

BOOK 311 PAGE 875

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**LEASE AGREEMENT**

**between**

**THE SHELBY COUNTY PUBLIC BUILDING AUTHORITY**

**and**

**SHELBY COUNTY, ALABAMA**

**Dated as of September 1, 1990**

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**Relating to**

**\$4,800,000**

**THE SHELBY COUNTY PUBLIC BUILDING AUTHORITY**

**Revenue Warrants  
(Shelby County Courthouse Project)  
Series 1990**

**Dated September 1, 1990**

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**This instrument prepared by  
MARK EZELL  
360 AmSouth Court Tower  
Birmingham, Alabama 35203**

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to  
**LEASE AGREEMENT**  
between  
**THE SHELBY COUNTY PUBLIC  
BUILDING AUTHORITY**  
and  
**SHELBY COUNTY, ALABAMA**

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\*This Table of Contents appears here for reference only and should not be considered a part of this Lease Agreement.

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Exhibit A

**LEASE AGREEMENT** between **THE SHELBY COUNTY PUBLIC BUILDING AUTHORITY**, a public corporation under the laws of the State of Alabama, party of the first part (herein called the "Authority"), and **SHELBY COUNTY, ALABAMA**, a political subdivision of the State of Alabama, party of the second part (herein called the "County").

## **RECITALS**

Pursuant to this Lease Agreement the Authority has undertaken to acquire, expand, improve and equip the Project hereinafter referred to for use as a courthouse building in and for the County. In order to finance the costs of acquiring, expanding, improving and equipping the said Project on a long-term basis, the Authority will, simultaneously with the execution and delivery of this Lease Agreement, issue the Series 1990 Warrants hereinafter described under a Mortgage and Trust Indenture dated as of September 1, 1990 (herein called the "Indenture"), between the Authority and AmSouth Bank N.A., Birmingham, Alabama, as Trustee (herein called the "Trustee"). In order to secure the payment of the principal of and the interest and premium (if any) on the said Series 1990 Warrants, the Authority will pledge the revenues from the Project and will pledge and assign thereunder the interest of the Authority in this Lease Agreement (other than certain expense payment and indemnification rights and certain rights which are herein expressly provided to be exercised by the Authority), including particularly the "Basic Rent" payable hereunder by the County for the use of said Project.

**NOW, THEREFORE, THIS LEASE AGREEMENT**

**WITNESSETH:**

That in consideration of the respective representations, warranties and agreements herein contained, the parties hereto agree as follows:

## **ARTICLE I**

### **DEFINITIONS AND USE OF PHRASES**

**Section 1.1 Definitions.** Unless the context clearly indicates a different meaning, the following words and phrases, as used herein, shall have the following respective meanings:

"Act" means the statutes codified as Code of Alabama of 1975, Title 11, Chapter 15, as the same shall be hereafter otherwise amended and supplemented and at the time in force and effect.

**"Additional Warrants"** means warrants of the Authority authorized in Article VIII of the Indenture to be issued thereunder and secured thereby on a parity of lien and pledge with the Series 1990 Warrants.

**"Authority"** means the party of the first part hereto and, subject to the provisions of Section 11.6 of the Indenture, includes its successors and assigns and any public corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party.

**"Authorized Authority Representative"** means the person or persons at the time designated as such by written certificate furnished to the County and the Trustee, containing the specimen signature or signatures of such person or persons and signed on behalf of the Authority by its President or Vice President.

**"Basic Rent"** means (i) the moneys payable by the County pursuant to the provisions of Section 5.3 hereof, (ii) any other moneys payable by the County pursuant to the Lease to provide for the payment of the principal of and the interest and premium (if any) on the Series 1990 Warrants (other than the aforesaid moneys payable pursuant to Section 5.3 hereof), and (iii) any other moneys payable by the County pursuant to the Lease that are therein referred to as Basic Rent.

**"Book Value"**, when used with reference to any tangible property (whether or not then constituting part of the Project), means the cost thereof less accumulated depreciation calculated in accordance with generally accepted accounting principles, as said cost and depreciation are determined by the County.

**"Code"** means the Internal Revenue Code of 1986, as amended and at the time in force and effect.

**"Commission"** means the Shelby County Commission, the governing body of the County.

**"Completion Date"** means the date on which completion of the Project Development Work and the satisfaction of the other conditions referred to in Section 4.6 hereof are certified to the Trustee and the Authority in accordance with the provisions of said Section 4.6.

**"Construction Fund"** means the Shelby County Courthouse Project Construction Fund created in Section 9.2 of the Indenture.

**"Counsel"** means any attorney duly admitted to practice before the highest court of any state of the United States of America or the District of Columbia (including any officer or full-time employee of the Authority or the County who is so admitted to practice), it being understood that "Counsel" may also mean a firm of attorneys all of whose members are so admitted to practice.

**"County"** means Shelby County, a political subdivision of the State of Alabama, and includes its successors and assigns.

**"Directors"** means the Board of Directors of the Authority.

**"Event of Default"** means an "Event of Default" as specified in Section 10.1 hereof.

**"Fiscal Year"** means the period beginning on each October 1 and ending on the then next succeeding September 30, or any other fiscal year of the County that shall be established by the laws of the State of Alabama.

**"Holder"** means the person in whose name any Warrant is registered on the registry books of the Trustee pertaining to the Warrants.

**"Indenture"** means the Mortgage and Trust Indenture between the Authority and AmSouth Bank N.A., Birmingham, Alabama, as Trustee, dated as of September 1, 1990, under which (i) the Series 1990 Warrants are authorized to be issued, and (ii) the Authority's interest in this Lease Agreement and the revenues and receipts to be derived by the Authority from the Project are to be assigned, and the Project is to be mortgaged, as security for payment of the principal of and the interest and premium (if any) on the Series 1990 Warrants, as said Mortgage and Trust Indenture now exists and as it may hereafter be supplemented and amended.

**"Indenture Indebtedness"** means all indebtedness of the Authority at any time secured by the Indenture, including, without limitation (i) all principal of and interest and premium (if any) on the Warrants and (ii) all reasonable and proper fees, charges and disbursements of the Trustee for services performed under the Indenture.

**"Independent Appraiser"** means a person not regularly employed or retained by the Authority or the County and regularly engaged in the business of appraising real or personal property (as appropriate to the property being appraised or valued) and otherwise competent, in the opinion of the Trustee, to determine the value of the property in question.

**"Independent Architect"** means an architect or architectural firm qualified to practice the profession of architecture under the laws of Alabama and not employed full time by the Authority or the County.

**"Independent Counsel"**, when used to describe Counsel who is an individual attorney, means that he is not an officer or full-time employee of the Authority or the County and, when used to describe Counsel consisting of a firm of attorneys, means that none of the members of such firm is an officer or full-time employee of the Authority or the County.

**"Independent Engineer"** means an engineer or engineering firm licensed to engage in the independent practice of engineering under the laws of the State of Alabama and not regularly employed or retained by the Authority or the County.

**"Lease" or "this Lease Agreement"** means this Lease Agreement as it now exists and as it may from time to time be modified, supplemented or amended as permitted by Article XV of the Indenture.

**"Lease Term"** means the term during which this Lease Agreement shall be in force, being the Primary Term and each Renewal Term.

**"Net Condemnation Award"** means the total amount received as compensation for any part of the Project taken under the exercise of the power of eminent domain, plus damages to any part of the Project not taken (including any compensation referable to the interest of the County in the part of the Project taken and as damages to the interest of the County in any part thereof not taken, but not including any compensation belonging to the County pursuant to the provisions of Section 7.4 hereof), which compensation shall consist of (i) all awards received pursuant to administrative or judicial proceedings conducted in connection with the exercise of the power of eminent domain, plus (ii) all amounts received as the result of any settlement of compensation claims (whether in whole or in part) negotiated with the condemning authority, less (iii) all attorneys' fees and other expenses incurred in connection with the receipt of such compensation, including attorneys' fees and expenses relating to such administrative or judicial proceedings and to such settlement negotiations (other than any that may be paid directly by the County).

**"Net Insurance Proceeds"** means the total insurance proceeds recovered by the Authority, the County and the Trustee on account of any damage to or destruction of the Project or any part thereof, less all expenses (including attorneys' fees and any extraordinary expenses of the Trustee) incurred in the collection of such proceeds.

**"Official Statement"** means the Official Statement of the Authority dated September 7, 1990, respecting the Series 1990 Warrants.

**"Permitted Encumbrances"** means, as of any particular time, any of the following: (i) the Lease and the Indenture; (ii) liens imposed by law, such as mechanics', workmen's, materialmen's, carriers' and other like liens arising in the ordinary course of business, securing obligations which are not overdue or which are being contested in good faith and by appropriate proceedings; (iii) liens for property taxes not delinquent or for taxes which are being contested in good faith and by appropriate proceedings; and (iv) utility, access, drainage and other easements and rights-of-way, mineral rights, covenants running with the land, zoning restrictions, environmental regulations and other restrictions and encumbrances affecting the use of real property, or minor irregularities in the title to real property, none of the foregoing of which, individually or in the aggregate, materially impair the title of the Authority to any part of the Project or the use of the Project for the purpose for which it was acquired or is held by the Authority.

**"Person"** means any natural person, corporation, partnership, trust, government or governmental body, political subdivision or other legal entity as in the context may be possible or appropriate.

**"Primary Term"** means the initial term of the Lease, being the period from the execution and delivery of the Lease until September 30, 1990.

**"Prime Rate"** means at any time the rate of interest which has been most recently announced by the Trustee as its prime lending rate.

**"Project"** means the Project Site, the Project Building and the Project Equipment, as they may at any time exist, and all other property and rights of every kind that are or become subject to the demise of the Lease.

**"Project Building"** means the county courthouse building as well as all related improvements which are to be expanded and improved on the Project Site, as the said county courthouse building and related improvements may at any time exist.

**"Project Development Costs"** means the following: (i) all costs and expenses incurred in connection with the planning, development and design of the expansion and improvement of the Project Building, including the costs of preliminary investigations, surveys, estimates and plans and specifications; (ii) all costs of acquiring, preparing and improving the Project Site; (iii) all costs and expenses of expanding and improving the Project Building, including the cost to the County of supervising construction, payments to contractors and materialmen and fees for professional or other specialized services; (iv) all costs and expenses of acquiring the Project Equipment and of installing the same in or around the Project Building or elsewhere on the Project Site; (v) the costs of contract bonds and of insurance of all kinds which may be necessary or desirable in connection with the Project Development Work and which are not paid by any contractor or otherwise provided for; (vi) all expenses incurred in connection with the issuance and sale of the Series 1990 Warrants, including (without limitation) all legal, accounting, financial, underwriting, printing, recording and filing fees and expenses and the initial charge of the Trustee; (vii) interest on moneys borrowed by the County to pay any Project Development Costs; (viii) all other costs which the Authority has heretofore paid, under the terms of any contract or contracts, in connection with the Project Development Work; and (ix) the reimbursement to the County of all amounts paid directly by the County in respect of any of the aforesaid costs and expenses and of all amounts advanced by the County to the Authority for the payment of such costs and expenses.

**"Project Development Work"** means (i) the acquisition of the Project Site, as well as the preparation and improvement of the Project Site to the extent that the County deems necessary or desirable in connection with the expansion and improvement of the Project Building, (ii) the planning, design and construction of an addition and other improvements to the Project Building in accordance with the provisions hereof and (iii) the planning, design and acquisition of the Project Equipment and the installation thereof in or around the Project Building or elsewhere on the Project Site, all in accordance with the provisions hereof.

**"Project Equipment"** means (i) all items (whether or not fixtures) of equipment, furniture, furnishings or other personal property the costs of which, in whole or in part, have been paid for by the Authority out of the proceeds of any of the Warrants or which were transferred to the Authority by the County simultaneously with the issuance of the Series 1990 Warrants and (ii) all items (whether or not fixtures) of equipment, furniture, furnishings or other personal property that are acquired by the Authority in substitution for or replacement of items of equipment, furniture, furnishings or other personal property theretofore constituting part of the Project Equipment and that, under the provisions of the Lease and the Indenture, are to constitute part of the Project Equipment.

**"Project Site"** means (i) the parcel of land specifically described in Exhibit A attached hereto and made a part hereof and (ii) any other land that, at the time and under the terms hereof, constitutes a part of the Project Site.

**"Redemption Fund"** means the Shelby County Courthouse Project Redemption Fund created in Section 10.2 of the Indenture.

**"Renewal Term"** means any renewal term of the Lease after the expiration of the Initial Term, viz., during any Fiscal Year after the Fiscal Year ending on September 30, 1990.

**"Resolution"** means a resolution duly adopted by the Directors.

**"Series 1990 Warrants"** means the Authority's \$4,800,000 principal amount of Revenue Warrants (Shelby County Courthouse Project), Series 1990, dated September 1, 1990.

**"Trustee"** means the Trustee at the time serving as such under the Indenture.

**"Underwriter"** means Porter, White & Yardley, Inc., Birmingham, Alabama, the original purchaser of the Series 1990 Warrants from the Authority.

**"Warrant Fund"** means the Shelby County Courthouse Project Warrant Fund created in Section 10.1 of the Indenture.

**"Warrant Payment Date"** means the first day of each March and each September, commencing with March 1, 1991, on which any principal or interest with respect to the Series 1990 Warrants shall mature and be due and payable or on which any principal amount of the Series 1990 Warrants shall be required by the Indenture to be redeemed prior to the stated maturity thereof.

**"Warrants"** means all warrants of the Authority issued under the Indenture (viz., the Series 1990 Warrants and all Additional Warrants).

**Section 1.2 Definitions Contained in the Indenture.** Unless the context clearly indicates a different meaning, any words, terms or phrases that are used in the Lease as defined terms without being herein defined and that are defined in the Indenture shall have the meanings respectively given them in the Indenture.

**Section 1.3 Use of Phrases.** "Herein", "hereby", "hereunder", "hereof", "hereinbefore", "hereinafter" and other equivalent words refer to the Lease as an entirety and not solely to the particular portion in which any such word is used. The definitions set forth in Section 1.1 hereof include both singular and plural. Whenever used herein, any pronoun shall be deemed to include both singular and plural and to cover all genders.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

**Section 2.1 Representations and Warranties by the Authority.** The Authority makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) **Organization.** The Authority is a public corporation duly organized and validly existing under the provisions of the Act, as now existing, by reason of its certificate of incorporation duly filed for record in the office of the Judge of Probate of Shelby County, Alabama. The certificate of incorporation of the Authority has not been amended or revoked, and the said certificate of incorporation is in full force and effect. The Authority is not in default under any of the provisions contained in said certificate of incorporation or its bylaws or in the laws of the State of Alabama.

(b) **Litigation.** There are no actions, suits or proceedings pending (nor, to the knowledge of the Authority, are any actions, suits or proceedings threatened) against or affecting the Authority or any property of the Authority in any court, or before an arbitrator of any kind, or before or by any governmental body, which might materially and adversely affect the transactions contemplated by this Lease Agreement or which might adversely affect the validity or enforceability of this Lease Agreement or any other agreement or instrument to which the Authority is or is to be a party relating to the transactions contemplated by this Lease Agreement.

(c) **Sale and Other Transactions are Legal and Authorized.** The sale and issuance of the Series 1990 Warrants, the execution and delivery of this Lease Agreement and the Indenture, and the compliance with all the provisions of each thereof and of the Series 1990 Warrants by the Authority (i) are within the power and authority of the Authority, (ii) will not conflict with or result in a breach of any of the provisions of, or constitute a default under, or result in or require the creation of any lien or encumbrance (other than Permitted Encumbrances) upon any property of the Authority under, the Act, the certificate of incorporation of the Authority, any agreement or other instrument to which the Authority is a party or by which it may be bound, or any license, judgment, decree, order, law, statute, ordinance or governmental regulation applicable to the Authority, and (iii) have been duly authorized by all necessary corporate action on the part of the Authority.

(d) **Governmental Consents.** No consent, approval or authorization of, or filing, registration or qualification with, any governmental body on the part of the Authority is required in connection with the execution, delivery and performance of either this Lease Agreement or the Indenture or the offering, sale, issuance or delivery of any of the Series 1990 Warrants.

(e) No Default. No event has occurred and no condition exists which would constitute an "Event of Default" under the Indenture, as "Event of Default" is therein defined, or which would become such an "Event of Default" with the passage of time or with the giving of notice or both. The Authority is not in default under its certificate of incorporation, or any agreement or instrument to which it is a party or by which it is bound.

(f) The Series 1990 Warrants. The Series 1990 Warrants, when issued and paid for in accordance with this Lease Agreement and the Indenture and when duly authenticated by the Trustee, will constitute legal, valid and binding special obligations of the Authority payable solely from the sources provided in the Indenture.

(g) Title to Project. The Authority has good and marketable title to the Project Site, subject only to Permitted Encumbrances.

(h) Nature and Location of Project. The Project will constitute a "project" within the meaning of the Act, as now existing. As of the delivery of this Lease Agreement, the Project is located wholly within the now existing boundaries of the County.

Section 2.2 **Representations and Warranties by the County.** The County makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) Status of the County. The County is a political subdivision of the State of Alabama, and as such the County has full power and authority to enter into the Lease and to consummate the transactions contemplated thereby.

(b) Authorization and Validity of this Lease Agreement. When duly executed and delivered by the Authority, this Lease Agreement will constitute a legal, valid and binding obligation of the County, enforceable against the County in accordance with its terms.

(c) Burdensome and Conflicting Agreements. The County is not a party to any instrument or agreement or subject to any judgment, order, rule or regulation which materially and adversely affects, or in the future may (so far as the Commission can now foresee) materially and adversely affect, the business, prospects, operations, properties, assets or condition (financial or otherwise) of the County. Neither the execution and delivery of this Lease Agreement, nor the offering, sale and issuance of any of the Series 1990 Warrants, nor the consummation of the transactions herein contemplated, nor the fulfillment of or compliance with the terms and provisions hereof conflicts with, or results in a breach of, or constitutes a default under, any applicable law, rule, regulation, agreement, instrument, judgment or order by which the County is bound or to which the County or its properties is subject.

(d) Governmental Consents. The County is not required to obtain the consent or approval of any governmental body or agency in connection with the execution and delivery of this Lease Agreement or the offering, sale, issuance or delivery of any of the Series 1990 Warrants (other than those already obtained, taken or made and which continue in full force and effect).

(e) Litigation. There is no action, suit, or proceeding pending or overtly threatened against or affecting the County before any court or governmental body (nor, to the best knowledge and belief of the Commission, is there any basis therefor) which might result in any material adverse change in the business, prospects, operations, properties or assets or in the condition (financial or otherwise) of the County, or which might materially and adversely affect the transactions contemplated by this Lease Agreement, or which might impair the ability of the County to comply with its obligations hereunder.

(f) No Defaults. No event has occurred and no condition exists which, upon the issuance of any of the Series 1990 Warrants, would constitute an Event of Default or which would become an Event of Default with the passage of time or with the giving of notice or both. To the best of the knowledge of the County, no event has occurred and no condition exists which would constitute an "Event of Default" under the Indenture, as "Event of Default" is therein defined, or which would become such an "Event of Default" with the passage of time or with the giving of notice or both.

(g) Licenses, Permits, Etc. All licenses, permits or other approvals required in connection with the acquisition, expansion, improvement, installation and operation of the Project have been duly obtained and are in full force and effect except for any such licenses, permits or other approvals (i) which are not yet required and which will be duly obtained not later than the time required or (ii) the failure to obtain which will not materially and adversely affect the acquisition, expansion, improvement, installation and operation of the Project.

(h) Project's Compliance with Statutes and Regulations. The operation of the Project for the purpose for which it was designed and acquired will not conflict with any zoning, planning or similar regulations applicable thereto and will comply in all material respects with all applicable statutes, regulations, orders and restrictions.

(i) Full Disclosure. Neither any information furnished by the County to the Underwriter in connection with the sale and issuance of the Series 1990 Warrants and the other transactions contemplated by this Lease Agreement, including the financial information respecting the County for use by the Underwriter in the Official Statement, nor the representations and warranties made by the County in this Lease Agreement or in any document in writing furnished by the County to the Underwriter in connection with the transactions contemplated hereby, contain any untrue statement of a material fact or omit a material fact necessary to make the statements contained therein

or herein, in light of the circumstances in which they were made, not misleading at the times they were made. There is no fact known to the County or which in the exercise of reasonable diligence should have been known to the County which the County has not disclosed to the Underwriter in writing prior to the execution and delivery of this Lease Agreement which materially adversely affects or, so far as the Commission can now in the exercise of its reasonable business judgment foresee, will materially adversely affect the Project, the condition (financial or otherwise) of the County or the ability of the County to perform its obligations hereunder or under any agreement contemplated hereby.

(j) Nature and Location of Project. The Project constitutes a "project" within the meaning of the Act, as now existing. As of the delivery of this Lease Agreement, the Project Site is located wholly within the now existing boundaries of the County.

### ARTICLE III

#### DEMISING CLAUSES

Section 3.1 Demising Clauses. For and during the Lease Term, the Authority hereby demises and leases to the County, subject to Permitted Encumbrances, and the County hereby rents from the Authority, subject to Permitted Encumbrances, the following described properties and related rights:

##### I

The parcel of land specifically described in Exhibit A attached hereto and made a part hereof;

##### II

The Project Building and all other buildings, structures and other improvements now or hereafter situated on the Project Site, all permits, easements, licenses, rights-of-way, contracts, leases, privileges, immunities and hereditaments pertaining or applicable to the Project Site and all fixtures now or hereafter owned by the Authority and installed on the Project Site or in any of such other buildings, structures and improvements now or hereafter located on the Project Site, it being the intention hereof that all property, rights and privileges hereafter acquired for use as a part of or in connection with or as an improvement to the Project Site shall be as fully covered hereby as if such property, rights and privileges were now owned by the Authority and were specifically described herein; and

### III

All items (whether or not fixtures) of equipment, furniture, furnishings and other personal property that at any time, under the provisions of the Lease, constitute the Project Equipment, excluding, however, any equipment or other personal property that, under the provisions of the Lease, is, or is to become (prior to the termination of the Lease), the sole property of the County or third parties.

### ARTICLE IV

#### CONCERNING THE PROJECT DEVELOPMENT WORK; ISSUANCE OF THE SERIES 1990 WARRANTS

**Section 4.1 Performance of the Project Development Work.** The Authority and the County will undertake and will complete the following work with respect to the Project:

- (a) the improvement of the Project Site in such manner and to such extent as the County deems necessary and desirable in connection with the expansion and improvement of the Project Building;
- (b) the expansion and improvement, wholly within the boundaries of the Project Site, of the Project Building, in accordance with plans and specifications prepared by Dampier & Associates, architects of Alabaster, Alabama; and
- (c) the acquisition and installation, in or about the Project Building or elsewhere on the Project Site, of such items of equipment, furniture, furnishings and other personal property necessary for or useful in the operation of the Project as shall be specified by the County.

The Authority and the County will use their best efforts to complete the Project Development Work, or to cause the same to be completed, as promptly as practicable, delays incident to strikes, riots, acts of God or the public enemy or other acts beyond the reasonable control of the Authority or the County only excepted; provided, however, that no liability on the part of the Authority nor any reduction in or postponement of any rentals payable by the County hereunder shall result from any delay in the completion of any of the Project Development Work or from the failure of such work to be completed in accordance with the plans, specifications and directions furnished by the County.

The Authority acknowledges that the Project is to be acquired, expanded, improved and equipped in accordance with requirements established by the County, and it is therefore agreed and understood that the County may at any time and from time to time after the delivery of this Lease Agreement, cause such changes to be made in the design of the improvements to the Project Building or the design of any other improvements to be constructed on the Project Site as it may deem necessary or desirable; provided, however, that

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(i) the Project Building and such other improvements, as finally constructed in accordance with the requirements of the County, shall be of a size and quality substantially equivalent to that contemplated by the County at the time of the delivery of this Lease Agreement and (ii) the character of the Project Building and such other improvements shall be such as is necessary for the Project to qualify as a "project" within the meaning of the Act. Except as provided in the foregoing provisions of this paragraph, neither the County nor the Authority will cause or permit any changes to be made in the design of the Project Building or in the design of any other improvements to be constructed on the Project Site.

The Authority will execute and deliver, or cause to be executed and delivered, all contracts, orders, requisitions, instructions and other written instruments and do, or cause to be done, all other acts or things that may be necessary or proper to carry out the Project Development Work as and when directed by the County and to perform fully its obligations under this Lease Agreement. In no event, however, will the Authority hereafter enter into any contract with respect to the Project Development Work or any part thereof unless there is endorsed thereon a legend indicating that the County has approved both the form and substance of such contract and such legend is signed by or on behalf of the County.

The County hereby assigns to the Authority all its rights and interests in and to the contracts that it has heretofore entered into with respect to the Project Development Work. The Authority hereby ratifies and confirms all actions heretofore taken by the County and assumes and adopts all contracts heretofore entered into by the County, whether in the name and behalf of the Authority or in the name and behalf of the County, with respect to the Project Development Work; provided, however, that any obligation for the payment of money incurred or assumed by the Authority with respect to any such contract shall be payable solely from the proceeds derived by the Authority from the sale of any of the Warrants from income earned by the Authority from the investment of such proceeds or from any moneys made available to the Authority by the County for the payment of such obligation.

The Authority shall appoint by written instrument an agent or agents authorized to act for it in any or all matters arising under the Lease or the Indenture which, by the specific terms of the Lease or the Indenture, require action by such agents. Each agent so appointed to act for the Authority shall be designated an Authorized Authority Representative. The Authority may from time to time, by written notice to the County and to the Trustee, revoke, amend or otherwise limit the authorization of any agent appointed by it to act on its behalf or designate another agent or agents to act on its behalf, provided that with reference to all the foregoing matters there shall be at all times at least one Authorized Authority Representative authorized to act on behalf of the Authority.

**Section 4.2 Agreement to Issue Series 1990 Warrants.** In order to finance the Project Development Costs on a long-term basis, the Authority will, simultaneously with the delivery hereof, issue and sell the Series 1990 Warrants and, as security therefor, execute and deliver the Indenture. All the terms and conditions of the Indenture (including, without limitation, those relating to the amounts and maturity date or dates of the principal of the Series 1990 Warrants, the interest rate or rates thereof and the provisions for redemption thereof prior to their respective maturities) are hereby approved by the County, and to the extent that any provision of the Indenture is relevant to the calculation of any rental or other

amount payable by the County hereunder or to the determination of any other obligation of the County hereunder, the County hereby agrees that such provision of the Indenture shall be deemed a part hereof as fully and completely as if set out herein.

**Section 4.3 Disbursement of Proceeds from the Sale of the Series 1990 Warrants.** Subject to the conditions of Section 4.4 hereof, the Authority will pay, or cause to be paid, all Project Development Costs, but such costs shall be paid solely out of the principal proceeds from the sale of the Series 1990 Warrants, income earned from the investment of such proceeds and any other moneys which the County may deposit with the Trustee for payment of Project Development Costs. Upon request by and with the approval of the County, the Authority will cause such requisitions to be prepared and submitted to the Trustee as shall be necessary to enable the Trustee to pay, in accordance with the provisions of Section 9.2 of the Indenture, all the Project Development Costs.

The Authority will, simultaneously with the issuance of the Series 1990 Warrants or as soon thereafter as may be practicable, cause the Trustee, upon submission of requisitions satisfying the requirements of the Indenture, to reimburse the County, out of the proceeds of the Series 1990 Warrants deposited in the Construction Fund, for (i) all costs and expenses that the County shall have heretofore paid or incurred in connection with the Project Development Work, and (ii) all advances and loans to the Authority heretofore made by the County in order to enable the Authority to pay Project Development Costs. The County hereby agrees that the failure by the Authority to reimburse the County, or to cause the County to be reimbursed, in full for all such costs and expenses and all such advances (whether such failure results from insufficient moneys being available in the Construction Fund for such purpose, a decision by the County not to request such reimbursement or any other cause) shall not result in any diminution or postponement of any rentals payable by the County hereunder, or in the acquisition of title to any part of the Project by the County, or in the imposition of a lien in favor of the County upon any part of the Project.

**Section 4.4 No Warranty of Suitability by the Authority. County Required to Make Arrangements for Payment of Project Development Costs.** The County recognizes that the Project Development Work has been planned and carried out under its control and in accordance with its requirements, and the Authority can, therefore, make no warranty, either express or implied, or offer any assurances that the Project Development Work and the Project will be suitable for the County's purposes or needs or that the proceeds derived from the sale of the Series 1990 Warrants will be sufficient to pay in full all the Project Development Costs. In the event such proceeds are insufficient to pay all the Project Development Costs, the County

(a) will cause such changes to be made in the scope of the Project Development Work (including changes in the design of the improvements to the Project Building, or in the design of any other improvements to be constructed on the Project Site, or in the composition of the Project Equipment) as will result in the aggregate Project Development Costs not exceeding such proceeds and investment income, or

(b) will itself complete the Project Development Work as originally planned and will pay that portion of the Project Development Costs in excess of such proceeds and investment income, or

(c) will pay into the Construction Fund such moneys as are necessary for the payment of all Project Development Costs, in which case the Authority will complete the Project Development Work, or

(d) will, to the extent legally and economically possible, cause the Authority to sell and issue Additional Warrants in accordance with the provisions of the Indenture, in whatever principal amount is necessary to provide for payment of all Project Development Costs, in which case the Authority will complete the Project Development Work, or

(e) will take action pursuant to any two or more of the courses of action described in the preceding clauses (a), (b), (c) and (d),

all to the end that all obligations incurred by the Authority in connection with the Project Development Work shall be paid in full and that the acquisition, expansion, improvement and installation of the Project shall be completed. The County shall not, by reason of (1) its direct payment of any excess Project Development Costs, (2) its payment of any moneys into the Construction Fund for the payment of any such costs or (3) any other arrangements made by it for the payment of such costs, be entitled to any reimbursement from the Authority (except out of the proceeds from the sale of any Additional Warrants that may hereafter be issued by the Authority for the purpose of funding the payment of any such excess costs) or to any diminution or postponement of any rentals payable by the County hereunder. Further, the fact that the County directly pays, or directly or indirectly furnishes money to the Authority for the payment of, any part of the Project Development Costs shall not result in the County's acquisition of title to any part of the Project or in the imposition of a lien in favor of the County upon any part of the Project, it being understood and agreed (A) that title to all the Project shall, as between the Authority and the County, be fully and solely vested in the Authority and (B) that any such lien in favor of the County that might so result is hereby expressly waived and released by the County.

**Section 4.5 Authority to Pursue Rights against Suppliers and Contractors, etc.** In the event of default by any supplier, contractor or subcontractor under any contract with the Authority for the performance of the Project Development Work or any part thereof, the Authority will, but only upon written request made to it by the County, proceed, either separately or in conjunction with others, to exhaust all remedies the Authority may have against such supplier, contractor or subcontractor so in default and against each surety (if any) for the performance of such contract, but all actions taken by the Authority to exhaust such remedies shall be at the expense of the County. Further, in the event the Authority proceeds in an arbitration proceeding or by an action at law or in equity against any such supplier, contractor, subcontractor or surety pursuant to the provisions of this section or in the event any such supplier, contractor, subcontractor or surety brings any such proceeding or action against the Authority in connection with or relating to the Project Development Work, the Authority will follow all reasonable directions given to it by the County in

connection with such proceeding or action, and the County shall have full and complete control thereof, but any Counsel selected by the County for the Authority shall be subject to the reasonable approval of the Authority. The net amount recovered by the Authority in any such proceeding or action shall be paid into the Construction Fund or, if such amount is recovered after the Completion Date, to the County, unless an Event of Default shall have occurred and be continuing, in which case such amount shall be paid into the Warrant Fund.

The Authority hereby transfers and assigns to the County all the Authority's rights and interests in, to and under any maintenance or surety bonds or warranties respecting quality, durability or workmanship obtained by or vested in the Authority in connection with the Project Development Work, and grants to the County the right to take action, in the name of either the Authority or the County, but at the County's sole cost and expense, for the enforcement of such bonds and warranties. The net amount recovered in any such action shall be paid into the Construction Fund or, if such amount is recovered after the Completion Date, to the County, unless an Event of Default shall have occurred and be continuing, in which case such amount shall be paid into the Warrant Fund.

**Section 4.6 Certification of Completion Date.** The Completion Date shall be evidenced to the Trustee and the Authority by a certificate signed on behalf of the County stating that

(a) the acquisition, expansion, improvement and installation of the Project and all other Project Development Work have been completed in accordance with the applicable plans, specifications and directions furnished by the County,

(b) all the Project Development Costs have been paid in full, except for amounts retained by the Trustee at the County's direction for any such costs not then due and payable or the liability for payment of which is being contested or disputed by the County or by the Authority at the County's direction, and

(c) the Project is operational for the purpose for which it was designed.

**Section 4.7 Supplemental Agreement on Completion.** Upon completion of the acquisition and installation of the Project Equipment, the Authority and the County will enter into a supplemental agreement identifying, with such particularity as the Trustee shall specify, the items of Project Equipment installed in or about the Project Building and confirming the demise thereof to the County hereunder.

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## ARTICLE V

### DURATION OF PRIMARY TERM, RENEWAL OPTIONS AND RENTAL PROVISIONS

Section 5.1 **Duration of Primary Term.** The Primary Term shall begin on the date of the delivery of this Lease Agreement and, subject to the provisions hereof, shall continue until 12:00 o'clock, midnight, on September 30, 1990. The Authority will deliver to the County sole and exclusive possession of the Project on the commencement date of the Primary Term, subject to the inspection and other rights reserved in Section 8.4 hereof, and the County will accept possession thereof at such time; provided, however, that the Authority will be permitted such possession of the Project as shall be necessary and convenient for it to make any repairs, restorations, additions or improvements required or permitted to be made by the Authority pursuant to the provisions of the Lease.

Section 5.2 **Option to Renew the Lease Term.** The Authority hereby grants to the County successive options to renew the Lease Term for each Renewal Term commencing on October 1, 1990, and in each Renewal Term thereafter until all the Warrants shall have been fully paid and retired. Each such option to renew the Lease shall be irrevocably deemed exercised with respect to each Renewal Term unless the County shall notify both the Authority and the Trustee in writing by no later than 12:00 o'clock, midnight, on the August 1 immediately preceding the beginning of any such Renewal Term that it will not exercise such option to renew the Lease Term with respect to the then next succeeding Fiscal Year. If the County shall fail to exercise any such option to renew the Lease Term, then all rights of the County under this Lease Agreement shall cease and terminate, and the County shall not then hold any option to renew the Lease Term during any succeeding Fiscal Year.

Section 5.3 **Rental Provisions.** Simultaneously with the delivery of this Lease Agreement, the County will pay to the Authority, as Basic Rent for the use and occupancy of the Project during the Primary Term, the sum of \$10.00.

For each Renewal Term for which the lease herein made shall be renewed by the County, the County will pay, on or before the first day of each such Renewal Term, the following Basic Rent for use and occupancy of the Project during each such Renewal Term:

(i) an amount equal to the interest that will become due on the then next succeeding March 1 with respect to those of the Series 1990 Warrants that will be outstanding on such March 1; and

(ii) an amount equal to the sum of the principal (if any) and interest that will mature with respect to the then outstanding Series 1990 Warrants on the then next succeeding September 1.

While the Basic Rent for each such Renewal Term is due in advance on October 1 of such Renewal Term, such rent is not delinquent until (1) the following March 1, in the case of the

portion of such rent referable to the interest on the Series 1990 Warrants becoming due on such March 1, and (2) the following September 1, in the case of the portion of such rent referable to the principal of and interest on the Series 1990 Warrants becoming due on such September 1.

Anything to the contrary contained in the Lease notwithstanding, there shall be credited against any installment of Basic Rent due hereunder any amount then held in the Warrant Fund to the extent that such amount has not theretofore been credited on a previously due installment of Basic Rent; provided, however, that moneys in the Warrant Fund shall not be credited against any such installment if such moneys (i) are held therein for payment of matured but unpaid Series 1990 Warrants, Series 1990 Warrants called for redemption but not yet redeemed and matured but unpaid interest on the Series 1990 Warrants, (ii) are held therein pursuant to instructions from the County for the future redemption or purchase of Series 1990 Warrants, or (iii) are held therein for the payment of unmatured Series 1990 Warrants not called for redemption if such Series 1990 Warrants are considered fully paid pursuant to the provisions of Section 16.1 of the Indenture by reason of the fact that such moneys are so held in the Warrant Fund.

Nothing herein contained shall be construed as imposing on the Authority or on the Trustee any duty or responsibility of giving any notice to the County of the amount on deposit in the Warrant Fund, or of the amount of any credits against Basic Rent available to the County, as of any date upon which Basic Rent shall become due but the Authority will cause the Trustee to respond to any reasonable requests that the County may make for such information. Neither the Authority nor the Trustee shall be obligated to give any prior notice to the County of the due date or amount of any installment of Basic Rent, and failure to receive any such prior notice, even if customarily given by the Authority or the Trustee, shall not relieve the County of its obligation to pay such installment of Basic Rent when it is due and payable.

So long as any of the Warrants are outstanding, all Basic Rent payments shall be made directly to the Trustee for the account of the Authority. The Authority will, promptly following the designation of any successor or interim successor Trustee under the Indenture, give written notice to the County of the name and location of the principal corporate trust office of such successor or interim successor Trustee, or it will cause such notice to be promptly given. In the event the due date of any installment of Basic Rent payable hereunder is a Saturday, Sunday or legal holiday in the state in which the principal corporate office of the Trustee is located or a day on which the bank that is then acting as Trustee is legally authorized to close, such installment shall be due in immediately available funds no later than the close of business by the Trustee on the last business day next preceding such due date. Any installment of Basic Rent due hereunder that is not paid on or before the Warrant Payment Date to which such installment is referable shall bear interest from such Warrant Payment Date until paid at the rate of two percent (2%) in excess of the Prime Rate or at the highest non-usurious per annum rate of interest then permitted by applicable law, whichever of the foregoing rates of interest is the lesser.

**Section 5.4 Additional Rent - Trustee's Fees and Expenses.** In addition to the Basic Rent and all other rental payments due from the County hereunder, the County will

also pay, as additional rent, (i) the annual fee of the Trustee for the ordinary services of the Trustee rendered and its ordinary expenses incurred under the Indenture, (ii) the reasonable fees and charges of the Trustee as registrar, transfer agent and paying agent with respect to the Series 1990 Warrants, as well as the fees and charges of any other paying agent with respect to the Series 1990 Warrants who shall act as such agent in accordance with the provisions of the Indenture, (iii) the reasonable fees and expenses of the Trustee in connection with the issuance of any new Series 1990 Warrant upon the partial redemption of any Series 1990 Warrant (including, without limitation, the expenses of printing such new Series 1990 Warrant), (iv) the reasonable fees and expenses of the Trustee in connection with any other registration, transfer or exchange of any of the Series 1990 Warrants if the Trustee is not permitted by Section 5.4 of the Indenture to charge the Holder of such Series 1990 Warrants for such fees and expenses, and (v) the reasonable fees, charges and expenses of the Trustee for necessary extraordinary services rendered by it and necessary extraordinary expenses incurred by it under the Indenture. All such fees, charges and expenses shall be paid directly to the Trustee, for its own account upon presentation of its statements therefor, but the County may, without creating a default hereunder, contest in good faith the necessity for any of the extraordinary services performed by the Trustee or the reasonableness of the fees, charges or expenses of the Trustee in connection therewith.

**Section 5.5 Additional Rent - Expenses of the Authority.** In addition to the Basic Rent and all other rental payments due from the County hereunder, the County will also pay, as additional rent, the reasonable and necessary expenses, not otherwise provided for, which may be incurred by the Authority, or for which the Authority may in any way become liable, as a result of issuing any of the bonds, acquiring the Project and leasing the same to the County, or being a party to the Lease or the Indenture; provided however, that so long as no Event of Default shall have occurred and be continuing, the County's liability under this Section 5.5 shall not include expenses voluntarily incurred by the Authority without prior request or approval by the County, unless such expenses are necessary to enable the Authority to perform its obligations under the Lease and the Indenture.

**Section 5.6 Obligations of the County Limited to Current Revenues for Fiscal Year When Payable.** The obligations on the part of the County to pay the Basic Rent, to make all other payments provided for herein and to perform and observe the other agreements and covenants on its part herein contained, during the Primary Term and any Renewal Term during which this Lease Agreement is in effect, shall constitute a general obligation of the County, and the County hereby pledges its full faith and credit for the payment of the Basic Rent and such other payments and the performance and observance of all such other agreements and covenants; provided, however, that all obligations of the County hereunder shall be payable or otherwise dischargeable solely out of the current revenues of the County for the Fiscal Year during which the County becomes obligated to pay or otherwise discharge such obligations. The Basic Rent and the other payments provided for herein and the agreements and covenants on the part of the County herein contained shall never create a debt of the County within the meaning of Section 224 of the Constitution of the State of Alabama.

Nothing herein contained, including particularly, without limiting the generality of the foregoing, any reference to the Warrants or the Indenture, shall be construed as imposing upon the County any obligation to pay or otherwise provide for the retirement of any of the Warrants or to renew this Lease Agreement for one or more Renewal Terms. The County shall have no obligations hereunder except those specifically provided for herein with respect to the Primary Term and any Renewal Term for which the County shall have exercised its option to renew the lease herein made.

## **ARTICLE VI**

### **PROVISIONS CONCERNING MAINTENANCE, ADDITIONS, REMOVAL OF PROJECT EQUIPMENT, INSURANCE AND TAXES**

**Section 6.1 Maintenance, Additions, Alterations, Improvements and Modifications.** The County will, at its own expense, keep the Project in reasonably safe condition and keep all buildings, equipment and other facilities at any time forming part of the Project in good repair and operating condition (reasonable wear and tear excepted), making from time to time all necessary and proper repairs thereto (including, without limitation, exterior and structural repairs); provided however, that the County shall have no obligation hereunder to repair or maintain the Project after full payment of the Indenture Indebtedness. The Authority and the County recognize that, as a result of reasonable wear and tear, technological obsolescence or other causes, various items of the Project Equipment may become inadequate, obsolete, worn-out or unsuitable in the use and operation of the Project by the County, but the Authority shall not be obligated to replace or renew any such items of the Project Equipment.

With the consent of the Trustee, the County may, at its own cost and expense, make, or cause to be made, any additions, alterations, improvements or modifications to the Project that it may deem desirable, provided that such additions, alterations, improvements or modifications do not (i) change the character of the Project to such extent that it no longer constitutes a "project" under the Act or (ii) significantly impair the value or utility of the Project, and provided further that, if such additions, alterations, improvements or modifications affect the structural integrity of any building or other structure forming a part of the Project, the County furnishes to the Authority, to the Trustee and to the Holder of each of the Warrants a certificate of an Independent Engineer reasonably acceptable to the Trustee, stating that such additions, alterations, improvements or modifications will not significantly impair the value or utility of the Project.

All additions, alterations, improvement or modifications to the Project made, or caused to be made, by the County shall

- (a) be located wholly within the boundaries of the Project Site, or
- (b) be located wholly within the boundaries of other adjacent land hereafter acquired by the Authority that has been subjected (i) to the demise

of the Lease and (ii) to the lien of the Indenture if the Indenture Indebtedness has not been fully paid, or

(c) be located wholly within the boundaries of the Project Site and such other adjacent land.

Any such adjacent land so subjected to the demise hereof and to the lien of the Indenture shall henceforth be considered, for purposes of the Lease and the Indenture, as part of the Project Site. All such additions, alterations, improvements and modifications to the Project so made, or caused to be made, by the County shall become a part of the Project.

The County will not permit any mechanics' or other liens to stand against the Project for labor, materials, equipment or supplies furnished in connection with the acquisition, expansion, improvement and equipment of the Project or in connection with any additions, alterations, improvements, modifications, repairs or renewals that may subsequently be made thereto. The County may, however, at its own expense and in good faith, contest any such mechanics' or other liens and in the event of any such contest may permit any such liens to remain unsatisfied and undischarged during the period of such contest and any appeal therefrom unless by such action the lien of the Indenture to any part of the Project shall be endangered or any part of the Project shall be subject to loss of forfeiture, in either of which events such mechanics' or other liens shall (unless they are bonded or superseded in a manner satisfactory to the Trustee) be promptly satisfied.

At any time and from time to time, the County may, at its own cost and expense, install on the Project Site any equipment or other personal property which does not constitute part of the Project Equipment and which in the County's judgment is necessary or convenient for its use and operation of the Project, provided that the installation of such equipment or other personal property does not significantly impair the value or utility of the Project. Any such equipment or personal property owned (or leased pursuant to any lease contract other than the Lease) by the County may be removed by the County at any time and from time to time without responsibility or accountability to the Authority or the Trustee, but the County shall promptly repair at its own expense any damage to the Project caused by the removal of any such equipment or other personal property.

**Section 6.2 Removal of Project Equipment.** So long as an Event of Default shall not have occurred and be continuing, the County may remove any item of the Project Equipment upon compliance with the conditions set forth in either subparagraph (a) or (b) below:

(a) Such item of the Project Equipment may be removed from the Project Site and used by the County in its other operations or sold or otherwise disposed of in any way that the County may see fit, free of the demise of the Lease and of the lien of the Indenture and without the County having any responsibility or accountability to the Authority or the Trustee therefor, provided that the County substitutes and installs on the Project Site (whether before, on or after the date of such removal but in no event later than two months after the date of such removal) other equipment or other personal

property not then constituting part of the Project Equipment and not necessarily of the same character but of at least equal value to the County as, and costing not less than the amount realized from the disposition of the item of Project Equipment so removed, it being understood (i) that no part of the Book Value of such substituted equipment or other personal property shall have been credited on a payment theretofore due to be made into the Warrant Fund pursuant to the provisions of subparagraph (b) of this paragraph and (ii) that all such substituted equipment or other personal property shall be free of all liens and encumbrances (other than Permitted Encumbrances), shall be the sole property of the Authority, shall be and become a part of the Project Equipment subject to the demise of the Lease and to the lien of the Indenture and shall be held by the County on the same terms and conditions as the items originally constituting the Project Equipment.

(b) Such item of the Project Equipment may be removed from the Project Site and used by the County in its other operations or sold or otherwise disposed of in any way that the County may see fit, free of the demise of the Lease and of the lien of the Indenture and without the County having any responsibility or accountability to the Authority or the Trustee therefor or being required to substitute other property therefor, provided that (i) in the case of the sale of such item of Project Equipment to anyone other than the County, or in the case of the scrapping thereof, the County pays into the Warrant Fund the proceeds from such sale or the scrap value thereof, respectively, (ii) in the case of the trade-in or exchange of such item of Project Equipment for other property not to be substituted therefor pursuant to the provisions of subparagraph (a) of this paragraph, the County pays into the Warrant Fund an amount in cash equal to the credit received for such trade-in or exchange, and (iii) in the case of the sale of such item of Project Equipment to the County, or in the case of any other disposition thereof (including the County's use thereof in any other operations conducted by it), the County pays into the Warrant Fund an amount equal to the Book Value thereof as of the date of such sale or other disposition.

The amount of any payment that, under the provisions of subparagraph (b) above, is due to be made into the Warrant Fund by the County may be reduced by a credit equal to the then Book Value of any equipment or other personal property then installed on the Project Site that does not then constitute part of the Project Equipment and is owned by the County free from all liens and encumbrances (other than Permitted Encumbrances), but if any such payment into the Warrant Fund is reduced by a credit against the Book Value of any such equipment or other personal property, the same shall immediately become the sole property of the Authority and part of the Project Equipment subject to the demise of the Lease and to the lien of the Indenture and shall be held by the County on the same terms and conditions as the items originally constituting the Project Equipment.

If, at the time of the removal of any Project Equipment from the Project Site, there is then installed on the Project Site other equipment or personal property owned by the County not then constituting part of the Project, and if such other equipment or personal property has utility (though not necessarily the same value or function) in the operation of

the Project equal to or greater than that of the Project Equipment to be removed and is free of all liens and encumbrances (other than Permitted Encumbrances), and if no part of the Book Value of such other equipment or personal property has been credited on a payment theretofore due to be made into the Warrant Fund pursuant to subparagraph (b) of this section, the County may, by failing to make the substitution or the cash payment alternatively prescribed by subparagraphs (a) and (b) of this section, elect to have such provisions not apply to such removal, but with the result, however, that from and after such removal such other equipment or personal property shall be and become the sole property of the Authority and part of the Project Equipment subject to the demise of the Lease and to the lien of the Indenture and shall be held by the County on the same terms and conditions as the items originally constituting the Project Equipment.

The County will not remove any items of the Project Equipment pursuant to either subparagraph (a) or (b) of this section if the operating utility of the Project will be significantly impaired by such removal or if such removal changes the character of the Project to such an extent that it no longer constitutes a "project" under the Act. In any case where the County is herein required to purchase, install and substitute on the Project Site any item of equipment or other personal property it may, in lieu of purchasing and installing said equipment or other personal property itself, advance to the Authority the funds necessary therefor, whereupon the Authority will purchase and install such equipment or other personal property on the Project Site.

In furtherance of the preceding provisions of this section, the County will do the following:

(1) If the County elects to remove any item of the Project Equipment pursuant to subparagraph (b) of this Section 6.2, it will pay to the Trustee such amounts as are required thereby to be paid into the Warrant Fund promptly after the sale or other disposition of the item requiring such payment; provided, however, that no such payment need be made (i) until such date as the aggregate of such payments due but not theretofore made is \$100,000 or more, or (ii) until the then next succeeding September 1 [which payment shall include only payments due in respect of transactions covered by said subparagraph (b) occurring prior to the previous July 1], whichever of the dates described in clauses (i) and (ii) occurs first.

(2) The County will execute and deliver to the Authority and the Trustee such documents as the Trustee may from time to time require to confirm the title of the Authority (subject to the Lease) to, and the lien of the Indenture with respect to, any items of equipment and other personal property that under the provisions of this section are to become a part of the Project Equipment.

(3) The County will pay all costs (including attorneys' fees) incurred in subjecting to the demise of the Lease and to the lien of the Indenture any items of equipment and other personal property that under the provisions of this section are to become a part of the Project Equipment.

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The County will not remove, or permit the removal of, any of the Project Equipment from the Project Site except in accordance with the provisions of this section. The County shall not, by reason of the removal of any items of the Project Equipment pursuant to this section, or any substitutions made for any items of the Project Equipment so removed, or any payments made to the Trustee on account of any items of the Project Equipment so removed, be entitled to any diminution or abatement of the rent payable by the County hereunder.

Upon receipt of a written confirmation from the Trustee that any item of Project Equipment has been removed from the Project Site in compliance with the conditions of this section, the Authority will convey title to such item to the County by bill of sale or other appropriate conveyance. Further, in accordance with agreements with the Trustee contained in the Indenture, the Authority will cause the Trustee to execute and deliver to the County all instruments that may be necessary to release from the lien of the Indenture any item of Project Equipment removed from the Project Site in compliance with the conditions of this section. The County will reimburse the Authority and the Trustee for their respective reasonable expenses incurred in connection with the conveyance of such title and the execution and delivery of such instruments.

The preceding provisions of this section shall apply only so long as any of the Indenture Indebtedness remains unpaid. After full payment of the Indenture Indebtedness and the cancellation, satisfaction and discharge of the lien of the Indenture in accordance with the provisions thereof, the County may, if in its sole discretion it determines that any or all items of the Project Equipment have become unsuitable or unnecessary for its use and operation of the Project, remove such items of the Project Equipment from the Project Site and (on behalf of the Authority) sell or otherwise dispose of such items, without any responsibility or accountability to the Authority therefor and without being required to install in the Project Building or elsewhere on the Project Site equipment or other personal property in substitution therefor, and may retain any money or other consideration received by it upon any disposition of such items of Project Equipment.

Nothing contained herein shall prohibit the County, at any time during which no Event of Default shall have occurred and be continuing, from removing from the Project Site any equipment or other personal property that is owned by it or leased by it from third parties and that does not constitute part of the Project Equipment; provided however, that if any such equipment or other personal property owned by the County or leased by it from third parties is removed from the Project Site prior to full payment of the Indenture Indebtedness, the County will promptly repair at its own expense any damage to the Project caused by such removal.

**Section 6.3 Taxes, Other Governmental Charges and Utility Charges.** The Authority and the County acknowledge (i) that, under present law, the revenues, income and profits (if any) of the Authority from the Project are exempt from both federal and state taxation, (ii) that, as provided in Section 12.3 hereof, the exemption of the revenues of the Authority from the leasing or sale of the Project from taxation by the State of Alabama and its political subdivisions constitute part of the contract between the Authority and the County contained in this Lease Agreement, and (iii) that these factors, among others, induced the County to enter into this Lease Agreement. Nevertheless, the County will pay

(a) all taxes and governmental charges of any kind whatsoever that may lawfully be assessed or levied against or with respect to the Project, including, without limiting the generality of the foregoing, any taxes levied upon or with respect to any part of the receipts, income or profits of the Authority from the Project and any other taxes levied upon or with respect to the Project which, if not paid, would become a lien on the Project prior to or on a parity with the lien of the Indenture or a charge on the revenues and receipts therefrom prior to or on a parity with the charge thereon and pledge and assignment thereof made in the Indenture, and

(b) all assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Project; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the County shall be obligated to pay only such installments as are required to be paid during any period while the Lease shall be in effect.

The Authority will promptly forward to the County any bills, statements, assessments, notices or other instruments asserting or otherwise relating to any such taxes, assessments or charges.

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The County may, at its own expense and in its own name and behalf or in the name and behalf of the Authority, in good faith contest any such taxes, assessments and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless by such action the lien of the Indenture as to any part of the Project shall be materially endangered, or the Project or any part thereof shall become subject to loss or forfeiture, or the revenues of the Authority from the Project shall become subject to a lien or charge thereon prior to or on a parity with the pledge and assignment thereof made in the Indenture, in any of which cases such taxes, assessments or charges shall (unless they are bonded or are superseded in a manner satisfactory to the Trustee) be paid prior to their becoming delinquent. The Authority will cooperate fully with the County in any such contest.

The County will also pay, as the same respectively become due, all utility and other similar charges incurred in the operation, maintenance, use and upkeep of the Project.

**Section 6.4 Insurance Required.** The County will take out and thereafter continuously maintain in effect or cause to be taken out and thereafter continuously maintained in effect, insurance with respect to the Project against such risks as are customarily insured against with respect to public buildings, paying as the same become due all premiums with respect thereto, including, but not necessarily limited to, the following:

(a) insurance against loss or damage to the Project Building, to all other improvements located on the Project Site and to the Project Equipment by fire, lightning, flood, vandalism and malicious mischief, with uniform standard extended coverage endorsement limited only as may be provided in the standard form of extended coverage endorsement at the time in use in the

State of Alabama, to such extent as is necessary to provide for either the redemption and retirement of all the Warrants that shall be outstanding from time to time or for full payment of the costs of repairing, restoring or replacing, the property damaged or destroyed, whichever shall be the greater amount or, if insurance to such extent is not available, to the extent of the full insurable value (as determined by a recognized insurer) of the Project Building, such improvements and the Project Equipment; and

(b) comprehensive general liability insurance against liability for personal or bodily injury to or death of persons and for damage to or loss of property occurring on or about the Project Site or in any way related to the use, occupancy or operation of the Project, in the minimum amount of \$500,000 for all death and bodily injury claims and property damage claims resulting from any one accident.

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All policies evidencing the insurance required by the terms of the preceding paragraph shall be taken out and maintained in generally recognized responsible insurance companies, qualified under the laws of the State of Alabama to assume the respective risks undertaken, shall contain an agreement on the part of the insurer issuing such policy that the same shall not be cancelled, terminated or permitted to lapse by such insurer unless thirty (30) days' prior written notice of such cancellation, termination or lapse in coverage shall have been given to the Trustee, and may be written with co-insurance provisions and deductible amounts comparable to those applicable to similar policies carried with respect to public facilities similar to the Project. All such insurance policies, other than those evidencing the insurance required by clause (b) of the preceding paragraph and such other policies or portions thereof as may evidence insurance against liability for injury to persons or property of others, shall name as insureds the Authority, the Trustee and the County (as their respective interests shall appear) and shall contain standard mortgage clauses providing for all recoveries thereunder to be paid to the Trustee; provided that all recoveries may be adjusted by the County, subject, in the case of the recovery in respect of a loss greater than \$200,000.00, to the approval of the Trustee. The insurance required by clause (b) of the preceding paragraph shall cover the liability, in the several respects indicated, both of the Authority and of the County. All policies evidencing the insurance required to be carried by this section shall be deposited with the Trustee; provided, however, that in lieu thereof the County may deposit with the Trustee a certificate or certificates of the respective insurers attesting the fact that such insurance is in force and effect. Prior to the expiration or cancellation of any such policy, the County will furnish to the Trustee evidence reasonably satisfactory to the Trustee that such policy has been renewed or replaced by another policy or that there is no necessity therefor under the Lease. Anything herein to the contrary notwithstanding, any insurance required by the provisions hereof may be evidenced by a blanket policy covering risks in addition to those hereby required to be covered, but if and only if appropriate allocation certificates and loss payable endorsements are furnished to the Authority and the Trustee.

**Section 6.5 Performance by Authority or Trustee of Certain Obligations of the County. Reimbursement of Expenses.** In the event the County fails to take out or maintain the full insurance coverage required by the Lease, fails to pay the taxes and other charges herein required to be paid at or prior to the time they are so required to be paid, or

fails to keep the Project in as reasonably safe condition as its operations permit and in good repair and operating condition, the Authority or the Trustee, after first notifying the County of any such failure on its part and after the subsequent failure by the County to perform the obligation with respect to which it is delinquent, may (but shall not be obligated to) perform any such obligation on behalf of the County. Any expense incurred by the Authority or the Trustee in performing any of such obligations of the County shall become an additional obligation of the County to the Authority or to the Trustee, as the case may be, and shall be repaid by the County together with interest thereon, from the date such amount was paid by the Authority or the Trustee, as the case may be, until the date of its repayment by the County, at a per annum rate equal to two percent (2%) in excess of the Prime Rate until such amount is repaid or at the maximum applicable non-usurious per annum rate of interest then permitted by the laws of the State of Alabama, whichever of the foregoing rates of interest is the lesser. Any remedy herein vested in the Authority or the Trustee for the collection of rental payments shall also be available to the Authority or the Trustee for the collection of all amounts so paid by the Authority or the Trustee in performing any of such obligations of the County.

## **ARTICLE VII**

### **PROVISIONS RESPECTING DAMAGE, DESTRUCTION AND CONDEMNATION**

**Section 7.1 Damage and Destruction Provisions.** If the Project is destroyed, in whole or in part, or is damaged, by fire or other casualty, the County will promptly so notify the Authority and the Trustee in writing. If, in such event, the County is not entitled to exercise its right (granted in Section 11.1 hereof) to require the Authority to redeem and retire all the outstanding Warrants or if, in such event, being entitled to, it does not exercise such right, the Net Insurance Proceeds recovered by the Authority, the County and the Trustee on account of such damage or destruction shall be paid to and held by the Trustee, whereupon

(a) the Authority will proceed, as promptly as practicable under the circumstances and under such terms, conditions and contracts as shall be approved by the County, to repair, replace, rebuild or restore the property damaged or destroyed to substantially the same condition as prior to the event causing such damage or destruction, with such changes, alterations or modifications as shall be specified by the County and as will not change the character of the Project as part of a "project" under the provisions of the Act (provided that the County shall not cause any such changes, alterations or modifications to be made which would cause the costs of repairing, replacing, rebuilding or restoring the property damaged or destroyed to exceed the Net Insurance Proceeds referable thereto, unless the County pays, or provides funds to the Authority for the payment of, the amount by which such costs exceed such insurance proceeds), and

(b) the Trustee will apply the Net Insurance Proceeds to payment of the costs of such repair, replacement, rebuilding or restoration.

Any balance of the Net Insurance Proceeds remaining after payment of all the costs of such repair, replacement, rebuilding or restoration shall be paid into the Redemption Fund.

The Authority's obligation to pay the costs of repairing, replacing, rebuilding or restoring any property destroyed or damaged shall be limited solely to the Net Insurance Proceeds referable thereto, plus any funds that may have been contributed to it for such purpose. If, after being furnished with the necessary funds (whether from insurance proceeds or other sources), the Authority fails or refuses after reasonable request so to take any action required to repair, replace, rebuild or restore the property damaged or destroyed, the County may, for and in the name and behalf of the Authority, take such action as is required to accomplish such repair, replacement, rebuilding or restoration, in which case it shall be entitled to reimbursement for the costs thereof from the funds referred to above, to the extent such funds are sufficient therefor.

In no event shall the Authority undertake the work of any repair, replacement, rebuilding or restoration unless and until (i) it has been notified in writing by the County that the County irrevocably relinquishes any right it may have under Section 11.1 hereof, on account of such damage or destruction, to require the Authority to redeem and retire all the then outstanding Warrants, or (ii) the time within which the County must exercise such right has expired without the County having exercised such right. If, however, as a result of such damage or destruction, the County is entitled to exercise such right and duly does so in accordance with the applicable provisions of said Section 11.1, then the Authority shall not be required to repair, replace, rebuild or restore the property damaged or destroyed, in which event so much (which may be all) of any Net Insurance Proceeds referable to such damage or destruction as shall be necessary to provide for full retirement of the Warrants (as specified in Section 11.1 hereof) shall be paid or credited by the Trustee into the Warrant Fund and the excess thereafter remaining (if any) shall be paid to the County after all the outstanding Warrants have been retired.

**Section 7.2 Condemnation Provisions.** If title to the Project or any part thereof is taken under the exercise of the power of eminent domain, the entire condemnation award in respect of such taking [including, without limitation, (i) all amounts received as the result of any settlement of compensation claims negotiated with the condemning authority, and (ii) any amount awarded as compensation for the interest of the County in the part of the Project taken and as damages to the interest of the County in any part thereof not taken, but not including any condemnation award belonging to the County pursuant to the provisions of Section 7.4 hereof] shall be paid to the Trustee, whereupon such award shall be applied and certain related actions shall be taken in accordance with the succeeding provisions of this Section 7.2:

(a) Taking of All or Substantially All the Project. If title to all or substantially all the Project is taken by such eminent domain proceeding, this Lease Agreement shall terminate as of the forty-fifth (45th) day after the receipt by the Trustee of the final installment of the entire condemnation

award in respect of such taking. If the Net Condemnation Award plus all amounts in the Warrant Fund, the Redemption Fund and the Construction Fund (if any) are sufficient to pay and retire all the then outstanding Warrants, the Trustee shall apply all such amounts to the redemption and retirement of all the then outstanding Warrants in accordance with the applicable provisions of the Indenture. If, however, the total of such amounts is not sufficient to pay and retire all the then outstanding Warrants, the Trustee will apply such amounts in accordance with Section 13.3 of the Indenture.

The County shall not, on account of being deprived of the use and occupancy of the Project as the result of the taking by eminent domain of all or substantially all thereof, be entitled to any rebate of any Basic Rent applicable to the Primary Term or any Renewal Term that it may have, prior to such taking, paid to the Trustee for the account of the Authority. If, however, the sum of the Net Condemnation Award and the amounts in the Warrant Fund, the Redemption Fund and the Construction Fund (if any) exceeds the sum needed to retire all the then outstanding Warrants [including, without limitation thereto, principal, premium (if any), interest to maturity or earliest practicable redemption date (as the case may be), expenses of redemption and Trustee's fees, charges and disbursements] in accordance with the applicable provisions of the Indenture, then such excess shall be paid to the County after all the then outstanding Warrants have been retired.

(b) Taking of Less Than Substantially All the Project. If title to less than substantially all the Project is taken by such eminent domain proceeding, this Lease Agreement (including, without limitation thereto, the options of the County to renew the lease herein made for successive Renewal Terms and the obligation of the County to pay the Basic Rent applicable to the Primary Term and all Renewal Terms for which said lease shall be in effect) shall continue in full force and effect but with the following consequences:

(1) If no part of the Project Building is taken or damaged and if in the County's opinion the use of the Project Building is not impaired by such taking, the Net Condemnation Award referable thereto shall be paid into the Redemption Fund.

(2) If any part of the Project Building is taken or damaged or if in the County's opinion the use of the Project Building is impaired by such taking, the Authority will proceed, as promptly as practicable under the circumstances and upon such terms and conditions as shall be approved in writing by the County, to repair, replace, rebuild or restore the portion or portions of the Project Building taken or damaged or to rearrange the Project Building and any other facilities then forming a part of the Project so as to make them suitable for the use of the County (provided that the County shall not prescribe terms and conditions for such repair, replacement, rebuilding, restoration or rearrangement which would cause the costs thereof to exceed the Net Condemnation Award referable to such

taking, unless the County pays, or provides for the payment of, the amount by which such costs exceed such condemnation award), and the Trustee will apply the Net Condemnation Award referable to such taking to payment of the costs of such repair, replacement, rebuilding, restoration or rearrangement. If the Net Condemnation Award is in excess of the costs of such repair, replacement, rebuilding, restoration or rearrangement, the excess shall be paid into the Redemption Fund. The Authority's obligation to pay the costs of such repair, replacement, rebuilding, restoration or rearrangement shall be limited solely to the Net Condemnation Award, plus any funds that may have been contributed to it for such purpose. If, after being furnished with the necessary funds (whether from condemnation awards or from other sources), the Authority fails or refuses after reasonable request so to repair, replace, rebuild or restore the portion or portions of the Project Building taken or damaged or to rearrange the Project Building and any other facilities then forming a part of the Project so as to make them suitable for the use of the County, as the case may be, the County may, for and in the name and behalf of the Authority, perform the work of such repair, replacement, rebuilding, restoration or rearrangement, in which case it shall be entitled to reimbursement for the costs thereof from the funds referred to above, to the extent that such funds are sufficient therefor.

The provisions of the preceding subparagraph (2) to the contrary notwithstanding, in no event shall the Authority undertake the work of any repair, replacement, rebuilding, restoration or rearrangement thereunder unless and until (A) it has been notified in writing by the County that the County irrevocably relinquishes any right it may have under Section 11.1 hereof, on account of such taking, to require the Authority to redeem and retire all the then outstanding Warrants, or (B) the time within which the County must exercise such right has expired without the County having exercised such right. If, however, as a result of such taking, the County is entitled to exercise such right and duly does so in accordance with the applicable provisions of said Section 11.1, then the Authority shall not be required to repair, replace, rebuild or restore the portion or portions of the Project Building taken or damaged or to rearrange the Project Building or any other facilities then forming a part of the Project nor shall any of the other provisions of said subparagraph (2) apply in such case, and so much (which may be all) of the Net Condemnation Award referable to such taking as shall be necessary to provide for full payment and retirement of the Warrants (as specified in Section 11.1 hereof) shall be paid or credited by the Trustee into the Warrant Fund and the excess thereafter remaining (if any) shall be paid to the County after all the outstanding Warrants have been retired.

The Authority will cooperate fully with the County in the handling and conduct of any prospective or pending condemnation proceeding with respect to the Project or any part thereof and will follow all reasonable directions given to it by the County in connection with such proceeding. In no event will the Authority settle, or consent to the settlement of, any

prospective or pending condemnation proceeding with respect to the Project or any part thereof without the prior written consent of the County.

**Section 7.3 Condemnation of Right to Use of the Project for Limited Period.** If the use, for a limited period, of all or part of the Project is taken under the exercise of the power of eminent domain, the Lease (including, without limitation, the provisions hereof relating to the payment of Basic Rent) shall continue in full force and effect, but with the consequences specified in the succeeding provisions of this section. If the period of such taking expires on or before the expiration of the Lease Term, the County shall be entitled to receive the entire condemnation award made therefor, whether by way of damages, rent or otherwise, and shall upon being restored to possession restore the Project to substantially the same condition as prior to such taking, with such changes, alterations and modifications as will not significantly impair the operating utility of the Project, or change the character thereof to such extent that it will not constitute a "project" within the meaning of the Act. If such taking occurs during the Lease Term but the period of such taking expires after the expiration of the Lease Term, the County shall be entitled to receive that portion of the award allocable to the period from the date of such taking to the end of the Lease Term, and the Authority shall be entitled to the remainder thereof.

**Section 7.4 Condemnation of Property Owned by the County.** The County shall be entitled to any condemnation award or portion thereof made for damages to or the taking of its own property or property rights not included in the Project, but any condemnation award resulting from damages to or the taking of all or any part of the leasehold estate or other interest of the County in the Project created by the Lease shall be applied in accordance with the provisions of Section 7.2 or 7.3 hereof, whichever may be applicable. In the event of any taking which involves both the Project and property of the County, the County shall be responsible for all attorneys' fees and other expenses properly allocable to the taking of its own property.

**Section 7.5 Cooperation of the Authority in the Conduct of Condemnation Proceedings.** The Authority will cooperate fully with the County in the handling and conduct of any prospective or pending condemnation proceeding with respect to the Project or any part thereof and will follow all reasonable directions given to it by the County in connection with such proceeding. In no event will the Authority settle, or consent to the settlement of, any prospective or pending condemnation proceeding with respect to the Project or any part thereof without the prior written consent of the County.

**Section 7.6 Cooperation of the Authority with Respect to Restoration of the Project in the Event of Casualty or Condemnation.** If, as a result of the taking of title to less than substantially all the Project or the taking of the temporary use of all or any part of the Project through the exercise of the power of eminent domain, or if, as a result of any event causing destruction or damage to the Project or any part thereof, the County determines, in accordance with any applicable provision of this Article VII, to acquire (by purchase, construction or otherwise) any additional property to replace any part of the Project

so taken, or to have the Project repaired, replaced, restored, modified, relocated or rearranged in order to correct or ameliorate any condition caused by such taking, damage or destruction, as the case may be, then the Authority will execute and deliver, or cause to be executed and delivered, all contracts, orders, requisitions, instructions and other written instruments and do, or cause to be done, all other acts that may be necessary or proper in carrying out all such undertakings with respect to the Project. In no event, however, will the Authority hereafter enter into any contract with respect to any part of such undertakings unless there is endorsed thereon a legend indicating that the County has approved both the form and substance of such contract and such legend is signed by or on behalf of the County. Any obligation for the payment of money incurred or assumed by the Authority in connection with such undertakings shall be payable solely out of any Net Condemnation Award or Net Insurance Proceeds held by the Trustee or from any other moneys made available to the Authority by the County under the provisions of the Lease.

## ARTICLE VIII

### PARTICULAR COVENANTS OF THE COUNTY

Section 8.1 **Special Covenants of the County.** While any of the Warrants shall remain outstanding, the County will not acquire, construct, lease or use any building or facilities, or any ancillary improvements thereto, other than the Project for use as a county courthouse in and for the County. Notwithstanding the foregoing, if at any time prior to the time when all the Warrants have been fully paid, the Commission or any court or agency having jurisdiction over the County shall determine that the need for courthouse facilities in the County exceeds the maximum capacity of the Project plus the maximum capacity of all other courthouse facilities then owned, leased, rented or used by the County, then the County may, without violating the covenants contained in this Section 8.1, acquire, construct, lease or use new or additional county courthouse facilities but only to the limited extent necessary to perform the functions which cannot then be performed at the Project.

Section 8.2 **General Covenants.** The County will not do or permit anything to be done in or about or with respect to the Project that will affect, impair or contravene any policies of insurance that may be carried on the Project against loss or damage by fire, casualty or otherwise. The County will, in its use of the Project and the public ways abutting the Project Site, comply in all material respects with all valid and applicable laws, ordinances, rules, regulations and orders of all governmental authorities or agencies; provided, however, that the County may in good faith contest the validity of any such laws, ordinances, rules, regulations and orders or the application thereof to the Project and in the event of any such contest defer compliance therewith during the period of such contest and the pendency of any appeal in connection therewith, unless by such action the rights or interests of the Authority or the Trustee with respect to the Project or any part thereof shall be materially endangered or impaired.

**Section 8.3 Release and Indemnification Covenants.** The County releases the Authority (and each director, officer and employee thereof) and the Trustee from, and will indemnify and hold the Authority (and each director, officer and employee thereof) and the Trustee harmless against, any and all claims and liabilities of any character or nature whatsoever, regardless of by whom asserted or imposed, and losses of every conceivable kind, character and nature whatsoever claimed by or on behalf of any person, firm, limited partnership or governmental authority, arising out of, resulting from, or in any way connected with the Project, including, without limiting the generality of the foregoing, (i) any actions relating to the acquisition, expansion, improvement, equipping and installation of the Project or any part thereof and (ii) the leasing of the Project to the County and the condition, use, possession or management of the Project during the Lease Term; provided, however, that the County shall not be obligated to indemnify any director, officer or employee of the Authority against any claim, liability or loss in any way connected with the Project unless such claim, liability or loss arises out of or results from official action taken in the name and behalf of the Authority by such director, officer or employee.

The County acknowledges that it has sought and received the assistance and cooperation of the Authority in connection with the offering and sale of the Series 1990 Warrants. The County will indemnify, hold harmless and defend the Authority and the Underwriter (and each director, officer and employee thereof) against

(a) any claim or liability whatsoever arising out of or based upon any untrue or misleading statement or alleged untrue or misleading statement of any material fact contained in any of the information furnished, or caused to be furnished, by the County to any prospective purchaser of the Series 1990 Warrants, or the omission or alleged omission to state in any such information any material fact necessary to make the statements contained therein not misleading in the light of the circumstances under which such statements were made, and

(b) any claim or liability arising out of any action taken by the Authority at the request of the County (or any other person authorized to act on behalf of the County (or any other person authorized to act on behalf of the County) in connection with the offering and sale of the Series 1990 Warrants.

The County will pay or reimburse all legal or other expenses reasonably incurred by the Authority (and each director, officer and employee thereof), the Underwriter or the Trustee, as the case may be, in connection with the investigation or defense of any action or proceeding, whether or not resulting in liability, with respect to any claim, liability or loss in respect of which indemnity may be sought against the County under the provisions of this section.

In the event that any action or proceeding is brought against any indemnifiable party (whether the Authority, or any of the Authority's directors, officers or employees, the Underwriter or the Trustee), in respect of which indemnity may be sought against the County under the provisions of this section, such indemnifiable party shall, as a condition of the County's liability under the provisions of this section, be obligated to notify promptly the County in writing of the commencement of such action or proceeding and shall thereafter

forward to the County a copy of every summons, complaint, pleading, motion or other process received with respect to such action or proceeding. The County may (and if so requested by such indemnifiable party, shall) at any time assume the defense of such indemnifiable party in connection with any such action or proceeding, and in such case the County shall pay all expenses of such defense and shall have full and complete control of the conduct on the part of such party of any such action or proceeding, including, without limitation, the right to settle or compromise any claim giving rise to such action or proceeding upon such terms and conditions as the County, in its sole discretion, shall determine and the right to select Counsel for such party; provided, however, that any Counsel selected by the County for the Authority shall be subject to the approval of the Authority. Any other provision of this section to the contrary notwithstanding, the County shall not be obligated to indemnify any such indemnifiable party for any liability resulting from the settlement of any action or proceeding, or for any legal or other expenses incurred in connection with the investigation or defense of any action or proceeding, if such settlement was made without the County's consent, irrespective of whether the County had, prior to such settlement, exercised its right to assume the defense of such indemnifiable party in connection with such action or proceeding.

Nothing contained in this section shall be construed to indemnify the Authority, or any of the Authority's directors, officers or employees, or the Trustee, against, or to release any of such parties from liability for, any claim, liability or loss that may result from willful misconduct or gross negligence on the part of such parties, it being understood and agreed, however, that an allegation of willful misconduct or gross negligence on the part of any indemnifiable party shall not relieve the County of its obligation to pay or reimburse the legal expenses and other related expenses reasonably incurred by such indemnifiable party in defending against such allegation unless a court of competent jurisdiction determines, on the basis of such allegation, that such indemnifiable party is liable.

Anything to the contrary herein contained notwithstanding, the covenants of the County contained in this section shall, with respect to any claim, liability or loss for which the County is obligated to provide indemnity, remain in full force and effect after the termination of the Lease until (i) any cause of action brought in respect of such claim, liability or loss shall be barred by the applicable statute of limitation or (ii) the payment in full or the satisfaction of such claim, liability or loss, including all reasonable expenses incurred by the indemnifiable party or parties in defending against such claim, liability or loss; provided, however, that in the event any action or proceeding arguably barred by the applicable statute of limitation is brought against any indemnifiable party hereunder, the County shall be obligated to defend such indemnifiable party with respect to such action or proceeding, all to the end that the bar of the statute of limitation may be asserted by the County against the party bringing such action or proceeding but may not be asserted by the County against the indemnifiable party in order to avoid performing any of its obligations under this section.

**Section 8.4 Inspection of Project.** The County will permit the Authority, the Trustee and their duly authorized agents at all reasonable times to examine and inspect the Project or any part thereof. So long as any of the Indenture Indebtedness shall be outstanding and unpaid, the County will also permit the Trustee and its duly authorized agents to take such action as may be necessary and convenient to cause the Project to be kept

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in reasonably good repair and operating condition, all as and to the extent provided in Sections 6.1 and 6.5 hereof.

**Section 8.5 No-Arbitrage Covenants.** Neither the Authority nor the County will take any action, or omit to take any action, with respect to the investment of any of the proceeds from the sale of the Series 1990 Warrants, or any revenues from the Project accumulated by the Authority, if, as a result of such action by the Authority or the County, or the omission of the Authority or the County to take such action, as the case may be, such proceeds or revenues would be invested in a manner causing the Series 1990 Warrants to be "arbitrage bonds" within the meaning of Section 148 of the Code and the applicable regulations thereunder. Without limiting the generality of the foregoing, the County and the Authority hereby covenant to take all actions required to satisfy, with respect to the Series 1990 Warrants, the arbitrage rebate requirement imposed by Section 148(f) of the Code and any temporary, proposed or final Treasury Regulations promulgated thereunder.

**Section 8.6 General Tax Covenants.** The Authority and the County recognize that the Holders from time to time of the Series 1990 Warrants will have accepted them on, and paid therefor a price which reflects, the understanding that interest on the Series 1990 Warrants will be excluded from gross income for purposes of federal income taxation under the laws in force at the time the Series 1990 Warrants shall have been delivered. In that connection the Authority and the County hereby covenant that they will not take any action, or omit to take any action, if such action or omission, as the case may be, would cause the interest on any of the Series 1990 Warrants to become includable in gross income for purposes of federal income taxation. Further the Authority and the County represent and covenant that the Series 1990 Warrants will not constitute "private activity bonds" within the meaning of Section 141 of the Code.

**Section 8.7 Further Assurances.** The County will, at its own cost and expense, take all actions that may at the time and from time to time be necessary to perfect, preserve, protect and secure the interests of the Authority and the Trustee, or either, in and to the Project and the revenues therefrom pledged and assigned in the Indenture, including, without limitation, the filing of all financing and continuation statements that may at the time be required under the Alabama Uniform Commercial Code. The County further agrees, without in any way limiting the generality of the foregoing, to take any and all such actions that in the reasonable judgment of the Authority or the Trustee are necessary for the perfection, preservation, protection and securing of such interests.

**Section 8.8 Additional Indebtedness.** The Authority hereby agrees that it will not issue any warrants (other than the Series 1990 Warrants) or incur any other indebtedness without the prior written consent of the County.

## ARTICLE IX

### CERTAIN PROVISIONS RELATING TO MORTGAGING THE PROJECT AND TO THE WARRANTS

Section 9.1 **Mortgaging of the Project by Authority.** It is understood and agreed that the Authority will mortgage the Project to the Trustee as security for the payment of the Series 1990 Warrants, subject to the Lease (which Lease and the estate of the County hereunder shall be prior and superior to the lien of the Indenture), and will assign its interest (other than its right to require the County to pay certain expenses as provided in Sections 5.4 and 10.4 hereof, the indemnification rights contained in Section 8.3 hereof and certain other rights which are herein expressly provided to be exercised by the Authority) in the Lease and pledge any moneys receivable hereunder to the Trustee as security for payment of the principal of and the interest and premium (if any) on the Series 1990 Warrants. It is further understood and agreed that in the Indenture the Authority will obligate itself to follow the instructions of the Trustee or the Holders of the Series 1990 Warrants or a certain percentage of the latter in the election or pursuit of any remedies herein vested in it. Upon the assignment and pledge to the Trustee of the Authority's interest in the Lease, the Trustee shall have all rights and remedies herein accorded the Authority (other than the aforesaid rights reserved to the Authority), and any reference herein to the Authority shall be deemed, with the necessary changes in detail, to include the Trustee; and the Trustee and the Holders of the Series 1990 Warrants shall be deemed to be third party beneficiaries of the covenants and agreements on the part of the County contained in the Lease and shall, to the extent provided in the Indenture, be entitled to enforce performance and observance of the agreements and covenants on the part of the County contained in the Lease to the same extent as if they were parties hereto. Subsequent to the issuance of the Series 1990 Warrants and prior to the payment of the Indenture Indebtedness in full, the Authority and the County shall have no power to modify, alter, amend or (except as specifically authorized herein) terminate the Lease without the prior written consent of the Trustee and then only as provided in the Indenture. The Authority will not, so long as no Event of Default shall have occurred and be continuing, amend the Indenture or any indenture supplemental thereto without the prior written consent of the County.

Without the prior written request or consent of the County, the Authority will not, so long as no Event of Default shall have occurred and be continuing, hereafter issue any bonds or other securities (including refunding securities), other than the Series 1990 Warrants, that are payable out of or secured by a pledge of the revenues and receipts derived by the Authority from the leasing or sale of the Project, nor, without such consent, will the Authority, so long as no Event of Default shall have occurred and be continuing, hereafter place any mortgage or other encumbrance (other than the Indenture and supplemental indentures contemplated thereby) on the Project or any part thereof.

Section 9.2 **Termination of this Lease Agreement Upon Full Payment of Warrants. Vesting of Title to Project in County.** Upon full payment of the Warrants, this Lease Agreement shall terminate and all references herein to the Warrants and the

Trustee shall be ineffective and neither the Trustee nor the holders of any of the Warrants shall thereafter have any rights hereunder. For purposes of this Lease Agreement, the Warrants shall be deemed fully paid if there exists, with respect thereto, the applicable conditions specified in Section 16.1 of the Indenture.

The Authority and the County hereby acknowledge that the Act provides, as of the time of the execution and delivery of this Lease Agreement, that in the event the Authority shall at any time have outstanding and unpaid warrants payable, in whole or in part, from the revenues derived from the Project, then, as and when the principal of and interest on all such warrants shall have been paid in full, title to the Project shall thereupon vest in the County. In order to conform this Lease Agreement to the aforesaid provision of the Act and in order to establish the County's right to the Project if, at such time as the Warrants become fully paid, the Act does not then automatically vest title to the Project in the County, the Authority hereby conveys to the County all the Authority's right, title and interest in and to the Project, said right, title and interest to vest absolutely in the County upon full payment of the Warrants and all other indebtedness of the Authority secured (in whole or in part) by a lien on the Project or payable (in whole or in part) out of the revenues derived by the Authority therefrom. The Authority and the County hereby further agree that the right, title and interest of the Authority in and to the Project conveyed to the County by this paragraph shall, without further action on the part of the Authority, automatically vest in the County upon full payment of the Warrants and such other indebtedness. In no event, however, shall the County be entitled to claim or enforce any rights in the Project pursuant to such conveyance which would in any way impair the rights of the Trustee, the holders of any of the Warrants, or any creditors of the Authority with respect to such other indebtedness. The estate of the County created by such conveyance is in the nature of a contingent remainder, and such estate shall not merge with the lease estate of the County created by this Lease Agreement until all conditions precedent to its vesting shall have been satisfied, including, without limitation thereto, the satisfaction and discharge of the lien of the Indenture in accordance with the provisions of Section 16.1 thereof. The Authority will, at the expense of the County, execute and deliver such further instruments and do such further acts as may be necessary or appropriate to perfect and secure the title of the County to the Project, if and when the County's right thereto vests absolutely pursuant to the provisions of this paragraph. The provisions of this paragraph shall survive any termination of this Lease Agreement resulting from the full payment of the Warrants.

**Section 9.3 Concerning Issuance of Additional Warrants.** The Authority and the County recognize that the Authority is authorized to issue under the Indenture, upon compliance with the conditions precedent specified therein, one or more series of Additional Warrants for any one or more of the purposes specified in the Indenture. If no Event of Default shall have occurred and be continuing, the Authority will, on the written request of the County and upon compliance with the applicable conditions contained in Article VIII of the Indenture, take such actions as are necessary to authorize the issuance and sale of Additional Warrants in such principal amount and for such purpose or purposes as are specified in such request and will use its best efforts to effect the sale thereof. To the extent consistent with all applicable provisions of the Indenture and the Lease, all terms and conditions of such Additional Warrants (including, without limitation, those relating to the maturity dates of the principal of such Additional Warrants, the interest rate or rates thereof

and the provisions for redemption thereof prior to their respective maturities) and the purchase price to be paid therefor shall be subject to the approval of the County.

**Section 9.4 Disposition of Trust Fund Moneys after Full Payment of Indenture Indebtedness.** The Authority hereby assigns to the County all surplus moneys (if any) that may remain in the Warrant Fund, the Construction Fund and the Redemption Fund or that may otherwise be held by the Trustee after the Indenture Indebtedness has been fully paid, such assignment to be subject to the condition that the Lease shall not have been terminated prior to full payment of the Indenture Indebtedness as a result of the occurrence of an Event of Default. The Authority will provide in the Indenture for such surplus moneys to be paid to the County in accordance with such assignment. It is understood and agreed that surplus moneys remaining in the Warrant Fund or otherwise held by the Trustee shall not include (i) any amounts so held for payment of matured but unpaid Warrants, Warrants called for redemption but not yet redeemed and matured but unpaid interest and (ii) any amounts held therein which are referable to unmatured Warrants if such Warrants are considered fully paid pursuant to the provisions of Section 16.1 of the Indenture by reason of the fact that such amounts are so held by the Trustee. The provisions of this section shall survive the expiration or prior termination of the Lease.

## **ARTICLE X**

### **EVENTS OF DEFAULT AND REMEDIES**

**Section 10.1 Events of Default Defined.** The following shall be "Events of Default" under the Lease, and the term "Event of Default" shall mean, whenever it is used in the Lease, any one or more of the following events:

(a) failure by the County to pay any installment of Basic Rent on or before the date on which it becomes delinquent or failure by the County to make any other payment required under the terms hereof [other than any payment referred to in clause (b) of this section] on the date that such payment shall become due and payable by the terms of the Lease;

(b) failure by the County to pay any amount due the Trustee for its reasonable fees, charges and disbursements within thirty (30) days after written demand for such payment by the Trustee, which demand shall not be made earlier than the date on which such amount is due and payable;

(c) failure by the County to perform or observe any agreement, covenant or condition required by the Lease to be performed or observed by it [other than the agreements and covenants referred to in the preceding clauses (a) and (b), of this section], which failure shall have continued for a period of thirty (30) days after written notice specifying, in reasonable detail, the nature of such failure and requiring the County to perform or observe the agreement, covenant or condition with respect to which it is delinquent shall have been

given to the County by the Authority or the Trustee, unless (i) the Authority and the Trustee shall agree in writing to an extension of such period prior to its expiration, or (ii) during such thirty (30) day period or any extension thereof, the County has commenced and is diligently pursuing appropriate corrective action, or (iii) the County is by reason of force majeure at the time prevented from performing or observing the agreement, covenant or condition with respect to which it is delinquent;

(d) any warranty, representation or other statement by or on behalf of the County contained in the Lease, or in any other document furnished by the County in connection with the issuance or sale of any of the Series 1990 Warrants, being false or misleading in any material respect at the time made; or

(e) the entry of a decree or order by a court of competent jurisdiction relief in respect of the County or adjudging the County to be a bankrupt or insolvent or approving as properly filed a petition seeking the arrangement, adjustment or composition of its obligations under the United States Bankruptcy Code, as now constituted or as amended, or any other applicable federal or state bankruptcy or other similar law, which decree or order shall have continued undischarged or unstayed for a period of sixty (60) days; or the entry of a decree or order of a court of competent jurisdiction for the appointment of a receiver, liquidator, trustee, custodian or assignee in bankruptcy or insolvency for the County or for all or a major part of its property, or for the winding up or liquidation of its affairs, which decree or order shall have remained in force undischarged or unstayed for a period of sixty (60) days.

The term "force majeure" as used herein means acts of God or the public enemy, strikes, lockouts, work slowdowns or stoppages or other labor disputes, insurrections, riots or other civil disturbances, orders of the government of the United States of America or of any state of the United States of America or of any of the departments, agencies, political subdivisions or officials of the United States of America or of any state thereof, or orders of any other civil or military authority, or partial or entire failure of public utilities, or any other condition or event beyond the reasonable control of the County. The County will, to the extent that it may lawfully do so, use its best efforts to remedy, alleviate or circumvent any cause or causes preventing it from performing its agreements and covenants hereunder.

**Section 10.2 Remedies on Default.** Whenever any Event of Default shall have happened and be continuing, the Authority and the Trustee, or the Trustee on behalf of the Authority, may take any one or more of the following remedial actions:

(a) take possession of the Project, exclude the County from possession thereof and rent the same for the account of the County, holding the County liable for the balance of all rent and other amounts due under the Lease;

(b) terminate the Lease, take possession of the Project, exclude the County from possession thereof and lease the same for the account of the Authority and the Trustee, holding the County liable for all rent due and other amounts due under the Lease until the date such other lease is made for the account of the Authority and the Trustee;

(c) have access to, and inspect, examine and make copies of, the books, records and accounts of the County; and

(d) take whatever legal proceedings may appear necessary or desirable to collect the rent then due, whether by declaration or otherwise, or to enforce any obligation, covenant or agreement of the County under the Lease.

**Section 10.3 No Remedy Exclusive.** No remedy herein conferred upon or reserved to the Authority or the Trustee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under the Lease or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority or the Trustee to exercise any remedy reserved to it in this Article X, it shall not be necessary to give any notice, other than such notice as is herein expressly required.

**Section 10.4 Agreement to Pay Attorneys' Fees.** In the event that, as a result of an Event of Default or a threatened Event of Default by the County, the Authority or the Trustee should in good faith employ attorneys at law or incur other expenses in or about the collection of rent or the enforcement of any other obligation, covenant, agreement, term or condition of the Lease, the County will, whether or not the Authority or the Trustee is successful in such efforts and whether or not final judgment for either is rendered by a court of competent jurisdiction, pay to the Authority or to the Trustee or both, as the case may be, reasonable attorneys' fees and other reasonable expenses so incurred by the Authority and the Trustee in good faith.

**Section 10.5 No Additional Waiver Implied by One Waiver.** In the event any agreement contained in the Lease should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. Further, neither the receipt nor the acceptance of any rent hereunder by the Authority, or by the Trustee on its behalf, shall be deemed to be a waiver of any breach of any covenant, condition or obligation herein contained or a waiver of any Event of Default even though at the time of such receipt or acceptance there has been a breach of one or more covenants, conditions or obligations on the part of the County herein contained or an Event of Default (or both) and the Authority or the Trustee (or both) have knowledge thereof.

## **ARTICLE XI**

### **CONCERNING THE COUNTY'S RIGHT TO REQUIRE REDEMPTION OF WARRANTS**

**Section 11.1 Right of County to Require Authority to Redeem Warrants in Certain Circumstances.** The County shall have the right, subject to compliance with the conditions governing the exercise of that right contained in this Section 11.1, to require the Authority to effect the redemption and retirement of all the Warrants in the event that

(a) the Project is, after its expansion and improvement have been completed, damaged or destroyed, by fire or other cause, to such extent that, in the opinion of the County, expressed in a resolution of the Commission, and of an Independent Architect, expressed in a written certificate, each to be filed with the Authority and the Trustee, (i) it cannot reasonably be restored to the condition thereof immediately preceding such damage or destruction within a period of twelve (12) consecutive months, or (ii) the County will thereby be prevented, or is likely to be prevented, from using the Project for its purposes for a period of not less than twelve (12) consecutive months, or (iii) the cost of restoration thereof would exceed the sum of the Net Insurance Proceeds referable to such damage or destruction, or

(b) under the exercise of the power of eminent domain by any governmental authority or person, firm or corporation acting under governmental authority, the temporary use of all or part of the Project or title to less than all or less than substantially all the Project is taken to such extent that, in the opinion of the County, expressed in a resolution of the Commission, and of an Independent Architect, expressed in a written certificate, each to be filed with the Authority and the Trustee, the County will thereby be prevented, or is likely to be prevented, from using the Project for its purposes for a period of not less than twelve (12) consecutive months, or

(c) as a result of any changes in the Constitution of the State of Alabama or the Constitution of the United States of America or of legislative or administrative action (whether state or federal) or by final decree, judgment or order of any court or administrative body (whether state or federal), entered after the contest thereof by the County in good faith, this Lease Agreement becomes void or unenforceable or impossible of performance in accordance with the intent and purposes of the parties as expressed herein or unreasonable burdens or excessive liabilities are imposed on the Authority or the County.

To exercise the right granted by this Section 11.1 to require the Authority to redeem and retire all the Warrants, the County

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(i) shall, within one hundred eighty (180) days following the event authorizing the exercise of such right, give written notice to the Authority and the Trustee,

(ii) shall specify therein the date on which all the then outstanding Warrants are to be redeemed and retired, which shall be not less than forty-five (45) nor more than ninety (90) days after the date such notice is mailed, and

(iii) shall five (5) days prior to the date fixed for redemption pursuant to the preceding clause (ii) pay to the Trustee (for the account of the Authority), as consideration for the exercise of the right to require the redemption and retirement of the Warrants, an amount which, when added to the total of the amounts on deposit in the Warrant Fund, the Redemption Fund and the Construction Fund plus the amount of any Net Insurance Proceeds or Net Condemnation Award in the hands of the Trustee and referable to any damage, destruction or condemnation authorizing the exercise of such right, will be sufficient to pay, retire and redeem all the outstanding Warrants on said date fixed for redemption, including, without limitation, principal, premium (if any), all interest to mature until and on such date, expenses of redemption and Trustee's fees, charges and disbursements.

The Authority and the County acknowledge and agree that, upon the full payment and satisfaction of all indebtedness of the Authority (if there is any, other than the Warrants, at the time outstanding and unpaid) secured by a lien on the Project or payable out of the revenues derived by the Authority therefrom, the title of the Project (as the Project may then exist) will vest in the County, pursuant to the applicable provisions of Section 9.2 hereof, as the result of the redemption and retirement of the Warrants pursuant to this Section 11.1.

If at the time the Warrants are redeemed pursuant to this Section 11.1 there have not been collected by the Authority, the Trustee or the County the entire insurance proceeds or condemnation awards referable to any damage, destruction or condemnation authorizing the exercise of the County's right to require the redemption of the Warrants, all Net Insurance Proceeds and all Net Condemnation Awards thereafter collected and referable to such damage, destruction or condemnation shall be paid to the County, and the Authority will take all actions necessary to cause the amount of any such proceeds or awards to be paid to the County. The provisions of this paragraph shall survive the expiration of the term of this Lease Agreement or any termination hereof unless at the time of such expiration or termination the County is in default in the payment of any sums herein required to be paid by it.

## ARTICLE XII

### MISCELLANEOUS

**Section 12.1 Covenant of Quiet Enjoyment. Surrender.** So long as the County performs and observes all the covenants and agreements on its part herein contained, it shall peaceably and quietly have, hold and enjoy the Project during the Lease Term, subject to all the terms and provisions hereof. At the end of the Lease Term, or upon any prior termination of the Lease, the County will surrender to the Authority possession of all property then subject to the demise of the Lease (unless title to the Project has vested in the County pursuant to Section 9.2 hereof), in its then condition, whatever that may be.

**Section 12.2 Retention of Title to Project by Authority. Granting of Easements.** Without the prior written consent of the County, the Authority will not itself, so long as no Event of Default shall have occurred and be continuing, (i) sell, convey or otherwise dispose of all or any part of the Project (except as provided in Section 11.6 of the Indenture), (ii) mortgage or otherwise encumber the Project or any part thereof (except as provided in Section 9.1 hereof), or (iii) dissolve or do anything that will result in the termination of its corporate existence (except as provided in Section 11.6 of the Indenture). The Authority will, however, grant such utility, access and other similar easements, permits and rights-of-way over, across or under the Project Site as shall be requested in writing by the County, provided that in connection with the grant of each such easement, permit or right-of-way the County furnishes to the Authority and the Trustee a certificate signed by an Authorized County Representative stating that such easement, permit or right-of-way is, or will be, useful or necessary in the operation of the Project and will not materially interfere with or impair the use of the Project for the purpose for which it was acquired or is held by the Authority. The County will pay all reasonable expenses incurred by the Authority in connection with the granting of all such easements, permits and rights-of-way.

**Section 12.3 Exemption from Taxation.** As provided in the Act, as now existing, the Warrants and the income therefrom, as well as the Project and any revenues derived by the Authority from the leasing or sale thereof, shall be exempt from all taxation in the State of Alabama.

**Section 12.4 This Lease a Net Lease.** The County recognizes and understands that it is the intention hereof that the lease herein made shall be a net lease and that until the Warrants are fully paid all Basic Rent shall be available for payment of the principal and the interest and premium (if any) on the Warrants. The Lease shall be construed to effectuate such intent.

**Section 12.5 Notices.** All notices, demands, requests and other communications hereunder shall be deemed sufficient and properly given if in writing and delivered in person

to the following addresses or received by certified or registered mail, postage prepaid with return receipt requested, at such addresses:

(a) If to the Authority:

The Shelby County Public Building Authority  
Shelby County Courthouse  
Columbiana, Alabama 35051  
Attention: President

(b) If to the County:

Shelby County, Alabama  
Shelby County Courthouse  
Columbiana, Alabama 35051  
Attention: Chairman of the Shelby County Commission

(c) If to the Trustee:

AmSouth Bank N.A.  
Post Office Box 11426  
Birmingham, Alabama 35202  
Attention: Corporate Trust Department

Any of the above mentioned parties may, by like notice, designate any further or different addresses to which subsequent notices shall be sent. Any notice given to the Authority, the County or the Trustee pursuant to the provisions of the Lease shall also be given to any of the foregoing three parties to whom notice is not herein required to be given, but the failure to give a copy of such notice to any party claiming the right to receive it pursuant to this sentence shall not invalidate such notice or render it ineffective unless notice to such party is otherwise herein expressly required. Any notice hereunder signed on behalf of the notifying party by a duly authorized attorney at law shall be valid and effective to the same extent as if signed on behalf of such party by a duly authorized officer or employee.

Whenever, under the provisions hereof, any request, consent or approval of the Authority or the County is required or authorized, such request, consent or approval shall (unless otherwise expressly provided herein) be signed on behalf of the Authority by an Authorized Authority Representative and on behalf of the County by an Authorized County Representative; and each of the parties and the Trustee are authorized to act and rely upon any such requests, consents or approvals so signed.

**Section 12.6 Certain Prior and Contemporaneous Agreements Cancelled.** The Lease shall completely and fully supersede all other prior or contemporaneous agreements, both written and oral, between the Authority and the County relating to the Project Development Work and the leasing of the Project. If any provision of any such prior or contemporaneous agreement is in conflict with any provision of the Lease, such provision shall be deemed amended or modified to the extent necessary to avoid such conflict, all to the

end that the Authority and the County shall look to the Lease for ultimate definition and determination of their respective rights, liabilities and responsibilities respecting the Project Development Work and the Project.

**Section 12.7 Limited Liability of Authority.** The Authority is entering into this Lease Agreement pursuant to the authority conferred upon it by the Act. No provision hereof shall be construed to impose a charge against the general credit of the Authority or any personal or pecuniary liability upon the Authority except with respect to the proper application of the proceeds to be derived from the sale of the Warrants, moneys made available by the County to the Authority pursuant to the provisions hereof, and the revenues and receipts to be derived from the Project, including insurance proceeds and condemnation awards. Further, none of the directors, officers, employees or agents of the Authority shall have any personal or pecuniary liability whatever hereunder or any liability for the breach by the Authority of any of the agreements on its part herein contained. Nothing contained in this section, however, shall relieve the Authority from the observance and performance of the several covenants and agreements on its part herein contained or relieve any director, officer, employee or agent of the Authority from performing all duties of their respective offices that may be necessary to enable the Authority to perform the covenants and agreements on its part herein contained.

**Section 12.8 Binding Effect.** The Lease shall inure to the benefit of, and shall be binding upon, the Authority, the County and their respective successors and assigns. To the extent provided herein and in the Indenture, the Trustee and the Holders of the Warrants shall be deemed to be third party beneficiaries hereof, but nothing herein contained shall be deemed to create any right in, or to be for the benefit of, any other person who is not a party hereto.

**Section 12.9 Severability.** In the event any provision of the Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 12.10 Article and Section Captions.** The article and section headings and captions contained herein are included for convenience only and shall not be considered a part hereof or affect in any manner the construction or interpretation hereof.

**Section 12.11 Governing Law.** The Lease shall in all respects be governed by and construed in accordance with the laws of the State of Alabama.

IN WITNESS WHEREOF, the Authority and the County have caused this Lease Agreement to be executed in their respective names, have caused their respective seals to be hereunder affixed, and have caused this Lease Agreement to be attested, all by their duly authorized officers, in six (6) counterparts, each of which shall be deemed an original, and the

parties hereto have caused this Lease Agreement to be dated as of September 1, 1990, although actually delivered by the parties hereto on September 26, 1990.

**THE SHELBY COUNTY PUBLIC  
BUILDING AUTHORITY**

By \_\_\_\_\_

Its President

ATTEST:

*Myra B. LeMarco*  
Its Secretary

[SEAL]

**SHELBY COUNTY, ALABAMA**

By \_\_\_\_\_

Chairman of the County Commission

ATTEST:

*Myra B. LeMarco*  
Clerk of the County Commission

[SEAL]

STATE OF ALABAMA     )  
                              :  
JEFFERSON COUNTY     )

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Courtney H. Mason, Jr., whose name as President of THE SHELBY COUNTY PUBLIC BUILDING AUTHORITY, a public corporation and instrumentality under the laws of the State of Alabama, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said public corporation.

GIVEN under my hand and seal, this 26th day of September, 1990.

[ NOTARIAL SEAL ]

Virginia Weems Buff  
Notary Public

My Commission Expires: 4/7/92

STATE OF ALABAMA     )  
                              :  
JEFFERSON COUNTY     )

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Steve Chambers, whose name as Chairman of the County Commission of SHELBY COUNTY, ALABAMA, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said county.

GIVEN under my hand and seal, this 26th day of September, 1990.

[ NOTARIAL SEAL ]

Virginia Weems Buff  
Notary Public

My Commission Expires: 4/7/92

EXHIBIT A

to  
LEASE AGREEMENT  
between  
THE SHELBY COUNTY PUBLIC BUILDING AUTHORITY  
and  
SHELBY COUNTY, ALABAMA  
dated as of September 1, 1990

SHELBY COUNTY COURTHOUSE PROPERTY

Commence at the Northeast corner of Section 26, Township 21 South, Range 1 West and run South  $86^{\circ} 30'$  West (Magnetic Bearing) a distance of 420.43 feet to a point; thence turn an angle of  $89^{\circ} 35'$  to the left and run South  $03^{\circ} 05'$  East (M.B.) a distance of 304.46 feet to a point; thence turn an angle of  $0^{\circ} 13'$  to the left and run South  $03^{\circ} 18'$  East (M.B.) a distance of 553.27 feet to a point; thence turn an angle of  $0^{\circ} 32'$  to the left and run South  $03^{\circ} 50'$  East (M.B.) a distance of 370.36 feet to a point; thence turn an angle of  $21^{\circ} 27'$  to the right and run South  $17^{\circ} 37'$  West (M.B.) a distance of 152.67 feet to a point being a Government Geodetic survey marker no. TT17TWC located at the Northeast margin of Depot Street and the West margin of North Main Street; thence turn an angle of  $26^{\circ} 37'$  to the left and run a distance of 64.58 feet to a point being the point of beginning of the Shelby County Courthouse property at the West margin of North Main Street and the Southwest margin of Depot Street; thence turn an angle of  $06^{\circ} 39' 30''$  to the right and run a distance of 167.0 feet to a point; thence turn an angle of  $88^{\circ} 35' 33''$  to the right and run a distance of 140.60 feet to a point; thence turn an angle of  $91^{\circ} 34'$  to the right and run a distance of 53.96 feet to a point; thence turn an angle of  $90^{\circ}$  to the left and run a distance of 62.97 feet to a point; thence turn an angle of  $90^{\circ}$  to the left and run a distance of 13.42 feet (more or less) to a point; thence turn an angle of  $90^{\circ}$  to the right and run a distance of 30.52 feet to a point; thence turn an angle of  $0^{\circ} 20' 35''$  to the right and run a distance of 41.31 feet to a point; thence turn an angle of  $19^{\circ} 10'$  to the right and run a distance of 86.67 feet to a point; thence turn an angle of  $94^{\circ} 21'$  to the right and run a distance of 257.71 feet (more or less) to a point on the Southwest margin of Depot Street; thence turn an angle of  $94^{\circ} 12' 44''$  right and run in a Southeasterly direction along the said Southwest margin a distance of 285.98 feet (more or less) to the point of beginning.

Said parcel of land is lying in the Town of Columbiana, Alabama and is located in the Northeast  $\frac{1}{4}$  of Section 26, Township 21 South, Range 1 West and contains 1.574 acre (more or less).

STATE OF ALA. SHELBY CO.  
I CERTIFY THIS  
INSTRUMENT WAS FILED

90 SEP 28 AM 9:21

JUDGE OF PROBATE

A-1

1. Paid Tax	9
2. Paid Tax	3
3. Paid Tax	132.50
4. Paid Tax	3.60
5. Paid Tax	1.00
6. Paid Tax	1.36.50

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