

When Recorded Return To:

Blaine L. Carlton  
Ballard Spahr Andrews & Ingersoll  
201 South Main Street, Suite 1200  
Salt Lake City, UT 84111

E 1254178 B 2009 P 1260  
CAROL DEAN PAGE, DAVIS CNTY RECORDER  
1996 JUN 6 4:35 PM FEE 54.00 DEP JB  
REC'D FOR ASSOCIATED TITLE COMPANY

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CO-TENANCY AGREEMENT

This Co-Tenancy Agreement (this "Agreement") is executed as of June 1, 1996 by and between the City of Bountiful, Utah (the "City") and the Municipal Building Authority of the City of Bountiful, Utah (the "Authority"). The City and the Authority are sometimes referred to herein individually as a "Co-Tenant" and collectively as the "Co-Tenants".

WHEREAS, the City owns a 52% undivided interest as tenant-in-common (the "City Interest") and the Authority owns a 48% undivided interest as tenant-in-common (the "Authority Interest") in the real property and improvements described on the attached Exhibit "A" (the "Facility");

WHEREAS, the Authority has financed the acquisition of the Authority Interest from the proceeds of its Lease Revenue Bonds, Series 1996 issued in the aggregate principal amount of \$3,685,000 (the "Bonds"); and

WHEREAS, the Co-Tenants desire to set forth certain agreements pertaining to the use and maintenance of the Facility to facilitate the issuance of the Bonds.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Co-Tenants hereby agree as follows:

## ARTICLE I

### DEFINITIONS

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"Authority" means the Municipal Building Authority of the City of Bountiful, Utah, a nonprofit corporation organized under the laws of the State with its principal place of business in the City of Bountiful, Utah.

"Authority Interest" means the 48% undivided interest of the Authority in the Facility as a tenant-in-common.

"Authority Property" means the portion of the Facility described in Exhibit "B", which is designated for the sole use and possession of the Authority.

"Bonds" means the Authority's Lease Revenue Bonds, Series 1996 issued in the total principal amount of \$3,685,000 issued, in part, to finance the acquisition of the Authority Interest.

"City" means the City of Bountiful, Davis County, Utah, a political subdivision and body corporate and politic duly established and existing under and by virtue of the Constitution and laws of the State.

"City Funds" means all revenues, receipts and other legally available moneys, including without limitation payments received by the City from operation of the Facility and moneys derived from ad valorem property taxes and other taxes, to the extent the same are budgeted and appropriated by the governing body of the City for the purpose of paying costs and expenses associated with the Facility.

"City Interest" means the 52% undivided interest of the City in the Facility as a tenant-in-common.

"City Property" means the portion of the Facility described in Exhibit "B", which is designated for the sole use and possession of the City.

"City Representative" means the person at any time designated to act on behalf of the City for purposes of performing any act with respect to the Facility by a written certificate furnished to the Authority containing the specimen signature of such person and signed on behalf of the city by the Mayor of the City or any duly authorized officer thereof. Such certificate may designate an alternate or alternates. The City Representative may be an officer or employee of the Authority or the City.

"Common Use Property" means all portions of the Facility not constituting a portion of the Authority Property or the City Property.

"Deed of Trust" means the Leasehold Deed of Trust, Assignment of Rents and Security Agreement that secures repayment of the Bonds.

"Facility" means the police/judicial court facility and related improvements and real property as more fully described in Exhibit "A" attached hereto.

"Independent Counsel" means an attorney duly admitted to the practice of law before the highest court of the State and who is not a full-time employee of the Authority, the City or the Trustee.

"Lease" means the Lease Agreement between the City and the Authority whereby the authority demises the Authority Interest to the City.

"Net Proceeds", when used with respect to any performance or payment bond proceeds or proceeds from policies of insurance required hereby or any condemnation award or the proceeds of any liquidation of all or portions of the Facility, means the amount remaining after deducting all expenses (including, without limitation, attorneys' fees and costs) incurred in the collection of such proceeds or award from the gross proceeds thereof.

"Permitted Uses" means governmental uses; provided, however, that all such uses must comply with all applicable state and local statutes, rules and ordinances.

"Taxes" means any taxes, assessments or charges lawfully made by any governmental body which may be secured by a lien against the Facility.

## ARTICLE II

### USE OF FACILITY

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2.1 Authority Use Property. Subject to the terms and conditions of this Agreement, the Authority shall be entitled to sole possession and use of the portion of the Facility described on the attached Exhibit "B" (the "Authority Property") and shall be entitled to all rents, accounts or proceeds attributable to the Authority Property subject only to liens on the Authority Interest.

2.2 City Use Property. Subject to the terms and conditions of this Agreement, the City shall be entitled to sole possession and use of the portion of the Facility described on the attached Exhibit "B" (the "City Property") and shall be entitled to all rents, accounts or proceeds attributable to the City Property subject only to liens on the City Interest.

2.3 Use Restrictions. The Facility shall be exclusively used for Permitted Uses.

2.4 Common Use Property. All portions of the Facility not constituting a part of the City Property or the Authority Property (such portions being referred to herein as the "Common Use Property") may be used by each Co-Tenant in connection with its use of the Facility on the terms set forth herein; provided that the use of Common Use Property by any Co-Tenant shall not materially interfere with the use of the Facility by any other Co-Tenant in connection with its rights under this Agreement. The Co-Tenants shall have the right to use an equal number of available parking spaces. The Co-Tenants may designate specific parking spaces as exclusive to a Co-Tenant on any basis agreed to by the parties or may make all parking spaces available to each Co-Tenant on a first-come first-serve basis. If such parking spaces are designated for exclusive use, each Co-Tenant will be entitled to an equal number and quality of designated spaces.

## ARTICLE III

## MAINTENANCE

3.1 Condition and Maintenance of the Facility. Subject to the provisions of this Agreement, the City, with respect to the City Property, and the Authority, with respect to the Authority Property, shall have the exclusive right to paint, repaint, tile, paper, carpet, or otherwise decorate the interior surfaces of the walls, ceilings and floors and construct partition walls, fixtures and improvements; provided, however, that such partition walls, fixtures and improvements (i) shall comply with all applicable laws, ordinances and building codes, (ii) shall not interfere with facilities necessary for the support, use or enjoyment of any other part of the Facility, (iii) shall not impair the structural soundness or interfere with the use of the Facility by the other Co-Tenant on the terms set forth herein. Replacement glass shall identically match the original window glass of the Facility in tint and coloration and shall be of quality equal to or better than such original window glass. All blinds, drapes, and other window coverings located on, visible through, or attached to an exterior window of the improvements on the Facility shall be of uniform type quality and color. All doors visible from any part of the Common Use Property shall be of a consistent type, quality, style and color. All utility facilities, lines, ducts, and other such apparatus (including air conditioning apparatus) serving solely the City Property or the Authority Property, shall be maintained by the City or the Authority, respectively, so as not to detract from the appearance of the Facility and so as not to affect adversely the value or use of any other portions of the Facility. In addition, the City, with respect to the City Property, and the Authority, with respect to the Authority Property, shall maintain in good condition and repair the window glass and doors forming or situated at the exterior boundary of such portions of the Facility and shall immediately repair or replace any such window glass or door in the event of removal, breakage or other damage. In the event that any removed, broken or damaged window glass or door referred to in the preceding sentence is not immediately repaired or replaced by the Co-Tenant obligated to do so, the other Co-Tenant shall have the right, at the expense of such Co-Tenant and without liability to such Co-Tenant for trespass or otherwise, to enter the portion of the Facility concerned and repair or replace such window glass or door, as the case may be; provided, however, that no Co-Tenant shall have any obligation regarding maintenance or care that is required to be accomplished by the other Co-Tenant. Any dispute as to colors, quality, style or types of improvements will be resolved in accordance with Article VI.

3.2 Operation and Maintenance of Common Use Property. The City shall pay for, or provide for the payment of, (a) all utility services furnished to the Facility which are not separately metered and billed to individual Co-Tenants by the party furnishing such service, unless such utility services are used exclusively by one Co-Tenant in which case that Co-Tenant shall be responsible for payment of such utility services, and (b) maintenance of any structures, landscaping or related improvements located on or

adjacent to Common Use Property and (c) all structural repairs and maintenance of any portion of the Facility not required to be performed by the Authority pursuant to Section 3.1. The City shall provide for such maintenance and operation of the Common Use Property as may be reasonably necessary to make them appropriately usable in conjunction with the use of the City Property and Authority Property as set forth herein.

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## ARTICLE IV

## TAXES, INSURANCE AND REPAIRS

4.1 Taxes and Other Governmental Charges. In the event that the Facility or any portion thereof shall, for any reason, be deemed subject to taxation, assessments or charges lawfully made by any governmental body which may be secured by a lien against the Facility (collectively referred to as "Taxes"), such Taxes, from and to the extent of City Funds, shall be paid by the City on or before the date such Taxes become due. The City shall not allow any liens for taxes, assessments or governmental charges to exist on the Facility (including the Authority Interest) or the rentals and revenues derived therefrom or hereunder. The Authority shall pay to the City within 30 days of receipt of evidence of payment of Taxes by the City an amount equal to 48% of all Taxes paid by the City, provided the Taxes are not attributable solely to personal property owned or maintained by the City on the City Property. The Authority's obligation to reimburse the City for Taxes paid pursuant to this Section shall be deemed to be an obligation of the Authority to pay Taxes for purposes of any other agreement between the City and the Authority.

The City may, at the expense and in the name of the City, 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 provided the City shall first deposit with a third party acceptable to the Authority security satisfactory to the Authority unless the Authority shall notify the City that, in the opinion of Independent Counsel, nonpayment of any such items materially endanger the Facility or any portion thereof will be subject to loss or forfeiture, in which event such taxes, assessments or charges shall be paid forthwith. In the event that the City shall fail to pay any of the foregoing items required to be paid by the City, the Authority may (but shall be under no obligation to) pay the same, which amounts, together with interest thereon at a rate per annum equal to 15%, the City agrees to pay from and to the extent of available City Funds and shall constitute a lien on the City Interest in favor of the Authority.

4.2 Insurance. The City agrees to insure or cause to be insured the Facility against loss or damage of the kinds usually insured against by public bodies similarly situated, including, without limitation, policies of casualty and property damage insurance, by means of policies issued by reputable insurance companies duly qualified to do such business in Utah with a uniform standard coverage endorsement limited only as may be provided in the standard form of extended coverage endorsement at that time in use in Utah, in amounts that are not less than full insurable value of the Facility. The term "full insurable value" as used herein shall mean the actual replacement value, or during the term of the Lease and at the option of the City any lesser amount which is equal to or greater than the amount required under the Lease. Alternatively, the City

may insure or cause to be insured under a blanket insurance policy or policies or under self-insurance which cover not only the Facility but other properties in the amounts required by the previous sentence. If a program of self-insurance is used, (i) such program must provide for disbursements therefrom without the approval of the governing body of the City, and (ii) such program shall be reviewed at least annually by an actuarial consultant, to insure that the reserves established are sufficient for the risks intended to be covered by such program. If self-insurance is not utilized, the policies may have a deductible clause in an amount not to exceed \$100,000. The Authority shall pay to the City within 30 days of receipt of evidence of payment of insurance premiums by the City an amount equal to 48% of the insurance premiums paid by the City with respect to or attributable to the insurance coverage described above and insuring the Facility. In the event that the City shall fail to obtain any of the foregoing items required to be obtained by the City, the Authority may (but shall be under no obligation to) obtain the same, which amounts expended by the Authority, together with interest thereon at a rate per annum equal to 15%, the City agrees to pay from and to the extent of available City Funds and shall constitute a lien on the City Interest in favor of the Authority.

**4.3 Public Liability Insurance.** The City agrees to carry or cause to be carried public liability insurance with one or more reputable insurance companies in minimum amounts of \$250,000 for the death of or personal injury to one person and \$500,000 for personal injury or death for each occurrence and \$100,000 for property damage for any occurrence. In the event that the limits on governmental liability established by Section 63-30-34, Utah Code Annotated 1953, as amended, are increased, the amounts required shall be deemed to be increased to such higher amounts. In the event the City's Interest is transferred to a non-governmental entity, the Authority may require higher limits. The Authority and its designated creditors shall be made an additional insured under such policies. The insurance required may be by blanket insurance policy or policies or self-insurance meeting the following requirements: (i) such program must provide for disbursements therefrom without action (other than a ministerial action) of the governing body of the City and (ii) such program shall be reviewed at least annually by an actuarial consultant (including professional staff of the City), to insure that the reserves established are sufficient for the risks intended to be covered by such program. If self-insurance is not utilized, the policies may have a deductible clause in such amount as shall be approved by the Authority or absent such approval, \$50,000. The Authority shall pay to the City within 30 days of receipt of evidence of payment of insurance premiums by the City an amount equal to 48% of the insurance premiums paid by the City with respect to or attributable to the insurance coverage described above and insuring the Facility. In the event that the City shall fail to obtain any of the foregoing items required to be obtained by the City, the Authority may (but shall be under no obligation to) obtain the same, which amounts expended, together with interest thereon at a rate per annum equal to 15%, the City agrees to pay from and to the extent of available City Funds and shall constitute a lien on the City Interest in favor of the Authority.

4.4 Worker's Compensation Coverage. The City shall either by a policy of insurance or by self-insurance maintain, or cause to be maintained worker's compensation coverage with respect to officers, agents and employees of the City working in, on or about the Facility, including coverage for occupational diseases.

4.5 Evidence and Notice Regarding Insurance. Evidence of the insurance required herein shall be provided by the City to the Authority annually on or before the anniversary date of issuance of the policies. Policies providing said insurance shall require that notice of cancellation of any said insurance must be furnished to the Authority by the insurance carrier 30 days in advance of cancellation.

4.6 Obligation of the City to Repair and Replace the Facility. Subject to the provisions of this Agreement, the City and the Authority shall cause the Net Proceeds of any insurance policies, performance bonds or condemnation awards with respect to the Facility to be deposited in a separate trust fund. All Net Proceeds so deposited shall be applied to the prompt repair, restoration, modification or improvement of the Facility by the City upon receipt of a requisition acceptable to the Authority or its designee signed by the City Representative, stating with respect to each payment to be made: (i) the requisition number; (ii) the name and address of the person, firm or corporation to whom payment is due; (iii) the amount to be paid; (iv) that each obligation mentioned therein has been properly incurred, is a proper charge against the separate trust fund, and has not been the basis of any previous withdrawal and specifying in reasonable detail the nature of the obligation, accompanied by a bill or a statement of account for such obligation; and (v) such other documents and information as the Authority or its designee requires. The balance of any such Net Proceeds remaining after such repair, restoration, modification or improvement has been completed which shall be transferred to the Co-Tenants in equal amounts. If the Net Proceeds shall be insufficient to pay in full the cost of any repair, restoration, modification or improvement, the City shall, from and to the extent of available City Funds, complete the work and pay any cost in excess of the amount of the Net Proceeds. The City agrees that, if by reason of any such insufficiency of the Net Proceeds, the City shall make any payments pursuant to the provisions hereof, the City shall not be entitled to any reimbursement therefor from the Authority.

4.7 Discharge of the Obligation of the City to Repair and Replace the Facility. In the event that during the term of the Lease the Net Proceeds of any insurance policy, performance bond or condemnation award shall be insufficient to pay in full the cost of any repair, restoration, or modification of the Facility and the City elects not to repair and replace the Facility, the obligation to repair and replace the Facility may be discharged by depositing into the Bond Fund (as defined in the Lease) the Net Proceeds of the insurance policies, performance bonds or condemnation awards made available by reason of such occurrence up to an amount necessary to retire or otherwise defease the Bonds.

4.8 Cooperation of the Authority. The Authority shall cooperate fully with the City at the expense of the City in filing any proof of loss with respect to any insurance policy or performance bond and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Facility or any portion thereof or any property of the City in connection with which the Facility is used and will, to the extent it may lawfully do so, and shall permit the City to litigate in any proceeding resulting therefrom in the name and behalf of the Authority. In no event will the Authority or the Trustee voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim or any prospective or pending condemnation proceeding or any part thereof without the written consent of the City Representative.

4.9 Condemnation of Property Owned by the City. Subject to the terms of this Agreement, the City shall be entitled to the Net Proceeds of any condemnation award or portion thereof made for destruction of, damage to or taking of its property not included in the Facility

## ARTICLE V

### TRANSFER OR LEASING OF INTERESTS IN THE FACILITY

5.1 Conveyance or Encumbrance of Facility. Each Co-Tenant, and its successors and assigns, shall have the right to convey, transfer, assign or encumber its whole undivided interest as a Co-Tenant in the Facility, provided that any conveyance, transfer, assignment or encumbrance of an interest in the Facility shall be a conveyance, transfer, assignment or encumbrance of the Co-Tenant's undivided interest in the Facility subject to the terms of this Agreement. Any successor or assign of a Co-Tenant shall be deemed to be a Co-Tenant for purposes of this Agreement and shall be deemed to have the same rights and obligations under this Agreement as its predecessor or assignor.

5.2 Leasing of the Facility. Each Co-Tenant shall have the right to lease all or a portion of its undivided interest in the Facility; provided that the rights of any lessee shall be limited to the rights of the Co-Tenant under this Agreement and the lease of the undivided interest will be subject to the terms and conditions of this Agreement. Each Co-Tenant may provide for its obligations under this Agreement to be performed by a lessee, however, the Co-Tenant will remain responsible for the performance of its obligations under this Agreement regardless of the terms of an agreement with a lessee.

5.3 Lease of Authority's Interest to City. In connection with the issuance of the Bonds, the Authority and the City have entered into the Lease, whereby the City has leased the Authority Interest from the Authority. Pursuant to the Lease, the City has agreed to perform certain obligations of the Authority, including payment of Taxes and insurance costs. No term or condition of this Agreement is intended to relieve the City of any of its obligations under the Lease and to the extent any provision of this Agreement is not consistent with the Lease, the terms of the Lease shall govern.

5.4 Subordination of Deed of Trust. The Deed of Trust is and shall be subordinate to this Agreement insofar as the Deed of Trust effects the Facility. Any party obtaining an interest in the Facility by means of the Deed of Trust shall own such interest subject to the terms and conditions of this Agreement.

## ARTICLE VI

## DISPUTE RESOLUTION

6.1 Disputes. If any dispute arises as to rights, obligations or interests of the Co-Tenants under this Agreement or the Co-Tenants are unable to agree on the manner of use or operation of the Facility with respect to any matter not specifically addressed by this Agreement, the Co-Tenants shall first attempt to resolve the same by conference and discussion between them. If they are unable satisfactorily to solve the matter in that manner, the submission to arbitration in accordance with the terms hereof shall be the sole and exclusive method, means, and procedure to resolve any and all disputes, claims, or controversies of any kind, whether in contract or in tort, statutory or common law, legal or equitable, or otherwise, including a dispute as to rights, obligations or interests of the Co-Tenants under this Agreement or if the Co-Tenants are unable to agree on the manner of use or operation of the Facility with respect to any matter not specifically addressed by this Agreement (a "Dispute"). Any party to a Dispute may, by summary proceedings, bring an action in court to compel arbitration of any Dispute.

6.2 Governing Rules. The arbitration shall be conducted in accordance with the Commercial Arbitration Rules (the "AAA Rules") of the American Arbitration Association (the "AAA"), except to the extent modified herein.

6.3 Appointment of Arbitrators.

(a) Qualifications of Arbitrators. All arbitrators shall be practicing attorneys licensed to practice law in the State of Utah with at least 10 years in practice and shall be knowledgeable in the legal issues which are the subject of the Dispute. No arbitrator shall have represented either party to the Dispute.

(b) Selection of Arbitrators. Within 30 days after receipt of a notice requesting arbitration and stating the basis of a party's claim, each party shall appoint an arbitrator. Notice of the appointment shall be given by each party to all other parties when made. Within 15 days after the date the last arbitrator is selected by a party, the arbitrators shall appoint a neutral arbitrator. If the two arbitrators are unable to agree upon a third arbitrator within the 15 day period, then either party, on behalf of both, may request the appointment of the third arbitrator by making an application to the presiding judge of the Second Judicial District Court of Davis County, State of Utah, acting as an individual. The party making the application shall give the other party 15 days' notice of the application.

6.4 Scope of Award; Modification or Vacating of Award. The arbitrators may grant any remedy or relief that the arbitrators may also grant such ancillary relief as is necessary to make effective the award; provided, however, in no event may the arbitrators award punitive damages. To the extent permitted by applicable law, the arbitrators shall have the power to award recovery of all legal expenses (including, but not limited to, attorneys' fees, administrative fees, arbitrators' fees, and other professional fees and expenses) to the prevailing party.

The arbitrators shall resolve all aspects of any Dispute in accordance with the applicable substantive law. The arbitrator shall make specific, written findings of fact and conclusions of law. The arbitrator shall make specific, written findings of fact and conclusions of law. Judgement upon the award rendered by the arbitrators may be entered in any court having jurisdiction; however, any such application for vacation or modification of an award based on an incorrect ruling of law must be filed in a court otherwise having jurisdiction over the Dispute within 60 days after the date the award is rendered. The findings of fact by the arbitrators shall be binding upon all parties and shall not be subject to further review, except as otherwise allowed by applicable law.

6.5 Other Matters and Miscellaneous. To the maximum extent practicable, an arbitration proceeding hereunder shall be concluded within 180 days after the request by the initiating party for arbitration. Arbitration proceedings hereunder shall be conducted in the City of Bountiful, Utah. Arbitrators shall be empowered to impose sanctions and to take such other actions as the arbitrators deem necessary to the same extent a judge could pursuant to the Utah Court Rules, and applicable law.

6.6 Expenses. All expenses of arbitration shall be shared equally by the parties hereto.

## ARTICLE VII

### TERM

This Agreement shall terminate upon the first to occur of the following:

- (a) Merger of Title. Fee simple title to the Facility is owned of record by one person or entity. However, the Lease shall not be considered a merger of title to the City and shall not be considered a termination of this Agreement. In no event will this Agreement be terminated during the term of the Lease.
- (b) Mutual Consent. Mutual consent of the Co-Tenants to terminate this Agreement.
- (c) Period Provided by Law. The last day of the longest period allowed by any applicable law for the term of this Agreement.

## ARTICLE VIII

## MISCELLANEOUS

8.1 Covenants to Run with Land. This Agreement and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of the Co-Tenants, all parties who hereafter acquire any interest in the Facility, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each owner or occupant of the Facility shall comply with, and all interests in the Facility shall be subject to, the terms of this Agreement and the provisions of any rules, regulations, agreements, instruments, supplements, amendments, and determinations contemplated by this Agreement. By acquiring any interest in the Facility, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Agreement.

8.2 Tenancy in Common. The interests of the Co-Tenants in the Facility shall be a tenancy in common as provided by applicable laws. The parties do not intend to submit to and the Facility shall not be subject to the Condominium Ownership Act, Utah Code § 57-8-1 et. seq.

8.3 Governing Law. This Agreement is entered into the State of Utah and shall be governed by the laws thereof.

8.4 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Co-Tenants and their respective heirs, legal representatives, successors and assigns.

8.5 No Partnership. Except as expressly provided herein, no Co-Tenant shall be empowered or authorized to bind or obligate the other Co-Tenant, and this Agreement shall not be deemed to create a partnership or joint venture among the Co-Tenants. The Co-Tenants expressly disclaim any intention to create a partnership. Nothing in this Agreement shall constitute the Co-Tenants as partners, nor constitute any Co-Tenant as the agent of any other Co-Tenant, except as herein expressly provided or permitted.

8.6 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute an original for all purposes.

8.7 Entire Agreement. This Agreement contains the entire agreement between the Co-Tenants relating to the subject matter hereof and all prior agreements relative thereto which are not contained herein are terminated. Amendments, variations, modifications or changes herein may be effective and binding upon the Co-Tenants by, and only by, setting same forth in a document duly executed by all Co-Tenants, and any

alleged amendment, variation, modification or change herein which is not so documented shall not be effective as to any Co-Tenant.

8.8 Interpretation. Whenever required by the context, as used in this Agreement, the singular shall include the plural and any gender shall include the masculine, the feminine or the neuter.

8.9 Severability. This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, but such invalidity or unenforceability does not destroy the basis of the agreement among the Co-Tenants as expressed herein, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

IN WITNESS WHEREOF, the Co-Tenants have executed this Co-Tenancy Agreement effective as of the date first stated above.

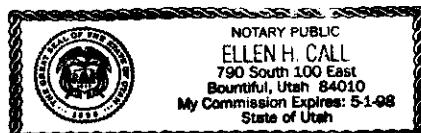
CITY:

CITY OF BOUNTIFUL, UTAH

By: John R. Cushing  
Name: John R. Cushing  
Title: Mayor

STATE OF UTAH )  
: ss.  
COUNTY OF DAVIS )

On the 5th day of June, 1996, personally appeared before me John R. Cushing, who being by me duly sworn did state that he is the Mayor of the City of Bountiful, Utah, a municipality, and that the foregoing instrument was signed on behalf of said City.



Ellen H. Call  
NOTARY PUBLIC

( S E A L )

AUTHORITY:

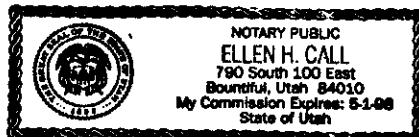
MUNICIPAL BUILDING AUTHORITY  
OF THE CITY OF BOUNTIFUL, UTAH

By: John R. Cushing  
Name: John R. Cushing  
Title: Chair

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STATE OF UTAH )  
: SS.  
COUNTY OF DAVIS )

On the 5th day of June, 1996, personally appeared before me John R. Cushing, who being by me duly sworn did state that he is the Chair of the Municipal Building Authority of the City of Bountiful, a non profit organization, and that the foregoing instrument was signed on behalf of said Building Authority.



Ellen H. Call  
NOTARY PUBLIC

( S E A L )

### **Subordination of Deed of Trust**

The undersigned as beneficiary under the Deed of Trust hereby agrees to subordinate the lien of the Deed of Trust to the terms and conditions of this Agreement as set forth in Section 5.4 of this Agreement.

ZIONS FIRST NATIONAL BANK, as  
Beneficiary under the Deed of Trust

By   
Its 2nd VICE PRESIDENT  
AND TRUST OFFICER

**EXHIBIT "A"**

**DESCRIPTION OF FACILITY**

The acquisition and construction of a police/judicial court facility, together with related improvements, located on the following described property:

Beginning at a point on the east line of Main Street (a 66 ft. wide street), said point being south 516.60 ft. and S 89-44-04 W 2359.04 ft. along the center line of 500 South Street (Basis of Bearing) and south 1492.16 ft. from the North East Corner of Section 30, T.2.N., R.1.E, Salt Lake Base and Meridian, thence S 31-48-39 W 29.07 ft. along the east line of Main Street, thence S 89-49-42 E 177.90 ft. along the north line of lot 1 and lot 3 of the Cooper Subdivision, thence S 0-32-42 E 150.00 ft. along the east line of lot 3 of the Cooper Subdivision, thence S 89-49-42 E 432.00 ft. along the north line of lots 15, 14, 13, 12, 11 and 10 of the Cooper Subdivision, thence N 0-32-42 W 150.01 ft. along the east line of lot 9 of the Cooper Subdivision, thence West 95.23 ft., thence N 01-05-15 W 190.13 ft., thence East 21.36 ft., thence N 01-20-47 W 105.69 ft., thence S 89-11-28 W 190.19 ft., thence S 0-30-17 E 59.44 ft., thence S 89-50-37 W 205.36 ft. to a point on the east line of Main Street, thence south westerly 95.85 ft. along the arc of a 633.00 ft. radius curve to the right through a central angle of 8-40-33 (radius bears N 66-51-55 W) to the point of tangency, thence S 31-48-39 W 11.54 ft., thence S 89-49-40 E 200.39 ft. along the north line of the Main Street Professional Plaza Condominiums, thence S 0-08-07 E 112.00 ft. along the east line of the Main Street Professional Plaza Condominiums, thence N 89-49-42 W 270.00 ft. along the south line of the Main Street Professional Plaza Condominiums to the point of beginning.

Containing 3.5331 Acres

03-036-0068

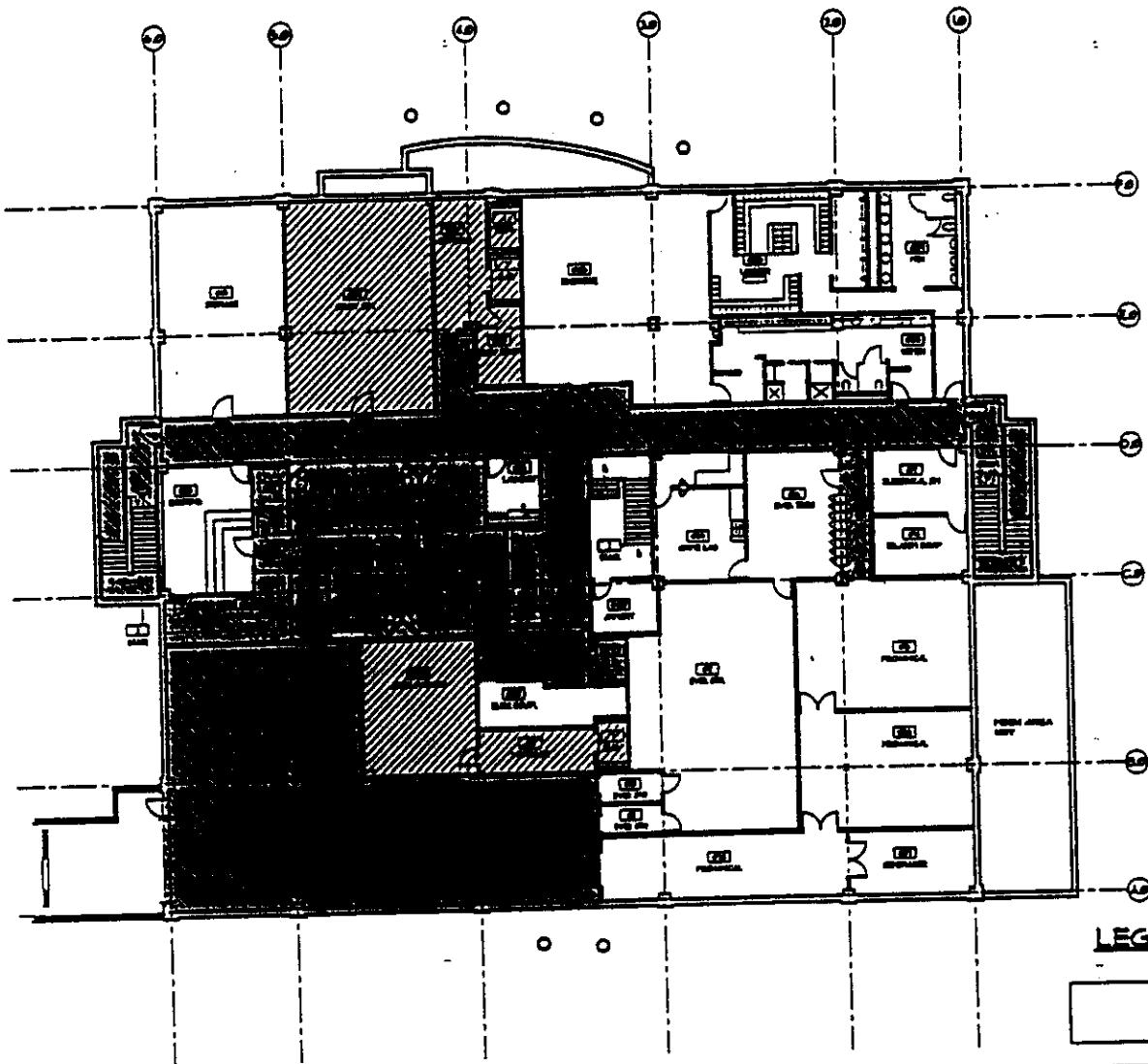
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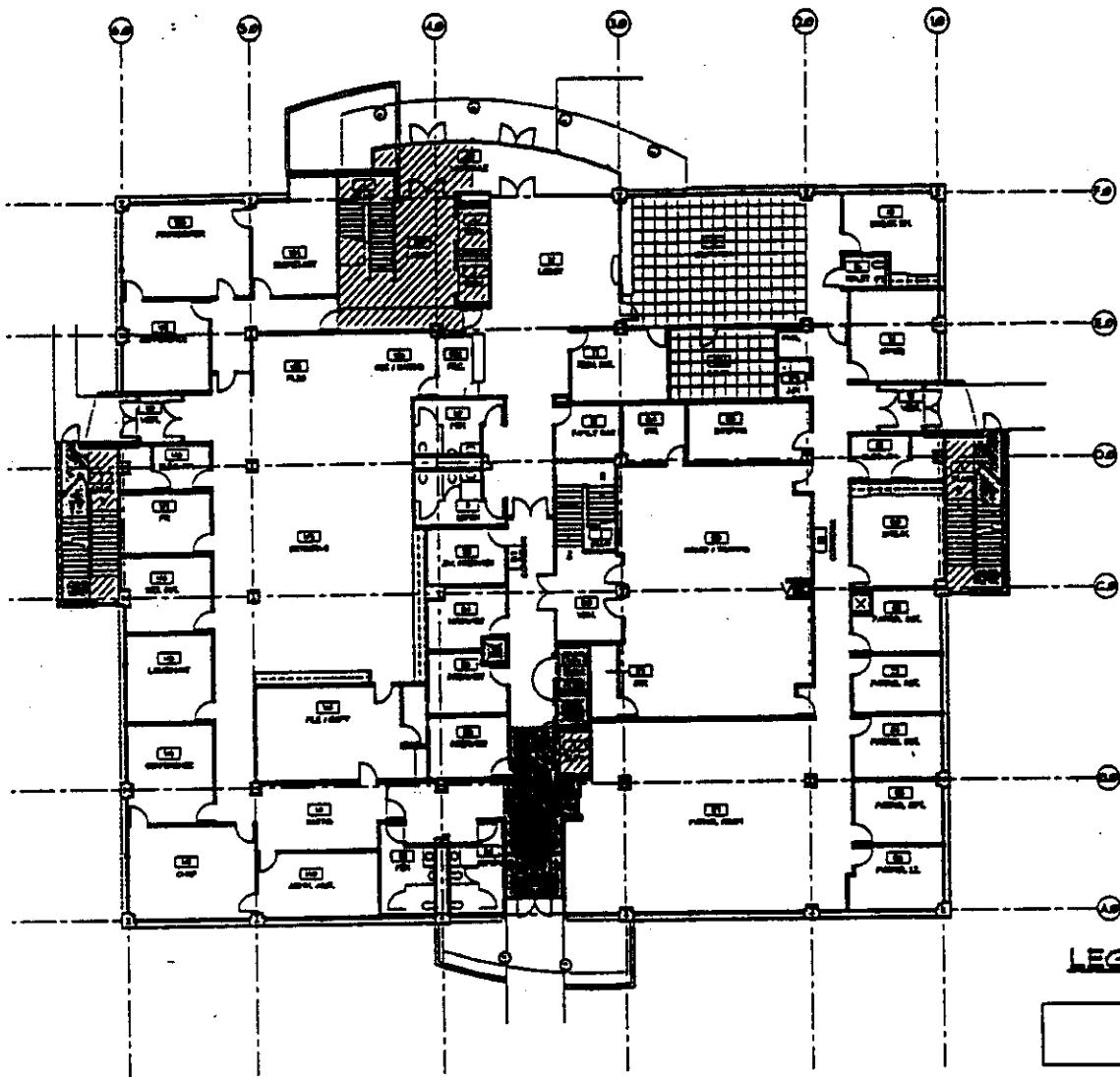
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BASEMENT LEVEL FLOOR PLAN

LEGEND

- CITY
- AUTHORITY
- COMMON



FIRST FLOOR PLAN

LEGEND



CITY



AUTHORITY



COMMON

