

AMENDED LEASE AGREEMENT
FOR MAINTENANCE OF
JUVENILE DETENTION FACILITY

This Amended Lease Agreement, made effective for the 1st day of December, 2011, between DANVILLE PUBLIC COMMISSION, Danville, Illinois, a municipal corporation of the State of Illinois (the "Commission"), as Lessor and the COUNTY OF VERMILION, ILLINOIS, a municipal corporation of the State of Illinois (the "County") as Lessee.

RECITALS:

WHEREAS, Commission has been duly organized under the provisions of the Public Building Commission Act of the State of Illinois, as amended (the "Act"), for the purpose of exercising the powers and authority prescribed by the provisions of the Act , and to acquire, construct or enlarge public improvements, building and facilities in the County; and

WHEREAS, The Board of Commissioner of the Commission (the "Board") did, by proper resolution, select, locate and designate property located wholly within the City of Danville, Vermilion County, Illinois, the same being the county seat of the County (the "County Seat"), as a site on which to undertake improvements, names a juvenile detention center (the "Project"), which site is more fully described in a certain Lease Agreement dated September 1,1999 (the "1999 Lease"); and

WHEREAS, the County and the Commission previously entered into a Lease Agreement, dated as of September 1, 1999, and amended on September 1, 2006 (the "1999 Lease), providing for the Lease of the 1999 Leased Property by the Commission to the County and the payment by the County to the Commission of rentals for the use and occupancy for the use of the 1999 Leased Property; and

WHEREAS, under the provisions of the 1999 Lease, the Commission is solely responsible for the maintenance, operations, upkeep and safekeeping of said site, being the Juvenile Detention Center and the Commission and the County are directed to enter into one or more separate agreements regarding such maintenance and upkeep; and

WHEREAS, the Commission and County previously entered into an Intergovernmental Agreement for the maintenance of the Juvenile Detention Center on December 1, 2002 (the "Intergovernmental Agreement"); and

WHEREAS, it is the intention of both the Commission and the County to terminate the Intergovernmental Agreement dated December 1, 2002 and to redefine the Commission's responsibilities relative to the maintenance, operations, upkeep and safekeeping of said Center and to further increase the annual rental payments; and

WHEREAS, Commission, pursuant to the terms of Bond Resolution adopted September 20, 1999, and later amended in 2001, is required to apply the rents received from the County or a portion thereof in reduction of or payment for Five Million Dollar Public Building Revenue Bonds, Series 1999, (now 2001 due to amendment) and for other designated purposes as more fully described in said Bond Resolution; and

WHEREAS, the County has requested the Commission, its staff, employees, and agents to pay certain costs incurred in the operation of the Juvenile Detention Center, including maintaining, operating, servicing, and repairing the mechanical systems in the Center, cleaning and keeping such Center in a sanitary condition, making Bond payments on the outstanding 2001 Bonds, ~~paying liability insurance~~ and health insurance for employees of the Center, establishing and maintaining a capital improvement fund and providing such administrative services as

may be necessary in the day to day functioning of said Center; and

WHEREAS, the Commission is willing to undertake the duties and payments as more specifically described in the preceding paragraph consistent with the terms and provisions as more fully provided within this Amended Lease Agreement.

NOW, THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

SECTION I. LEASE OF PREMISE

A. The term of this Agreement shall be for an initial period of eight (8) years commencing with December 1, 2011 and ending on the later of the payment of the 2001 Bonds, or November 30, 2019. Either party shall have the exclusive right to terminate this Agreement without cause upon sixty days written notice to the other, in which this Agreement shall terminate at the end of the sixty-day notice period. Upon termination of this Agreement, the Commission shall submit final charges which may be due and shall furnish to the County all maintenance records, service contracts and other information utilized by the Commission in undertaking the responsibilities provided in this Agreement.

B. The County covenants and agrees, on or before December 1, 2011, and on or before December 1 of each of the years thereafter for and during the term of this Agreement, to pay to the Commission for the use and occupancy of the Juvenile Detention Facility the following annual rentals:

<u>Lease Year</u>	<u>Amount of Rent</u>
December 1, 2011- November 30, 2012	\$1,994,149.00
December 1, 2012-November 30, 2013	\$2,028,938.00
December 1, 2013- November 30, 2014	\$2,064,694.00

December 1, 2014- November 30, 2015	\$2,101,457.00
December 1, 2015-November 30, 2016	\$2,139,269.00
December 1, 2016-November 30, 2017	
December 1, 2017-November 30, 2018	
December 1, 2018-November 30, 2019	

The payments shall be made on a quarterly basis with the first payment to be made December 1 of each year during the term of this lease with subsequent payments each 3 months thereafter. As part of the annual rentals provided above, the Commission agrees to pay the 2001 Bond payment in the amount of \$300,000.00, pay the sum of \$20,000.00 to a Capitol Improvement Fund (as provided elsewhere in this Agreement), to pay health insurance for the employees of the Juvenile Detention Center and to make certain other payments are reasonably estimated from time to time and as provided elsewhere in this Agreement.

C. Upon Execution of this Amended Lease Agreement, the County shall provide by resolution for the levy and collection of a direct annual tax sufficient to pay the annual rent payable under this Agreement, as of when such rents becomes due and payable and shall immediately after file in the Office of the County Clerk of Vermilion County, Illinois, as tax extension officer of Vermilion County, Illinois, a copy of this Agreement as executed by the parties hereto, certify to by the Secretary of the Commission, the County Clerk of the County Board, as the recording officer of such Board, together with a properly certified copy of such Resolution as adopted levying taxes for the payment of annual rents under the terms of this Agreement, which certified copy shall constitute the authority of the County Clerk of Vermilion

County, Illinois, as the tax extension officer of said County, to extend for collection the taxes annual necessary to pay the annual rents under the terms of this Agreement as and when such rent becomes due and payable, such taxes to be in addition to and in excess of all other taxes now or hereafter authorized to be levied by said County. The funds realized by the County for such tax levy shall not be disbursed for any purpose other than the payment of the rentals reserved in this Agreement until the annual rent has been paid as provided for at 50 ILCS 20/18. After the annual rent has been paid, such funds may be used for other public safety purposes. In addition, unless earlier complied with, and the parties acknowledge that the public hearing herein referenced has been complied with, the County Clerk on behalf of the County Board shall cause a public hearing to be held on the Agreement in which provision is made for all persons residing or owning property in said County so that such residents shall have an opportunity to be heard orally, in writing, or both. Notice of the time and place of the hearing shall be placed at least once, at least fifteen (15) days before the hearing, in a newspaper published or having general circulation within the County of Vermilion. This Notice shall be in the form described under Section 18 of the Public Building Commission Act, 50 ILCS 20/18. No taxes shall be extended for this Agreement unless such hearing has been heard.

D. On or before One Hundred Twenty (120) days preceding the first day of each fiscal year of the Commission during the term of this Agreement, the Commission shall prepare and adopt an annual budget, set forth in reasonable detail, its estimated expenses for the operation and maintenance of the Juvenile Detention Center, which shall necessarily include the \$300,000.00 annual bond payment for the ensuing fiscal year. Said operation and maintenance expenses shall include provision for the various items set forth in this Agreement in detail.

E. Immediately upon the adoption of said budget, the Commission shall file with the County a certified copy thereof.

If the amount of each expense budget exceeds the annual rentals provided for under the terms of this Agreement, the following designated procedure may be used by the Commission in paying the costs of operation and maintenance of the Juvenile Detention Center during the ensuing year, namely:

(1) As soon as it becomes apparent the budget may be exceeded, the Commission shall promptly notify County of such fact, together with an estimate as to when the budget may be exceeded and a statement of the reasons the budget will be exceeded.

(2) The Commission may continue to provide all of the services upon the frequencies specified herein if the County by proper action of their respective governing body, shall appropriate and agree to pay to the Commission during the ensuing lease year as additional rental, over and above the rental for such year specified above, a sum equal to the difference between the cost of operation and maintenance set forth in the annual budget for such year and the annual rentals heretofore provided.

(3) If, on or before thirty (30) days prior to the beginning of any fiscal year, it appears that additional monies will not be available to the Commission to offset the apparent deficiency from additional rentals payable by the County, then the Commission shall reduce its budget of operation and maintenance expenses to a sum not to exceed the rentals set forth in paragraph B above.

F. If in any fiscal year the rental payments herein provided for are insufficient to provide the funds necessary to perform the services and maintain and operate the Juvenile Detention Center to the extent provided in the budget adopted for said fiscal year, failure by the

Commission to maintain and operate the Juvenile Detention Center to the extent provided for in said budget shall not constitute a default under the terms of this Agreement, but in such case the Commission, after consultation with the County, shall provide in its sole discretion such essential services as can be had by the use of such funds as may be available for that purpose.

G. If in any fiscal year the rental payments herein provided, and any interest earned by Commission from investment thereof, are in excess of the funds necessary to perform the services and maintain and operate the Juvenile Detention Center to the extent provided in the budget adopted for the previous fiscal year, said amount shall be certified to the County by the Commission, and the County, as shall specify by resolution of their governing body certified to the Commission, either (1) have refund and payment of said amounts by Commission, or (2) be permitted to abate their respective tax levies by said amount proportionately, but in no event shall any such abatement be made or permitted by the County Clerk unless a written certificate of the resolution of the Commission providing therefor shall be filed with him by the Commission.

H. The Commission shall, following each regular, monthly meeting of its Board of Commissioners, provide County with a report of receipts and disbursements made from the rentals paid hereunder pursuant to the operation and maintenance of the Juvenile Detention Center and premises herein leased.

SECTION II. OPERATION AND MAINTENANCE.

A. The Commission shall be responsible for the maintenance, operation, upkeep and repair of the entire Juvenile Detention Center, including parking lots, driveways, sidewalks and landscaping, and shall be reimbursed therefor in accordance with the rental terms of this Agreement. The cost of operation, maintenance, upkeep and repair shall be deemed to include, but not to the exclusion of other items not herein specified, elevator service, lights, water, electricity, heat, air-conditioning, janitor, care taking and custodial services, repairs to the interior

or the exterior, whether structural or nonstructural, and the following specific operation:

(1) Correctional officers and facilities, and

(2) Security officers and facilities,

the latter two of which shall be in accordance with the terms and provisions of a certain, separate intergovernmental agreement between the parties hereto, made as of even date herewith.

B. Administrative expenses of the Commission which will be apportioned to the Juvenile Detention Center and Public Safety Building, including salaries and wages of regular and extra employees engaged in the maintenance, upkeep and repair of the demised premises and expenses of management, audit, attorneys' fees which can be apportioned in accordance with accepted accounting principles.

C. The Commission shall have access into, through and upon the demised premises, at any and all reasonable times, for the purpose of operation, maintenance, decoration, repair, upkeep and inspection, provided that such access, except in case of emergency, shall be pursuant to a reasonable notice and to be made at reasonable times so as to minimize any interference with the uses being made by the County and in its use of the demised premises.

D. The Commission shall, from the annual proceeds of rent received, set aside and maintain an account for the purpose of making either capital improvements upon the premises or repairs to the premises, said account to be designated as the "Capital Improvements and Replacement Account." The total amount to be so set aside and deposited into said account each lease year shall equal the sum of Twenty Thousand Dollars (\$20,000.00). Expenditures from this account shall be made by the Commission upon request and specification of the County, evidenced by resolutions of its governing body; provided, however, that the Commission shall approve such expenditures (such approval not to be withheld except for good cause); and, provided further, that such resolution of the governing body of the County shall not be required

as a condition precedent to the making of such expenditures by the Commission in case of an emergency. The total amount paid and maintained in this fund shall not accumulate and exceed the sum of One Hundred Thousand Dollars (\$100,000.00).

E. County shall be solely responsible for promulgating rules and regulations for, and enforcing and maintaining the security of, the Juvenile Detention Center and Commission shall have no duty or responsibility therefor, except to comply with such rules and regulations not inconsistent with the terms and provisions of the Agreement, and except for the performance of its duties pursuant to SECTION II hereof.

SECTION III. USE OF PREMISES.

A. The County may install in the space occupied by them in accordance with the terms of this Agreement, such portable equipment, fixtures or furniture as it may desire, but shall not make any alterations or additions, other than partitions and non-load bearing walls, to the Juvenile Detention Center which constitutes a part of the demised premises without the written consent of the Commission. The County shall not place a load upon any floor of the Juvenile Detention Center which constitutes a part of the demised premises exceeding the floor load per square foot area which such floor was designed to carry. The Commission reserves the right to prescribe safe floor loading regulations with respect to the weight and position of all equipment and other objects which must be placed so as to distribute the weight.

B. The County covenants and agrees that they, will not permit the use of the demised premises in any manner different from herein contemplated which will increase the applicable rates of insurance then in effect thereon, or for any purpose which will result in a violation of State or Federal laws, rules or regulations, or ordinances or resolutions of the County of Vermilion, Illinois, now or hereafter in force and applicable thereto. The County further covenants and agrees that they shall save the Commission harmless and indemnified at all times

against any loss, cost, damage or expense by reason of any accident, loss, casualty or damage resulting to any person or property through the use, misuse or nonuse of said premises or by reason of any act or thing done or not done on, in or about said demised premises or in relation thereto attributable to the use and occupancy of the demised premises by the County and their agents, servants or employees; provided, however, that the foregoing provision shall not apply to any act or thing done or not done on, in or about said demised premises or in relation hereto by the Commission and its respective agents, servants or employees which are the sole cause of a loss, casualty or damage to any person or property in or about the demised premises. The County further covenants and agrees that they will promptly make any and all changes and alterations in and about the demised premises, which during the term of this Agreement may be required to be made at any time by reason of resolutions of the County of Vermilion, Illinois, or State or Federal laws; and will save the Commission harmless and free from any and all costs or damage in respect thereto. If the County shall fail to make such necessary changes and alterations to the demised premises, the Commission may enter upon the demised premises and undertake to make such changes and alterations and the County agrees to promptly reimburse the Commission therefor if requested to do so.

C. The leasehold rights, duties and obligations of the County, as specified in this Agreement, shall not be assigned in whole or in part during the term of this Agreement, except that the County may sublease all or any part of the space leased by them if the Commission agrees to such sublease and if such sublease is permitted by law, provided, however, that in the event of any such sublease of all or any part of such space, there shall be no reduction of the amount of the rental payments required to be made to the Commission by the County and as herein provided. The Commission further agrees that upon the receipt of a request by the County to sublease all or any part of the demised premises, its consent to such sublease will not be

unreasonably withheld.

SECTION V. INSURANCE.

A. The County shall carry or cause to be carried insurance on said demised premises with a responsible insurance company or companies qualified to do business in the State of Illinois and to insure the risks thereof in an amount not less than the full insurable value of said demised premises, including the equipment therein, but excluding the value of the property referred to in subsection (d) hereof. The full insurable value is hereby defined to mean the actual replacement costs as shall be determined from time to time (but in any event not more than once in any fiscal year) by an independent architect, appraiser or appraisal company as may be employed for such purpose by the County. The County shall have the sole right to receive the proceeds of such insurance and to receipt for and settle claims thereunder.

B. In case of loss, the County shall apply the proceeds of said insurance (but only to the extent of such insurance proceeds and any other monies available to the County for such purpose) to the repair, replacing and restoration of the Juvenile Detention Center to its former condition, or in such other manner as will enable said Juvenile Detention Center as so repaired and restored to provide such use and service by and for the County, as was provided prior to such loss. There shall be no abatement of the annual rentals required to be paid by the County under the terms of this Agreement during the process of such reconstruction, replacement, restoration or repairs.

C. The County shall carry or cause to be carried general public liability insurance in an adequate amount as determined by both the County and the Commission, against loss on account of bodily injury, death or property damage occurring in, on or about the property included in the demised premises or by elevator or escalator therein and upon, in or about the adjoining sidewalks, parkways, passageways and parking area which are a part of the demised

premises and against loss on account of bodily injury, death or property damage to any persons or property which may be imposed by reason of the ownership of the Juvenile Detention Center or resulting from any act of omission or commission on the part of the Commission, its agents, officers and employees, in connection with the reconstruction, maintenance, operation, use and repair of such Juvenile Detention Center and Site or the furnishing of any service to the County.

D. It will be the responsibility of the County to carry insurance of any kind on furniture or furnishings or any fixtures, equipment, improvements or appurtenances belonging to, installed by or removable by the County under the provisions of this Agreement and the Commission shall not be obligated to repair any damage thereto resulting from fire or other casualty or to replace the same if destroyed by fire or other casualty.

SECTION VI. MISCELLANEOUS.

A. This Agreement shall inure to the benefit of and be binding upon the respective parties hereto, their successors and assigns.

B. All officers and employees of the Commission authorized to receive or retain the custody of money or to sign vouchers, checks, warrants or evidences of indebtedness on behalf of the Commission, shall be bonded for the faithful performance of their duties and the faithful accounting of all monies and other property that may come into their hands, in an amount to be fixed and in a form to be approved by the Commission.

C. The Commission will maintain and keep proper books of records and accounts in which shall be made full and correct entries of all transactions relating to the demised premises. Not later than ninety (90) days after the close of each fiscal year, the Commission will cause an audit of its books, records and accounts for the preceding fiscal year to be made by an independent public accountant and will make such audit available for inspection to the County. Such books, records and accounts shall be open for inspection to the County at all reasonable

times.

D. No portion of the funds paid by the County to said Commission shall be used for any purpose inconsistent with the conditions of this Agreement.

E. Any notice or any demand required or permitted by this Agreement shall be served in the following manner:

(1) By delivering a duly executed copy thereof to the Chairman or to the Secretary of the Commission, if the Commission is served; or to the County Clerk of the County Board of Vermilion County, Illinois, if the County is being served; or

(2) By depositing a duly executed copy thereof in the United States Mails, by registered or certified mail, duly addressed to the Chairman or Secretary of the Commission, or to the County Clerk of the County Board of Vermilion County, Illinois, if the County is being served, as the case may be.

Service for such mailing shall be deemed sufficient if addressed to the Commission, or to the County, as the case may be, at such address as the Commission or the County may have last furnished the other in writing and until a different address shall be so furnished, by mailing the same as aforesaid, addressed, as the case may be, as follows:

Philip Morgan, Chairman or his successor
Danville Public Building Commission,
Vermilion County
2 East South Street
Danville, IL 61832

Lynn Foster, County Clerk
County Board, Vermilion County
6 North Vermilion Street
Danville, IL 61832

F. In the event any covenant, phrase, clause, paragraph, section, condition or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such covenant, phrase, clause, paragraph, section, condition or provision shall in no way affect

any other covenant, phrase, clause, paragraph, section, condition or provision herein contained.

IN WITNESS WHEREOF, the DANVILLE PUBLIC BUILDING COMMISSION, of Vermilion County, Illinois, by its Board of Commissioners, has caused the corporate seal of said Commission to be affixed hereto and this Agreement to be signed in its name by its Chairman and to be attested by the Secretary of said Commission, and the COUNTY OF VERMILION, ILLINOIS, by authority of its County Board, have caused the corporate seal of said respective bodies to be affixed hereto and the Agreement to be signed in their respective names by the Chairman of the County Board and to be attested by the County Clerk, Vermilion County, Illinois, as of the day and year first above written, but actually executed on the dates of the respective acknowledgments attached hereto. This Agreement has been executed in several counterparts, any one of which shall be considered as an original.

DANVILLE PUBLIC BUILDING COMMISSION
OF VERMILION COUNTY, ILLINOIS

(AFFIX CORPORATE SEAL)

By _____
Chairman

ATTEST:

Secretary

COUNTY OF VERMILION, ILLINOIS

(AFFIX COUNTY SEAL)

By _____
Chairman, County Board

ATTEST:

County Clerk, Vermilion
County, Illinois

STATE OF ILLINOIS)
) SS.
COUNTY OF VERMILION)

I, the undersigned, a Notary Public in and for said County and State, DO HEREBY CERTIFY that JAMES MCMAHON and LYNN FOSTER personally known to me to be respectively the Chairman of the County Board of the County of Vermilion, Illinois, and the County Clerk of said County, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as Chairman of the County Board of the County of Vermilion, Illinois, and as County Clerk of said County, they signed and delivered the said instrument as their free and voluntary act, and as the free and voluntary act of the said County of Vermilion, Illinois, pursuant to the authority and direction of the County Board of said County, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial seal this _____ day of October, 2011.

Notary

(Notarial Seal)

STATE OF ILLINOIS)
) SS.
COUNTY OF VERMILION)

I, the undersigned, a Notary Public in and for said County and State, DO HEREBY CERTIFY that PHILIP MORGAN and JIM MILLER, personally known to me to be respectively the Chairman and the Secretary of the Danville Public Building Commission, Vermilion County, Illinois, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such Chairman and Secretary, they signed and delivered the said instrument and caused the seal of the Danville Public Building Commission, Vermilion County, Illinois, to be thereto affixed as their free and voluntary act, and as the free and voluntary act of the Danville Public Building Commission, Vermilion County, Illinois, pursuant to authority and direction of the Board of Commissioners of the Danville Public Building Commission, Vermilion County, Illinois, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial seal this ____ day of October, 2011

Notary

(Notarial Seal)