



# STAFF REPORT

**Report To:** Board of Supervisors

**Meeting Date:** November 15, 2018

**Staff Contact:** Nicki Aaker (naaker@carson.org); Mary Jane Ostrander (mostrander@carson.org)

**Agenda Title:** For Possible Action: To approve a five-year lease agreement between Carson City and the Judy Lu Shallenberger Revocable Trust, and the Limb Family Trust, by their Trustees, for office space to house the Carson City Health and Human Services' Women, Infants, and Children program. This contract will have a fiscal impact of \$10,462.50 for the remainder of 2018 and 2019.

**Staff Summary:** The current Women, Infants, and Children (WIC) clinic is housed in the Douglas County Community Center and is managed by Carson City Health and Human Services (CCHHS). For years, the space has met the requirements established by the State of Nevada WIC program. The landlord recently requested the clinic be downsized. However, doing so would no longer meet the State requirements. The proposed new location meets the needs of the CCHHS - WIC program. Lease expenses will be reimbursed by the WIC grant.

**Agenda Action:** Formal Action/Motion

**Time Requested:** 10 minutes

---

## **Proposed Motion**

I move to approve the five-year lease agreement between Carson City and the Judy Lu Shallenberger Revocable Trust, and the Limb Family Trust, by their Trustees.

## **Board's Strategic Goal**

Efficient Government

## **Previous Action**

None

## **Background/Issues & Analysis**

The state WIC program requires that coverage be provided to Douglas County residents. CCHHS has been providing this service for ten years. For the last seven years, the increase in the number of clients in Douglas County warrants having a full-time WIC Specialist located within that county. Carson City has received a WIC grant for the past 12 years. The WIC grant provides funding for two full-time and one part-time WIC Specialists. This benefits the Carson City program by providing program infrastructure and coverage during vacations, and other employee absences.

Originally, there were two WIC offices and storage located within the community health clinic located in Douglas County. CCHHS managed both the WIC program and the community health clinic. Since January 2017, Douglas County assumed management of the community health clinic and has indicated the need for more space. WIC is now being asked to downsize into one office. WIC needs an office to meet with clients, an area for weighing and measuring children, and dedicated storage space because WIC is required to maintain three years of records on site. Promotional items from the State WIC office need to be stored and distributed, which

includes flyers, bottles, manual breast pumps, books, and various other items. WIC also needs storage to maintain electric breast pumps that can be loaned out to clients. The WIC program cannot function effectively from an 8 X11 square-foot office. The State of Nevada WIC Program Director approved leasing new office space on August 27, 2018.

**Applicable Statute, Code, Policy, Rule or Regulation**

None

**Financial Information**

Is there a fiscal impact?  Yes  No

If yes, account name/number: 275-6809-441-06-25

Is it currently budgeted?  Yes  No

Explanation of Fiscal Impact: CCCHHS notified the State of Nevada WIC Director (WIC grantor) of the need to relocate and that would cause rent and utility expenses, which are included in the current grant budget. All expenses will be covered by the WIC grant. The State of Nevada assured CCHHS that since it is required to have WIC services available in Douglas County, any further decreases will not affect the Douglas County WIC program.

**Alternatives**

Not approve Carson City entering into a five-year lease for office space for CCHHS' WIC program and provide direction.

**Board Action Taken:**

Motion: \_\_\_\_\_

1) \_\_\_\_\_

Aye/Nay

2) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Vote Recorded By)

## COMMERCIAL LEASE AGREEMENT

THIS COMMERCIAL LEASE ("Lease") is made and entered into this 15th day of November, 2018, notwithstanding an earlier or later date of execution hereof by and between the Judy Lu Shallenberger Revocable Trust, and the Limb Family Trust, by its Trustees (Collectively referred to in this agreement as "Lessor"), and the Consolidated Municipality of Carson City, a political subdivision of the State of Nevada for its Carson City Health and Human Services WIC Program ("Lessee").

### WITNESSETH:

WHEREAS, Lessor is the sole owner of the premises located at 1524 Hwy 395 North, Gardnerville, Nevada, 89410, also commonly identified as Douglas County, Nevada Assessor's Parcel No. 1320- 32-702-002, Nevada; and

WHEREAS, Lessee desires to occupy 912 square feet of the premises, identified as Suite 8 (the "Leased Premises") and is authorized to do so pursuant to NRS 244.275,

WHEREAS the parties desire by this Agreement to define their respective rights,

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

- 1. Leased Premises:** In consideration of the rents, terms and provisions of this Lease, Lessor demises and leases to Lessee, and Lessee rents from Lessor, approximately 912 square feet of those certain premises identified as the Leased Premises. Lessor and Lessee agree that the Leased Premises are part of Lessor's larger building; with Lessor's remaining units not a part of, or subject to, this Lease. Subject to Lessee's obligations as contained in this Lease, Lessee may use and occupy the Leased Premises including parking areas, sidewalks and such other facilities as may be designated from time to time by the Lessor; subject, however, to the terms and conditions of this Lease and to reasonable rules and regulations for the use thereof as prescribed from time to time by Lessor.
- 2. Commencement and Ending Date of Term:** Lessee shall have and hold the Leased Premises for and during sixty months (5 years) commencing November 15, 2018, and ending on November 14, 2023.
- 3. Option to Renew:** Provided Lessee is not in default of the performance of the requirements specified in this Lease, Lessee will have the option to renew this Lease for an additional term of sixty months (5 years) commencing at the expiration of the initial Lease term. Lessee may exercise its option by providing written notice to Lessor not less than sixty (60) days prior to the expiration of the term of this Lease. If notice is not provided by Lessee within the time specified, the option to renew this Lease shall lapse and be of no force and effect. Lessee agrees that should it exercise the option to renew, all of the terms and provisions of this Lease shall remain unchanged, subject to the adjustment of rent provisions as set forth in Paragraph 5 of this Lease.

**4. Monthly Rent:** Lessee shall pay to Lessor a base rent of \$775.00 per month due on the first day of each month for each month of the term of this Lease, subject to the terms and conditions in paragraph 6. Lessor shall have the right to increase the minimum rent to be paid by Lessee as provided in paragraph 5 below. All rents shall be paid to Lessor, Limb Family Trust, at P.O. Box 489, Gardnerville, Nevada, 89410, or at such other place or places as may be designated in writing with 30 days' notice by Lessor.

**5. Adjustment of Rent:** First month's rent, November 2018, will be pro-rated to \$387.50. Lessor and Lessee agree that there shall be no rent increases for the remainder of calendar year 2018 and 2019. On January 1, 2020, Lessor shall have the right to increase the minimum rent to be paid by Lessee for the remaining months of the initial term of this Lease, subject to a maximum increase of 3% per calendar year. If Lessor determines to increase such rent, Lessor shall notify Lessee at least 30 days prior to the effective date of such increase, in writing, specifying the rent to thereafter be paid by Lessee for the remaining months of the term of this Lease.

**6. Penalty for Late Payment:** In any case in which any payment required to be made hereunder is not received by the Lessor within five (5) days from its due date, Lessee shall be assessed and agrees to forthwith pay a late charge of \$35.00 plus interest at six percent (6%) per annum on the delinquent amount. Lessee further agrees to pay a penalty of \$100.00 for each dishonored bank check. Lessee will be considered to be in breach of the requirements of this Lease if rent is not paid by the due date and Lessor is entitled to make a written demand for any rent if not paid when due. If Lessee does not fully cure the breach by the sixth (6) day after its due date Lessor reserves the right to declare Lessee in default of this Lease and exercise all legal remedies available to Lessor.

**7. Security Deposit:** A security deposit of \$775.00 must be entrusted to Lessor before the Lessee takes occupancy of the premises. The purpose of the security deposit is to ensure the Lessee's compliance with the terms and provisions of this Lease, however, it may not be credited toward any month's rent.

**8. Use of Premises:** Lessee shall use the Leased Premises solely for use and operation of the Carson City Health and Human Services WIC program and related services, unless prior written consent is obtained from the Lessor for additional uses. Lessee shall not use the premises in any manner that will increase the risk covered by Lessor's insurance on the premises and result in raised insurance or cancellation of the insurance policy, even if such use may be in furtherance of Lessee's business purpose, without the consent of the Lessor, and in such case the City must agree to pay any increase. Lessee shall not keep, use or sell anything prohibited by any policy of fire or hazard insurance covering the premises, including Lessee's insurance, and shall comply with all requirements of the insurer applicable to the premises to keep in force and affect the liability insurance maintained by both Lessor and Lessee.

**9. Hazardous Materials:** Lessee will not use, store or dispose of any hazardous substances upon the premises, except the use and storage of such substances that are customarily used in Lessee's business and are in compliance with all environmental laws. Hazardous substance means any hazardous

waste, substance or toxic materials, including any petroleum based product, regulated under any environmental laws or regulations applicable to the property. Lessee will be responsible for the cost of removal of any toxic contamination caused by Lessee's use of the premises.

Lessee shall, at Lessee's own expense, comply with any current or hereafter enacted environmental cleanup responsibility laws ("Cleanup Laws") affecting Lessee's use and operation at the premises, if compliance with the Cleanup Laws becomes necessary do to any action or inaction by the Lessee. Lessee shall also provide all information within Lessee's control requested by Lessor or any governmental authorities for preparation of affidavits determining applicability of the Cleanup Laws to the premises, should Lessor or governmental authority so request. Lessee shall promptly execute such affidavits should the information contained therein be found by Lessee to be complete and accurate.

Lessee shall only bear that portion of the costs and responsibilities of compliance with the Cleanup Laws which are applicable to Lessee's discharge, if any, of hazardous substances or wastes at the premises during the Lease term or renewed Lease term.

**10. Insurance and Indemnification:** During the entire term of this Lease, Lessee shall keep in full force and effect a policy of general liability and property damage liability insurance with respect to the Leased Premises, and the business operated by Lessee, and any sublessees of Lessee (previously approved by Lessor as provided in paragraph 13) in the Leased Premises, in which the limits of general liability coverage shall be not less than \$ 1,000,000 in respect to death or injury of one person, and \$1,000,000 per accident and in which the property damage liability shall be not less than \$100,000. Liability insurance carried by the Lessor, if any, shall be considered excess and shall not contribute to any loss covered by Lessee's liability insurance or Lessee's obligations under this agreement.

Lessee shall give immediate notice to Lessor in case of fire or accidents in the Leased Premises, or in the building of which the premises are a part, of defects therein or in any fixtures or equipment. Lessee shall be solely responsible for risk of loss to all personal property, goods or merchandise of Lessee or Lessee's invitees or subtenants and of all Lessee's improvements to the premises.

Lessee shall indemnify Lessor and hold Lessor harmless from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury and/or damage to property arising from the occupancy or use by Lessee of the Leased Premises or any part thereof occasioned wholly or in part by any act or omission of Lessee, its agents, contractors, employees, servants, invitees, guests, sub-lessees or concessionaires. In case Lessor shall, without fault on its part, be made a party to any litigation commenced by or against Lessee, then Lessee shall defend and hold Lessor harmless and shall pay all costs, expenses and reasonable attorney's fees incurred or paid by Lessor in connection with such litigation.

**11. Maintenance, Utilities, Repairs, and Alterations:** As set forth above, Lessee acknowledges familiarity with the premises. Lessee agrees to conduct a thorough inspection of the premises and notify Lessor of any immediate or deferred maintenance issues within 30 days of the execution of this agreement. In the case of the HVAC system, repairs or deferred maintenance issues shall be reported within 180 days of execution of this agreement, due to temperature restrictions in operating the HVAC

system in cold weather. Lessor agrees to repair any immediate and deferred maintenance issues identified by inspections noted within 30 days of written notice to Lessor of required repair or maintenance issue, or a longer period should the parties agree in writing to extend the time for said repairs. After the immediate or deferred repairs are completed, Lessee shall assume responsibility at its own cost and expense, to maintain the premises in a good and safe condition, unless otherwise indicated in this agreement, including plate glass and electrical wiring installations, and Lessee shall be responsible for all costs of maintenance of the interior of the premises. Lessor will be required to maintain the roof, exterior walls, structural foundation, and plumbing, heating and air conditioning installations.

Lessee shall arrange for utility services required by Lessee, including, without limitation, gas, electricity, heat or other services to be delivered to the premises with Lessee listed with the utility company as the responsible party. Utility obligations shall be in Lessee's name, and it will be responsible for the payment of all service charges without recourse against Lessor.

Lessee shall not make or cause to be made any alterations, additions or improvements, or install or cause to be installed any trade fixtures, exterior signs, floor coverings, interior or exterior lighting, plumbing fixtures, shades or awnings, or any changes to the building, including paint, without first obtaining Lessor's prior written approval and consent.

All alterations, decorations, additions and improvements made by the Lessee, or made by the Lessor on the Lessee's request and behalf by agreement under this Lease, shall remain the property of the Lessee for the term of the Lease. Upon expiration of this Lease, or any renewed term, all alterations, decorations, additions and improvements made by the Lessee, or made by the Lessor on the Lessee's request and behalf by agreement under this Lease, shall become the property of the Lessor with the exception of trade fixtures of the Lessee. Lessee shall provide Lessor with a minimum of five (5) days' written notice of its request to construct any alteration, addition or improvement to the Leased Premises.

**12. Discharge of Liens:** Lessee shall promptly pay all contractors and materialmen with whom Lessee contracts, so as to minimize the possibility of a lien attaching to the Leased Premises. Should any such lien be made or filed, Lessee shall bond against or discharge the same within ten (10) days after written request by Lessor. Lessor may post notices of non-responsibility in the manner required by law or cause them to be effective.

**13. Assignment and Subleasing:** Lessee shall not assign, transfer, mortgage, pledge, hypothecate or encumber this Lease or any interest herein, and shall not sublet the premises or any part thereof, without the prior written consent of Lessor. Any attempt to do so without such consent being first had and obtained shall be wholly void and shall constitute a breach of this Lease. However, Lessee's choice to fill the space with another City tenant in the event the City chooses to relocate the WIC program will not constitute a breach of the Lease under this paragraph.

If Lessee complies with the following conditions, Lessor shall not unreasonably withhold its consent to the assignment of or subletting of the premises or any portion thereof or the assignment of this Lease: Lessee shall submit in writing to Lessor: (a) the name and legal composition of the proposed sublessee or assignee; (b) the nature of the business proposed to be carried on the premises; (c) the terms and provisions of the proposed assignment or sublease; (d) such reasonable financial information as Lessor may request concerning the proposed sublessee or assignee.

Consent by Lessor to any assignment or subletting by Lessee shall not relieve Lessee of any obligation to be performed by the Lessee under this Lease, whether occurring before or after such consent, assignment or subletting. The consent by Lessor to any assignment or subletting shall not relieve Lessee from the obligation to obtain Lessor's express written consent to any other assignment or subletting. The acceptance of rent by Lessor from any other person shall not be deemed to be a waiver by Lessor of any provision of this Lease or to be a consent to any assignment, subletting or other transfer. Consent to one assignment, subletting or other transfer shall not be deemed to be consent to any subsequent assignment, subletting or other transfer. Lessor shall have the right to assign, sell or otherwise hypothecate this Lease at any time during the term without the consent or notice of the Lessee.

**14. Right of Entry:** Except in cases of emergency where Lessor can enter without notice, Lessor or Lessor's agents shall have the right to enter the Leased Premises during business hours of operation or at other times arranged between Lessee and Lessor, to examine the same, to show them to prospective purchasers or lessees of the building, to make such repairs, alterations, improvements or additions as Lessor may deem necessary or desirable, and Lessor shall be allowed to take all materials into and upon said premises that may be required therefor, without the same constituting an eviction of Tenant in whole or in part, and the rent reserved shall in no wise abate while said repairs, alterations, improvements or additions are being made by reason of loss or interruption of business of Tenant or otherwise. Lessee will permit Lessor, at any time within sixty (60) days prior to the expiration of this Lease or any renewed term hereof, to place upon the premises any usual "For Lease" signs, and permit persons desiring to lease the premises to inspect the premises at reasonable times.

**15. Rules and Regulations:** Lessor and Lessee agree that Lessor may establish rules for use and occupancy of the premises. Lessor agrees to solicit Lessee's opinion regarding the proposed such rules. Lessee's failure to keep and observe said rules shall constitute a material breach of the terms of this Lease as if the terms were contained within the body of this Lease. Lessor shall provide 60 days' notice of Lessor's intent to adopt such rules. Upon receipt of notice of Lessor's intent to adopt new rules, Lessee must review said rules and respond to Lessor with 30 days if Lessee does not consent to said rules, and by doing so may elect at that time to terminate the Lease with 30 days' notice at no fault of the Lessee's.

**16. Lessor's Insurance:** Lessor agrees to maintain hazard insurance with coverages equal to one hundred percent (100%) replacement value of the building in which the Leased Premises are located throughout the term of the Lease and any renewed term. Lessor's insurance will not insure Lessee's personal property, leasehold improvements or trade fixtures; all of which shall be insured by Lessee.

Lessor will also maintain, during the term (or any renewed term) of this Lease, a policy for extended coverage fire insurance in an amount not less than one hundred percent (100%) of the full insurance value of the building in which the Leased Premises are located. Lessor shall obtain such insurance policies from a good and responsible insurance company doing business and properly qualified in the State of Nevada.

**17. Subrogation:** To the maximum extent permitted by insurance policies which may be owned by Lessor and Lessee, Lessor and Lessee waive any and all rights to subrogation against each other which might otherwise exist.

**18. Subordination:** Upon request of the Lessor, Lessee shall subordinate its rights hereunder to the lien of any mortgage or mortgages, or the lien resulting from any other method of financing or refinancing, now or hereafter in force against the land and/or buildings of which the Leased Premises are a part or against any buildings hereafter placed upon the land of which the Leased Premises are a part, and to all advances made or hereafter to be made upon the security thereof.

**19. Successors In Interest:** All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind their several respective heirs, executors, administrators, successors and assigns of said parties; and if there shall be more than one Lessee or sub lessee, they shall all be bound jointly and severally by the terms, covenants and agreements herein contained. No rights, however, shall inure to the benefit of any sublessee or assignee of Lessee unless the assignment to which such assignee has been approved by Lessor in writing as provided in this Lease.

**20. Waste or Nuisance:** Lessee shall not commit, or suffer to be committed, any waste upon the Leased Premises or any nuisance or other act or thing which may disturb the quiet enjoyment of any other person or lessee in the building in which the Leased Premises may be located.

**21. Governmental Regulations:** Lessee shall, at Lessee's sole cost and expense, comply with all of the requirements of all county, municipal, town, state, federal and other applicable governmental regulations now in force, or which may hereafter be in force pertaining to the premises, and shall faithfully observe in the use of the premises all municipal and county ordinances and state and federal statutes now in force or which may hereafter be in force. However, if the cost of compliance of future government regulations are unacceptable to the City, the City may terminate this Lease, and no claim or cause of action may be based upon said termination.

**22. Americans With Disabilities Act As Amended (ADAA):** Lessor has advised Lessee of the potential application of the ADAA. Lessee assumes responsibility for compliance with any provision of the ADAA only in the event that Lessee receives a building permit to remodel the Leased Premises and is required to comply with the ADAA by county, state or federal law or regulation. In addition to other matters, Lessee agrees to hold Lessor harmless from any requirement of the ADAA, together with any cost of compliance with the ADAA requirements, should Lessee be required to comply with ADAA. If the requirements of this section are triggered, and ADAA compliance is not readily achievable by the



Lessee, the Lease may be terminated with 30 days' written notice by Lessee and this termination will be considered a no fault termination.

**23. Destruction of Leased Premises:** If the Leased Premises is damaged by fire, the elements, unavoidable accident or other casualty, but are not rendered untenable in whole or in part, such partial destruction shall not render this Lease void or voidable, or terminate the Lease, or terminate Lessee's obligations as herein provided. If by reason of such occurrence the premises are partially destroyed during the Lease term, Lessor agrees to immediately undertake efforts to repair the premises when such repairs can be made in conformity with governmental laws and regulations. Said repairs shall commence within ten (10) days from the date of destruction, and shall be completed no later than 120 days from the date of destruction.

Should Lessor fail to undertake efforts to repair within ten (10) days from the date of destruction, then Lessee may elect to repair the property by serving notice on Lessor of Lessee's intention to repair the partially destroyed premises. If Lessee elects this option, it may undertake said repairs at Lessor's expense. Lessor shall reimburse Lessor by reducing or abating the rent on a prorated basis if all or part of the space becomes unusable for the time of repairs. The Lease shall remain in effect during the period of repair. If the repairs cannot be completed within 120 days, and Lessee does not elect to make repairs within said time, then either party shall have the option to terminate the Lease.

If the premises shall be rendered wholly untenable by reason of an occurrence not caused by Lessee, the Lessor may at its own expense cause such damage to be repaired, and the fixed rent meanwhile shall abate until the Leased Premises have been restored and rendered tenable, or either party hereto may at their election terminate this Lease and the tenancy hereby created giving the other party hereto within thirty (30) days following said occurrence written notice of the Lessor's or Lessee's election so to do and in the event of such termination, rent shall be prorated as of such date.

If the entirety of the Leased Premises is taken by eminent domain, condemnation, or purchase under threat thereof, except for a taking for temporary use, this Lease is automatically canceled as of the date of taking. If only a portion of the premises is taken, Lessor may terminate this Lease at its sole discretion. The option to terminate pursuant to a partial taking may be elected by lessor not more than six (6) months after the date of the taking by providing to Lessee written notice that the Lease will be terminated.

If there is a taking of the premises for temporary use, this Lease shall continue in full force and effect, and Lessee must continue to comply with Lessee's obligations under this Lease except to the extent compliance is rendered impossible or impracticable by reason of the taking. All compensation awarded on the condemnation or taking belongs to Lessor and Lessee shall have no claim thereto in law or equity. Lessee hereby expressly waives any interest in a condemnation proceeding or litigation.

**24. Breach:** It is a material breach of this agreement and Lessee will be determined to be in default if:

(a) any sums, or any parts thereof, are required to be paid by Lessee by reason of this Lease, and remain unpaid as indicated in paragraphs 4 and 6 of this agreement; or

(b) Lessee fails to comply with the terms of this agreement and the Lessor delivers written notice specifying in detail such failure on the part of the Lessee, and the Lessee fails to cure the failure to comply within ten (10) days of the service of the written notice.

If failure on the part of Lessee as described in subsection (b) can be cured but not completed within said ten (10) day period set forth because of strikes, shortages of material, acts of God, or other causes beyond the control of Lessee, no default shall be deemed to exist on the part of the Lessee so long as the Lessee in good faith within the specified ten (10) day period undertakes to cure the failure and faithfully and diligently proceeds thereafter to cure the same.

In no event shall this Lease, or the leasehold estate, become an asset of Lessee in bankruptcy, receivership or insolvency proceedings, or in judicial proceedings of any kind. If at any time during the term of this Lease the Lessee shall file a petition in bankruptcy or insolvency, or if a receiver or trustee is appointed to take charge of all or a portion of Lessee's property, or if the Lessee is adjudicated bankrupt or insolvent in any court, or if the Lessee makes an assignment for the benefit of creditors, or if the property or business of Lessee is seized under execution and be unreleased therefrom for ten (10) days, Lessor may, within a reasonable time after notice of any one or more of such events, at its option and without notice, terminate this Lease and may re-enter and re-take possession of the premises or property and any part thereof, with or without process of law. In any such event, neither the Lessee nor any person claiming through or under the Lessee shall be entitled to possession, but shall forthwith surrender the premises. Lessor, in addition to all other rights and remedies, may retain as liquidated damages, any advance rent, security or other deposits of the Lessee.

**25. Remedies on Default:** In the event of default of the Lessee, the default shall entitle Lessor to recover from Lessee damages he may incur by reason of such default, including the cost of recovering the Leased Premises, reasonable attorney's fees, the value of the remainder of the Lease at the time of termination, and any costs associated with the repair of the premises to restore it to a relettable condition.

In addition:

(a) Lessor shall be entitled to treat this Lease as surrendered and terminate it for default and take immediate possession by summary proceedings pursuant to NRS 40.253.

(b) The remedies herein expressly granted shall be in addition to and not by way of exclusion of each and every other legal and equitable remedy afforded the Lessor by law. The Lessor, in addition to all other rights and remedies, may retain as liquidated damages any advance rent, security or other deposits of Lessee. The exercise of any one right or remedy by the Lessor shall not in any way impair the Lessor's

right to exercise any other right or remedy thereafter until all the obligations of the Lessee have been fully performed.

It is mutually understood and agreed by and between the parties hereto that the various rights and remedies herein contained and reserved to the Lessor shall not be considered as exclusive of any other right or remedy, but the same shall be construed as cumulative, and shall be in addition to every other remedy now or hereafter existing at law, in equity, or by statute. No delay or omission of the Lessor to exercise any right or power arising from any omission, neglect or default of the Lessee shall impair any such right or power, or shall be construed as a waiver of any such default or an acquiescence therein. No waiver of the breach of any of the covenants of this Lease shall be construed or held to be a waiver of any other breach or waiver or acquiescence in or consent to any further or succeeding breach of the same covenant.

**26. Estoppel Certificate:** On ten (10) days' written notice from Lessor, Lessee will execute, acknowledge and deliver to Lessor a statement in writing certifying that this Lease is unmodified and in force and effect (or, if modified, stating the nature of such modification and certifying that this Lease as so modified is in full force and effect), the amount of any security deposit, and the date to which the rent and other charges are paid in advance, if any; and (2) acknowledging that there are not, to Lessee's knowledge, any uncured defaults on the part of Lessor, or specifying such defaults if any are claimed by Lessee. Any such statement may be conclusively relied upon by any prospective buyer or encumbrancer of the premises.

Lessee's failure to deliver such statement within such time will be a material breach of this Lease or will be conclusive upon Lessee as to the matters specified as: (1) that this Lease is in full force and effect without modification except as may be represented by Lessor; (2) that there are no uncured defaults in Lessor's performance; and (3) that not more than one month's rent has been paid in advance.

If Lessor desires to finance, refinance or sell the premises, or any part thereof, Lessee agrees to deliver to any lender or buyer designated by Lessor such financial statements of Lessee as may be reasonably required by such lender or buyer unless the statements are confidential by law. All financial statements will be received by the Lessor or the lender or buyer and will be maintained in the strictest confidence, and will only be used for the purposes set forth.

**27. Attorney's Fees:** Should any party hereto institute any legal action or proceeding of any kind, to enforce any provision hereof or for damages by reason of an alleged breach of any provision of this Agreement, the prevailing party shall be entitled to recover any amount as a reasonable attorney's fee. The cost of suit may be awarded as allowed by law. Such shall include any appeal.

**28. Waiver:** The waiver by Lessor of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant, or condition, or any subsequent breach of the same, or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by Lessor shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant or condition of this Lease, other than the failure of Lessee to pay the particular rental so accepted, regardless of Lessor's knowledge of such preceding breach at the time of acceptance of such

rent. No term, covenant or condition of this Lease shall be deemed to have been waived by Lessor unless such waiver is in writing signed by Lessor.

**29. Accord and Satisfaction:** No payment by Lessee or receipt by Lessor of a lesser amount than the monthly rent herein stipulated shall be deemed to be other than on account of the earliest stipulated rent, nor shall any endorsement or statement on a check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Lessor may accept such check or payment without prejudice to Lessor's right to recover the balance of such rent or pursue any other remedy in this Lease provided.

**30. Entire Agreement:** This Lease sets forth all the covenants, promises, agreements, conditions and understandings between Lessor and Lessee concerning the Leased Premises, and there are no covenants, promises, agreements, conditions or understandings either oral or written between them other than as are herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon Lessor or Lessee unless reduced to writing and signed by the parties to this agreement.

**31. Force Majeure:** In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Lease, then performance of such act shall be extended for a period equivalent to the period of such delay. The provisions of this Section shall not operate to excuse Lessee from prompt payment of rent, additional rent or any other payments required by the terms of this Lease.

**32. Notices:** Any notice, demand, request or other instrument which may be given under this Lease shall be delivered in person or sent by United States certified mail, postage prepaid, and shall be addressed:

**To Lessor:      The Limb Family Trust  
                      The Judy Lu Shallenberger Revocable Trust**  
Attn: Stacey Holst, Colleen Goulart and Joseph G. Limb, Trustees  
Attn: Judy Lu Shallenberger, Trustee  
P.O. Box 489  
Gardnerville, NV 89410

**To Lessee:      Carson City Health and Human Services**  
900 E. Long St.  
Carson City, NV 89706

**And:**  
**Carson City Manager, Nancy Paulson and  
Real Property Manager, Stephanie Hicks**  
201 N. Carson Street  
Carson City, Nevada, 89701

**33. Captions and Section Numbers:** The captions and section numbers appearing in this Lease are inserted only as a matter of convenience, and in no way define, limit, construe or described the scope or intent of such sections or articles of this Lease, nor in any way affect this Lease.

**34. Partial Invalidity:** If any term, covenant or condition of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

**35. Time is of the Essence:** Time is of the essence of this Lease, and in connection therewith, it is agreed by the parties that in the performance of any act or thing, the date named therein or calculated therefrom, as the date on or before which said act or thing must be performed, shall be controlling, and each party hereto specifically waives the benefit of the right to perform within a reasonable time after the date so named or so calculated, any law or statutes of the State of Nevada to the contrary notwithstanding.

**36. Applicable Law:** This Lease shall in all respects be governed by the laws of the State of Nevada as in effect at the time of this Lease or as modified from time to time. The parties further agree that the jurisdiction and venue of any legal proceedings regarding the enforcement or interpretation of this agreement shall be in Douglas County, State of Nevada.

**37. Multiple Counterparts:** This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, all of which together shall constitute one and the same instrument, but in providing this Agreement, it shall not be necessary to introduce any more than one of such counterparts.

**38. Termination of Lease by the City for Non-Appropriation:** All payments provided under this Lease are contingent upon the availability of the necessary public funding for payment of the Lease Sum, which may include various internal and external sources. In the event that Lessee does not acquire and appropriate the funding necessary to perform in accordance with the terms of this Lease, the Lease shall automatically terminate upon the Lessee's written notice to Lessor of such non-appropriation, and no claim or cause of action may be based upon any such non-appropriation.

**IN WITNESS WHEREOF, Lessor and Lessee/Tenant have signed and sealed this Lease to be effective from November 15, 2018, notwithstanding its date of execution by Lessor and Lessee.**

**LESSOR: The Limb Family Trust**

Date: \_\_\_\_\_ By \_\_\_\_\_ (Signature)  
Stacey Holst, Trustee

Date: \_\_\_\_\_ By \_\_\_\_\_ (Signature)  
Colleen Goulart, Trustee

**The Judy Lu Shallenberger Revocable Trust**

Date: \_\_\_\_\_ By \_\_\_\_\_ (Signature)

**LESSEE: The Consolidated Municipality of Carson City for the Carson City Health and Human Services WIC program.**

Date: \_\_\_\_\_ By: \_\_\_\_\_ (Signature)  
Mayor – Robert Crowell

**Attest:**

\_\_\_\_\_  
Susan Merriwether, Clerk-Recorder

**Approved as to Form:**

\_\_\_\_\_  
District Attorney