

LEASE AGREEMENT

THIS LEASE AGREEMENT is executed this _____ day of December, 2011 between Winnebago County, a Wisconsin municipal corporation (hereinafter referred to as "TENANT"), and the City of Oshkosh, a Wisconsin municipal corporation (hereinafter referred to as "LANDLORD").

ARTICLE I

Section 1.1: Leased Premises. Subject to the terms and conditions hereof, LANDLORD for and in consideration of the rents herein to be paid by TENANT, and the covenants herein to be performed by the parties, does hereby lease to TENANT the premises (the "Leased Premises") containing approximately Seven Thousand Eight Hundred Twenty-Seven (7,827) square feet and consisting of the entire northside of the first floor of the municipal building known as the "Public Safety Building," located at 420 Jackson Street, Oshkosh, WI 54901 (the "Building").

ARTICLE II

Section 2.1: Term. This Lease Agreement shall be for a term of thirty-six (36) months commencing December 1, 2011, and ending November 30, 2014.

ARTICLE III

Section 3.1: Basic Rent. TENANT agrees to pay LANDLORD, without demand, at 215 Church Avenue, PO Box 1130, Oshkosh, WI 54903-1130, rent in the amount of Five Thousand Eight Hundred and Seventy and 25/100 Dollars (\$5,870.25) per month at an annual rate of Seventy Thousand Four Hundred Forty-Three and 00/100 Dollars (\$70,443.00) per year. Said rent shall be payable, in advance, on the first day of each month, commencing on December 1, 2011, and on the first day of each month thereafter during the term of this Lease Agreement.

Section 3.2: Rentable Area. "Rentable Area" shall be defined as all space within the walls of the Leased Premises, but shall not include common or exterior areas. Changes in Rentable Area by mutual agreement of the parties shall, for the purposes of this Lease Agreement, be effective as of the first day of the calendar month of the change. For purposes of this Lease Agreement, Rentable Area shall be approximately Seven Thousand Eight Hundred Twenty-Seven (7,827) square feet.

Section 3.3: Previous Leases: This Lease Agreement shall supersede all previous lease agreements between the parties regarding the Leased Premises.

ARTICLE IV

Section 4.1: Common Areas and Facilities. The Leased Premises shall include that area described above in this Lease Agreement and further detailed in Appendix A of this Lease Agreement. In addition, the Leased Premises shall include allocated or assigned parking spaces, rights to use building lobby areas and interior common areas, rights to use green space and other exterior common areas, and rights to use restroom facilities on the first floor of the Leased Premises.

Section 4.2: Use of Common Areas. TENANT agrees to use the Common Areas only as provided or authorized by the applicable terms of this Lease Agreement.

ARTICLE V

Section 5.1: Utilities. During the term of this Lease Agreement, LANDLORD shall promptly pay the charges for all utilities, including sewer, storm sewer, water, gas, electricity, and heat, used or consumed in the Leased Premises by TENANT. LANDLORD shall, in turn, bill TENANT for its proportionate share of utilities for the Leased Premises. TENANT shall reimburse LANDLORD for TENANT's share of utilities to the Leased Premises no later than thirty (30) days from the date of invoice to TENANT for said utilities. TENANT's share of utilities

shall be 10.79% of the total amount billed for utilities. TENANT shall have the right to request documentation from LANDLORD regarding the utility costs paid by LANDLORD.

Section 5.2: Reduction of Utility Costs. Should TENANT vacate the Leased Premises prior to the expiration of the Lease Agreement, TENANT shall thereafter be no longer responsible or liable for payment of any utility costs to LANDLORD.

ARTICLE VI

Section 6.1: Repairs By LANDLORD. LANDLORD shall be responsible for all repairs and maintenance necessary to keep the Leased Premises in good condition and repair, except:

- A. Repair of any damage caused by any act, omission, or negligence of TENANT or TENANT's employees, agents, invitees, licensees, or contractors;
- B. Replacement of any glass that may be damaged or broken by TENANT or its employees, agents, invitees, licensees, or contractors.
- C. Replacement of minor consumable replacements such as light bulbs, fluorescent lights and ballasts, carpeting, electrical outlets and switches, furniture, and locks.

TENANT shall not be responsible for any costs incurred for the maintenance, repair, or replacement of heating, ventilation, or air conditioning systems that serve the Leased Premises and other portions of the Building, unless such repairs are required solely because of damage caused by the act, omission, or negligence of TENANT or TENANT's employees, agents, invitees, licensees, or contractors. TENANT shall not be responsible for any maintenance or repairs of Common Area including, but not limited to, lawn maintenance and snow removal.

Section 6.2: Quiet Enjoyment. LANDLORD covenants that TENANT, upon making all payments required and performing all of its other obligations under this Lease Agreement, shall peacefully and quietly have, hold, and enjoy the Leased Premises throughout the term of this Lease Agreement or any extension thereof, or until this Lease Agreement is terminated as herein provided.

Section 6.3: Insurance. LANDLORD participates in the State of Wisconsin Property Insurance Fund for insurance covering the property and contents under LANDLORD's care, custody, and control. TENANT shall procure and maintain such property and fire insurance with respect to the personal property of TENANT as TENANT may require to protect its own interests.

ARTICLE VII

Section 7.1: Affirmative Covenants. TENANT covenants, at its expense, at all times during the term of this Lease Agreement and at such further times as TENANT occupies the Leased Premises or any part thereof:

A. **Performance.** To perform promptly all of the obligations of TENANT set forth in this Lease Agreement including the obligations to pay, when due, rent and all charges, rates, and other sums which by the terms of this Lease Agreement are to be paid by TENANT.

B. **Permitted Use.** To use the Leased Premises exclusively for courtroom and office space and to conduct its business at all times in a high grade and reputable manner to help establish and maintain a good reputation for the Building and for no other purpose without LANDLORD's prior written consent. TENANT shall not do or permit anything to be done in or about the Leased Premises that will in any way obstruct or interfere with the rights of any other tenants or occupants of the Building, or their officers, employees, agents, customers, or invitees, or injure or annoy them, or use or allow the Leased Premises to be used for any improper, immoral, unlawful, or objectionable purpose, or injure or tend to injure the reputation of the Building or any part thereof. TENANT shall not cause, maintain, or permit any nuisance or commit or suffer the commission of any waste in, on, or about the Leased Premises.

C. **Storage and Trash Removal.** To store in the Leased Premises trash and refuse in adequate containers within the Leased Premises, to maintain such containers in a healthy, safe, neat, and clean condition and in a location that is not visible to members of the public in

the Building, and to attend to the daily disposal thereof. LANDLORD shall provide a dumpster or other suitable facility for the purpose of disposing of TENANT's trash. TENANT shall be responsible for providing janitorial services within the Rentable Area.

D. **Maintenance and Repairs.** Except for repairs required to be performed by LANDLORD pursuant to Section 6.1, to keep the Leased Premises clean, neat, safe, and in good order, repair, and condition, and to keep all interior glass, including glass in doors, windows, and fixtures, clean and in good condition, and to replace any glass that may be damaged or broken by TENANT or its employees, agents, invitees, licensees, or contractors with glass of the same quality, damage by fire or other casualty covered by LANDLORD's insurance excepted.

E. **Repairs Required by Law.** To make all repairs, alterations, replacements, or additions to the Leased Premises required by law or ordinance or any order or regulation of any public authority or fire underwriters or underwriter's fire prevention engineers; to keep the Leased Premises equipped with all appliances so required; to procure any licenses or permits required for any use of the Leased Premises by TENANT; and to comply with the orders and regulations of all governmental authorities. Notwithstanding the foregoing, LANDLORD shall be responsible for reasonable accommodations to the Leased Premises required to comply with Americans with Disabilities Act (ADA) or any other similar law, rule, or regulation related to the use of Leased Premises.

F. **Work on Premises.** To pay promptly when due the entire cost of any work in the Leased Premises undertaken by TENANT so that the Leased Premises shall at all times be free of liens for labor and materials; to procure all necessary permits before undertaking such work; to do all of such work in a good and workmanlike manner, employing materials of good quality; to perform such work to the extent and in such manner as to insure proper maintenance of good labor relationships; to comply with all governmental requirements relating to such work; and to save LANDLORD and LANDLORD's beneficiaries and agents harmless and indemnify

them from all injury, loss, claims, or damages to any person or property occasioned by or growing out of such work.

G. **Indemnification.** To save LANDLORD, its agents, and its successors and assigns, harmless and indemnified from all injury, loss, claims, or damages to any person or property while on the Leased Premises or any other part of the Building occasioned by: (a) any act or omission of TENANT, its employees, agents, or anyone claiming by, through, or under TENANT; or (b) arising out of or resulting from TENANT's use and occupancy of the Leased Premises or any equipment therein or appurtenances thereto.

H. **Insurance.** To maintain in responsible companies general liability insurance, insuring LANDLORD, LANDLORD's agents, and TENANT, as their interests may appear, against all claims, demands, or actions for injury to or death of any one person in an amount of not less than One Million and 00/100 Dollars (\$1,000,000.00) and for injury to or death of more than one person in any accident in an amount of not less than One Million and 00/100 Dollars (\$1,000,000.00), and for damages to property in an amount not less than Five Hundred Thousand and 00/100 Dollars (\$500,000.00) made by or on behalf of any person, firm, or corporation arising from, related to, connected with the conduct and operation of TENANT's business in the Leased Premises. Such insurance shall not be subject to cancelation, termination, or change except after at least thirty (30) days prior written notice to LANDLORD. The policies or duly-executed certificates for same, together with satisfactory evidence of payment of the premiums thereof, shall be deposited with LANDLORD on or before the day on which the term of the Lease Agreement commences, and upon removal of any such policy, not more than thirty (30) days prior to the expiration of the term of such coverage, and that if TENANT fails to comply with such requirements, LANDLORD may obtain such insurance and keep the same in effect, and TENANTS shall pay LANDLORD the premium costs thereof upon demand. TENANT shall not be required to maintain the insurance required by this paragraph if

TENANT provides LANDLORD with satisfactory proof of comparable self-insurance arrangement.

I. **Right of Entry.** To permit upon reasonable advance notice and with an escort by a member of the staff of the Winnebago County Clerk of Court's Office to LANDLORD the right to enter the Lease Premises at reasonable times for the purpose of inspecting the same, of making repairs, additions, or alterations thereto or to the Building in which same are located, without abatement of rent, of shoring the foundations and walls thereof, of erecting scaffolding and protective barricades around and about the same, and of showing the Leased Premises to prospective purchasers, lenders, and tenants.

J. **Surrender and Removal.** To remove at the termination of this Lease Agreement such of TENANT's fixtures and other goods and effects as are not permanently affixed to the Leased Premises; to remove such alterations and additions made by TENANT as LANDLORD may request; to repair any damage caused by such removal; and peaceably to yield up the Leased Premises and all alterations and additions thereto, and all fixtures, furnishings, floor coverings, and equipment that are permanently affixed to the Leased Premises, clean and in good order, repair and conditions, damage by fire or other unavoidable casualty, ordinary wear and tear and maintenance and repairs that are the responsibility of LANDLORD excepted. Any personal property of TENANT not removed within thirty (30) days following such termination shall, at LANDLORD's option, become the property of LANDLORD, or LANDLORD may cause said personal property to be removed from the Leased Premises at TENANT's sole cost and expense.

Section 7.2: Negative Covenants. TENANT covenants at all times during this Lease Agreement term such further time as TENANT occupies the Leased Premises or any part thereof:

A. **Prohibited Activities.** Not to injure, overload, deface, or otherwise harm the Leased Premises; nor commit any nuisance.

B. **Alterations.** Not to make any alterations or additions, nor permit the making of any holes in the walls, partitions, ceilings, or floors without LANDLORD's expressed permission.

C. **Assignment and Subletting.** Not to assign, sublet, sell, mortgage, pledge, or in any manner transfer this Lease Agreement, by operation of law, without the express written consent of LANDLORD.

D. **Liens.** Not to suffer any mechanic's liens to be filed against the Leased Premises or any portion of this Building by reason of any work, labor, services, or materials performed at or furnished to the Leased Premises for TENANT.

ARTICLE VIII

Section 8.1: Fire, Explosion, or Other Casualty. In the event the Leased Premises are damaged by fire, explosion, or other casualty, LANDLORD may elect either to repair or rebuild the Leased Premises or the Building or Buildings or to terminate this Lease Agreement upon giving notice of such election to TENANT. If the casualty, repairing, or rebuilding shall render the Leased Premises untenable, in whole or in part, a proportionate abatement of the Basic Rent shall be allowed from the date when the damage occurred until the date LANDLORD completes the repairing or rebuilding, with said proportion to be computed on the basis of the relation that the gross square foot area of the space rendered untenable bears to the Rentable Area of the Leased Premises. If LANDLORD is required to or elects to repair the Leased Premises as herein provided, TENANT shall repair or replace its stock in trade, fixtures, furniture, furnishings, and equipment. In no event shall LANDLORD be required to repair or replace TENANT's stock in trade, fixtures, furniture, furnishings, and equipment.

ARTICLE IX

Section 9.1: Defaults by TENANT. LANDLORD may, at its option, terminate this Lease Agreement if any default by TENANT continues after written notice in case of non-

payment of rent or any other payment provided to be made hereunder for more than Thirty (30) days, or in any other case if TENANT does not cure such default within a reasonable time that shall in no event exceed Forty-Five (45) days.

Section 9.2: Holdover by TENANT. In the event that TENANT remains in possession of the Leased Premises after the expiration of the tenancy created hereunder, including any extensions provided, and without execution of a new lease agreement, TENANT, at the option of LANDLORD, shall be deemed to be occupying the Leased Premises as a tenant from month-to-month, at the monthly rate specified in Section 3.1 hereof. Should TENANT holdover, it shall be subject to all other conditions, provisions, and obligations of this Lease Agreement insofar as the same are applicable to a month-to-month tenancy.

ARTICLE X

Section 10.1: Notices from One Party to the Other. Any notice or demand from LANDLORD to TENANT or from TENANT to LANDLORD shall be in writing and shall be delivered in person or mailed by prepaid U.S. Registered Mail or Certified Mail, addressed, if to TENANT, at the address of TENANT, which is 112 Otter Avenue, Oshkosh, WI 54901, Attention County Executive. Notices or demand from TENANT to LANDLORD shall be in writing and shall be delivered in person or mailed by prepaid U.S Registered Mail or Certified Mail, addressed, if to LANDLORD, at the address of LANDLORD, which is 215 Church Avenue, Oshkosh, WI 54901, Attention City Manager.

Section 10.2: Applicable Law and Construction. The laws of the State of Wisconsin shall govern the validity, performance, and enforcement of this Lease Agreement. The invalidity or unenforceability of any provision of this Lease Agreement shall not affect or impair any other provision. The headings of the several Articles and Sections contained hereof are for convenience only and do not define, limit, or construe the contents of such Articles or Sections.

Section 10.3: Binding Effect of Lease. The covenants, agreements, and obligations herein contained, except as otherwise specifically provided, shall extend to, bind, and inure to the benefit of all parties hereto and their respective successors and assigns. No third party, other than such successors and assigns, shall be entitled to enforce any or all of the terms of this Lease Agreement or shall have any rights hereunder whatsoever.

Executed the day and year first written above.

LANDLORD:

City of Oshkosh by,

Mark A Rohloff, City Manager

TENANT:

Winnebago County by,

Mark Harris,
Winnebago County Executive

Susan T Ertmer,
Winnebago County Clerk