BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

FRIDAY, NOVEMBER 8, 2002

9:00 A.M.
-Canvass Ballots

MONDAY, NOVEMBER 11, 2002

9:00 a.m.
-Convene
-Pledge of Allegiance

CONSENT AGENDA

(a) Consider approval of Commission Orders
(b) Consider approval of fifteen (15) Out-District College Tuition Statements in the amount of $116,016 (Debbie Sparkes)
(c) Consider approval of construction zone speed limit on Route 1061 (Keith Browning)

REGULAR AGENDA

(2) Discussion with Jane Bateman, representing the floodplain regulation subcommittee of Planning Commission, with regard to possible floodplain regulations in the unincorporated area of the County (no backup)

(3) Consider approval for TA-05-03-02: Text Amendment to Section 21-901.6 for the Joint City/County Subdivision Regulations to include a definition of the term "Undue Hardship" (Mark Wilson)

(4) Consider approval of lease agreement for the Baldwin Satellite Office (Pat Wells)

(5) Consider award of fuel contract (Jackie Waggoner)

(6) Consider approval to authorize staff to negotiate storage area network contract (Jackie Waggoner)

(7) CIP discussion (Pam Madl)

(8) Other Business
(a) Consider approval of Accounts Payable (if nesessary)
(b) Appointments
(c) Miscellaneous
(d) Public Comment

(9) Adjourn

(1X6)

Douglas County, KS

2002 Junior College Out-District Tuition Bills

Friday, November 01, 2002

To: County Commission
Craig Weinaug

From: Debbie Sparkes
Budget Specialist

Please review these bills and approve for payment.

Barton County Community College	2002 Summer	$2,364.00
Barton County Community College	2002 Fall	$1,116.00
Butler County Community College	2002 Fall	$420.00
Cloud County Community College	2002 Fall	$360.00
Coffeyville Community College	2002 Fall	$1,128.00
Colby Community College	2002 Fall	$240.00
Cowley County Community College	2002 Fall	$324.00
Dodge City Community College	2002 Fall	$204.00
Fort Scott Community College	2002 Fall	$1,548.00
Highland Community College	2002 Summer	$1,176.00
Hutchinson Community College	2002 Summer	$60.00
Hutchinson Community College	2002 Fall	$996.00
Independence Community College	2002 Fall	$780.00
Johnson County Community College	2002 Fall	$105,156.00
Labette Community College	2002 Fall	$144.00
	Total	$116,016.00

(1)(c)

Douglas County

Department of Public Works

Keith A. Browning, P.E.
Director of Public Works/County Engineer

MEMORANDUM

To : Board of County Commissioners

From : Keith A. Browning, P.E., Director of Public Works/County Engineer KAB

Date : November 7, 2002

Re : Consent Agenda Approval of Construction Zone Speed Limit on Route 1061

Activities associated with construction of the new Eudora High School are affecting traffic operating conditions along Route 1061. The affected area is immediately north of existing Eudora High School from approximately 0.4 miles north of N 1200 Road to approximately 0.9 miles north of N 1200 Road. The one-mile section of Route 1061 between N 1200 Road and N 1300 Road is currently posted for a 45-mph speed limit.

Construction activities are along the west shoulder of Route 1061. A deceleration lane for southbound traffic on Route 1061 and storm sewers are being constructed in conjunction with the high school construction project.

It is recommended to establish a 30-mph speed limit through this area while construction activities impact traffic operating conditions. The Eudora School District and the contractor working on the high school construction project have expressed a desire for a reduced speed limit, and this department concurs. The contractor will be responsible for erecting appropriate signage.

A search of the Douglas County Code did not reveal that the County Engineer has authority to establish construction zone speed limits. A revision of the Code allowing the County Engineer to establish temporary speed limits in construction and maintenance zones will be pursued in the near future.

Action Required: Consent Agenda approval of the attached resolution establishing a 30-mph construction zone speed limit on Route 1061 in the vicinity of the Eudora High School construction project. The resolution will be automatically rescinded when construction activities no longer affect traffic operating conditions.

1242 Massachusetts Street, Lawrence, Kansas 66044-3350 / Fax No. (785) 841-0943
Telephone No. (785) 832-5293 / E-Mail dgcopubw@douglas-county.com

RESOLUTION NO. _____

A RESOLUTION ESTABLISHING A 30 MILES PER HOUR SPEED LIMIT FOR A ROAD CONSTRUCTION ZONE LOCATED ON COUNTY ROUTE NO. 1061

WHEREAS, pursuant to K.S.A. 8-1560, local authorities may establish a speed limit within a road construction zone upon any highway under their jurisdiction; and,

WHEREAS, a road construction zone has been established upon the following county highway, to-wit:

> that portion of Douglas County Route No. 1061, also known as E. 2200 Road, described as: commencing at the intersection with N. 1200 Road, thence northerly a distance of four-tenths (4/10) mile to the point of beginning, thence northerly a distance of one-half (1/2) mile and terminating at said point; and,

WHEREAS, construction activities have caused a change in the roadway operating condition of the county highway described above; and,

WHEREAS, an engineering and traffic investigation performed by the Douglas County Public Works Department has determined that the existing speed limit, as set by Douglas County Resolution No. 99-3, is greater than is reasonable or safe under the conditions found to exist on the county highway described above.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS, that a maximum speed limit of 30 miles per hour is hereby determined and declared to be a reasonable and safe speed limit for the road construction zone located on the county highway described above. This speed limit shall become effective when appropriate signs giving notice thereof are erected upon the county highway.

BE IT FURTHER RESOLVED, that this resolution shall automatically be rescinded when construction activities no longer affect the roadway operating condition of the county highway described above as determined by the County Engineer and applicable speed limit signs are removed.

ADOPTED this _____ day of_____, 2002.

BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, KANSAS

_____
Jere McElhaney, Chairman

ATTEST:

_____
Bob Johnson, Member

_____
County Clerk

_____
Charles Jones, Member

ITEM NO. 15: **TEXT AMENDMENT TO SECTION 21-901.6, CITY/COUNTY SUBDIVISION REGULATION (MCW)**

PUBLIC HEARING ITEM:

TA-05-03-02: Text Amendment to Section 21-901.6 of the Joint City/County Subdivision Regulations to include a definition of the term *undue hardship*. Initiated by the Planning Commission 5/29/02.

A. SUMMARY

B. COMPARISON OF PROPOSED REGULATIONS WITH CURRENT REGULATIONS

CURRENT DEFINTION
There is currently no definition of *undue hardship*.

C. STAFF REVIEW

This amendment is proposed to define the phrase *undue hardship* because it is used as one of the three standards to evaluate whether or not a variance from the City/County Subdivision Regulations is warranted.

D. ANALYSIS

Currently the City Code lists *undue hardship* as a required condition, among other conditions, that must exist before the Planning Commission may grant a variance from the subdivision regulations. Staff research of regional District Court cases, Kansas Supreme Court cases, as well as other state cases, revealed a consistent use of the term *unnecessary hardship*, rather than *undue hardship* in variance analyses. Courts and planners, use the terms *unnecessary* and *undue* interchangeably in the context of variances. This means the terms have been treated as such in the proposed text amendment, meaning that *unnecessary hardship* discussions and rulings were considered in determining the proper definition of *undue hardship*. This results in a City/County Code that is more consistent with applicable Kansas common law.

Text Amendment:

The following is a draft for a portion of Chapter 21, Article 9, Section 901.6 of the Code of the City of Lawrence, Kansas, 1997 Edition (Subdivision Regulations). This text amendment was initiated by the Planning Commission for public hearing and recommendations. Changes are shown in typeface.

PROPOSED TEXT LANGUAGE

Proposal by Commissioner Schachter:

21-901.6 (47) Undue Hardship. The condition where specific application of these regulations, viewing the property in the setting of its environment, is so unreasonable as to become an arbitrary and capricious interference with the basic right of private property, and there is convincing proof exists that it is impossible to use the property for a conforming purpose, and there are factors sufficient to constitute a hardship that

would in effect deprive the owner of their property without compensation. Mere financial loss or the loss of a potential financial advantage does not constitute undue hardship.

Proposal by Commissioner Burress:

21-802. VARIANCES.

In cases where there is hardship in carrying out the literal provisions of these regulations (such as design criteria pertaining to lot width, lot depth, block depth, etc.), the planning commission may grant a variance from such provisions, except that in cases where there is hardship in carrying out the literal provisions found in section 21-706 (sanitary sewers) the appropriate governing body may grant a variance from such provisions.

(a) An application for a variance shall be made to the planning department. The planning commission shall give the applicant and any other interested persons an opportunity to be heard with respect to the proposed application for a variance from the provisions of the regulations, except that the governing body shall give the applicant and any other interested persons an opportunity to be heard with respect to the proposed application for a variance from the provisions of section 21-705.

(b) A variance shall not be granted unless all of the following apply:

(1) Strict application of these regulations will create an ~~undue hardship~~ **unreasonable practical difficulty** upon the subdivider;

(2) The proposed variance is in harmony with the intended purpose of these regulations; and,

(3) The public health, safety and welfare will be protected. (Ord. 5500)

21-901.6 (47) Unreasonable Practical Difficulty. Compliance by a property owner with a rule or regulation imposes unreasonable practical difficulty when all of these four conditions hold:

(a) compliance with the regulation would impose substantial economic loss or substantial loss of use value on the property owner;

(b) the expected loss to the property owner from compliance with the regulation would substantially outweigh all expected gain to other property owners and/or to the general public;

(c) neither the policy purposes of the regulation, nor those of this Chapter as a whole, would be significantly infringed by failure to comply with the regulation in this particular case; and

(d) the situation is unique or *sui generis*[1], so that it would not be useful to have language in this Chapter to cover similar cases.

[1] Of its own kind or class; *i.e.*, the *only one* of its own kind; peculiar

PROFESSIONAL STAFF RECOMMENDATION

Given the long-standing legal standards governing variance decisions, Staff recommends using the traditional terminology that is the most consistent with the applicable Kansas State Statutes and common law decisions. This recommendation first entails substituting the term *unnecessary* in place of the term *undue*. Because our current code, 21-802(b)(1) lists *undue hardship* as a requirement to receive a variance from the subdivision regulations through the Planning Commission, and the Kansas Statutes list *unnecessary hardship* as a requirement for Board of Zoning Appeals variances, a distinction exists between the hardship standard required by the Board of Zoning Appeals and the hardship standard implemented by the Planning Commission. The term *unnecessary hardship* is used almost exclusively in variance cases that are challenging Board of Zoning Appeals decisions, whereas the use of the *undue hardship* standard is much more rare. By synthesizing the Board of Zoning Appeals criterion with Planning Commission analysis, the Planning Commission can rely on a more exact standard that has been repeatedly tested through legal challenges. This seems to be the most logical approach that will yield the greatest benefit by creating a more uniform approach to variance analyses.

In light of the above discussion, staff recommends the following text amendments:

21-802. VARIANCES.

In cases where there is hardship in carrying out the literal provisions of these regulations (such as design criteria pertaining to lot width, lot depth, block depth, etc.), the planning commission may grant a variance from such provisions, except that in cases where there is hardship in carrying out the literal provisions found in section 21-706 (sanitary sewers) the appropriate governing body may grant a variance from such provisions.

(a) An application for a variance shall be made to the planning department. The planning commission shall give the applicant and any other interested persons an opportunity to be heard with respect to the proposed application for a variance from the provisions of the regulations, except that the governing body shall give the applicant and any other interested persons an opportunity to be heard with respect to the proposed application for a variance from the provisions of section 21-705.

(b) A variance shall not be granted unless all of the following apply:

(1) Strict application of these regulations will create an ~~undue hardship~~ unnecessary hardship upon the subdivider;

(2) The proposed variance is in harmony with the intended purpose of these regulations; and,

(3) The public health, safety and welfare will be protected. (Ord. 5500)

21-901.7 (47) Unnecessary Hardship. The condition resulting from application of these regulations when viewing the property in its environment that is so unreasonable as to become an arbitrary and capricious interference with the basic right of private property ownership, *or* convincing proof exists that it is impossible to use the property for a conforming use, *or sufficient* factors exist to constitute a hardship that would in effect deprive the owner of their

property without compensation. Mere financial loss or the loss of a potential financial advantage does not constitute unnecessary hardship.

ITEM NO. 15: TEXT AMENDMENT TO SECTION 21-901.6, CITY/COUNTY SUBDIVISION REGULATION (MCW)

TA-05-03-02: Text Amendment to Section 21-901.6 of the Joint City/County Subdivision Regulations to include a definition of the term 'Undue Hardship'. Initiated by the Planning Commission 5/29/02. *Deferred from the August Planning Commission Meeting.*

STAFF PRESENTATION

Mr. Wilson introduced the Item, explaining the language recommended by Staff was pulled directly from Kansas Supreme Court cases, meaning it had been in use for over 50 years.

Mr. Wilson noted the term "undue hardship" had been replaced with "unnecessary hardship", and clarified the term "mere financial loss" was interpreted as a financial loss that did not represent a taking.

APPLICANT PRESENTATION

As the City was the applicant in this item, there was no Applicant Presentation.

PUBLIC HEARING

Larry Kipp asked for a copy of the definition presented this evening. Staff provided Mr. Kipp with a paper copy and displayed the definition on the overhear projector.

COMMISSION DISCUSSION

Comm. Schachter stated the variance procedure had once been an infrequent occurrence, because "everyone knew the rules". As exceptions were made more frequently, more requests were made. He said if the rules were broken so frequently, perhaps this indicated the rules were wrong and should be changed.

Comm. Schachter gave several examples of what he felt constituted good and bad variance decisions. The positive examples were ones in which there was no option but to vary from the rules. These included:

- Allowing trees behind the setback because of utility line placement.
- Topographically landlocked lot that requires arterial access.

His negative example was:

- Developer that did not want to place sidewalks, claiming all residents would be senior citizens and would not be walking anywhere.

Comm. Schachter believed the language proposed by Staff provided clear instruction that could be applied universally. He valued the fact this language had been tested in court.

Comm. Durflinger said he appreciated Comm. Schachter's comments, but did not feel simply changing the language would make discussions any quicker or easier. Special consideration would still have to be given to each case.

ACTION TAKEN

Motioned by Comm. Durflinger and seconded to approve the definition of "Unnecessary Hardship" as presented by Staff, including the additional text to Section 21-901.7. The language presented was as follows:

21-901.6 (47) Unnecessary Hardship. The condition resulting from application of these regulations when viewing the property in its environment that is so unreasonable as to become an arbitrary and capricious interference with the basic right of private property ownership, *or* convincing proof exists that it is impossible to use the property for a conforming use, *or sufficient* factors exist to constitute a hardship that would in effect deprive the owner of their property without compensation. Mere financial loss or the loss of a potential financial advantage does not constitute unnecessary hardship.

DISCUSSION ON THE MOTION

Comm. Haase wanted to make sure everyone understood the implications inherent in the proposed definition. He suggested that, if this definition was already in place, most of the variances recently granted would have been denied.

Comm. Haase said variances were very infrequent on the national scale; all of the court cases involved zoning regulations. If the Commission found so many cases worthy of a variance, perhaps the Subdivision Regulations needed revision. One example of an often-broken rule was the requirement that a local street could not connect to an arterial. He asked if this rule should be removed from the Regulations, rather than making exceptions.

Comm. Durflinger agreed with this sentiment, and added there could be difficulty following the language proposed in future City-initiated Items.

Comm. Burress said he would be willing to support the language proposed, but did not think past action had been consistent with that language. He reminded the Commission of language he had previously proposed, which he felt was more in line with how the Commission had acted in the past.

Comm. Burress gave an example of a variance he had voted for recently because he felt it would provide the optimum development of the property, even though it did not technically follow the Regulations. He pointed out that variance would not have passed the proposed language, but he still believed granting the variance "made the world a better place". The language he had crafted would allow granting that variance.

Comm. Burress said he understood the stated intent of the new language was to reduce the subjectivity of the variance determination, and his language increased the subjectivity. However, he noted again, this was not how the Commission had been acting.

Comm. Burress states his proposal included the following:

- Replacement of the words "undue hardship" replaced with "unreasonable practical difficulty"
- Condition that not granting the variance would result in an economic loss to the applicant
- The policy purposes of the Regulations cannot be broken
- The situation is so unusual there is no possible reasonable change to the Regulations to deal with it.
- Granting the variance makes the world a better place (public loss < individual gain)

ACTION TAKEN

Motion by Comm. Burress and seconded to make a substitute motion, replacing the language propose by Staff with Comm. Burress' own language. The exact language of Comm. Burress' proposal was as follows:

21-802. VARIANCES.

In cases where there is hardship in carrying out the literal provisions of these regulations (such as design criteria pertaining to lot width, lot depth, block depth, etc.), the planning commission may grant a variance from such provisions, except that in cases where there is hardship in carrying out the literal provisions found in section 21-706 (sanitary sewers) the appropriate governing body may grant a variance from such provisions.

(a) An application for a variance shall be made to the planning department. The planning commission shall give the applicant and any other interested persons an opportunity to be heard with respect to the proposed application for a variance from the provisions of the regulations, except that the governing body shall give the applicant and any other interested persons an opportunity to be heard with respect to the proposed application for a variance from the provisions of section 21-705.

(b) A variance shall not be granted unless all of the following apply:

(1) Strict application of these regulations will create an ~~undue hardship~~ unreasonable practical difficulty upon the subdivider;

(2) The proposed variance is in harmony with the intended purpose of these regulations; and,

(3) The public health, safety and welfare will be protected. (Ord. 5500)

21-901.6 (47) Unreasonable Practical Difficulty. Compliance by a property owner with a rule or regulation imposes unreasonable practical difficulty when all of these four conditions hold:

(a) compliance with the regulation would impose substantial economic loss or substantial loss of use value on the property owner;

(b) the expected loss to the property owner from compliance with the regulation would substantially outweigh all expected gain to other property owners and/or to the general public;

(c) neither the policy purposes of the regulation, nor those of this Chapter as a whole, would be significantly infringed by failure to comply with the regulation in this particular case; and

(d) the situation is unique or *sui generis*[1], so that it would not be useful to have language in this Chapter to cover similar cases.

[1] Of its own kind or class; *i.e.,* the *only one* of its own kind; peculiar

DISCUSSION ON THE MOTION

The Commission discussed the subjectivity of Comm. Burress' proposal. Some were in favor of the "common-sense" approach this encouraged, while others questioned how it could be enforced.

Comm. Durflinger referenced the statement that most court-tried variances were zoning-related. He stated the Zoning Regulations and Subdivision Regulations were different issues, and suggested the Subdivision Regulations not be treated with undue reverence. Comm. Durflinger favored the current procedure of "prudent decision making for situations not foreseen by the regulations". Comm. Haase said the literature gives clear direction to interpret the Subdivision

Regulations more strictly than the Zoning Regulations. He added there was a nationwide trend toward merging the two into a unified Development Code.

Comm. Lawson suggested excessive regulation clouded the issue. Attempting to create a rule specific to every given situation resulted in confusion.

It was discussed that, while some situations seemed to be obvious hardship claims, it must be considered if the applicant created his own hardship. It was suggested better plans would be presented if applicants knew variances were not forthcoming.

The Commission agreed neither proposal would eliminate the need for active discussion, but it was suggested Staff's proposal would locate inadequacies in the Regulations.

Comm. Angino said both proposals were "workable" - either could be applied to any variance.

Comm. Haase said the Commission needed to determine the legislative intent of the Regulations and choose the proposal that accomplished that intent.

The Commission used various examples of recent decisions (Ex. location of Applebee's street trees), finding many each could be used to argue for or against either proposal.

Comm. Schenewerk said more consideration should be given to the due diligence the consultants, developers and various applicants put into each case before a variance request was considered. He felt Comm. Burress' proposed language was appropriately flexible and adaptable.

Staff agreed with the comments made and said Comm. Burress' proposal was a creative solution, but they were reticent to support language that had not been court-tested. It was noted the Director of Legal Services had indicated concern over the additional subjectivity that came with the definition of "practical" difficulty.

ACTION TAKEN

Motion on the floor was to substitute the original motion to approve the language presented by Staff with the language suggested by Comm. Burress.

> Motion to substitute failed, 4-4-1, with Comm.'s Schachter, Haase, Bateman and Durflinger voting in opposition to the motion and Comm. Burress abstaining. Student Comm. Morrell voted in opposition to the motion to substitute.

Motion on the floor was to approve the language as presented by Staff for a Text Amendment to the Subdivision Regulations, Section 21-901.7, definition of "Unnecessary Hardship".

> Motion carried 6-3, with Comm.'s Pine, Angino, and Lawson voting in opposition to the motion. Student Comm. Morrell voting in favor of the motion.

DISCUSSION ON THE ACTION

The Commission directed Staff to create a proposal for a test amendment for a change in the required length of a cul-de-sac, in anticipation of a likely future variance request.

(4)

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EVAN H. ICE
SHERRI E. LOVELAND
MOLLY M. WOOD
CHRISTOPHER F. BURGER
BRADLEY R. FINKELDEI
MATTHEW H. HOY
LESLIE M. MILLER
JEFFERSON D. DILLON

October 4, 2002

RICHARD B. STEVENS
1899 - 1991

JOHN W. BRAND
1907 - 1971

Ms. Pat Wells
Douglas County Treasurer
1100 Massachusetts St.
Lawrence KS 66044

RE: Baldwin Satellite Lease

Dear Pat:

Enclosed is a revised copy of the Lease for the Baldwin Satellite office, revised per your letter dated October 1, 2002. I made a few slight alterations to your suggested changes -- please review these and make sure these changes are acceptable. You will note that I changed the Landlord to Baldwin Properties, L.L.C. because that is what I interpreted was necessary by the documents you sent. You should check to make sure that this property has actually been transferred to Baldwin Properties, L.L.C.

Please note that this Lease does not give you a 30-day out. It goes through April, 2005. If you want a 30-day out clause, I will have to add it. I confess that I didn't totally understand what you wanted.

If this is acceptable to you, I would suggest that you obtain the Landlord's signature on this and then present it to the Board of County Commissioners. Before delivering this to the Landlord, however, I suggest that you discuss this matter with Craig Weinaug to make sure that he doesn't have any suggested changes.

In the event you have any questions, please don't hesitate to give me a call.

Very truly yours,
STEVENS & BRAND, L.L.P.

Evan H. Ice

EHI:kg
Encl
cc: Craig Weinaug

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease") is made this _____ day of _____, 2002, between **BALDWIN PROPERTIES, L.L.C.**, a Kansas limited liability company ("Landlord"), and **THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS** ("Tenant").

1. Premises and Terms. Landlord leases to Tenant, and Tenant leases from Landlord, the following described premises (the "Premises" or "Leased Premises") in the City of Baldwin, Douglas County, Kansas: the ground floor of the building located at 813 Eighth Street, Baldwin City, Kansas, 66006, for a term beginning on the 1st day of the month after the date of this Lease, and ending on the last day of April, 2005.

2. Rent. Commencing on the first day of the month after this Lease is fully executed, Tenant shall pay rent to Landlord in monthly installments of five hundred dollars ($500) per month through April 30, 2003; five hundred twenty five dollars ($525) per month for the next twelve (12) months, through April 30, 2004; and then five hundred fifty dollars ($550) per month due for the last twelve (12) months, through April 30, 2005, and payable in advance on the 1st day of each month of the term hereof at Baldwin Properties, L.L.C. c/o The Baldwin State Bank, P.O. Box 46, Baldwin City, Kansas, 66006, or at such other place as Landlord may designate from time to time, in writing.

3. Quiet Possession. Landlord covenants that Tenant, on paying the rent required under this Lease and performing the covenants agreed to be performed, shall and may peaceably and quietly have, hold and enjoy the Premises for the said term and for the use and purpose leased hereunder.

4. Maintenance and Repair.

a. By Tenant. Tenant shall take good care of the interior of the Premises. In making repairs, Tenant shall use work and materials equal in kind and quality to the original work and materials. All damage or injury to the Premises or any part thereof for which Tenant is responsible hereunder not caused by fire or other casualty otherwise provided for in this Lease, and not caused by the negligent or willful misconduct of Landlord, its agents, employees, or contractors, shall be promptly repaired by Tenant.

b. By Landlord. Landlord shall repair and replace the roof and exterior load-bearing walls, gutters, downspouts, major heating, air conditioning, plumbing and other equipment affecting the Premises, as necessary to keep such equipment operational. Landlord shall have no obligation and shall not be liable for any failure to make any required repairs until and unless Tenant notifies Landlord, in writing, of the necessity for such repairs, in which event Landlord shall have reasonable time following such notice to make such repairs.

5. Liability Insurance. Tenant shall, at Tenant's expense, obtain and keep in force during the term of this Lease a policy of comprehensive public liability insurance insuring

Landlord and Tenant against any liability arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be in the amount of not less than three hundred thousand dollars ($300,000) for injury or death of one person in any one accident or occurrence, and in the amount of not less than five hundred thousand dollars ($500,000) for injury or death of more than one person in any one accident or occurrence. Such insurance shall further insure Landlord and Tenant against liability for property damage of at least fifty thousand dollars ($50,000). The limit of any such insurance shall not, however, limit the liability of the Tenant hereunder. Tenant may provide this insurance under a blanket policy, provided that such insurance shall have a Landlord's protective liability endorsement attached thereto. If Tenant shall fail to procure and maintain said insurance, Landlord may, but shall not be required to procure and maintain same, but at the expense of Tenant.

6. Entry by Landlord. Landlord reserves, and shall at reasonable times and upon reasonable notice have the right to enter the Premises to inspect the same, to submit said Premises to prospective purchasers or tenants, to repair the Premises and any portion of the building of which the Premises are a part that Landlord may deem necessary or desirable, without abatement or rent.

7. Alterations and Additions. Tenant shall not make or allow to be made any alterations, additions, or improvements to or of the Premises or any part thereof without first obtaining the written consent of Landlord, which consent shall not be unreasonably withheld. Any alterations, additions, or improvements to or of said Premises, including, but not limited to, wall covering, paneling and built-in cabinet work, but excepting movable furniture and trade fixtures, shall at once become a part of the realty and belong to the Landlord and shall be surrendered with the Premises.

8. Fixtures and Equipment. It is understood and agreed that any fixtures, equipment, furniture, signs and sign standards, exterior lights and light standards, installed or otherwise on the Premises by Tenant, shall remain Tenant's property and may be removed by Tenant at any time, whether attached to the building or otherwise to the Premises or not, PROVIDED, NEVERTHELESS, that Tenant shall repair any damage to the Premises caused by such removal.

9. Utilities. Tenant shall pay for all gas, electric, telephone service, and all other services and utilities supplied to the Premises, together with any taxes thereon. If any such services are not separately metered to Tenant, Tenant shall pay a reasonable proportion of all charges jointly metered with other premises. Notwithstanding the foregoing, Tenant shall pay for the entire water bill, even though water to the Premises is not separately metered, but also services the upstairs apartment.

10. Indemnification of Parties. Tenant will indemnify Landlord and save it harmless from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence in, upon or at the Premises, or the occupancy or use by Tenant of the Premises or any part thereof, or occasioned wholly or in part by any act or omission of Tenant, its agents, contractors, employees, servants, lessees or concessionaires. In case Landlord shall, without fault on its part, be made a party to any litigation, then Tenant shall protect and hold Landlord harmless and shall

pay all costs, expenses and reasonable attorney's fees incurred or paid by Landlord in connection with such litigation. Landlord will indemnify Tenant and save it harmless from and against any and all claims, actions, damages, liability, and expense in connection with loss of life, personal property, and/or damage to property arising out of or occasioned wholly or in part by any act or admission of Landlord, its agents, contractors, employees, servants, lessees, or concessionaires. In case Tenant shall, without fault on its part, be made a party to any litigation, then Landlord shall protect and hold Tenant harmless and shall pay all costs, expenses, and reasonable attorneys' fees paid by Tenant in connection with such litigation.

11. Surrender of Premises. At the expiration of the tenancy hereby created, Tenant shall surrender the Premises in the same condition as the Premises were in upon delivery of possession thereto under this Lease, with all improvements authorized by Landlord, reasonable wear and tear excepted, and shall surrender all keys for the Premises to Landlord at the place then fixed for the payment of rent. Tenant shall remove all its trade fixtures before surrendering the Premises as aforesaid and shall repair any damage to the Premises caused thereby. Tenant's obligation to observe or perform this covenant shall survive the expiration or other termination of the term of this Lease.

12. Proper Use of the Premises. Tenant shall not perform any acts or carry on any practices which may injure the building or be a nuisance or menace under local code and shall keep the Premises under its control, clean and free from rubbish under commercially acceptable standards.

13. Manner of Serving Notices. All notices or requests which may be or are required to be given to either Landlord or Tenant shall be in writing and sent by registered or certified mail, or by personal service, addressed to the parties as follows:

NOTICE TO LANDLORD:

Baldwin Properties, L.L.C.
ATTN: Dr. Mark Landry
8120 W. 99th Street
Overland Park KS 66212

NOTICE TO TENANT:

Board of County Commissioners of Douglas County, Kansas
ATTN: Douglas County Treasurer
1100 Massachusetts St.
Lawrence KS 66044

14. Compliance With Law. Tenant shall not use the Premises, or permit anything to be done in or about the Premises, which will in any way conflict with any law, statute, ordinance, or governmental rule or regulation now in force or which may hereafter be enacted or promulgated. The judgment of any court of competent jurisdiction or the admission of Tenant in any action against Tenant, whether Landlord be a party thereto or not, that Tenant has violated any law, statute, ordinance, or governmental rule, regulation or requirement, shall be conclusive of that fact as between the Landlord and Tenant.

15. Liens. Tenant shall keep the Premises and the property in which the Premises is situated free from any liens arising out of any work performed, materials furnished, or obligations incurred by or on behalf of Tenant.

16. Assignment and Subletting. Tenant shall not either voluntarily, or by operation of law, assign, transfer, mortgage, pledge, hypothecate, or encumber this Lease or any interest therein, and shall not sublet the said Premises or any part thereof, or any right or privilege appurtenant thereto, or allow any other person (the employees, agents, servants and invitees or Tenant excepted) to occupy or use said Premises, or any portion thereof, without first obtaining the written consent of Landlord which shall not be unreasonably withheld.

17. Tenant's Default. The occurrence of any one or more the following events shall constitute a default and breach of this lease by Tenant.

a. The vacating or abandonment of the Premises by Tenant.

b. The failure by Tenant to make any payment of rent or any other payment required to be made by Tenant hereunder, as and when due, where such failure shall continue for a period of twenty (20) days after written notice from Landlord.

c. The failure by Tenant to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Tenant, where such failure shall continue for a period of thirty (30) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of Tenant's default is such that more than thirty (30) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.

18. Remedies in Default. The event of any such default or breach by Tenant, Landlord may at any time thereafter, in its sole discretion, with or without notice or demand and without limiting Landlord in the exercise of a right or remedy which Landlord may have by reason of such default or breach:

a. Terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event, Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default including, but not limited to, the cost of recovery possession of the Premises, and reasonable attorney's fees; or

b. Maintain Tenant's right to possession, in which case this Lease shall continue in effect whether or not Tenant shall have abandoned the Premises. In such event, Landlord shall be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover the rent and any other charges and adjustments as may become due hereunder; or

c. In the event of a default by Tenant, or if Tenant abandons the Premises or they become vacant, Landlord may re-enter the Premises, without terminating this Lease, may take exclusive possession of the Premises, change the locks on the doors to the Premises and remove and store any furniture or other property found in or upon the Premises, all without being liable to indictment, prosecution, or damages therefore (unless later determined that Tenant was not in default), and may, not in Landlord's own name but as agent for Tenant, relet the whole or any part of the Premises for any period equal to, greater or less than the remainder of the term, for any sum which Landlord may deem suitable, including rent concessions, and for any use and purpose which Landlord may deem appropriate. Such reletting may include any improvements, personal, and trade fixtures remaining in the Premises. Tenant shall remain liable for the payment of rent, adjustments, and other charges payable hereunder, and for damages as hereinafter provided, but the net rents from such reletting, determined by deducting from the gross rents as and when received by Landlord all expenses incurred or paid by Landlord in reletting, shall be credited against the sums due and to become due from Tenant to Landlord for rent or as damages, with Tenant remaining liable for any deficiency. In no event shall Tenant be entitled to receive any excess of such net rents over the sums payable by Tenant to Landlord hereunder; or

d. Pursue any other remedy now or hereafter available to Landlord under the laws or judicial decisions of the State in which the Premises are located.

19. Estoppel Certificate. Tenant agrees, within ten (10) days after written request by Landlord, to execute, acknowledge, and deliver to and in favor of any proposed mortgagee or purchaser of the Shopping Center, an estoppel certificate, in the form customarily used by such proposed mortgagee or purchaser, stating, among other things: (i) whether this Lease is in full force and effect; (ii) whether this Lease has been modified or amended , and if so, identifying and describing any such modification or amendment; (iii) the date to which rent and any other charge has been paid; and (iv) whether Tenant knows of any default on the part of the Landlord or has any claim against Landlord and if so, specifying the nature of such default or claim. Landlord may require Tenant to execute such a certificate for use by Landlord at any time during this Lease or at the execution hereof.

20. Sale of Premises by Landlord. In the event of any sale of the Premises by Landlord, Landlord shall be and is hereby entirely freed and relieved of all liability under any and all of its covenants and obligations contained in or derived from this Lease arising out of any act, occurrence or omission occurring after the consummation of such sale; and the purchaser, at such sale or any subsequent sale of the Premises, shall be deemed, without any further agreement between the parties or their successors in interest, or between the parties and any such purchaser, to have assumed and agreed to carry out any and all of the covenants and obligations of the Landlord under this Lease.

21. Option to Renew. Landlord hereby grants Tenant the Option to renew this Lease for two (2) additional three (3) year terms. Tenant shall notify Landlord of its desire to exercise its option at forty-five (45) days prior to the expiration of the initial term of this Lease or the first three (3) year option period, as the case may be. For each renewal period, the monthly rent set forth in Paragraph 2 shall be equal to the sum of the monthly rent for the term immediately

preceding the renewal period, plus the product obtained by multiplying such prior term's rent by the percentage increase in the Consumer Price Index for All-Urban Consumers in the Greater Kansas City area issued by the Bureau of Labor Statistics of the United State Department of Labor, most recently released immediately prior to the beginning of the renewal term as compared to the index most recently released immediately prior to the beginning of the term prior to the renewal term. Payments shall continue to be made in monthly installments, on the first day of the month.

22. Damage by Casualty. If the Premises or the building of which the Premises are a part shall be destroyed or shall be so damaged by fire or other casualty as to become untenantable for a period of time reasonably estimated to be more than three (3) months, then in such event, at the option of either Landlord or Tenant, the term of this Lease shall cease and this Lease shall become null and void from the date of such damage or destruction and Tenant shall pay rent only to the time of the casualty; provided, however, that Landlord and Tenant shall exercise such option to so terminate this Lease by notice in writing delivered to Tenant within thirty (30) days after such damage or destruction. If neither party elects not to terminate this Lease, this Lease shall continue in full force and effect and Landlord shall repair the Premises with reasonable diligence, replacing them in as good a condition as they were at the time of the damage or destruction, and for that purpose may enter the Premises and rental payments shall abate in proportion to the extent and duration of untenantability. If neither party elects to terminate this Lease, but the Premises are not repaired so as to render the Premises tenantable within six (6) months of the damage or destruction, then, at the option of Tenant, the term of this Lease shall cease as if Tenant had given notice to Landlord as described above. If the Premises are damaged by fire or other casualty, so as not to render them untenantable or unfit for occupancy for a period of time estimated to be less than three (3) months, Landlord shall repair them with reasonable diligence and, in that event, the rental payments shall abate for the period that the Premises are untenantable and, thereafter, rent shall recommence. Rent shall not abate, however, if the Premises are rendered partially or wholly untenantable due to the negligence or misconduct of Tenant. Any abatement of rental payments hereunder shall not extend the term of this Lease.

23. Release of Subrogation Rights. As part of the consideration for this Lease, each of the parties hereby releases the other party hereto from all liability for damage due to any act or neglect of the other party caused to property owned by the parties which is, or might be the incident to, or the result of fire or other casualty against loss, to the extent such property is insured against loss. Landlord and Tenant agree to make a reasonable attempt to have any insurance that they obtain on their respective properties contain an appropriate provision by which the insurance company, or companies, consent to the mutual release of liability contained in this item. In the event that the Landlord or Tenant incur additional expense in obtaining the appropriate provisions in their respective insurance policies, the other party agrees to pay such charge or waive this provision.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be entered into the day and year first above written.

LANDLORD:
BALDWIN PROPERTIES, L.L.C., a Kansas limited liability company

By: _____
Printed Name: _____
Title: _____

TENANT:
Board of County Commissioners of Douglas County, Kansas:

By: _____
Printed Name: _____
Title: _____

Douglas County

MEMO TO: The Board of County Commissioners
Craig Weinaug, County Administrator

FROM: Jackie Waggoner, Purchasing Agent
Division of Purchasing

SUBJECT: Consider Bids for the County Fuel Contract

DATE: October 30, 2002

Capital City Oil, Zaroco, and Fuelman of Mid America submitted bids in response to our solicitation to establish a fuel contract.

The attached tables provide a summary of the bids. The total cost per gallon over OPIS represents the supplier's freight, applicable taxes, and their per gallon mark-up. Our bid asked suppliers to furnish the OPIS average price for each type of fuel from their terminal for the date of September 6, 2002. Although OPIS index provides an average cost for fuel, the daily average may vary slightly depending upon the terminal used. Total cost was calculated using last year's volumes.

As you can see, Zaroco's combined total cost calculates to $1,742 more than Capital City. Since Zaroco carries only clear diesel fuel, the County would need to apply for a refund from the State for off road diesel fuel tax. Using last year's volume (18,000 gallons) for off road diesel, our refund would be $4,500.

I have reviewed the bids with participating departments and they have expressed concerns on the following items:

Zaroco issues a monthly credit to adjust the fuel cost to reflect their bid. This may involve a considerable amount of staff's time to monitor and apply for refunds from the State for off road diesel tax.

Zaroco's two locations (1500 E. 23rd and 647 E. 1250 Rd) which provide diesel are located in areas that would be difficult and unsafe for large equipment.

Although the Sheriff's Office preferred having more locations, the consensus was that Capital City provides a more accessible and safer location and a more reliable accounting approach. The preference is to accept the bid provided by Capital City.

I will be at the meeting to discuss the bids and available options.

FUEL BID SUMMARY - CAPITAL CITY OIL, INC.				
DESCRIPTION	REGULAR UNLEADED	OFF ROAD DIESEL	#2 DIESEL	BLENDED
Per gallon local freight	.0168	.0194	.0194	.0194
Per gallon state gasoline tax	.2300	NA	.2500	.2500
Per gallon Super Fund tax (if applicable)	NA	NA	NA	NA
Per gallon Kansas Underground Tank Fund (if applicable)	. 0100	.0100	.0100	.0100
Any other applicable mandated taxes	NA	NA	NA	NA
Per gallon rate over the above cost	. 0500	.0500	.0500	.1000
Total Cost Per Gallon Over OPIS	.3068	.0794	.3294	.3794
Daily OPIS Average (September 6, 2002)	.8437	.8729	.8689	.8689
Total Cost Per Gallon (September 6, 2002)	1.1505	.9523	1.1983	1.2483
No. of Gallons Purchased in 2001	92,000	18,000	29,000	1,000
TOTAL COST X NO. OF GALLONS	**$105,846.00**	**$17,141.40**	**$34,750.70**	**$ 1,248.30**
Items to Consider in Bid	Studies have shown fueling at a fuel island versus a retail site will save approximately 7 minutes per transaction. Calculating saving only 2 minutes per transaction, 20 transactions per day, 40 minutes a day, 365 per year, at a rate of $20 per hour (salary & benefits) would provide a savings of $4,865 annually.			
Provide location(s) of facility and site layout for each location available for the County to purchase fuel & their operating hours.	2911 Haskell 24/7/365			
Describe availability of Commercial Fueling Network (CFN) and any cost associated with this option.	Your fuel cards are valid at over 100 locations nationwide at no additional cost. The price of fuel will not be figured the same as our bid for fuel purchased in Lawrence.			
After providing the County appropriate cards for each vehicle would there be any cost incurred for the replacement of lost, stolen, or misplaced/damaged cards?	$5.00 per card If a card wears out there will be no charge An emergency "lock out" can be downloaded to our host computer at a charge of $3.00 per card. This normally will lock the card out within 15 minutes providing the network is properly operating.			
Describe your dispensing method and pilferage security management.	You must have the correct 4-digit PIN to activate pumps. We also have 24/7 video of our site.			
During the course of the contract the County may be interested in developing a program to provide billing by computer disk. Explain the possibility of developing such program and the type of format required.	We currently send the City of Topeka and Shawnee County their bill electronically on a 3.5 disk. We can hand carry this or sent it via e-mail.			
Provide specifications on your winter blend fuel and dates available.	We blend our fuel against cold filter plugging point and gelling to zero or below with additives and #1 blend. We normally offer this starting in November through March depending on weather.			

FUEL BID SUMMARY - ZAROCO				
DESCRIPTION	REGULAR UNLEADED	OFF ROAD DIESEL	#2 DIESEL	BLENDED
Per gallon local freight	. 0160	. 0188	. 0188	.0188
Per gallon state gasoline tax	.2300	.2500	.2500	. 2500
Per gallon Super Fund tax (if applicable)	NA	NA	NA	NA
Per gallon Kansas Underground Tank Fund (if applicable)	.0100	.0100	.0100	.0100
Any other applicable mandated taxes	.0003	.0003	.0003	.0003
Per gallon rate over the above cost	.0300	. 0300	.0300	.0300
Total Cost Per Gallon Over OPIS	.2863	.3091	.3091	.3091
Daily OPIS Average (September 6, 2000)	.8464	.8684	.8684	.8684
Total Cost Per Gallon (September 6, 2000)	1.1327	1.1775	1.1775	1.1775
No. of Gallons Purchased in 1999	92,000	18,000	29,0000	1,000
TOTAL COST X NO. OF GALLONS	**$104,208.40**	**$21,195.00**	**$34,147.50**	**$ 1,177.50**
Items to Consider in Bid	Will use opis monthly average. Carry only clear diesel fuel. This will require the county to apply for a refund on the state portion of off road diesel fuel tax. This is why state tax is included on the off road diesel. Zaroco will issue a credit monthly to the county to adjust the fuel cost to reflect the bid submitted.			
Provide location(s) of facility and site layout for each location available for the County to purchase fuel & their operating hours.	*647 E 1250 Road *1500 E. 23rd (24 personnel) 900 Iowa Street (Gasoline Only; 24 personnel) 1415 W. 6th Street (Gasoline Only) *Two locations that have diesel **All locations open 24 hours for commercial fueling**			
Describe availability of Commercial Fueling Network (CFN) and any cost associated with this option.	CFN is not available at any of our locations, they are proprietary and do not have many locations in Kansas.			
After providing the County appropriate cards for each vehicle would there be any cost incurred for the replacement of lost, stolen, or misplaced/damaged cards?	The cards do not have any cost associated with them, for new or replacement cards. We can produce a second set, at the time of setup to insure there is not a wait time for a lost or broken card.			
Describe your dispensing method and pilferage security management.	Card and Pin # are required to dispense fuel. You can turn off Pin and Cards 24 hours a day 7 days a week if there is a lost or stolen card. The management reports are available on a monthly or bi-monthly basis to control your fueling. Mileage will be required to fuel a vehicle.			
During the course of the contract the County may be interested in developing a program to provide billing by computer disk. Explain the possibility of developing such program and the type of format required.	We can work with the county, when you are interested in developing a system.			
Provide specifications on your winter blend fuel and dates available.	We carry premium diesel only. The county will never have to worry if the vehicles have the "winter" diesel in them (spec sheet attached)			

FUEL BID SUMMARY - FUELMAN OF MID AMERICA				
DESCRIPTION	REGULAR UNLEADED	OFF ROAD DIESEL	#2 DIESEL	BLENDED
Per gallon local freight	.0150	.0150	.0150	.0150
Per gallon state gasoline tax	.2300	NA	.2500	. 2500
Per gallon Super Fund tax (if applicable)	.0003	.0003	.0003	.0003
Per gallon Kansas Underground Tank Fund (if applicable)	.0100	.0100	.0100	.0100
Any other applicable mandated taxes	NA	NA	NA	NA
Per gallon rate over the above cost	.1200	.1400	.1400	.1400
Total Cost Per Gallon Over OPIS	.3753	.1653	.4153	.4153
Daily OPIS Average (September 6, 2000)	.8414	.8545	.8545	.8545
Total Cost Per Gallon (September 6, 2000)	1.2167	1.0198	1.2698	1.2698
No. of Gallons Purchased in 1999	92,000	18,000	29,0000	1,000
TOTAL COST X NO. OF GALLONS	**$111,936.40**	**$18,356.40**	**$36,824.20**	**$ 1,269.80**
Items to Consider in Bid	Provided an alternate regional price which is determined weekly by volume purchased within the region. Not considered since it would change our approach on purchasing fuel.			
Provide location(s) of facility and site layout for each location available for the County to purchase fuel & their operating hours.	Wood Oil - 920 N 2nd Conoco - 2330 Iowa Wood Oil - 1733 Massachusetts Sam's Food Mart - 1900 Haskell		EZ Go #70 - I-70 MM209 Wood Oil - 2447 W. 6th Street Kwik Shop - 4841 W. 6th Street Harris Auto Repair - 1146 Haskell	
Describe availability of Commercial Fueling Network (CFN) and any cost associated with this option.	CFN is a proprietary card. They have recently decided to remove the acceptance of fuelman in some sites in KS. This does not effect the site availability for fuelman card holders. CFN is technically a competitor of fuelman.			
After providing the County appropriate cards for each vehicle would there be any cost incurred for the replacement of lost, stolen, or misplaced/damaged cards?	There are no card charges for any cards. All cards are issued free of charge. See section #6 of fleet management service agreement			
Describe your dispensing method and pilferage security management.	The county would utilize a single magnetic strip card system with a computer generated PIN issued to each authorized user.			
During the course of the contract the County may be interested in developing a program to provide billing by computer disk. Explain the possibility of developing such program and the type of format required.	Fuelman reports can be received and sent via e-data, e-mail, floppy disk, etc.... Reports are formatted in ASCII and can be reformatted to meet the needs of most clients. Optional specialty reports available at an additional cost of $5.00 per report per printing.			
Provide specifications on your winter blend fuel and dates available.	Fuelman cannot guarantee all diesel fuel purchased in the winter months will be "winterized". Fuelman does make every attempt to encourage all vendors to use additive when necessary.			

COMBINED SUMMARY

REGULAR UNLEADED					
	COST PER GALLON OVER OPIS	DAILY OPIS (9/6/2002)	TOTAL COST PER GALLON	NO. OF GALLONS	TOTAL COST
Capital City	.3068	.8437	1.1505	92,000	$105,846.00
Zaroco	.2863	.8464	1.1327	92,000	$104,208.40
Fuelman	.3753	.8414	1.2167	92,000	$111,936.40

OFF ROAD DIESEL					
	COST PER GALLON OVER OPIS	DAILY OPIS (9/6/2002)	TOTAL COST PER GALLON	NO. OF GALLONS	TOTAL COST
Capital City	.0794	..8729	.9523	18,000	$17,141.40
Zaroco	.3091	.8684	1.1775	18,000	$21,195.00
Fuelman	.1653	.8545	1.0198	18,000	$18,356.40

#2 DIESEL					
	COST PER GALLON OVER OPIS	DAILY OPIS (9/6/2002)	TOTAL COST PER GALLON	NO. OF GALLONS	TOTAL COST
Capital City	.3294	.8689	1.1983	29,000	$34,750.70
Zaroco	.3091	.8684	1.1775	29,000	$34,147.50
Fuelman	.4153	.8545	1.2698	29,000	$36,824.20

BLENDED					
	COST PER GALLON OVER OPIS	DAILY OPIS (9/6/2002)	TOTAL COST PER GALLON	NO. OF GALLONS	TOTAL COST
Capital City	.3794	.8689	1.2483	1,000	$ 1,248.30
Zaroco	.3091	.8684	1.1775	1,000	$ 1,177.50
Fuelman	.4153	.8545	1.2698	1,000	$ 1,269.80

COMBINED					
	REGULAR UNLEADED	OFF ROAD DIESEL	#2 DIESEL	BLENDED	TOTAL COST
Capital City	$105,846.00	$ 17,141.40	$ 34,750.70	$ 1,248.30	$158,986.40
Zaroco	$104,208.40	$ 21,195.00	$ 34,147.50	$ 1,177.50	$160,728.40
Fuelman	$111,936.40	$ 18,356.40	$ 36,824.20	$ 1,269.80	$168,386.80

(6)

Douglas County

MEMO TO: The Board of County Commissioners
Craig Weinaug, County Administrator

FROM: Jackie Waggoner, Purchasing Agent
Division of Purchasing

SUBJECT: Authorize Staff to Negotiate Contract for Storage Area Network

DATE: October 31, 2002

A solicitation for proposal was issued for Information Technology for a Storage Area Network (SAN). For your information I have attached a summary that provides details of what a SAN is and what benefits will be gained for the county to make this acquisition.

Dell Computers, Tallgrass Technologies, Forsythe, Alexander Open Systems, Hitachi Data Systems, and StorNet submitted proposals for the SAN. Based on our evaluation criteria and their proposed solution we invited three suppliers (Tallgrass Technologies, Alexander Open Systems, and Hitachi Data Systems) in for an interview.

As a result of the interview process we are asking that you authorize staff to negotiate a final contract with Tallgrass Technologies. In the event negotiations are not successful we would like the opportunity to then negotiate with Hitachi Data Systems.

Following negotiations a final recommendation will be brought to you for approval. Jim Lawson and I will attend the meeting prepared to respond to any questions you may have.

SUGGESTED MOTION: The Board of Commissioners authorize staff to negotiate with Tallgrass Technologies and possibly Hitachi Data Systems.

What is a SAN? A SAN is an acronym which stands for Storage Area Network. A SAN is a small separate network that is designed to manage data storage in an efficient and scalable manner. In order to accomplish this task, the SAN requires high-speed hardware combined with intelligent dedicated software. The hardware mainly includes a large scaleable array of hard drives, a high-speed tape backup device, and interconnects to bridge the server computers to the storage devices. The software that runs the SAN is just as important. The software's job is to manage the array of hard drives and to control the way the computers connect to the drives. The software is very specialized in that it can perform many 'on the fly' features that will benefit Douglas County.

Why does Douglas County need a SAN? Some of the many problems that Douglas County Information Technology faces include: (1) An ever increasing need for hard drive storage space, (2) The ever increasing amount of time that it takes to backup more and more data, and (3) The potential of downtime performing hardware upgrades and data migration. The proper SAN solution would supply Douglas County Information Technology the framework for future growth. The SAN would provide the ability to add more hard drive storage on the fly, with zero downtime. The SAN has the capability to replicate data while it is use, and a backup can then be performed on the replicated data. This allows for data backups to occur throughout the day, rather than just overnight. The proper SAN would be highly scalable so that its data storage size can increase over the years as the county's data storage requirements continue to grow. Based on the county's demands for data storage and 24-hour availability, a SAN solution is necessary.

How does a SAN work? Per Information Technology's specification, we have requested a SAN solution that would allow us to completely boot our servers from the SAN. What this means is that our servers no longer need hard drives in them for data storage. All of the data storage is maintained by the SAN's array of hard drives. This is a wonderful feature since it completely separates the server's software form the server's hardware. This allows for the flexibility of physically swapping out one like server for another in the event of a server hardware failure. SANs in general are also very hardware fault tolerant. SANs are composed of redundant hard drives, cooling fans, and power supplies. Most SANs can withstand any type of hardware failure and still remain in operation due to the built-in redundancy. The correct SAN solution would solve Douglas County's data storage and backup problems for the next several years.

(7)

Douglas County

Department of Public Works

Keith A. Browning, P.E.
Director of Public Works/County Engineer

MEMORANDUM

To : Board of County Commissioners

CC : Craig Weinaug, County Administrator
Pam Madl, Administrative Services Director

From : Keith A. Browning, P.E., Director of Public Works/County Engineer KB

Date : October 30, 2002

Re : Possible Additional Projects for Capital Improvement Program

Attached is a listing of candidate projects to be considered for adding to the CIP. Estimated costs shown for Project Nos. 4 and 6 assume a cost share arrangement with the City of Lawrence and the Kansas Turnpike Authority (in the case of Project #4). All other estimated costs are total costs without assuming use of federal funds or cost share arrangements with other entities.

The first five projects in the list are essentially to maintain the county's existing road network. The remaining thirteen projects represent some upgrade of facilities.

Action Required: Consideration of listed projects during upcoming Capital Improvement Program discussion.

1242 Massachusetts Street, Lawrence, Kansas 66044-3350 / Fax No. (785) 841-0943
Telephone No. (785) 832-5293 / E-Mail dgcopubw@douglas-county.com

Possible Projects to Add to CIP

Date: 10/30/2002
By: KAB

No.	Project Description	(miles) Length	Est. Const. Cost	Est.Des.Engrg. Cost	Est. Util.'s & R/W	Project Cost
1	Rte 1029 Bridge over Kansas R. (redeck)	0.3	$ 2,831,400	$ 283,140	$ 10,000	$ 3,124,540
2	Rte 442 mill, O/L, paved shldrs from 1029 to Hwy 40	1.5	$ 215,000	$ -	$ -	$ 215,000
3	Rte 1057 resurf., 442 to K10	0.5	$ 241,025	$ -	$ -	$ 241,025
4	Rte 438 (Kasold) bridge over KTA	0.2	$ -	$ 380,000	$ 20,000	$ 400,000
5	Rte 442 bridge @ Captain Cr.	0.2	$ 485,000	$ 48,500	$ 16,000	$ 549,500
6	N 1500 Rd E. of SLT	0.5	$ 500,000	$ 50,000	$ 75,000	$ 625,000
7	N 1500 Rd, reconstruct from city limits to Noria Rd.	1.8	$ 1,950,000	$ 195,000	$ 219,000	$ 2,364,000
8	Rte 458, reconstruct curve at E 1000/N 1200	0.4	$ 400,000	$ -	$ 50,000	$ 450,000
9						
10	Rte 1061, reconstruct from N 1200 north to K10	1.1	$ 1,650,000	$ 165,000	$ 134,000	$ 1,949,000
11	Rte 1055 (6th St) in Baldwin from Indiana St to S. City Limits	0.5	$ 425,000	$ 42,500	$ -	$ 467,500
12	Rte 460 - 3R improvements from 1029 to 1039 (E 900)	4.8	$ 3,040,000	$ 304,000	$ 608,000	$ 3,952,000
13	Rte 1023 - reconstruct from 442 to US 40	2.5	$ 2,000,000	$ 200,000	$ 400,000	$ 2,600,000
14	Rte 1055 - 3R improvements from Waka R to 458	1.8	$ 1,440,000	$ 144,000	$ 289,000	$ 1,873,000
15	Rte 1055 - 3R improvements from 458 to Vinland	3.5	$ 3,500,000	$ 350,000	$ 562,000	$ 4,412,000
16	Rte 1055 - 3R improvements from Vinland to Baldwin	4.0	$ 4,000,000	$ 400,000	$ 642,000	$ 5,042,000
17	Rte 1061 - 3R improvements from US 56 to N 1200	10.0	$ 8,000,000	$ 800,000	$ 1,600,000	$ 10,400,000
18	Rte 442 - 3R improvements from SNCO line to Stull	3.0	$ 2,500,000	$ 250,000	$ 500,000	$ 3,250,000

GENERAL NOTE: All cost estimates are assuming 2002 dollars.

PROJECT NOTES:

Proj No.	
1	Total costs listed do not account for any cost share with Jeff Co. or federal funds.
4	Assumes construction paid by City of Lawrence obligation of federal funds with local matching funds provided by KTA
6	Construction of city collector-standard road; Assume 50/50 cost share with City of Lawrence
7	Costs assume total reconstruction; Alternatively, possibly cost share with Waka Twp for rehabilitation of existing pavement.
12	Proposed project for exist. Rte 460; Alternatively, could investigate relocating Rte 460 along N 500 Road

DRAFT

CAPITAL IMPROVEMENT PROJECTS

November 2002

DRAFT CIP FOR 2002-2003

NON-SALES TAX PROJECTS

Project	BEGIN YEAR	ESTIMATED PROJECT COST	Paid as of 10/29/02	Project Balance Payable	BUDGET 2002: General CIP	AVAILABLE FUND 450	BUDGET 2003: General CIP	INTEREST 2003	Projected 2004	Projected 2005	Projected 2006	Projected 2007
Michigan St.	2002	$106,212	$212	$106,000		$106,000	$0	$0	$0	$0	$0	$0
Winchester Road (Eudora)	2002	$200,000	$0	$200,000		$200,000	$0	$0	$0	$0	$0	$0
Maintenance Shop	2002	$140,000	$0	$140,000		$126,014	$13,986	$0	$0	$0	$0	$0
Eudora River Bank Protection	2002	$450,000	$390,000	$60,000		$60,000	$0	$0	$0	$0	$0	$0
442-3R 1029 to Stull	2002	$811,065	$631,926	$179,139		$179,139	$0	$0	$0	$0	$0	$0
6th St. Lawrence	2002	$236,741	$222,072	$14,669		$14,669	$0	$0	$0	$0	$0	$0
1029 3R U.S. 40 - Lecompton	2003	$1,064,794	$120,760	$944,034		$0	$644,034	$300,000	$0	$0	$0	$0
Storage	2003	$500,000	$0	$500,000		$0	$299,676	$200,324	$0	$0	$0	$0
Kasold-31st to Wakarusa Bridge	2004	$5,444,874	$17,500	$5,427,374	$425,500	$0	$1,000,000	$0	$2,213,687	$2,213,687	$0	$0
438-3R: Eastern Section (K-10 to Kasold)	2004	$1,351,607	$0	$1,351,607					Must balance allotments with Kasold-31st & Redeck Rt. 1029 Bridge if doing all projects at same time.			
438-3R: Western Section (1029 to K-10)	2006	$556,592	$0	$556,592	$172,198	$0	$337,150	$300,000	$0	$0	$556,592	$0
Rte 442 east of 1029: mill, o/c, shoulders	2003	$215,000		$215,000					$215,000			
Resurface Rte. 1057 from 442 to K-10	2003	$241,025		$241,025					$241,500			
Rte. 442 Bridge over Captain Creek	2004	$549,500		$549,500						$549,500		
Redeck Rt. 1029 Bridge over KS River	2004	$3,124,540		$3,124,540					Must balance allotments with Kasold-31st and 438-3R Eastern if wish to do all projects at same time.			
Bridge 9.24x16 (on 1055)	2005	$786,833								$786,833		
Rte. 438 (Kasold) Bridge over KTA	2006	$400,000		$400,000							$400,000	
Rte. 1055 South Baldwin	NO DATE											
Rt. 1023 - Lecompton	NO DATE	$131,000										
15th & SLT Interchange	NO DATE											
Route 1055 Shoulders	NO DATE	$570,392	$271,850									
Fairgrounds CIP	NO DATE											
Fire Station	NO DATE											
Parking Lot	NO DATE											
Discretionary Funding							$755,865	$0	$1,229,813	$349,980	$2,943,408	$3,900,000
TOTALS					$597,698	$685,822	$3,050,711	$800,324	$3,900,000	$3,900,000	$3,900,000	$3,900,000

Projects in gray background (& green lettering) are from the list of new projects provided by Keith Browning to be discussed at CIP meeting.

Projected totals (years 2004 on) represent a constant CIP budget of approximately $3.9M.

MICHIGAN STREET

PROJECT NOTES	
City of Lawrence widening Michigan Street to City standards (curbs and gutters). A portion of the street is on unincorporated ground.	
DATE	DETAILS
10/29/02	Project to begin next week.

PROJECT COSTS

Commissioners agreed to commit $106,000 toward project.

WINCHESTER ROAD

PROJECT NOTES	
Reconstruction of E100 Road from K-10 Bridge to Route 442. City of Eudora project.	
DATE	DETAILS
2/4/02	Meeting with Browning. He talked to Eudora; they indicated still plan to rebid in Spring 2002.
3/21/02	Call from Browning. Eudora proceeding with project; Browning drafting an agreement stating that Douglas County will provide construction engineering for project, which will be billed to Eudora at end of project, and that County agrees to pay $200,000 lump sum at the end of project. Browning expects that the project will be completed in August 2002.
10/29/02	Amount not changed. Problems acquiring right of way; not heard if still planning on going through with project. Still negotiating; may wait until first of year. The agreement says the County will pay upon completion of project.

PROJECT COSTS

Commissioners agreed to commit $200,000 toward project.

MAINTENANCE SHOP

PROJECT NOTES

Proposed Maintenance shop to replace existing shop at Fairgrounds. The old bucket barn and the existing maintenance shop will be torn down for the new building location. The new shop will be approximately 35' x 60' (2100 sq. ft.) and will contain an office area, mechanical area, restroom, and work area. The shop will be used to perform maintenance on equipment and vehicles, carpentry work, and to store parked vehicles at night. Two 12'0" garage doors are planned.

It has also been anticipated that the building be expanded for County storage. Plans provide for an additional 11,880 sq. ft. of storage space, which covers two levels. (See Storage Project Notes)

Additionally, there has been some discussion at the Fairground CIP meetings about putting a concession stand in the corner of the building to replace the one that was lost to fire.

DATE	DETAILS
10/29/02	Project on hold while decisions made about scope (for example, whether storage and/or concession stand would be included in plans).

PROJECT COSTS

Estimated cost for maintenance shop only (not including storage or concession stand) is $140,000.

Adding storage portion brings the total building cost to $550,000.

EUDORA RIVER BANK PROTECTION

PROJECT NOTES	
Construction of L-head dikes to protect and restore channel bank at Eudora Bend.	
DATE	DETAILS
8/25/00	No agreement yet with Leavenworth Co. Except for design work (50%). Leavenworth wants to split construction based on assessed valuation (making Douglas County's portion 69%). Don't know yet if able to get full funding. First design payment due Fall 2000. If split evenly, each pay $14,500.
2/28/01	Still no federal funding
7/20/01	Browning said Corps had updated construction cost estimate of $1.95M. Maximum Corp contribution is $1M. Need to determine cost share between DGCO and LVCO. Corps wants to make this a phased project over two years, which means the total local share would be approximately $500K per year.
8/3/01	Browning met with Corps, HNTP and LVCO on 8/2/01. Changing from a 3-dike system to 4-dike. Phase I cost would be $1.2-1.4M and Phase 2 $700K. First phase done in winter 2001-2002 and second phase winter 2002-2003. Discussed delaying start date until winter 2002-2003.
8/3/01	Emailed Norton that this project may begin happening very soon; emailed Brownings information. May need money in August.
8/28/01	Letter to McKissack (Corps) committing 60% of non-federal share of projects costs – $390,000 in 2001 and $210,000 in 2002.
9/4/02	Meeting with Browning. Phase I construction estimate was $808,380, but bid came in at $668,153. Our portion of project is 60% of one half. The $390,000 we already paid applies to entire project. Budget $210,000 for 2002 (to be paid by end of December 2002), but may actually be less if Phase II construction is less.
10/29/02	Don't anticipate needing more money, but should retain $60,000 for contingency. Plan to move ahead this winter as planned.

PROJECT COSTS

County portion 50% design + 50% of 35% construction.

Construction expectation $1,600,000; design $29,000. County = $294,500

PROJECT NOTES	
Road improvement for Route 442 (N 1600 Rd) between E 368 Road and County Route 1029.	
DATE	DETAILS
8/2/01	Conversation with Norton: they will forward a resolution for agenda 8/20/01 authorizing the project and financing. The resolution will be published on 8/23 and the 60 day protest periods begins then. The public hearing was held in October 2000. The protest period ends 10/24. The minutes should reflect that the public hearing was held previously. Keith B said would get the project costs to ASAP so that I can email them to Robyn for resolution. If bid letting doesn't occur until 2002, we can still issue temporary notes but must repay them from 2002 budget.
8/3/01	Emailed project costs to Robyn & Joe.
11/12/01	Norton has executed copies of Minutes and Res. 01-29. Need the following: (1) affidavit of publication of Res. 01-29; (b) engr's estimate of project costs; (c) Cert of No Protest.
1/9/02	Conversation with Browning & Norton: Bid letting scheduled with KDOT for May 2002, but may be delayed further. Still have to do right of way acquisition, etc.
2/4/02	Meeting with Browning. Plans are in final check stage; close to being completed. Already in ROW acquisition process (approx. 28 owners). No unit costs yet on waterline.
10/29/02	Construction underway; completion expected April 2003.

COST ESTIMATE AS OF 6/21/02		
Construction Cost w/contingency	$1,938,891	
Douglas County Costs:		
	Construction	$335,940
	Appraisal Services	$9,000
	Materials Testing	$4,000
	Right of Way	$162,125
	Utilities Relocation*	$300,000
TOTAL Douglas County Costs		$811,065
*Electric (because located on private easement) $125,000; Waterline $175,000.		

6TH STREET LAWRENCE

PROJECT NOTES	
City of Lawrence project -- improvement of 6th Street from Wakarusa to SLT.	
DATE	DETAILS
2/4/02	Meeting with Browning. Plans not finalized.
10/29/02	No new information.

PROJECT COSTS

Commissioners agreed to 50% of design costs ($236.741).

ROUTE 1029 IMPROVEMENT PROJECT NO. 23 C-3688-01

PROJECT DETAILS	
Safety improvements from Route 438 to Lecompton including approx. 72% reconstruction to improve sight distance, addition of paved shoulders, flattening of frontslopes and backslopes, and reconstruction of Route 1029/Route 438 intersection to a curved alignment.	
DATE	**DETAILS**
1/2/02	Browning presentation to Board of issues associate with engineering design. (1) straight and curved intersections; (2) design as new construction or reconstruction--recommendation as new construction (does not alter county's cost substantially); (3) cost increase from $1.5M to $1.95-2.3M — may affect Route 1055 bridge replacement (3/4 mile south of Rt. 458). Board wants more information about intersection prior to making decision.
10/29/02	Letting September 2003. Plans are at Office Check stage; Right of way acquisition process has begun.

PROJECT COSTS

Estimated Costs as of 10/1/02

Total Construction Cost with 10% contingency $2,332,070

Douglas County Costs:

Construction (20% local share)	$ 466,414
Engineering Design	120,960
Right-of-Way	175,000*
Waterline Relocation	175,000*
Powerline Relocation	
Cost/Mile $75,000@2.88 miles*.52	112,320*
Appraisal Services	11,100
Materials Testing	4,000
Total	**$1,064,794**

*Very preliminary numbers

STORAGE

PROJECT NOTES
General category to alleviate storage issues. Current project includes, but is not limited to, possibility of adding storage area to proposed maintenance shop. The proposed addition to the Maintenance Shop would have two levels: 1st level would be 80'x60', accessible from the west end. The upper level would be 118' x 60', accessible from the east end. Total square footage is 11,880.

DATE	DETAILS
10/29/02	No definite decisions at this point.

PROJECT COSTS

Estimate from Penny Construction of $410,000 for storage addition to proposed maintenance shop.

Additional money would be needed for shelving, boxes, and labeling.

KASOLD - 31ST TO WAKARUSA BRIDGE

PROJECT NOTES	
Construct city collector-standard street from 31st & Kasold to SLT including bridge over Yankee Tank Cree, and county standard roadway from SLT to Wakarusa River bridge on E 1150 Road.	
DATE	**DETAILS**
2/4/02	Meeting with Browning. Has not gone back to Commissioners for alignment decision.
10/29/02	George Williams hired to work on this project. BOCC still considering options.

PROJECT COSTS

The cost estimate is higher than originally thought because the 1998 study had the bridge length the same as the K-10 bridge over Yankee Tank Creek and that was a bad assumption (this bridge will have to be much bigger - 750' vs. 175').

Estimated Costs as of 9/27/02:

Alternate A	
Roadway Construction	$1,351,944
Bridge (4 lane - 750' long)	2,608,848
Right of Way	492,660
Paving (south of SLT)	98,400
Design Engineering	405,919
Construction Engineering	487,103
	$5,444,874
Alternate B	
Roadway Construction	$ 951,921
Bridge (4 lane - 650' long)	2,265,278
Right of Way	136,850
Paving (south of SLT)	171,120
Additional Right of Way	209,300
Design Engineering	338,832
Construction Engineering	406,598
	$4,479,899

Note: Estimates are based on 2003 costs.

ROUTE 438-3R

PROJECT NOTES	
Improvement to Route 438 between Route 1029 and Kasold.	
DATE	DETAILS
2/4/02	Meeting with Browning. Bid letting December 2003.
10/29/02	Don't have enough obligation authority to do six miles. Need to split project up. Suggestion western section as 5-year plan and eastern section with no federal money.

PROJECT COSTS
ESTIMATED COSTS AS OF 10/30/02

TOTAL 6.0 MILE ESTIMATE

Total Construction cost with 10% contingency $3,636,367

Douglas County Costs:

Construction (20% local share)	$ 727,273
Right of Way	85,000*
Powerline Relocation	25,000*
Appraisal Services (14 parcels @ $300)	4,200
Materials Testing	4,000
Total	**$ 845,473**

WESTERN SECTION ONLY - 1029 TO K-10

Total Construction cost with 10% contingency $2,307,960

Douglas County Costs:

Construction (20% local share)	$ 461,592
Right of Way	65,000*
Powerline Relocation	25,000*
Appraisal Services (10 parcels @ $300)	3,000
Materials Testing	2,000
Total	**$ 556,592**

EASTERN SECTION ONLY - K-10 TO KASOLD

	W/O Fedl Funding	W/Fedl Funding
Total Construction cost with 10% contingency	$1,328,407	$ 1,328,407
Douglas County Costs:		
Construction (20% local share)	$1,328,407	$ 265,681
Right of Way	20,000*	20,000*
Powerline Relocation	-0-	-0-
Appraisal Services (4 parcels @ $300)	1,200	1,200
Materials Testing	2,000	2,000
Total	**$1,351,706**	**$ 288,881**

*Very preliminary estimates

BRIDGE 9.24-16.00 REPLACEMENT

PROJECT NOTES	
Replacement of bridge on Route 1055 approx. 3/4 mile south of Route 458.	
DATE	DETAILS
2/4/02	Meeting with Browning. Leave on CIP, but not likely to occur because reaching our obligation limit on the 5-Year Plan.
10/29/02	Project dropped from 5-year plan.

PROJECT COSTS

Preliminary Cost Estimate:

Construction Costs (estimate from 2000 Request for construction projects,	$650,770
Adjust to 2002 dollars [3.5% inflation per year]	$ 46,351
Total Est. 2002 Construction Costs	$697,121
Design Engineering	69,712
Right of Way	15,000
Utilities	5,000
Total	$786,833

ROUTE 1023 LECOMPTON

PROJECT NOTES	
Rehabilitation fro Whitfield Street to Boone Street including installation of storm sewers.	
DATE	DETAILS
2/4/02	Meeting with Browning. Lecompton originally applied for grant but did not receive. Still interested but no sure how they will do it.
10/29/02	Heard nothing new.

PROJECT COSTS

The County had an agreement with Lecompton 3 years ago to provide $131,000.

ROUTE 1055 SHOULDERS

PROJECT NOTES

Add shoulders to both sides of 1055 and flatten front slopes from 31st St to Wakarusa River Bridge. Project includes the installation of a small parking area at the 31st Street entrance to the wetlands and a water control structure in the northeast portion of the wetlands. City of Baldwin and Water District #4 will also be installing two water lines along 1055.

Douglas County is responsible for paying for 1/3 of design and 100% of construction of all shoulders, parking area, and water control structure; the City will pay for the costs of the waterline and 2/3 of the design cost.

DATE	DETAILS
8/25/00	Currently under design (BG Consultants)
2/28/01	Design on hold as of endo of 2000 due to Wetlands issues.
1/9/02	Design still on hold.
10/29/02	Design still on hold.

PROJECT COSTS

Estimated costs: Construction $1,247,000; Design $79,334. County portion $570,392.

15TH STREET INTERCHANGE (SLT)

PROJECT NOTES	
DATE	DETAILS
2/4/02	Meeting with Browning. No state funding. Question whether should take off of CIP.
10/29/02	Nothing new. No State money programmed for this interchange.