5. Provide and maintain landscape service for all unpaved exterior areas, if applicable.
6. Provide exterior lighting.
7. Provide all exterior building maintenance.
8. Provide minor, routine interior maintenance.
9. Provide prompt removal of snow and ice from sidewalk(s), pathway(s) and parking area(s) and fully clear all handicapped parking areas and access ramps. Such removal to occur after cumulative snowfall of two (2) inches and/or before agency business hours in the event of overnight precipitation.
10. Provide access to the premises to any third party service providers authorized by the Lessee, including but not limited to, cable, internet and telephone.
11. Lessor will make all Cold patch repairs within ten (10) days of Lessee's notice.
12. Provide and maintain emergency exit lights and signs, and fire extinguishers, as required by law.

- B. Emergency repair or special circumstance services will be arranged as necessary, as agreed upon by the Parties.

In the event Lessor fails to provide any services required of Lessor under this Lease, Lessee shall notify Lessor in writing of the service or services which are not being provided. If Lessor does not provide same within 10 days of the date of such notice, Lessee may provide the service and deduct the cost thereof from the rents reserved herein. In extreme cases of negligence, Lessee reserves the right to terminate this Lease by written notice of termination at any time after expiration of said 10 days.

IX. **LESSEE RESPONSIBILITIES:**

- A. To cause payment by the Sublessee to the Lessor of the rentals as they fall due.
- B. To have Sublessee agree to:
1. Abide by such reasonable rules and regulations required by the Lessor to assure proper operation of the premises, provided such rules and regulations are not inconsistent with the terms of this lease.
 2. Comply with any statutes, orders or regulations issued by the state, city, county or federal authorities that are applicable to the Lessee's use and occupancy of the premises.
 3. Pay for its own telecommunication services and installations.
 4. Provide right of access to the Lessor to do maintenance on space after prior approval of Lessee. Access shall not be unreasonably denied.
 5. Secure and pay for its own separately-metered electric, gas, water and sewage.
 6. Secure and pay for its own monthly monitoring service charge for its own alarm system, if applicable.
 7. Lessee will provide its own window and exterior signage.
 8. Provide commercial grade rubber backed mats at the entrance to premises.

- X. If the premises described in this Lease be destroyed by fire or other casualty, this Lease shall immediately terminate at the option of the Lessee. In case of partial damage or **DESTRUCTION** so as to render the premises untenable, the Lessee may terminate this Lease by giving written notice to the Lessor after the occurrence of said partial damage or destruction and effective upon Lessee vacating the premises.

- XI. During the period of this lease or any renewal hereof, the same may be terminated by Lessee by written notice of **TERMINATION**, mailed to the Lessor at his last known address at least 30 days prior to the effective date of such termination. Notwithstanding the foregoing, 30 day notice is not required in the event of Lessor's failure to provide services as described in Section VIII. If this lease continues past December 31, 2017, and into the month-to-month status, either party can cancel upon giving thirty (30) days' notice to the other.

- XII. **SELF-INSURANCE.** Lessee represents to Lessor that it will be responsible in accordance with the same rules of law applicable to suits between private parties as provided by Ohio Revised Code Section 2743.02, other statutes, and case law. Lessee further represents that it does not have a liability insurance carrier, but that it has the resources and authority, subject to an appropriation by the Ohio General Assembly, to pay damages if liable.

- XIII. **OHIO ETHICS CLAUSE:** Per O.R.C. 102.04 (D): The Lessor affirms by his/her signature that he/she is not elected or appointed to an office of or employed by the General Assembly or any department, division, institution, instrumentality, board, commission, or bureau of the State, excluding the Courts;

Or

The Lessor affirms by his/her signature that he/she is a public official appointed to a non-elective office or is a public employee, but, is exempt from the provisions of O.R.C. 102.04 (A) or (B) because,

1. The Lessor is supplying the good and/or services which are subject of the agreement to an agency other than the one with which he/she serves; AND
2. The Lessor has filed the required statements with the following agencies:
 - a. The appropriate ethics commission; AND
 - b. The public agency with which he/she serves; AND
 - c. The public agency to which the goods and/or services will be provided.

- XIV. In the event of sale of the property by Lessor, Lessor shall require the purchaser to take the property subject to Lessee's leasehold interests, require the purchaser to fulfill the obligations of the Lessor under this Lease, and to ensure the Lessee's right of possession and quiet enjoyment are not compromised.

- XV. All notices and correspondence shall be addressed as follows unless written notice of change is sent to the other party:

Lessor: **City of West Carrollton
300 East Central Avenue
West Carrollton, OH 45449**

Lessee: **Ohio Department of Public Safety
Office of Facility Management
Leasing & Land Management
1970 West Broad Street, Suite 225
Columbus OH 43223**

- XVI. The words "Lessor" and "Lessee", wherever used in this Lease, shall include the successors and assigns of the Lessor and Lessee, respectively.

- XVII. **OHIO ELECTIONS LAW.** Lessor affirms that, as applicable to it, no party listed in O.R.C. 3517.13 (I) or (J) (including an individual, partner, shareholder, administrator, executor, trustee, or owner of more than twenty percent of the corporation or business trust), nor the spouse of such party, has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of one thousand dollars (\$1,000.00) to the Governor or to the Governor's campaign committee, consistent with the restrictions under O.R.C. 3517.13 (I) and (J).

- XVIII. **EXECUTIVE ORDER 2011-12K, BANNING THE EXPENDITURE OF PUBLIC FUNDS FOR OFFSHORE SERVICES:** The Lessor affirms to have read and understands Executive Order 2011-

12K and shall abide by those requirements in the performance of this Contract, and shall perform no services required under this Contract outside of the United States.

The Lessor also affirms, understands, and agrees to immediately notify the State of any change or shift in the location(s) of services performed by the Lessor or its subcontractors under this Contract, and no services shall be changed or shifted to a location(s) that are outside of the United States.

A. Termination, Sanction, Damages:

If Lessor or any of its subcontractors perform services under this Contract outside of the United States, the performance of such services shall be treated as a material breach of the Contract. The State is not obligated to pay and shall not pay for such services.

If Lessor or any of its subcontractors perform any such services, Lessor shall immediately return to the State all funds paid for those services. The State may also recover from the Lessor all costs associated with any corrective action the State may undertake, including but not limited to an audit or a risk analysis, as a result of the Lessor performing services outside the United States.

The State may, at any time after the breach, terminate the Contract, upon written notice to the Lessor. The State may recover all accounting, administrative, legal and other expenses reasonably necessary for the preparation of the termination of the Contract and costs associated with the acquisition of substitute services from a third party.

If the State determines that actual and direct damages are uncertain or difficult to ascertain, the State in its sole discretion may recover a payment of liquidated damages in the amount of one percent (1%) of the value of the Contract.

The State, in its sole discretion, may provide written notice to Lessor of a breach and permit the Lessor to cure the breach. Such cure period shall be no longer than twenty-one (21) calendar days. During the cure period, the State may buy substitute services from a third party and recover from the Lessor any costs associated with acquiring those substitute services.

Notwithstanding the State permitting a period of time to cure the breach or the Lessor's cure of the breach, the State does not waive any of its rights and remedies provided the State in this Contract, including but not limited to recovery of funds paid for services the Lessor performed outside of the United States, costs associated with corrective action, or liquidated damages.

B. Assignment / Delegation:

The Lessor will not assign any of its rights, nor delegate any of its duties and responsibilities under this Contract, without prior written consent of the State. Any assignment or delegation not consented to may be deemed void by the State.

XIX: This Lease shall be considered, interpreted, and the rights of the parties determined according to Ohio law. If any provision under this Agreement is later determined to be invalid or unenforceable, the remainder of this Lease shall not be affected by such determination.

IN WITNESS WHEREOF, the parties thereto have caused their signatures to be affixed to this lease agreement.

LESSOR

Witnesses as to Lessor:

LESSOR:
CITY OF WEST CARROLLTON, OHIO

Signature

BY: _____
Signature

Printed Name

Printed Name

Signature

Title

Printed Name

Date

ACKNOWLEDGMENT BY THE LESSOR

State of Ohio, _____ County, ss:

On this ____ day of _____, 20____, before me personally appeared _____ known to be the authorized individual to act on behalf of the Lessor, who acknowledged that (s)he executed the foregoing Lease on behalf of the Lessor and that the same is his (her) free and voluntary act and deed, and that (s)he is duly authorized to enter into this Lease.

Notary Public, State of: _____

My Commission Expires: _____

LESSEE

Witnesses as to Lessee:

Signature

Printed Name

Signature

Printed Name

LESSEE:

OHIO DEPARTMENT OF PUBLIC SAFETY

BY: _____

John Born, Director
Ohio Department of Public Safety

Date: _____

