

KOOTENAI COUNTY
Public Records Request Form

Date: June 9, 2014

Time: 09:15 PDT

Name: WILLIAM L. MCCRORY

Mailing Address: WLMCCRORY@ROADRUNNER.COM

Telephone Number: 208-660-3119 (CELLULAR)

I am requesting to copy [REDACTED] certain records of Kootenai County Department of BOCC which may be identified as follows: Proposed jail lease draft agreement which will be submitted to a District Court judge with the petition for judicial confirmation discussed at the BOCC meetings on May 12 and June 4, 2014. An E-mail response with the requested document attached as a .pdf is preferred.

Response

Request Granted

The requested record is attached.

Response Delayed

Additional time is necessary to locate or retrieve the requested record. You should receive a response no later than ten (10) working days following the date of your request.

The electronic record requested will have to be converted to another electronic format which will take more than ten (10) working days following the date of your request to respond. Please contact Kootenai County Department of _____ to discuss when you will receive a response.

Advance Payment

Kootenai County Department of _____ will require advance payment of the cost associated with responding to your request. Please contact Kootenai County Department of _____ to discuss the amount and manner of the advance payment.

Unable to Respond for One or More of the Following Reasons

Request is ambiguous.

Record not known to exist.

Kootenai County Department of _____ is not the custodian of the requested record.

Notice of Denial

The requested record is exempt from disclosure pursuant to Idaho Code § 9-340___ (A-H).

Notice of Partial Denial

Your request has been partially denied. Certain information has been determined to be exempt from disclosure pursuant to Idaho Code § 9-340___ (A-H), and has therefore been redacted from the requested record. A copy of the requested record with the exempt information redacted is attached.

If your request has been denied or partially denied, the attorney for Kootenai County has reviewed the request, or Kootenai County has had the opportunity to consult with an attorney regarding the request for examination or copying of a record and has chosen not to do so. If you wish to appeal the denial or partial denial of your request for public records you may do so pursuant to the provisions of Idaho Code § 9-343, which requires that a petition be filed in the District Court within 180 days from the date of the mailing of the notice of denial or partial denial.

Signature of Kootenai County Representative

Date: _____

Exhibit 'A'

RENTAL AGREEMENT (Draft agreement 4-21-14)

OWNER: Kootenai County Facilities Holdings, LLC
7887 East Belleview Avenue, Suite 1250
Englewood, CO 80111

TENANT: County of Kootenai, Idaho
Kootenai County Courthouse
324 West Garden Avenue
Coeur d' Alene, Idaho 83814

This Rental Agreement (the "Agreement") entered into between Kootenai County Facilities Holdings, LLC, a Delaware limited liability company ("Owner"), and the County of Kootenai, Idaho ("Tenant"), a body corporate and politic duly organized and existing under the laws of the State of Idaho ("State");

BACKGROUND INFORMATION:

A. Owner desires to rent the Property, as hereinafter defined, to Tenant, and Tenant desires to rent the Property from Owner, subject to the terms and conditions of and for the purposes set forth in this Agreement; and

B. Tenant is authorized under the constitution and laws of the State of Idaho to enter into this Agreement for the purposes set forth.

NOW, THEREFORE, for and in consideration of the premises hereinafter contained, the parties hereby agree as follows:

ARTICLE I COVENANTS OF TENANT

Covenants of Tenant. Tenant represents, covenants and warrants, for the benefit of Owner and its assignees, as follows:

(a) Tenant is a public body, corporate and politic, duly organized and existing under the constitution of the laws of the State of Idaho.

(b) Tenant will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a body corporate and politic.

(c) Tenant is authorized under the constitution and laws of the State of Idaho to enter into this Agreement and the transaction contemplated hereby and to perform all of its obligations

hereunder subject to the qualifications set forth in the form of opinion of Tenant's counsel attached hereto as Exhibit B.

(d) Tenant has been duly authorized to execute and deliver this Agreement under the terms and provisions of the resolution of its governing body, attached hereto as Exhibit A, or by other appropriate official approval, and further represents, covenants and warrants that all requirements have been met and procedures have occurred in order to ensure the enforceability of this Agreement, and the use by Tenant of the Property thereunder.

(e) During the term of this Agreement, the Property will be used by Tenant only for the purpose of performing one or more governmental or proprietary functions of Tenant consistent with the permissible scope of Tenant's authority and will not be used in a trade or business of any person or entity other than Tenant as outlined in Exhibit C attached hereto.

(f) During the period this Agreement is in force, Tenant will annually provide Owner with current financial statements, budgets, proof of appropriation for the ensuing fiscal year and such other financial information relating to the ability of Tenant to continue this Agreement as may be reasonably requested by Owner or its assignee.

ARTICLE II DEFINITIONS

Definitions. Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms in this Agreement shall have the respective meanings specified below.

"Acceptance Certificate" means a certificate which shall be delivered by Tenant to Owner upon receipt and acceptance of the Property.

"Agreement" means this Rental Agreement with its Exhibits, which Exhibits are attached hereto and incorporated herein by reference.

"Commencement Date" is the date when the term of this Agreement begins and Tenant's obligation to pay rent accrues, which is the earlier of: (a) the date that the Property can be used for its intended purpose subject only to the correction of a list of items agreed to by the Owner and Tenant and as evidenced by the Tenant executing the Acceptance Certificate, or (b) the date on which a certificate of occupancy for the Property is issued by the municipality where the Property is located.

"Contractors" means the firm, its sub-contractors, architects and engineers engaged to design and construct the Property.

"Net Proceeds" shall have the meaning set out in Section 9.01 hereof.

"Term" means the period beginning with the Commencement Date and continuing until terminated as outlined in Section 4.

"Property" means the property described in Exhibit D and which is the subject of this Agreement.

"Rental Payment" means the rental payments payable by Tenant pursuant to this Agreement and in the amounts and on the terms set forth in Exhibit B of this Agreement.

ARTICLE III RENT OF PROPERTY

Rent of Property. Owner hereby demises, rents and lets to Tenant, and Tenant rents, leases and hires from Owner, the Property, in accordance with the provisions of this Agreement, to have and to hold for the Term.

ARTICLE IV TERM

Term. This Agreement shall be in effect and shall commence as of the Commencement Date and will remain in effect throughout the Term. The Term will terminate upon the first to occur of: (a) the occurrence of an Event of Nonappropriation in accordance with Article VI, hereof; (b) Owner's election to terminate this Agreement upon a default under Article XIII; or September 30, 2035. The Tenant agrees peaceably to surrender the Property to Owner at the end of the Term, at Tenant's expense.

ARTICLE V ENJOYMENT OF PROPERTY

Section 5.01. **Quiet Enjoyment.** Owner hereby agrees not to interfere with Tenant's quiet use and enjoyment of the Property so long as Tenant is not in default hereunder.

Section 5.02. **Use of the Property.** Tenant will not install, use, operate or maintain the Property improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Agreement.

Section 5.03. **Right of Inspection.** During the Term, the Owner and its agents shall have the right at all reasonable times during business hours to enter into and upon the property of the Tenant for the purpose of inspecting the Property.

Section 5.04. **Disclaimer of Warranties.** (LANGUAGE PENDING)

Section 5.05. **Contractor's Warranties.** (LANGUAGE PENDING)

**ARTICLE VI
RENTAL PAYMENTS**

Section 6.01. **Rental Payments to Constitute a Current Expense of Tenant.** The obligation of Tenant to pay Rental Payments hereunder is a current expense of Tenant and not a debt of Tenant in contravention of any applicable limitations or requirements, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or moneys of Tenant.

Section 6.02. **Rental Payments to be Unconditional.** The obligations of Tenant to make Rental Payments, and to perform and observe the covenants and agreements contained herein, shall be absolute and unconditional in all events, except as expressly provided under this Agreement, notwithstanding any dispute between Tenant and Owner, any Contractor or any other person. Tenant shall not assert any right of set-off or counterclaim against its obligation to make payments under this Agreement.

Section 6.03. **Nonappropriation of Funds for Rental Payments.** If (a) sufficient funds are not appropriated for Rental Payments due in any fiscal year of the Tenant and (b) the Tenant shall have at such time no funds duly authorized for the Rental Payments or other amounts payable hereunder from other sources, an Event of Nonappropriation shall be deemed to have occurred and this Agreement will terminate as provided in Section 4. The Tenant shall promptly deliver notice thereof to the Owner and Tenant agrees peaceably to surrender the Property to Owner, at Tenant's expense. Upon the occurrence of an Event of Nonappropriation, the Owner agrees that the Tenant may continue to occupy the Property, subject to the terms of this Agreement, on a month to month basis upon the payment of one hundred ten percent (110%) of monthly Rental Payment due on the first day of each month that the Tenant continues to occupy the Property. If the Tenant continually occupies the Property on a month to month basis and subsequently appropriates funds for the Rental Payments, this Agreement will be reinstated on its original terms. Tenant shall provide written notice to Owner on or before the first Monday in August if sufficient funds for the Rental Payments are not included in the next fiscal year's preliminary budget prepared by the County Clerk and submitted the Board of County Commissioners.

**ARTICLE VII
TITLE TO PROPERTY; SECURITY INTEREST**

Section 7.01. **Title to the Property.** During the term of this Agreement, title to the Property shall vest in the Owner.

Section 7.02. **Security Interest.** The Owner may mortgage, encumber or use the Property to secure loans or other borrowings at any time or from time to time during the Term.

Section 7.03. **Liens and Encumbrances to Title.** Tenant shall promptly discharge any liens placed on the Property other than those created by Owner.

ARTICLE VIII
MAINTENANCE; MODIFICATION; TAXES; INSURANCE AND OTHER CHARGES

Section 8.01. **Maintenance of Property by Tenant.** *(LANGUAGE PENDING)*

Section 8.02. **Taxes.** For each rent year or part thereof, the Tenant shall be liable for all personal and real property taxes levied against the Property and personal property and Trade Fixtures placed by the Tenant in or about the Property. The Owner shall pay the taxes on the Property as such taxes become due and payable. Taxes paid by the Owner shall be reimbursed to the Owner by Tenant on the date personal and real property taxes are due under State law. The Owner shall notify the Tenant of the amount of the personal and real property taxes upon receipt of the tax statement from the Kootenai County Treasurer.

Section 8.03. **Provisions Regarding Insurance.** Tenant shall maintain at its expense during the Term hereof extended coverage insurance for its interest in the Property in an amount sufficient to pay full replacement cost, with loss payable endorsement to Owner.

Tenant shall procure and maintain a policy or policies of commercial general liability insurance against claims for bodily injury, death or building site and improvements damage occurring on, in, or about the Property and Building Site and the adjoining sidewalks and passageways (as said terms are defined in the Building Site Lease). Such insurance shall afford protection of not less than Three Million Dollars (\$3,000,000.00) per occurrence for liability per the Idaho Tort Claims Act (or a greater amount if there is an increase in the Idaho Tort Claims Act) from an insurance company authorized to do business in the State of Idaho and shall insure Tenant and, to the extent authorized by law, the Owner. To the extent authorized by law, such insurance shall include business interruption coverage in an amount equal to the annual Rental Payment. If Tenant cannot purchase business interruption coverage, Owner will purchase such coverage and, to the extent authorized by law, Tenant shall reimburse Owner for the insurance premium within thirty days upon receiving notification from Owner. All insurance policies procured and maintained by the Tenant under this section 8.03 may provide for a deductible in an amount similar to the deductible on insurance policies the Tenant maintains on other County property. To the extent authorized by law, Owner shall be designated as an additional insured under the terms of the policy. (Any insurance shall be limited to the requirements of the Tort Claims Act, as amended from time to time.)

Said insurance shall not be subject to cancellation except after at least thirty (30) days prior to written notice to Owner. The policy or policies, or duly executed certificate(s) of insurance for the same shall be deposited with Owner at the commencement of the Term and renewal thereof, which shall occur not less than thirty (30) days prior to the expiration of the term of such coverage.

Section 8.04. **Advances.** In the event Tenant shall fail to maintain the full insurance coverage required by this Agreement or shall fail to keep the Property in good repair and operating condition, Owner may (but shall be under no obligation) purchase the required policies of insurance and pay the premiums on the same or may make such repairs or replacements as are necessary and provide for payment thereof; and all amounts so advanced therefor by Owner shall be repaid to Owner, together with interest thereon at the rate of ten percent.

Section 8.05. **Modifications.** Without the prior written consent of the Owner, the Tenant shall not make any material alterations, modifications or attachments to the Property.

Section 8.06. **Mutual Waiver of Subrogation.** To the extent authorized by law, Owner and Tenant hereby grant to each other, on behalf of any insurer providing fire and extended coverage to either of them covering, the Property, or other improvements thereon or contents thereof, a waiver of any right of subrogation any such insurer of one party may acquire against the other or as against the Owner or Tenant by virtue of payments of any loss under such insurance. Such a waiver, to the extent authorized by law, shall be effective so long as the Owner and Tenant are empowered to grant such waiver under the terms of their respective insurance policy or policies and such waiver shall stand mutually terminated as of the date either Owner or Tenant gives notice to the other that the power to grant such waiver has been so terminated.

ARTICLE IX DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS

Section 9.01. **Damage, Destruction and Condemnation.** If (a) the Property or any portion thereof is destroyed (in whole or in part) or is damaged by fire or other casualty or (b) title to, or the temporary use of the Property or any part thereof is taken under the exercise of the power of eminent domain, Tenant and Owner will cause the Net Proceeds of any insurance claim or condemnation award to be applied either to the prompt repair, restoration, modification or replacement of the Property or, at Owner's option, paid to the Owner. Any balance of the Net Proceeds remaining after such work or purchase has been completed shall be paid to Owner.

For purposes of Article VIII, Section 8.03, and this Article IX, the term "Net Proceeds" shall mean the amount remaining from the gross proceeds of any insurance claim or condemnation award after deducting all expenses (including attorney's fees) incurred in the collection of such claims or award.

Section 9.02. **Insufficiency of Net Proceeds.** If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or replacement, to the extent authorized by law, Tenant shall either (a) complete the work and pay any costs in excess of the amount of Net Proceeds, or (b) Tenant shall pay to Owner the net proceeds plus an amount required to complete the work and pay any costs in excess of the amount of Net Proceeds.

ARTICLE X OPTION TO RENEW RENTAL AGREEMENT; NO PURCHASE OPTION

Section 10.01. **Renewal Option.** This Agreement may be renewed only by written agreement of the parties hereto and does not automatically renew at the end of the Term.

Section 10.02. **No Purchase Rights.** Nothing in this Agreement grants the Tenant the option to purchase the Property or to receive an ownership interest whatsoever in the Property. The Owner may sell the Property. The Owner has no obligation to give the Tenant the option to meet any third party purchase offer.

ARTICLE XI ASSIGNMENT, SUBLEASING, INDEMNIFICATION, MORTGAGING AND SELLING

Section 11.01. **Assignment or Sale by Owner.**

(a) The Property, this Agreement, and the Owner's right to receive payments from Tenant to be made hereunder, may be sold, assigned or otherwise disposed of in whole or in part to one or more successors, grantors, holders, owners, assignees or sub-assignees by Owner. Owner shall require as a condition of any such sale that the purchaser execute an agreement with Tenant that it unconditionally agrees to the terms and conditions of this Rental Agreement and that Tenant and purchaser have all of the rights, obligations and duties as the original contracting parties except as Tenant may agree to with purchaser. Upon any sale, disposition, assignment or reassignment of the Property or this Agreement, Tenant shall be provided with a notice of said sale, disposition, or assignment, within forty-five (45) days after the closing of such transaction.

(b) Tenant agrees to make all payments to the new owner or assignee designated in the assignment, notwithstanding any claim, defense, setoff or counterclaim whatsoever (except arising from Owner's breach of this Agreement) that Tenant may from time to time have against Owner. Tenant agrees to execute all documents, including notices of assignment and chattel mortgages or financing statements, which may be reasonably requested by Owner or assignee to protect its interests in the Property and in this Agreement.

(c) Tenant hereby agrees that Owner may sell or offer to sell this Agreement or the Property (i) through a certificate of participation program, whereby two or more interests are created in the Agreement, the Property or the Rental Payments; or (ii) with other similar instruments, agreements and obligations through a pool, trust, limited partnership, or other entity.

Section 11.02. **Estoppel Certificate.** Not more than five (5) business days after receipt of written request, the Tenant shall furnish to Owner or any prospective purchaser or lender, a certificate, duly acknowledged, certifying, to the extent true:

(a) That this Agreement is in full force and effect;

(b) that the Tenant knows of no default hereunder on the part of Owner, or if it has reason to believe that such a default exists, the nature thereof in reasonable detail;

- (c) the amount of the rent being paid and the last date to which rent or any other charges have been paid;
- (d) that this Agreement has not been modified, or if it has been modified, the terms and dates of such modification;
- (e) that the Commencement Date has occurred;
- (f) that the Tenant has accepted and occupied the Property;
- (g) the Commencement Date and term of this Agreement;
- (h) whether any and all work to be performed by Owner has been completed;
- (i) whether any renewal term option has been exercised if applicable;
- (j) whether there exist any offsets, claims or deductions from, or defenses to, the payment of rent;
- (k) that the Tenant is not aware of any prior assignments of this Agreement by Owner; and,
- (l) such other matters as may be reasonably requested by Owner, or such prospective purchaser or lender.

Section 11.03. **Attornment.** If any mortgage or deed of trust is enforced by the mortgagee or trustee, Tenant shall, upon request, attorn to such mortgagee or purchaser at such foreclosure sale, or any person or party succeeding to the interest of Owner as a result of such enforcement, as the case may be, and execute instruments confirming such attornment; provided, however, that if this Agreement was approved and accepted in writing by such mortgagee, trustee or lessor, Tenant's attornment shall be conditioned upon the agreement by such successor to Owner's interest not to disturb Tenant's possession hereunder during the term of this Agreement so long as Tenant performs its obligations under this Agreement. In the event of such enforcement and upon Tenant's attornment as aforesaid, Tenant will automatically become the tenant of the successor to Owner's interest without charge in the terms or provisions of this Agreement.

Section 11.04. **No Sale or Assignment by Tenant.** This Agreement and the interest of Tenant in the Property may not be sold, assigned or encumbered by Tenant without the prior written consent of Owner.

Section 11.05. **Subletting by Tenant.** Without the prior written consent of the Owner, the Tenant may sublet all or a portion of the Property, to the extent authorized by law, to any state, local or federal agency.. Notwithstanding subletting all or a portion of the Property, the Tenant will not be relieved of its obligations under this Agreement including the prompt payment of the Rental Payments and all other expenses for which Tenant is responsible hereunder.

Section 11.06. **Indemnity Agreement.**

(a) To the extent authorized by law, Tenant shall indemnify Owner against all liability, loss, cost, claims, causes of action, damage, or expense sustained by Owner, including attorney's fees and other expenses of litigation, arising out of or as a consequence of the Tenant's:

- i. Possession and use of the Property;
- ii. the use of the Property or improvements of any part thereof by Tenant for any purpose inconsistent with the provisions of this Agreement; or,
- iii. arising out of, or directly or indirectly due to, any failure of Tenant in any respect promptly and faithfully to satisfy its obligations under this Agreement.

(b) To the extent authorized by law, Tenant also shall indemnify Owner against all liens and charges of any and every nature, including claims by prisoners, their family or their heirs, or third parties that may at any time be established against the Property or any improvements thereon or any part thereof as a consequence, direct or indirect, or any act or omission of Tenant or as a consequence, direct or indirect of the existence of Tenant's interest under this Agreement to the extent allowed by Idaho law and particularly Article VIII, Section 4 of the Idaho Constitution prohibiting the county from assuming the liability of another person or party.

(c) To the extent authorized by law, Owner shall indemnify Tenant against all liability, loss, cost, claims, causes of action, damage, or expense sustained by Tenant, including attorney's fees and other expenses of litigation, arising out of or as a consequence of the Owner's failure in any respect promptly and faithfully to satisfy its obligations under this Agreement.

**ARTICLE XII
EVENTS OF DEFAULT AND REMEDIES**

Section 12.01. **Events of Default.** The following constitute "Events of Default" under this Agreement:

- (a) failure by the Tenant to pay any Rental Payment or other payment required to be paid hereunder when due; or
- (b) failure by the Tenant to maintain insurance on the Property in accordance with Article VIII Section 8.03 hereof; or
- (c) failure by the Tenant to observe and perform any other covenant, condition or agreement on its part to be observed or performed for a period of thirty (30) days after written

notice is given to the Tenant by the Owner, specifying such failure and requesting that it be remedied; provided, however, that if the failure stated in such notice cannot be corrected within such thirty (30) day period, the Owner will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Tenant within the applicable period and diligently pursued until the default is corrected; or

(d) initiation by the Tenant of a proceeding under any federal or state bankruptcy or insolvency law seeking relief under such laws concerning its indebtedness.

The foregoing provisions of this Section are subject to the provisions of Article VI, Section 6.03, hereof.

Section 12.02. **Remedies On Default.** Whenever any Event of Default shall have occurred and be continuing, the Owner shall have the right, at its sole option without any further demand or notice, to take any one or any combination of the following remedial steps:

(a) Terminate this Agreement and retake possession of the Property, and sell or lease, sublease or make other disposition of the Property for use over a term in a commercially reasonable manner, all for the account of Owner; provided that Tenant shall remain directly liable for the amount actually appropriated for the rental of the Property or a substitute Property as provided in Article VI, Section 6.05, hereof, and unpaid by Tenant during the current and any subsequent fiscal year.

Owner shall apply the sale proceeds in the following manner:

First, to pay all proper and reasonable costs and expenses associated with the recovery, repair, storage and sale of the Property, including reasonable attorneys' fees and expenses;

Second, to pay the Owner (i) the amount of all unpaid Rental Payments, if any, which are then due and owing, together with interest and late charges thereon, (ii) to pay all other obligations, cost and expenses payable by the Tenant under this Agreement, and (iii) any other amounts due hereunder.

(b) Proceed by appropriate court action to enforce performance by the Tenant of the applicable covenants of this Agreement or to recover for the breach thereof; or

(c) Use or retake such portion of the Property as the Owner, in its sole discretion, may decide.

All of the Tenant's right, title and interest in any Property the possession of which is retaken by the Owner upon the occurrence of an Event of Default or Event of Nonappropriation shall terminate immediately upon such repossession.

Section 12.03. **Return of Property.** Upon an Event of Default, Tenant agrees to surrender the Property at Tenant's sole cost and expense, in accordance with Article VI, Section 6.03.

Section 12.04. **No Remedy Exclusive.** No remedy herein conferred upon or reserved to the Owner is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity.

Section 12.05. **Late Charge; Interest on Late Payment.** Any Rental Payment not paid on the due date thereof shall bear a late charge equal to two percent (2%) of the amount of the past due Rental Payment. Any unpaid Rental Payment or other amount payable by Tenant to the Owner hereunder, shall bear interest at the rate of ten percent (10%) per annum plus the late charge.

Section 12.06. **Force Majeure.** If by reason of force majeure Tenant is unable in whole or in part to carry out its agreement on its part herein **contained**, other than the obligations on the part of Tenant contained in Article VI and Article VIII Section 8.03 hereof, Tenant shall not be deemed in default during the continuance of such **inability**. The term "force majeure" as used herein shall mean, without limitation, the following: acts of God, strikes, lockouts or other industrial disturbances; act of public enemies, orders or restraints of any kind of the government of the United States of America or the State of Idaho or any of their departments, agencies or officials, or any civil or military authority; insurrections; riots; landslides; earthquakes; fires; storms; droughts; floods; or explosions.

ARTICLE XIII MISCELLANEOUS

Section 13.01. **Notices.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, to the parties at the addresses set forth on the first page hereof.

Section 13.02. **Binding Effect.** To the extent authorized by law, this Agreement shall inure to the benefit of and shall be binding upon Owner and Tenant and their respective successors and assigns.

Section 13.03. **Severability.** In the event any provision of this Agreement 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 13.04. **Amendments.** All amendments hereto must be in writing.

Section 13.05. **Execution in Counterparts.** This Agreement may be executed in several counterparts.

Section 13.06. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Idaho.

Section 13.07. **Captions.** The captions or heading in the Agreement are for convenience only and no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

Section 13.08. **Entire Agreement.** This Agreement constitutes the entire agreement between Owner and Tenant. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing signed by both parties, and then such waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, representations or warranties, express or implied, not specified herein regarding this Agreement or the Property rented hereunder. Any terms and conditions of any purchase order, request for proposals, bid requests, or other document prepared by Tenant in connection with this Agreement which are in addition to or inconsistent with the terms and conditions of this Agreement will not be binding on Owner and will not apply to this Agreement. Tenant by the signature below of its authorized representative acknowledges that it has read this Agreement, understands it and agrees to be bound by its terms and conditions.

IN WITNESS WHEREOF the County of Kootenai by resolution of its Board of County Commissioners has caused these presents to be subscribed by the chairman of the board and the seal of said board to be affixed thereto and attested by the clerk of said board and the County of Kootenai by resolution of its Board of County Commissioners has caused there presents to be subscribed by the chairman of the said board and the seal of said board to be affixed thereto and attested by the clerk of said board on the day and year designated below.

DATED this ____ day of _____, 201__.

TENANT:

COUNTY OF KOOTENAI, IDAHO
By: Commissioners for Kootenai County

Sheriff of Kootenai County

Ben Wolfinger, Sheriff

OWNER:

Kootenai County Facilities Holdings, LLC
By: Facilities Management, LLC

By: _____
Walt Femling, Member

ATTEST:

Jim Brannon
Clerk of Kootenai County

EXHIBIT A

RESOLUTION OF GOVERNING BODY EXTRACT OF MINUTES

Tenant: County of Kootenai, Idaho
Date of Agreement: _____, 20__

At a duly called meeting of the governing body of Tenant (as defined in the Agreement) held on the ____ day of _____, 20__ the following resolution was introduced and adopted.

BE IT RESOLVED by the board of county commissioners of Kootenai County, Idaho,

RESOLVED, whereas the governing body of Tenant has determined that a need exists for the rental of the Property described in the Rental Agreement presented to this meeting; and

WHEREAS, the governing body of Tenant has taken the necessary steps, under applicable law to arrange for the acquisition of such Property.

BE IT RESOLVED, by the governing body of Tenant that the terms of said Rental Agreement are in the best interests of Tenant for the use of such Property, and the governing body of Tenant designates and confirms the following persons to execute and deliver, and to witness (or attest), respectively, the Rental Agreement and any related documents necessary to the consummation of the transactions contemplated by the Rental Agreement.

(Name of Party to Execute Agreement)

(Title)

(Name of Party to Execute Agreement)

(Title)

The undersigned further certifies that the above resolution has not been repealed or amended and remains in full force and effect and further certifies that the above and foregoing Rental Agreement is the same as presented at said meeting of the governing body of Tenant.

Secretary/Clerk

Seal: _____

Date

EXHIBIT B

RENTAL PAYMENTS

In accordance with Article VI of the Rental Agreement dated _____, 20____ (the "Agreement") between Kootenai County Facilities Holdings, LLC ("Owner"), the Rental Payments are as follows:

From the Commencement Date until September 30, 2035 the monthly Rental Payment will be \$_____ times the number of days in the month times ____, for an annual rent of \$_____.

This is a triple net lease with Tenant bearing all costs and expenses for the operation, maintenance, repair, replacement, insurance, taxes or any other cost. The Rental Payment does not include any of such costs and the Owner shall have no liability or responsibility for any of such costs.

All Rental Payments will be due and payable on the first day of the month beginning on the first day of the month following the Commencement Date and continue through the Term of the Rental Agreement. Any payment not received by the fifth day of the month shall be considered late.

EXHIBIT C

CERTIFICATE OF TENANT

I, _____, am a duly authorized representative and acting Secretary or Clerk of Kootenai County, Idaho under that certain Rental Agreement dated _____, 20____, with Kootenai County Facilities Holdings, LLC as Owner (the "Agreement") hereby certify as follows and in accordance with the requirements of the Agreement. Capitalized terms used herein have the same meaning as in the Agreement:

A. INCUMBENCY OF OFFICERS AND SIGNATURES:

I have custody of the records of Tenant and the following authorized persons of the Tenant are duly elected or appointed and hold the office or title set forth opposite each individual's name, and the signatures opposite their names are true and correct, and where required, have been filed with the appropriate officials of the State of Idaho, and each such individual has the authority to enter into the Rental Agreement on behalf of the Tenant:

<u>Name</u>	<u>Title/Office</u>	<u>Signature</u>
_____	_____	_____
_____	_____	_____

B. ESSENTIAL USE:

The Property will be used by the Tenant for the governmental purpose as a detention facility for prisoners and for operations related to a detention facility.

C. CERTIFICATE OF APPROPRIATIONS:

1. Moneys for all rental payments to be made under the Rental Agreement for the fiscal year ending _____, 20____, are available from unexhausted and unencumbered appropriations and/or funds within Tenant's budget for such fiscal year; and that appropriations and/or funds have been designated for the payment of those rental payments that may come due under the Rental Agreement in such fiscal year.

This Certificate is based upon facts, circumstances, estimates and expectations of the Tenant as of the date on which the Rental Agreement was executed, and to the best of my knowledge and belief, as of this date, such facts, circumstances and estimates are true and correct and such expectations are reasonable.

IN WITNESS WHEREOF, I have executed and delivered this certificate as of the ____ day of _____, 20____.

Secretary/Clerk

EXHIBIT D

DESCRIPTION OF THE PROPERTY

Property:

Property LOCATION: _____

By: _____

Title: _____

Date: _____