

ORDINANCE APPROVING THE AMENDMENT OF A LEASE AGREEMENT WITH THE KENDALL COUNTY PUBLIC BUILDING COMMISSION

BE IT ORDAINED BY THE COUNTY BOARD OF THE COUNTY OF KENDALL, ILLINOIS, AS FOLLOWS:

**Section 1.** Pursuant to applicable provisions of the Public Building Commission Act, 50 Illinois Compiled Statutes 20, and the Counties Code, 55 Illinois Compiled Statutes 5, The County of Kendall, Illinois (the "County") and the Kendall County Public Building Commission (the "Commission") have heretofore entered into a Lease Agreement, dated as of May 1, 1993 (the "1993A Lease Agreement") and the annual lease rental payments of the County under the 1993A Lease Agreement have been pledged as security for the payment of the Public Building Revenue Refunding Bonds, Series 1993A (the "1993A Bonds") of the Commission. As provided in the 1993A Lease Agreement, such annual lease rental payments will become due on November 1 of each year as follows:

<u>Year</u>	<u>Amount</u>
2003	\$ 783,000
2004	1,577,000
2005	1,644,000
2006	1,730,000
2007	1,822,000
2008	1,924,000
2009	2,029,000
2010	1,612,000

The Commission is considering the issuance of its Public Building Revenue Refunding Bonds, Series 2003, for the purpose of reducing debt service costs of its 1993A Bonds and the annual lease rental payments payable by the County under the 1993A Lease Agreement in the years 2004 to 2010, inclusive.

**Section 2.** The form of "First Amendment to the 1993A Lease Agreement" by and between the County and the Commission and on file in the office of the County Clerk is approved. The Chairman of the County Board and the County Clerk are hereby authorized to execute and deliver the First Amendment to the 1993A Lease Agreement on behalf of the County, subject to such changes as may be needed to reflect the details of the Commission's Public Building Revenue Refunding Bonds, Series 2003, and provided that the annual lease rental payment of the County under the 1993A Lease Agreement, as amended by the First Amendment to the 1993A Lease Agreement, in each year will not be greater than the annual lease rental payment for such year under the current terms of the 1993A Lease Agreement.

**Section 3.** On February 16, 1993, the County Board adopted an ordinance entitled: "Ordinance Authorizing a Lease Agreement with the Kendall County Public Building Commission and Providing for the Levy of Taxes for the Payment of Rent Thereunder" pursuant to which the County provided for an annual levy of taxes in amounts sufficient for the payment of rentals due under the 1993A Lease Agreement. After the issuance of the Commission's Public Building Revenue Refunding Bonds, Series 2003, the County Clerk is hereby authorized and directed to file a certificate providing for the appropriate reduction of such annual tax levy amounts.

**Section 4.** This ordinance shall be effective immediately.

Adopted this 19<sup>th</sup> day of August, 2003, by the following roll call vote:

**Voting Aye:**

Chairman John Church  
Nancy Martin  
Anne Vickery  
Jeff Wehrli

Jessie Hafenrichter  
Pam Parr  
Dick Whitefield


Kay Hatcher  
John Purcell  
Bob Davidson

**Voting Nay:**

None

  
\_\_\_\_\_  
Chairman, County Board

**Attest:**

  
\_\_\_\_\_  
County Clerk

## FIRST AMENDMENT TO THE 1993A LEASE AGREEMENT

This First Amendment to the 1993A Lease Agreement is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2003, by and between the Kendall County Public Building Commission (the "Commission"), a municipal corporation and a body corporate and politic of the State of Illinois, duly organized and existing under the Public Building Commission Act, 50 Illinois Compiled Statutes 20 (the "Act"), and The County of Kendall (the "County") a body politic and corporate of the State of Illinois.

### W I T N E S S E T H :

WHEREAS, pursuant to the Act, the Commission has constructed and owns certain public buildings including the County jail, public safety center and animal shelter (the "Project"); and

WHEREAS, the County has leased the Project from the Commission pursuant to a Lease Agreement dated as of May 1, 1993 (the "1993A Lease Agreement"); the County is obligated to make annual lease rental payments under the 1993A Lease Agreement and the Commission has pledged such annual lease rental payments as security for the payment of its Public Building Revenue Refunding Bonds, Series 1993A (the "1993A Bonds"); and

WHEREAS, the Commission has determined to refund the 1993A Bonds that are subject to redemption on or after December 1, 2003 and to provide for the payment of the 1993A Bonds that mature on December 1, 2003; and

WHEREAS, the cost of refunding such 1993A Bonds is to be provided for by the issuance of \$ \_\_\_\_\_ principal amount of Public Building Revenue Refunding Bonds, Series 2003, of the Commission (the "2003 Bonds") pursuant to the terms and conditions of the Act and a resolution adopted by the Board of Commissioners of the Commission on \_\_\_\_\_, 2003 and entitled: "Resolution Authorizing the Issuance of Public Building Revenue Refunding Bonds, Series 2003, of the Kendall County Public Building Commission;" and

WHEREAS, in order to undertake the refunding plan it is necessary for the County and the Commission to amend the 1993A Lease Agreement by entering into this First Amendment to the 1993A Lease Agreement.

WHEREFORE, in consideration of the premises and the covenants made by each of the parties to the 1993A Lease Agreement and this First Amendment to the 1993A Lease Agreement, and for other good and valuable consideration, it is covenanted and agreed by the Commission and the County as follows:

**Section 1. Certain Defined Terms.** The term "Bonds" under the 1993A Lease Agreement is amended to mean the Public Building Revenue Refunding Bonds, Series 2003, of the Commission.

The term "Bond Resolution" under the 1993A Lease Agreement is amended to mean the resolution authorizing the 2003 Bonds, adopted by the Commission on

\_\_\_\_\_, 2003 and entitled: "Resolution Authorizing the Issuance of Public Building Revenue Refunding Bonds, Series 2003, of the Kendall County Public Building Commission."

**Section 2. Application of 2003 Rental Payment.** The County agrees to prepay the 2003 rental payment under the 1993A Lease Agreement in the amount of \$783,000. Such prepayment shall be made on or prior to the date of issuance of the 2003 Bonds. The Commission agrees to apply the 2003 rental payment as a source of funding of the refunding plan set forth in Section 3 hereof.

**Section 3. Refunding Plan.** The Commission agrees to carry out the following refunding plan in accordance with the provisions of the Act by providing for the authorization, sale, execution and delivery by the Commission of the 2003 Bonds.

Under the refunding plan, the Commission will (a) apply part of the 2003 lease rental payment to fund the interest on the 2003 Bonds to become due on or prior to June 1, 2004, (b) apply part of the 2003 lease rental payment and, if needed, the proceeds of the 2003 Bonds to pay the principal of and interest on the 1993A Bonds due on December 1, 2003 and (c) redeem on December 1, 2003, the 1993A Bonds maturing in the years 2004, 2005 and 2010 and apply the proceeds of the 2003 Bonds to pay the redemption price of such 1993A Bonds.

**Section 4. Reduction of Rental Payments.** The second paragraph of Section 2 of the 1993A Lease Agreement is amended to read as follows:

The County shall, on or before November 1 of each year hereafter designated, pay to the Commission for the use of the Project and the surrounding premises subject to the terms of this Lease, the following annual rentals:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
1994	\$1,351,000	2003	\$ 783,000
1995	659,000	2004	,000
1996	659,000	2005	,000
1997	718,000	2006	,000
1998	779,000	2007	,000
1999	846,000	2008	,000
2000	836,000	2009	,000
2001	801,000	2010	,000
2002	782,000		

**Section 5. Severability.** In the event any covenant, phrase, clause, paragraph, section, condition or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such covenant, phrase, clause, paragraph, section, condition or provision shall in no way affect any other covenant, phrase, clause, paragraph, section, condition or provision herein contained.

**Section 6. Execution of Counterparts.** This First Amendment to the 1993A Lease Agreement may be executed in any number of counterparts, each of which shall be regarded for all purposes as one original and shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the Commission and the County have caused their respective corporate seals to be hereunto affixed and these presents to be signed by their respective officers thereunto duly authorized and this First Amendment to the 1993A Lease Agreement to be dated as of the day and year first above written.

**KENDALL COUNTY PUBLIC BUILDING  
COMMISSION**

By: \_\_\_\_\_  
Chairman

(SEAL)

Attest:

\_\_\_\_\_  
Secretary

**THE COUNTY OF KENDALL**

By:  \_\_\_\_\_  
Chairman, County Board

(SEAL)

Attest:

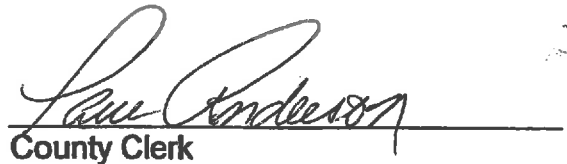
\_\_\_\_\_  
County Clerk

CERTIFICATE OF COUNTY CLERK

I, Paul P. Anderson, County Clerk of The County of Kendall, Illinois, hereby certify that the foregoing ordinance entitled: "Ordinance Approving the Amendment of A Lease Agreement with the Kendall County Public Building Commission," is a true copy of an original ordinance, which was duly adopted by the recorded affirmative votes of a majority of the members of the County Board at a meeting thereof that was duly called and held at 9:00 a.m. on August 19, 2003, in the County Board Room, at the County Office Building, 111 West Fox Street, in the City of Yorkville, Illinois, and at which a quorum was present and acting throughout, and that said copy has been compared by me with the original ordinance signed by the Chairman of the County Board and recorded in the records of the County and that it is a correct transcript thereof and of the whole of said ordinance, and that said ordinance has not been altered, amended, repealed or revoked, but is in full force and effect.

I further certify that the agenda for said meeting included the ordinance as a matter to be considered at the meeting and that said agenda was posted at least 48 hours in advance of the holding of the meeting in the manner required by the Open Meetings Act, 5 Illinois Compiled Statutes 120.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the County, this 3<sup>rd</sup> day of October, 2003.

  
County Clerk

(SEAL)