

WENDOVER GOVERNMENT COMPLEX  
LEASE-PURCHASE AGREEMENT

THIS AGREEMENT is made and entered into, in triplicate original, as of the latest date signed below, by and between TOOELE COUNTY, 47 South Main, Tooele, Utah, 84074 (hereinafter referred to as the "County") and WENDOVER CITY, 100 South Ninth Street, Wendover, Utah, 84083 (hereinafter referred to as the "City").

RECITALS

A. The City is the owner of certain real property (the "Land") located within the City of Wendover, Utah, upon which a building known as the Wendover Government Complex (the "Complex") has been constructed;

B. A building and improvements (the "Improvements") have been constructed with funds of the County, obtained through the sale by the County of a lease revenue bonds, bearing interest rates which fluctuate from an initial rate of 4.950 to 5.60 percent per anum;

C. The Land and Improvements (collectively the "Complex"), will be used by the parties for purposes of conducting and supporting local government activities in and near the City of Wendover; and

D. The parties desire to memorialize their understanding with respect to the ownership of the Complex, all improvements and fixtures thereon, the use of the Complex for government and community purposes, the lease of portions of the Complex by the City, County and other entities, and as to the ownership of the

Complex during the course of, and at the conclusion of, the term of this Agreement.

AGREEMENT

For valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Lease of Property. The City leases from the County for a term of twenty-one (21) years, commencing on November 1, 1996 and ending at Midnight October 31, 2017, a portion of the Improvements made by the County. The Improvements subject to this Agreement consist of the entire building, improvements and fixtures constructed by the County, and commonly known as the Wendover Government Complex, located at southeast corner of Wendover Boulevard and Ninth Street in the City of Wendover, County of Tooele, State of Utah. The portion of the improvements to be used by the City are identified in the floor plan diagram attached hereto as Exhibit "A" and incorporated herein by this reference.

A. Rents. The City shall pay annual rents to the County in the amounts described for the City in the Schedule of Payments, attached hereto as Exhibit "B" and incorporated herein by this reference. Such payments shall be due on or before November 1 of each year commencing November 1, 1998. The parties acknowledge that the Complex has been used since approximately November 1, 1996, and that in consideration of the same, the City

has, concurrent with the execution of this Agreement, paid the sum of \$26,945.00 as interest for its use from November 1, 1996 through October 31, 1997. Rents shall be paid not less than annually, but may be paid to the County in quarterly or other periodic installments, at the discretion of the City. In the event that an amount exceeding the amount due in a given year is paid to the County, the same shall be treated as advance rent and early payment of principal under the option to purchase described below.

B. Purchase During Term of Agreement. The County grants to the City the option to purchase the Improvements at any time during the term of this Agreement upon payment in full of the City's portion of the County's cost to construct the Improvements. The parties acknowledge and agree that the costs of construction total One Million One Hundred Seventy Thousand Dollars (\$1,170,000), and that based on current anticipated usage by the City, the City's portion of the purchase price shall be 47.0% thereof, which is equal to \$549,900.00 (hereinafter the "Purchase Price"). All amounts paid by the City to the County as rents hereunder shall be applied to the Purchase Price as if amortized over the twenty-one (21) year term of this Agreement, and in amounts not less than those described on Exhibit "B." The payments made by the City shall be applied first to accrued interest, and then to principal.

C. Purchase at End of Term. At the conclusion of the lease term of this Agreement, and upon the City's compliance with the payment terms of this Agreement, the County shall convey the Improvements to the City, in the manner and upon the conditions described in the Requirements of Conveyance, below.

D. Requirements for Conveyance. The option to purchase is granted on the conditions that: (i) the City give three (3) months written notice of the exercise of the option; (ii) that this Agreement shall not have been terminated previously; and (iii) that City has observed and complied with all payment terms and conditions of this Agreement.

E. Instruments of Conveyance -- Effect of Conveyance. If the option to purchase is exercised by the City, the County shall convey free and clear title to the Improvements (including without limitation the building, fixtures, and other improvements therein or thereon) by bill of sale, deed or such other instruments as may be required. On delivery of said documents, this Agreement shall become terminated, excepting the provisions hereof relating to the County's and use of portions of the Complex, and related provisions.

2. Use of Government Complex by County. It is agreed that for the term of this Agreement, the County shall be entitled to use its portion of the Improvements, as described on Exhibit "A," including but not limited to: (a) one-half of the space within the

Complex used by the Justice Court, consisting of approximately 1,624 square feet for office space, clerk's space, courtroom and related facilities; (b) approximately 143 square feet of space for use by the County Sheriff's office; (c) approximately 1,564 square feet of space for use by the County Health Department; and (d) the County's proportional share (38.52%)<sup>1</sup> of the common areas within the Complex. The County shall pay a pro-rata portion of the Operational and Utility Expenses of the Complex. In the event the City exercises its option to purchase during the term of this agreement, as described in paragraph 1.B., above, the County shall be entitled to continued use of its portions of the Complex for the remainder of the term hereof, subject to the requirement that the County continue to pay its portion of the operating and utility expenses, described below.

A. Rents. The County shall not be required to pay rents for its use of the Complex, it being understood that the County will pay a portion of the total costs of Improvements as described on Exhibit "B."

B. Payment of Operating and Utility Expenses. The County shall pay 41.2% of the Operating and Utility Expenses (defined in paragraph 3, below) of the Complex. The County's

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<sup>1</sup> The Calculation of this percentage, as well as other uses in the building, are set forth in Exhibit "A."

portion of the Operating and Utility Expenses shall be paid by the County as follows: one-fourth (1/4) of its portion of the estimated annual Operating and Utility Expenses, on the first day of each calendar quarter, in advance, as provided in paragraph 3, below.

3. Operation of Complex & Operating and Utility Expenses.

A. Definition. The term "Operating and Utility Expenses" means, without limitation, the total costs of operating, lighting, heating, cooling, maintaining, cleaning and repairing the Complex (whether or not such expense is considered a capital charge or expense), including the cost for: (a) janitorial and maintenance personnel (including salaries, the City's portion of withholding taxes, worker's compensation insurance, benefits, uniforms, and the like); (b) operation, repair, maintenance and replacement of lighting, heating and cooling systems and equipment; (c) insurance premiums (for fire and extended coverage, public liability insurance and the like); (d) maintenance, repair and replacement of pavement, sidewalks, walls, fences, curbs, flagpoles, stairs, signs, building exteriors, planting and landscape areas, utility lines, rest rooms, and floor coverings; (e) removal of snow, ice, trash, rubbish, garbage and other

refuse; (f) replacement of lighting fixtures including bulbs and ballasts; (g) depreciation on or rentals for equipment used in maintenance and repair; and (h) charges for water, sewer and garbage services.

B. Management and Operation of the Complex. Throughout the term of this Agreement, the City shall have the right and responsibility to operate, maintain and repair the Complex. The City may, at its discretion, cause any or all of the operation, repair, maintenance and replacement described herein to be provided by maintenance and landscaping services or other independent contractors. The City shall pay when due all utility costs including without limitation charges and assessments for electricity, gas, water, sewer, garbage and other utilities supplies to the Complex.

C. Costs of Operation and Utilities. The City shall have the right to charge and collect from the County, on quarterly intervals, and the County shall pay to the City within thirty days of billing, the County's portion of the Operating and Utility Expenses of the Complex. The portion of the Operating and Utility Expenses to be paid by the County shall be based on the portion of the Complex used by the County, as acknowledged and

agreed in paragraph 2.C., above. The City shall have the right to charge and collect from other tenants their portion of the Operating and Utility Expenses of the Complex, based on their pro-rata use of the Complex.

D. City's Estimate of Costs & Accounting to County.

The County's proportionate share of the Operating and Utility Expenses shall be estimated by the City for each twelve (12) month period, as the City, in good faith, may determine, and shall, where possible, be based upon previous operating costs increased by an inflation factor and anticipated forthcoming extraordinary expenditures. The County shall pay in equal installments in advance on the first day of each calendar quarter one-fourth (1/4) of its estimated proportionate share of such operating costs for such period (including the amount of reserves for forthcoming extraordinary expenditures). In the case of any deficiency, the City shall prepare an accounting of the same, and the County shall pay its proportion within thirty (30) days of billing. In the event of a surplus, the City shall apply the surplus to the payment next falling due from the County under this subsection.



Attached hereto as Exhibit "C" is the City's current estimate of the Operating and Utility Expenses, based on costs incurred during the calendar year 1997.

As soon as is possible after the end of its fiscal year, and in any event within 180 days thereafter, the City shall furnish the County a statement showing the actual operating costs for the preceding fiscal year, including the amount of any reserves for forthcoming extraordinary expenditures.

4. Use of Common Areas. The term "Common Areas" means those areas within the Complex available for use by the parties, other tenants, and the general public, which are not within a party's or tenant's exclusive control, including without limitation, parking areas, access areas, driveways, retaining walls, stairs, rest rooms and hallways.

The parties, in conjunction with other tenants, shall have the non-exclusive right to use and/or receive the benefit of the Common Areas. The parties acknowledge and agree that the use of Common areas shall be for ingress, egress and convenience of the parties' employees and agents, and of the general public, and for purposes of ingress, egress and normal parking of vehicles.

The parties acknowledge and agree that after consultation with the County, the City may promulgate reasonable rules and regulations governing parking at the Complex, including without limitation, designation of spaces for employee and public parking, and uses based on the particular needs of individual departments and agencies.

5. Telephone Expenses. Each party shall be responsible to purchase and maintain its telephone system, and to pay all costs associated therewith. The parties shall each contribute to one-half (1/2) of the costs to purchase and maintain the telephone system used by the Justice Court.

6. Post-Construction Improvements by Parties. Each party shall be solely responsible for all furnishings, equipment, internal fixtures and improvements within its exclusive portion of the building, which were not included in the Improvements at the time of occupancy. All such additions and improvements shall be accomplished in a lawful, acceptable and workmanlike manner. The funding and payment of costs incurred for such furnishings, equipment, fixtures and improvements shall be borne by the party desiring or installing the same. Either party may remove post-construction fixtures or improvements so long as such removal

shall not damage the Building, and in the event of such a removal, shall repair any damage caused by the same. In the event the City leaves any post-construction fixtures, additions and improvements, such improvements shall become the property of the County, but only if the Lease Agreement is terminated by City prior to the expiration date. In the event the County leaves any post-construction fixtures, additions and improvements, such improvements shall become the property of the City, but only if the Complex is purchased by the City as provided herein.

Should either party's improvements require additional space, changes in design or other alterations in order to comply with applicable fire codes, building codes, or similar governmental regulations, such changes shall be subject to future negotiation and agreements between the parties. Any such changes shall fully comply with all applicable codes or regulations.

The parties acknowledge that the telephone switching/connection device allowing communications between the County's offices at the Government Complex and at its offices in Tooele, may, at the County's discretion and expense, be removed at the conclusion of the term of this Agreement. The parties acknowledge that a material condition to this covenant is the

County's representation that the removal of said device will not impair the use and operation of the City's telephone system.

7. Use Of Subject Property. The parties expressly warrant and represent to the other that each shall occupy and use the Complex solely within the uses permitted by applicable provisions of law.

8. Waste and Nuisance. Neither party shall cause nor allow any waste or destruction to the Complex, nor shall either perform any acts or carry on any practices which may injure the Complex or be a nuisance or menace to other tenants in the building, to neighboring properties, or to the public in general.

9. Governing Law. Each party shall fully comply with all laws and regulations and all applicable federal, state and local governmental entities and regulatory authorities with respect to their occupancy and use of the Complex.

10. Signs. Neither party shall place nor allow to be placed on or maintained on any exterior door, wall or window or upon the surrounding grounds of the Complex, any sign, awning, canopy or advertising of any other kind inconsistent with applicable City ordinances.

10. No Liens. Neither party shall cause nor allow any claims, liens or encumbrances to be attached to the Complex without the prior written consent of the other.

11. Surrender of Property. If this Agreement is terminated by the City at any time before the expiration of its term, the City shall surrender the Complex to the County in at least as good of condition as when the Complex was entered by City, reasonable wear, tear, acts of God, and damage covered by fire and casualty insurance excepted.

12. Assignment and Subletting. The parties acknowledge that the County has, prior to the date this Agreement is executed, entered a lease agreement with the Utah Department of Public Safety, Utah Highway Patrol ("UHP"). To the extent that the lease negotiated with the UHP does not cover its proportional costs for the purchase price, the County shall absorb and pay said amounts to its bondholders. To the extent that the lease negotiated with the UHP does not cover its proportion of the costs for utilities and maintenance, the County shall pay all such amounts attributable to, and not paid by, the UHP.

The parties agree that neither shall assign nor sublet any portion of the Complex to any other entity without the written

consent of the other. The parties agree that said consent shall not be unreasonably withheld, it being understood that the rights and obligations defined herein shall be imposed upon any future assignee or sublessee, and particularly those provisions relating to payment of rents and the division of proportionate costs for use of space, as defined above.

13. Damage or Destruction. If the Subject Property is damaged by any cause covered by fire or other casualty insurance, the City shall cause the damage to be repaired with reasonable dispatch. If any damage renders the Complex unusable by the parties, in whole or in part, the rent shall not be abated until the damage has been repaired, unless however, rents are collectible under any policy of insurance that may cover the damage.

14. Access by County for Promotional Purposes. If, at the conclusion of the term of this Agreement, the City does not exercise its option to purchase the Improvements, the County or its agent shall have the right to enter the Complex during usual business hours to examine the same, to assist in promotion of the building for possible sale or lease, and to make such repairs, alterations, improvements or additions to the Complex as the

County may deem necessary or desirable. Prior to making any major alterations, improvements or additions that will affect the Complex, the County shall submit to City proposed information regarding such alteration, improvement or addition for the City's approval; provided, however, that the City's approval shall not unreasonably be withheld. For purposes of improvement, the County shall be allowed to take material into and upon the Complex without the same constituting an eviction of the City.

15. Access by County for Emergency Purposes. In the event of an emergency and if the City's agents shall not be personally present or permit an entry into the Complex, the County or its agents may enter the same without rendering County or such agents liable therefor and without in any manner affecting the obligations and covenants of this Agreement. The County shall, however, be solely responsible for any damages caused by any unreasonable forcible entry. Nothing herein contained, however, shall be deemed or construed to impose upon County any obligation, responsibility or liability whatever for the care, maintenance or repair of the Complex, or any part thereof, except as otherwise herein specifically provided.

16. Quiet Enjoyment. As long as each party timely pays and otherwise complies with its obligations provided herein, each shall peaceably and quietly hold and enjoy the Complex for the term hereof without hindrance or interruption by the other.

17. Indemnification. Each party shall indemnify and hold the other harmless from claims, injury, loss, damage, or liability to its employees and third parties resulting from the other's use and occupancy of the Complex to the full extent provided in the Utah Governmental Immunity Act.

18. Holding Over. So long as the City has not exercised its option to purchase, any holding over after the expiration of the lease term shall be construed to be a tenancy from month to month and not as an extension of this Agreement. During any such holdover, all appropriate terms and conditions of this Lease Agreement shall apply. The rental, if any, shall then be negotiated between the parties.

19. No Waiver. Waiver by either party of the breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such terms, covenants or condition or any subsequent breach of the same, or any term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by



either party shall not be deemed to be a waiver of any preceding breach by the other of any term, covenant or condition of this Agreement other than the failure to pay the particular rental so accepted, regardless of the other's knowledge of such preceding breach at the time of acceptance of such rent. No covenant, term or condition of this Agreement shall be deemed to have been waived by either party unless such waiver is given in writing by such party.

20. Insurance. The City shall procure and maintain insurance for coverage as necessary protection from such risks as loss of rental income, damage or loss of the Complex, and all improvements thereon, through casualty, fire, water damage, smoke damage or other elements or acts of God. The Coverage obtained by the City shall be in an amount sufficient to cover the replacement cost of the Improvements.

Each party shall procure and maintain fire and extended coverage insurance, equal to the replacement value of their respective contents, trade fixtures, furnishings, equipment and other items belonging to the respective parties, located thereon. Each party waives as against the other any and all claims and demands for damages, loss, or injury to the contents of the

Complex which may be caused by fire and/or other perils which are subject to their respective policies of extended coverage insurance.

A copy of each parties' respective insurance binders shall be provided to the other upon written request.

21. Non Performance. In the event either party hereto shall be delayed or hindered in, or prevented from, the performance of any act required hereunder, by reason of any *force majeure*, including without limitation, strikes, lockouts, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war, natural disaster, or other reason of a like nature, not the fault of the party delayed in performing work or doing acts required under the terms of this Agreement, the performance of such act shall be excused for the period of the delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

22. Security. The City shall provide adequate security for the Complex. The parties anticipate that such security will be provided by the Wendover City Police Department. The City shall be responsible to lock the building when it is not in use.

23. Arbitration and Litigation. If an unresolved difference arises between the County and the City concerning this Agreement, such differences will be submitted for resolution through binding arbitration. Said arbitration proceeding shall be conducted pursuant to the applicable Rules of Arbitration of the American Arbitration Association. The award and/or ruling of such arbitration shall be final and binding on the parties, and may be docketed with the appropriate court pursuant to law.

In the event a dispute between the parties is submitted to arbitration, the substantially prevailing party shall be reimbursed its reasonable attorney fees and other costs.

24. Binding. This agreement shall be binding upon and inure to the benefit of the parties hereto, their agents, successors and assigns.

25. Non-appropriation Clause. The parties acknowledge that each cannot contract for payment of funds not yet raised through taxes or other revenues. The parties, therefore, reserve the right to terminate the lease and payment related provisions of this Agreement for the above reason only by giving one hundred twenty (120) days written notice to the other.

26. Entire Agreement. This Agreement is the entire agreement of the parties and supersedes all prior agreements, negotiations and undertakings between the parties with regard to the Complex. This Agreement may not be changed by any party hereto except by an agreement, in writing, signed by all parties.

27. Notices. Any notice required hereunder shall be effective when hand-delivered, or upon deposit with the United States Postal Service, Certified or Registered Mail, return receipt requested, to the following addresses:

A. To the County at: Tooele County Commission, 47 South Main Street, Tooele, Utah 84074, and to the Tooele County Attorney, 47 South Main Street, Tooele, Utah 84074.

B. To the City at: Wendover City Council, 100 Ninth Street, P.O. Box 430, Wendover, Utah 84083, and to the Wendover City Attorney at his/her regular business address.

28. Invalidity. If any provision of this Agreement or the application thereof to any party or circumstance shall to any extent be invalid, the remainder of this Agreement or the application of such provision to parties or circumstances other than those as to which it is held invalid shall not be affected

thereby and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

29. Authority to Sign. The undersigned agents of the County and the City, respectively, represent that they are expressly authorized to sign this Agreement for and on behalf of the County and the City, respectively.

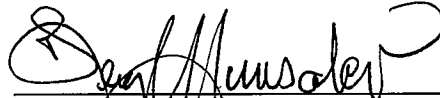
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the 4<sup>TH</sup> day of February, 1998.

THE CITY OF WENDOVER, UTAH

TOOELE COUNTY



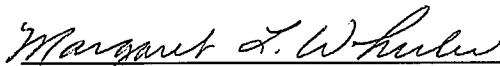
KENT PETERSON  
Mayor



TERYL HUNSAKER  
Chairman, Tooele County  
Commission

ATTEST:

ATTEST:



MARGARET WHEELER  
City Recorder

Seal:



Dennis B. Ewing  
Clerk Deputy

Seal:

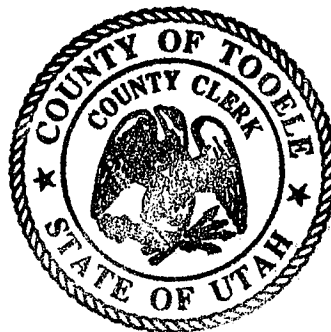




EXHIBIT "A"

FLOOR PLAN DIAGRAM  
&  
ANALYSIS OF BUILDING USE AND PERCENTAGES

Description	Sq. Ft.	% w/common	% w/o common
City Offices	1095.0	9.9	17.0
City Police	977.0	8.8	15.5
City Courts	924.5	8.3	14.5
City Totals	2,996.5	27.0	47.0
County Courts	924.5	8.3	14.5
County Health	1,564.0	14.1	24.5
County Sheriff	143.0	1.3	2.2
County Totals	2,631.5	23.7	41.2
UHP	754.0	6.8	11.8
Common Areas	4,718.0	42.5	n/a
TOTALS			
w/common	11,100.0	100.0	
w/o common	6,382.0		100.0

EXHIBIT "B"

CITY OF WENDOVER  
 GOVERNMENT COMPLEX LEASE PURCHASE AGREEMENT  
 SCHEDULE OF PAYMENTS & AMORTIZATION

Based on City's share (47.0%) of \$1,170,000 principal balance on Tooele County Lease Revenue Bonds

Pmt. No./ Pmts. Remaining	Pmt Year (due 11/1)	Interest Rate	Principal Paid	Interest Paid	Total Payment	Balance	Total Interest
0						549,900.00	
1/20	1997	4.950	0.00	*26,945.00	*26,945.00	549,900.00	26,945.55
2/19	1998	4.950	16,718.47	27,220.05	43,938.52	533,181.53	54,165.05
3/18	1999	5.125	17,243.10	27,325.55	44,568.65	515,938.43	81,520.30
4/17	2000	5.275	17,874.11	27,215.75	45,089.86	498,064.32	108,736.05
5/16	2001	5.400	18,611.95	26,895.47	45,507.42	479,452.07	135,631.52
6/15	2002	5.500	19,457.39	26,369.88	45,452.37	459,994.98	162,001.40
7/14	2003	5.600	20,372.60	25,759.72	46,132.32	439,622.38	187,761.12
8/13	2004	5.600	21,513.47	24,618.85	46,132.32	418,108.91	212,379.97
9/12	2005	5.600	22,718.22	23,414.10	46,132.32	395,390.69	235,794.07
10/11	2006	5.600	23,990.44	22,141.88	46,132.32	371,400.25	257,935.95
11/10	2007	5.600	25,333.91	20,798.41	46,132.32	346,066.34	278,734.36
12/9	2008	5.600	26,752.60	19,379.72	46,132.32	319,313.74	298,114.08
13/8	2009	5.600	28,250.75	17,881.57	46,132.32	291,062.99	315,995.65
14/7	2010	5.600	29,832.79	16,299.53	46,132.32	261,230.20	332,295.18
15/6	2011	5.600	31,503.43	14,628.89	46,132.32	229,726.77	346,924.07
16/5	2012	5.600	33,267.62	12,864.70	46,132.32	196,459.15	359,788.77
17/4	2013	5.600	35,130.61	11,001.71	46,132.32	161,328.54	370,790.48
18/3	2014	5.600	37,097.92	9,034.40	46,132.32	124,230.62	379,824.88
19/2	2015	5.600	39,175.41	6,956.91	46,132.32	85,055.21	386,781.79
20/1	2016	5.600	41,369.23	4,763.09	46,132.32	43,685.95	391,544.88
21/0	2017	5.600	43,685.98	2,446.41	46,132.32	0.00	393,991.29
TOTALS:	21 years						393,991.29

\* This payment is interest only for the year from November 1, 1996 through October 31, 1997.



EXHIBIT "C"

ESTIMATE OF OPERATING AND UTILITY EXPENSES  
BASED ON 1997 EXPENSES