

**AMENDED INTERGOVERNMENTAL AGREEMENT
FOR DEMOLITION OF STRUCTURES**

This Amended Intergovernmental Agreement for Demolition of Structures (hereinafter "IGA") is entered into by and between the City of Danville, Illinois (hereinafter the "City") and Vermilion County, Illinois (hereinafter the "County") (individually and generically, a "Party", and collectively, the "Parties") this 10 Day of September, 2024.

WHEREAS, the City is a municipal corporation and a home rule unit of local government pursuant to Article VII, Section 6 of the Illinois Constitution of 1970; and

WHEREAS, the County is a unit of local government pursuant to Article VII, Section 7 of the Illinois Constitution of 1970; and

WHEREAS, Section 10 of Article VII of the Illinois Constitution of 1970 and the Illinois Intergovernmental Cooperation Act (5 ILCS 22/1, *et seq.*) enable the Parties to enter into agreements among themselves and provide authority for intergovernmental cooperation; and

WHEREAS, the Circuit Court for the Fifth Judicial Circuit, Vermilion County, Illinois, has granted the City the lawful authority to demolish a dilapidated building, commonly referred to as "Bresee Tower" (hereinafter "Bresee"), in a case captioned *City of Danville, Illinois vs. Land Company of Danville, Inc., et al*, Case No. 17-MR-371, the legal description of which building is attached hereto and made a part hereof as Exhibit "A"; and

WHEREAS, the County owns a multi-story building previously known as the "Courthouse Annex" (hereinafter the "Annex"), that the County seeks to have demolished, the legal description of which building is attached hereto and made a part hereof as Exhibit "B"; and

WHEREAS, Bresee and the Annex (hereinafter, generically and individually a "Building", and collectively, the "Buildings") are located next to each other and may have one or more common exterior walls and/or infrastructure systems in common; and

WHEREAS, there is an antiquated boiler located in an integrated structure attached to the City's Municipal Building; and

WHEREAS, the City is willing to pay the costs and expenses associated with demolishing Bresee; and

WHEREAS, the County is willing to pay the costs and expenses associated with demolishing the Annex; and

WHEREAS, the Parties believe that they can save certain costs and expenses by arranging for the demolition of both Buildings at the same time and by the same licensed demolition contractor; and

WHEREAS, the Parties agree that it is in their best interests to have the City coordinate, orchestrate and supervise the demolition of both Buildings since the City has been preparing for the demolition of the Buildings for several years, including (i) conducting at least two interior inspections of Bresee, (ii) working with a professional consulting engineering firm (the Farnsworth Group, hereinafter "Farnsworth") to develop contract documents and specifications (hereinafter, collectively, the "Contract Documents") that will be sent to one or more licensed demolition contractors, and (iii) because the City has significant experience with demolitions; and

WHEREAS, the Parties believe that it is in the best interests and welfare of the citizens of the City and the County that the Buildings be demolished at the same time in order to save both units of government valuable financial resources and to eliminate blight within the City's downtown area; and

WHEREAS, the Parties seek to enter into this IGA in order to memorialize their cooperative relationship, understandings and agreement in achieving the demolition of both Buildings.

NOW, for good, valuable and mutual consideration which each Party acknowledges as in hand received and in exchange for the mutual terms, conditions and covenants contained in this IGA, the Parties agree as follows.

1. **Recitals.** The above recitals are hereby incorporated into this IGA as if fully set forth in this Section 1.

2. **Request for Bids or Proposals.** The Parties agree that the City shall prepare the Contract Documents consistent with the advice and assistance it has received from Farnsworth together with the City's knowledge and experience undertaking demolitions and construction projects.

a. The Parties agree that the Contract Documents shall, at a minimum, include the following:

(1) All terms, conditions and specifications recommended by Farnsworth and accepted by the City.

(2) That each bidder must inspect the sites of the demolitions and the interiors of both Buildings before submitting its bid to the City.

(3) That each bidder's response must quote the costs and expenses of demolishing each Building, with the understanding that such demolition of both Buildings is intended to save certain costs and expenses.

(4) That the successful bidder shall submit to the City billing invoices which separately account for the costs and expenses for demolishing Bresee and the Annex.

(5) That the successful bidder shall keep in force throughout any work contemplated in the Contract Documents (i) a Commercial General Liability insurance policy or policies to protect the Parties against any liability to the public or to any invitee of the successful bidder or the Parties incidental to the use of or resulting from any accident occurring in or upon the Buildings or the real estate upon which same are located with a limit of not less than Five Million Dollars and No Hundredths (\$5,000,000) per occurrence and not less than Seven Million Dollars and No Hundredths (\$7,000,000) in the annual aggregate, or such larger amount as the Parties may prudently require from time to time to the extent not outside the range of coverage generally maintained by businesses engaged in similar activities in similar geographic areas, covering bodily injury and property damage liability; (ii) Business Auto Liability covering owned, non-owned and hired vehicles with a limit of not less than Five Million Dollars and No Hundredths (\$5,000,000) per accident; (iii) Worker's Compensation Insurance with limits as required by statute.

(6) The aforesaid policies shall be (i) provided at the successful bidder's expense; (ii) name the Parties, their officers, agents, employees and volunteers as additional insureds (General Liability) and loss payee (Property); (iii) be issued by an insurance company with a minimum Best's rating of "A-VII" during the work contemplated in the Contract Documents; (iv) provide that said insurance shall not be canceled unless thirty (30) days prior written notice (ten days for non-payment of premium) shall have been given to the Parties; and (v) a certificate or certificates of the aforesaid policies shall be delivered to the Parties by the successful bidder upon the date of which the successful bidder and the Parties determine to be the commencement date of the Contract Documents and at least thirty (30) days prior to each renewal of said insurance.

(7) That in the event the City will make periodic payouts to the successful bidder, the successful bidder shall provide the City with written lien waivers and releases for all work and material supplied in performing the work for which the City has made payment such that upon the final payout, there shall be no liens or other encumbrances placed by the successful bidder or any of its subcontractors and/or materialmen, if any, on the property on which Bresee stood and/or the property on which the Annex stood.

(8) That each bidder represent in its bid that it will provide bid, and complete performance bonds, whether as separate individual bonds or in the form of a combined bond as issued by a bonding company having a rating no lower than "A" or its equivalent as evidenced by Moody's, Standard & Poor's, and/or Fitch bond rating services.

b. The City shall provide a draft copy of the contract documents and specifications to the County for the County's review and comment.

(1) Within twenty-one (21) calendar days of when the City provides a complete copy of the draft Contract Documents to the County, the County shall submit in writing its comments and proposed edits, if any, to the City.

(2) Within fourteen (14) calendar days of receiving the County's comments and proposed edits, the City shall provide the County with a written response of the City's recommendations as to inclusion of one or more of the County's comments and edits in the final Contract Documents.

(3) The City shall have the final authority insofar as what terms, conditions, specifications, and other information will be included in the Contract Documents.

3. Bid Opening; Awarding of Demolition Project. The Parties agree that all bids shall be submitted to the City in accordance with the terms and conditions in the Contract Documents.

(a) On the date set for the public bid opening, the City shall open each bid and announce the total costs and expenses for demolishing each Building. The County shall be invited to attend the public bid opening.

(b) The City shall provide the County with a complete copy of each bid submitted.

(c) Within thirty (30) calendar days following the County's receipt of a copy of the bids, the City and the County shall meet to select a successful qualified bidder.

(d) The Parties agree that the evaluation of bids and the award of contract shall be pursuant to the following criteria:

(1) The City reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. The City also reserves the right to waive all minor Bid informalities not involving price, time, or changes in the Work.

(2) The City will reject the Bid of any Bidder that the City finds, after reasonable inquiry and evaluation, to not be responsible.

(3) If Bidder purports to add terms or conditions to its Bid, takes exception to any provision of the Bidding Documents, or attempts to alter the contents of the Contract Documents for purposes of the Bid, whether in the Bid itself or in a separate communication to the City or Engineer, then the City will reject the Bid as nonresponsive.

(4) If the City awards the contract for the Work, such award will be to the responsible Bidder submitting the lowest responsive Bid.

(5) Evaluation of Bids

i. In evaluating Bids, the City will consider whether the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Bid Form or prior to the Notice of Award.

ii. In the comparison of Bids, alternates will be applied in the same order of priority as listed in the Bid Form. To determine the Bid prices for purposes of comparison, the City will announce to all bidders a "Base Bid plus alternates" budget after receiving all Bids, but prior to opening them. For comparison purposes alternates will be accepted, following the order of priority established in the Bid Form, until doing so would cause the budget to be exceeded. After determination of the Successful Bidder based on this comparative process and on the responsiveness, responsibility, and other factors set forth in these Instructions, the award may be made to said Successful Bidder on its base Bid and any combination of

its additive alternate Bids for which the City determines funds will be available at the time of award.

(6) In evaluating whether a Bidder is responsible, the City will consider the qualifications of the Bidder and may consider the qualifications and experience of Subcontractors and Suppliers proposed for those portions of the Work for which the identity of Subcontractors and Suppliers must be submitted as provided in the Bidding Documents.

(7) The City may conduct such investigations as the City deems necessary to establish the responsibility, qualifications, and financial ability of Bidders and any proposed Subcontractors or Suppliers.

4. **Contract for Demolitions.** In the absence of the successful bidder's (hereinafter referred to as the "Contractor") objection, the Parties agree that the terms, conditions, and specifications contained in the Contract Documents, along with any variances from the Contract Documents requested by the Contractor and agreed to by the Parties, shall constitute the City's and the Contractor's agreement.

5. **Contingencies.** The Parties agree that twenty percent (20%) of the total amount of the accepted Contractor's bid shall be made available by the Parties, respectively, solely for the purpose and in the manner described in this Section 5. The Parties agree that in the event of costs and expenses arising which were not specifically included in the accepted Contractor's bid, the Parties shall share those costs and expenses based on the ratio of costs and expenses for demolishing Bresee to the costs and expenses for demolishing the Annex as provided in the Contract. For example, and by way of example only, if the Contractor's bid for demolishing Bresee is \$2,000,000 and for demolishing the Annex is \$500,000, then the City shall be responsible for 80% and the County shall be responsible for 20% of the costs and expenses of contingencies.

6. **Supervision of Demolitions.** The Parties agree that the City shall serve as the contact person with the Contractor. To the extent the Contractor presents to the City any questions, concerns or decisions that must be made regarding the demolition of the Annex, the City shall first confer with the County prior to the City communicating with the Contractor about the matter. The City shall have the authority to communicate supervisory decisions regarding the Contractor's work regardless of which Building may be affected by any such decision. The Parties agree that any decision or combination of decisions that result in costs exceeding the amount described in hereinabove Section 5 will require explicit approval by the County's designated person or persons before proceeding. The County shall designate a person or persons that shall have the authority to approve costs and expenses for

overruns and/or make decisions on urgent requests. The County shall provide to the city names and contact information for said designee(s). Said designee(s) are distinguished from the County's "designated representative" for notice named in below Paragraph 19. The Parties agree that if, following a period of two hours, the County or its designee(s) have not responded to an urgent request by the City for consultation on questions, concerns or decisions regarding the demolition of the Annex, or an urgent request by the City for County approval of costs exceeding the amount described in hereinabove Section 5, the County will have waived such consultation and/or approval, and the City shall have the authority to make the decision. For purposes of this Section 6, an "urgent request" shall be defined as a request based on a critical and unforeseen situation arising out of the demolition work being done to the Annex and costs and expenses related thereto.

7. Costs and Expenses for the Demolitions. The Parties agree that the payment of costs and expenses for preparing, commencing, undertaking, and completing the demolitions of both Buildings shall be handled in the following manner.

(a) The City shall be responsible for all costs and expenses that the Contractor bills to the City for the demolition of Bresee.

(b) The County shall be responsible for all costs and expenses that the Contractor bills to the City for the demolition of the Annex.

(c) The City shall be responsible for all costs and expenses that the Contractor bills to the City for the demolition of the structure housing an antiquated boiler, said structure being integrated into the City's Municipal Building, situated at 17 West Main Street, Danville, Illinois.

(d) The County shall be responsible for all costs and expenses that the Contractor bills to the City for the removal and disposal of an antiquated boiler and air control module, said boiler and air control module being located inside of the structure described hereinabove in subparagraph 7(c).

(e) The Contractor shall submit to the City one or more invoices each of which breaks out the costs and expenses for work done in connection with the demolition of each.

(f) The City shall forward to the County all billing invoices it has received from the Contractor where such invoices include work the Contractor performed in connection with demolition of the Annex.

8. Payouts to Contractor; Reimbursement by County.

(a) The City shall be responsible for making and shall make all payments to the Contractor for work performed by the Contractor pursuant to the Contract. Such payments shall be made in a timely manner and in accordance with the Contract.

(b) After each payment made by the City to the Contractor, the City shall submit an invoice to the County for reimbursement for any and all costs and expenses that the City paid to the Contractor in connection with the Contractor's work on demolishing the Annex.

(c) Within thirty (30) days after the City has submitted its invoice to the County for reimbursement as provided in Subsection 7(f), the County shall fully reimburse the City for the City's payment of the aforesaid costs and expenses paid.

(1) All such reimbursements made by the County to the City shall be made with local County funds. Under no circumstances shall the County use funds to reimburse the City that are in any way subject to any state or federal regulation.

(d) The County shall inform the City in writing about any concern or question that the County has regarding any Contractor billing invoice concerning the demolition of the Annex. The City will use its reasonable best efforts to resolve the County's concerns with the Contractor. Nothing herein shall be deemed or construed as a warranty or guarantee that the City will be successful, in whole or in part, in convincing the Contractor to alter any of its billing invoices based on a concern or question raised by the County.

(e) Pursuant to the Contract and in the event that the Contractor will be submitting periodic interim billing invoices to the City, the Parties agree that the Contractor shall provide duly executed partial lien waivers and releases for all work reflected on any interim billing invoice submitted to and paid by the City. Such interim lien waivers and releases shall include those executed by any of the Contractor's subcontractors and/or materialmen, if any, whose costs and expenses are included in the Contractor's interim billing invoice and as paid by the City. Upon the Contractor's completion of all work as provided in the Contract and in the City's final payment for such work, the Parties agree that the Contractor will provide the City duly executed final lien waivers and releases for all work performed and completed. The City shall provide the County with copies of all interim and final lien waivers and releases. The City shall retain the originals of all such duly executed lien waivers and releases.

9. Utility Disconnections. The County shall obtain necessary and required disconnections of all utility services provided to or available to Bresee and the Annex including, but not necessarily limited to, power, water, heat, and sewer services. Where necessary, the City shall cooperate with the County in these endeavors.

10. Salvage Rights. The Parties shall not retain any salvage rights for materials not removed from the Annex prior to bidders' inspections as described in hereinabove Paragraph 2(a)(2).

11. Conveyance of Property.

(a) The Parties shall meet subsequent to the opening of bids received for the purpose of discussing the conveyance of the Annex from the County to the City prior to the commencement of the Contractor's work. In the event the Parties find it desirable to proceed with such transaction, an Agreement for the Purchase and Sale of Real Estate setting forth all terms and conditions shall be executed separately from this IGA. The provisions of this IGA governing the obligations of the Parties to one another after the selection of a successful bidder shall be null and void upon execution of such Agreement.

(b) In the event the Parties decline to proceed as described in hereinabove subparagraph 11(a), upon completion of the demolition of the Annex, the County shall convey to the City by warranty deed the property on which the Annex sat before its demolition in consideration for the City paying to the County a sum equal to Ten and No/Hundredths Dollars (\$10.00). As further consideration to the County, the County recognizes that the City will have used valuable resources, funds and time in retaining the professional consulting engineer to assist in the preparation of the Contract Documents and the City's overall management and supervision of the demolition of both Buildings. The City shall pay all expenses in connection with a closing on the sale including ordering a title commitment, obtaining a title policy, and the costs of the title company, if any. Notwithstanding anything contained in this Section 11 to the contrary, the County shall resolve in a manner satisfactory to the City all issues, liens and other encumbrances on the property on which the Annex sat.

12. Representations and Warranties.

(a) Each Party represents and warrants that it has the authority to enter into this IGA, that its governing body has approved this IGA, and the person executing this IGA on behalf of the Party is duly authorized to do so.

(b) Each Party has read and has voluntarily approved this IGA.

13. Indemnification. Each Party (for purposes of this Section 13, the “Indemnifying Party”) to this IGA shall at all times, including subsequent to the termination of this IGA, shall defend, indemnify and forever keep and hold harmless the other Party (for purposes of this Section 13, the “Indemnified Party”) and that Indemnified Party’s elected and appointed officials, employees, agents, representatives, successors, and assigns for and against, without limitation and regardless of the forum in which asserted, any and all claims, actions, suits, causes of action, rights, remedies, liabilities, penalties, judgments, decrees, orders, costs and expenses (including but necessarily limited to attorneys’ fees) of every type, nature and description, whether in law or in equity, which are or may in any manner be asserted against the Indemnified Party for in connected any wrongful or unlawful act, omission or forbearance by the Indemnifying Party or any of the Indemnifying Party’s elected and appointed officials, employees, agents, representatives, successors, and assigns in connection with this IGA. The indemnifying Party’s duty to defend, indemnify and forever keep and hold harmless extends to all losses regardless of description which arise or may arise out of the performance of the Party’s obligations as provided in this IGA. However, the Indemnifying Party shall not be obligated to defend, indemnify and forever keep and hold harmless the Indemnified Party in those instances where the Indemnified Party’s losses are directly or proximately caused by an unlawful intentional, willful, wanton, grossly negligent, or negligent act or omission by the Indemnified Party or any of its elected and appointed officials, employees, agents, representatives, successors, and assigns. This indemnification shall survive the termination of this IGA.

14. Effective Date of IGA. This IGA shall become effective within forty-five (45) days of the first of the Parties to execute this IGA.

15. Termination. This IGA shall terminate on the earliest to occur of either (i) the performance of all obligations of the Parties or (ii) termination of the Contract Documents for any reason. No such termination shall relieve any Party from any liability for any material and willful breach of this IGA occurring prior to such termination.

16. Default and Cure. In the event either Party defaults on any of that Party’s obligations as set forth in this IGA (for purposes of this Section 16, the “Defaulting Party”), the other Party (for purposes of this Section 16 the “Non-Defaulting Party”) shall have the right to send a written Notice of Default to the Defaulting Party that (i) describes the nature of the default in sufficient detail so as to put the Defaulting Party on notice of the nature of the default; (ii) identifies the Section of this IGA that the Non-Defaulting Party believes is in default; and (iii) provides a reasonable date by which the Defaulting Party must cure the default. Within seven (7) calendar days after the effective date of the Notice of Default, the Defaulting Party shall (i) cure the default within the date specified in the Non-Defaulting Party’s Notice of Default; (ii) provide evidence to the Non-Defaulting Party that demonstrates that the Defaulting

Party is not in fact in default; or (iii) provide another reasonable date by which the Defaulting Party shall cure the default. In the event that the Parties cannot reach agreement whether there has been a default or a reasonable date by which such default, if any, must be corrected, then the Parties shall have the right to proceed in accordance with Section 17 of this IGA.

17. Dispute Resolution. In the event any dispute arises under this IGA concerning a Party's performance hereof, the Parties shall first meet face-to-face in an effort to resolve their dispute. If the Parties are unable to resolve their dispute in such meeting, they shall agree to enter into mediation with a mediator agreed to by both Parties. The cost of any mediation shall be shared equally between the Parties. In the event mediation fails to resolve the Parties' dispute, either Party may exercise its rights and remedies as it deems appropriate. In the event either Party initiates litigation to resolve the Parties' dispute, such litigation shall be filed and maintained in the Circuit Court for the Fifth Judicial Circuit, Vermilion County, Illinois and the laws of the State of Illinois shall govern the said court's resolution of any such dispute.

18. Force Majeure. If either party is unable to perform its obligations under the terms of this Contract due to strikes, transmission failure, "Acts of God," such as pandemics and earthquakes, and other reasonably unforeseeable events, such party shall not be liable to the other for damages resulting from the failure to perform.

19. Notices. To the extent any written notice is required by this IGA, such notice shall be deemed effective only if given in the manner hereinafter provided:

(a) Notice given by First Class U.S. Mail shall be effective on the day of delivery if such notice is given by certified mail, return receipt requested, and where such notice is placed in a properly addressed envelope barring proper postage prepaid.

(b) Notice given by in person or courier delivery shall be effective on the date that such notice is tendered to the Party to whom such notice is directed.

(c) Notice given by electronic mail (e-mail) shall be effective one day after such notice was sent to the Party to whom the notice is intended so long as the Party sending such notice does not receive any form of error or inability to deliver message from the sending Party's e-mail account.

Notice to the City shall be to the City's then designated representative as follows:

David Ruwe
1155 E. Voorhees St.
Danville, IL 61832

Notice to the County shall be to the County's then designated representative as follows:

Kevin Schneider
7 N. Vermilion St., Suite 201
Danville, IL 61832

20. Sole Understanding of the Parties. This IGA shall constitute the sole agreement and understanding of the Parties regarding the purpose and subject matter of this IGA. Any prior agreement or understanding between the Parties, whether written or verbal, shall be deemed void and unenforceable.

21. Amendments. This IGA may be amended only by a writing signed by the Parties.

22. Severability. In the event that a court of competent jurisdiction determines that any term, condition or covenant in this IGA is void or otherwise unenforceable, the remainder of the Agreement shall remain in full force and effect. Regarding the term, condition or covenant found so void, the Parties shall try to reach agreement on a lawful means for carrying out the underlying purpose of the term, condition or covenant found by a court to be void or otherwise unenforceable.

23. Assignment. Neither Party may assign its rights, obligations and/or responsibilities under this IGA to any third person.

[END OF AGREEMENT. SIGNATURES FOLLOW.]

For the City of Danville, Illinois:

For Vermilion County, Illinois:

Rickey Williams, Jr., Mayor.


Larry Baughn, Board Chairman

ATTEST:

ATTEST:

Lisa Monson, Danville City Clerk


Cathy Jenkins, Vermilion County Clerk