

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

Amended Agenda

WEDNESDAY, MAY 25, 2016

4:00 p.m.

-Proclamation for May 2016 as Mental Health Month (David Johnson)

CONSENT AGENDA

- (1) (a) Consider approval of Commission Orders;
- (b) Consider approval of a resolution qualifying the Clinton Marina Parking Lot Special Event to sell cereal malt beverages on the premises at 1329 E 800 Road (Clerk's Office);
- (c) Consider approval of an addendum to HCC Grant Agreement KU Center for Research - Grant HCC 2014-15 (Jan Shupert-Arick);
- (d) Consider approval of Freedom's Frontier National Heritage Area Pass Through Program for Partners- Creation of a non-competitive program (Jan Shupert-Arick);
- (e) Consider acquisition of right-of-way for the construction of drainage structure No. 19.76N-16.00E (Michael Kelly);
- (f) Consider authorization to exchange federal funds under the Federal-Aid Fund Exchange master Agreement (Keith Browning); and
- (g) Consider request to amend contract with Advanced Correctional Healthcare (Gary Bunting)

REGULAR AGENDA

- (2) Consider a one-year extension of approval for CUP-15-00060, Conditional Use Permit for a micro-distillery at 1743 N 200 Road. Submitted by William R. Murphy of Sunwise Turn Farms LLC, property owner of record. *(Approved by the Board of County Commissioners on June 3, 2015. Mary Miller is the Planner.*
- (3) **-TA-15-00461:** Consider Text Amendments to the *Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas* and the *Subdivision Regulations for Lawrence and the Unincorporated Areas of Douglas County, KS* to add Accessory Dwelling Units as a permitted use and to establish standards for the use. **Tabled from the 05-18-16 meeting for language revisions.**(Mary Miller)
- (4) Public Hearing Determine 2017 road maintenance budget for the Hesper CRID (Keith Browning)
- (5) (a) Consider approval of Accounts Payable (if necessary)
- (b) Appointments
- Board of Construction Codes Appeals (1) position 12/15**
- Community Corrections Board (2) positions 01/16 and 05/16**
- (c) Public Comment
- (d) Miscellaneous
- (6) Adjourn

WEDNESDAY, JUNE 1, 2016

-5:00-7:00 p.m. - K-10 West Leg SLT Study Public Information Open House for K-10 & E. 1200 Road Near-Term Improvements #K10SLT at the First United Methodist Church-West Campus, 867 US-40, Lawrence, KS 66049.

6:00 p.m.

-Proclamation for "Relay for Life" (Amanda Davis)



Office of the County Commission

PROCLAMATION

2016 Mental Health Month
in Douglas County, Kansas

- WHEREAS: The U.S. Surgeon General states that mental health is fundamental to health, personal well-being, family, and interpersonal relationships, and contributes to community and society; and
- WHEREAS: Mental illness affects one in four Americans every year, regardless of age, gender, race, ethnicity, religion, or economic status; and
- WHEREAS: The U.S. Surgeon General has found that a range of treatments exists for most mental disorders and the efficacy of mental health treatments are well documented; and
- WHEREAS: Douglas County, Kansas has made a commitment to community-based systems of mental health care for all residents; and
- WHEREAS: The guiding principles of community mental health care have always been comprehensiveness, cost-efficiency, effective management, and high-quality and consumer-responsive services; and
- WHEREAS: Mental Health America, the National Council for Community Behavioral Healthcare, and the Bert Nash Community Mental Health Center observe Mental Health Month every May to raise awareness and understanding of mental health and illness;

NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS, do hereby proclaim the month of May 2016, as

"MENTAL HEALTH MONTH"

in Douglas County and call upon all citizens, government agencies, public and private institutions, businesses, and schools to recommit our community to increasing awareness and understanding of mental illness and the need for appropriate and accessible services for all people with mental illness.

ADOPTED this 25th day of May, 2016.

BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, KANSAS

James E. Flory, Chairman

Mike Gaughan, Vice-Chair

Nancy Thellman, Member

RESOLUTION _____

WHEREAS, on the **25th day of May 2016**, the same being a regular session of the Board of County Commissioners of the County of Douglas, the application of **Clinton Marina Parking Lot Special Event** for a cereal malt beverage license came up for considerations by the above board and

WHEREAS, the Board does find that said **Clinton Marina Parking Lot Special Event** is qualified under the law to sell cereal malt beverages for consumption on the premises located **1329 E 800 Rd, Lawrence, Kansas**

WHEREAS, the Board further finds that due and legal notice has been given the Clinton Township Board and that ten days has expired from the giving of said notice and that no written objection has been filed by the Clinton Township Board protesting the granting of a cereal malt beverage license.

NOW THEREFORE, BE IT RESOLVED that the applicant, **Clinton Marina Parking Lot Special Event** granted a license to sell cereal malt beverage for consumption on the premises located at **1329 E 800 Rd, Lawrence, Kansas**

BE IT FURTHER RESOLVED, that Jameson Shew, County Clerk of Douglas County, Kansas be directed to issue said license.

Chairman

Member

Member

ATTEST:

Jameson Shew, Douglas County Clerk

KEEP THIS LICENSE POSTED CONSPICUOUSLY AT ALL TIME

RETAIL

Fee \$125.00

NO.

DEALER'S 2016

SPECIAL LICENSE

TO ALL WHOM IT MAY CONCERN:

License is hereby granted to: **CLINTON MARINA PARKING LOT SPECIAL EVENT**

**TO SELL CEREAL MALT BEVERAGES AT RETAIL FOR CONSUMPTION ON PREMISES, ONE
DAY ONLY**

(State if for consumption on the premises or for sale in original and unopened containers and not for consumption on premises)

**1329 E 800 Road, LAWRENCE, KS Application therefore on file in the office of the County Clerk of Douglas County,
having been approved by the governing body of said County, as provided by Laws of Kansas and the regulations of the
board of County Commissioners.**

**This License will expire: 12:00 midnight June 18th, 2016 unless sooner revoked, is not transferable, nor will any refund
be allowed thereon.**

Done by the Board of County Commissioners of Douglas County, Kansas

This 25th Day of May 2016

(Seal)

Attest: _____
County Clerk

Chairman

Memo

To: Douglas County Commission

From: Jan Shupert-Arick, Heritage Coordinator

Re: Addendum to HCC Grant Agreement KU Center for Research - Grant HCC 2014-15

Date: May 19, 2016

The KU Center for Research has agreed to allow the remaining 70% of grant funds (a balance of \$103,250) to pass through Freedom's Frontier Natural Heritage Area's office for the following project: *A Systematic Inventory of Natural Areas and Habitat in Douglas County*

This project qualifies as a Freedom's Frontier pass through project under the category of "landscapes". Jim Ogle, Executive Director, supports the Addendum.

I respectfully request the County Commissioner's approval of the Addendum. KUCR has signed off on the Addendum.

Addendum

On June 11, 2014, a grant agreement was entered into between:

**Douglas County Heritage Conservation Council
NATURAL AND CULTURAL HERITAGE GRANT PROGRAM AGREEMENT**

Grant Recipient: ~~Alicia M. Reed~~
~~Kristi M. Billinger~~, KUCR



Project No: ~~HCC 2014-15~~

Total Project Budget: \$194,699

~~HCC Award: \$147,500~~

THIS AGREEMENT is hereby entered into this **June 11, 2014** by and between Douglas County, 1100 Massachusetts Street, Lawrence, KS 66044, acting through the Heritage Conservation Council (HCC), and, **Kristi M. Billinger and KUCR, 2385 Irving Hill Road, Lawrence, KS, 66045-7568**, herein called the Grantee.

WHEREAS, the Grantee has applied for and been ~~awarded \$147,500~~ from the *Natural and Cultural Heritage Grant Program* for "A Systematic Inventory for Natural Areas and Habitat in Douglas County".

~~KUCR has received 30% or \$44,250 to date leaving a balance of \$103,250.00~~

The parties wish to amend the original grant agreement in one respect, set forth below.

For mutual consideration, the parties agree that the original grant agreement referenced herein be amended so that any outstanding grant funds which are due or may become due as of the effective date of this Addendum will be distributed through the Freedom's Frontier National Heritage Area Office. The parties acknowledge that the remainder of the grant agreement shall remain in full force and effect.

In witness whereof, the parties have executed this addendum:

Alicia M. Reed

05/16/2016

Grantee, Authoring Official

Date

Alicia M. Reed, Interim Director, Research Administration

Typed or Printed Name and Title of Signator

Grantor, County Commissioner

Date

* Please note: signature should match those on each of the original grant agreement If an original signatory is no longer available, please identify his/her replacement.

Douglas County Heritage Conservation Council Office, Douglas County Courthouse, 1100 Massachusetts Street, Lawrence, KS 66044. JShupertArick@Douglas-County.com 783-330-2878

Alicia Reed
replaced Kristi Billinger.

ADS - Shupert-Arick, Jan

From: Fincher, Maile [mfincher@ku.edu]
Sent: Monday, May 16, 2016 2:20 PM
To: ADS - Shupert-Arick, Jan
Subject: FW: Announcement

Hi Jan,

Will this email from Dr. Tracy, Vice Chancellor of Research, regarding Kristi's departure from KUCR and her successor suffice? Or do you need an official letter which we can provide later this week?

May I make this change to the amendment?

Thanks,
Maile

From: Crawford, Linda L **On Behalf Of** Tracy, James W
Sent: Monday, March 14, 2016 5:10 PM
To: Youngberg Hall - DL <youngberg_dl@ku.edu>
Subject: Announcement

Dear Colleagues,

I write to tell you that Assistant Vice Chancellor Kristi Billinger, who directs sponsored projects activities within KU Research, has accepted a position at Texas A&M University. Her last day at KU will be 26 March 2016.

Kristi has worked in research administration at KU for the past 18 years and over that time she has made innumerable contributions to support researchers and the research enterprise. She has been especially helpful to me during my first year here. I hope you will join me in thanking her for her service to our university and wish her every success at A&M.

I am appointing Alicia Reed, associate director of research administration, to serve as Interim Assistant Vice Chancellor. Please give Alicia your full support during this transition period. We will launch a search for a permanent director of sponsored project services in due course.

Thanks,
Jim

James W. Tracy
Vice Chancellor & Professor

**Douglas County Heritage Conservation Council
NATURAL AND CULTURAL HERITAGE GRANT PROGRAM AGREEMENT**

Grant Recipient: University of Kansas Center for Research, Inc. (KUCR) **Project No:** 2014-15

Total Project Budget **\$194,699**

Award: **\$147,500**

THIS AGREEMENT is hereby entered into this **June 11, 2014** by and between Douglas County, 1100 Massachusetts Street, Lawrence, KS 66044, acting through the Heritage Conservation Council (HCC), and, **University of Kansas Center for Research, Inc., 2385 Irving Hill Road, Lawrence, KS, 66045-7568**, herein called the Grantee.

WHEREAS, the Grantee has applied for and been awarded **\$147,500** from the *Natural and Cultural Heritage Grant Program* for "A Systematic Inventory for Natural Areas and Habitat in Douglas County".

NOW THEREFORE, in consideration of the award of the grant, the Grantee agrees to administer said grant in accordance with the following policies and procedures:

A. PROJECT DESCRIPTION

The Grantee agrees:

1) to perform and produce the scope of work described in the grant application (Appendix A) and as applicable, HCC amendments (Appendix B) to the scope of work, in accordance with all applicable plans and specifications. If changes to the project scope are necessary, grantee agrees to get approval from the county before money is spent for items/activities that are not contained in this agreement.

2) Grantee will inform the HCC Program Manager as soon as possible of any significant problems, or delays that will materially affect the project or cause the project to fall behind schedule.

B. GRANT PERIOD

Starting Date: June 30, 2014

Ending Date: February 29, 2016

C. COMPETITIVE PROCUREMENT PROCESS

1) The parties do not anticipate the purchase of any materials or services for this project. Any services and/or materials that are expected to cost \$20,000 or more must seek at least three competitive bids or quotes from qualified individuals/firms. The Grantee must maintain financial records that verify the cost was competitively based from at least three written quotes submitted in response to written specifications. A waiver is permitted if fewer than three qualified individuals/firms are available to perform services and/or provide materials. Although it is not always necessary to select the lowest bid, an explanation for

Grantee Initials:

the selection must be documented which should be retained in your files and made available to the county upon request. County staff is available to help the grantee in meeting any procurement issues.

D. PAYMENT SCHEDULE

Funding will be distributed through Douglas County Administrative Services.

Below are the preferred payment schedules. An alternate payment schedule can be arranged with the HCC Program Manager, if needed.

Grants less than or equal to \$5,000

- 1) Once a grant performance agreement has been fully executed, the Grantee may begin project work. Grantee will receive a check from Douglas County for entire award amount.
- 2) Within 90 days of the completion of the project, the grantee needs to submit the receipt of fiscal documentation and a Final Project Report.

Grants greater than \$5,000

- 1) Once a performance agreement has been fully executed, the County will issue a payment of 30% of the project work.
- 2) When those funds have been expended and the grantee is ready for an additional payment, the Grantee shall submit an interim report that includes financial information related to the initial 30% of project award, as well as plans for the use of the next project award payment. See the guidelines for the interim report available from the HCC.
- 3) Once the interim report is reviewed and approved by the HCC Program Manager, the County will disburse the next 60% of the project award as soon as reasonably possible.
- 4) The remaining 10% of the total grant amount will be distributed as a reimbursement and will be issued once the Final Project Report has been reviewed and approved by the HCC Program Manager. The Final Project Report Template is available from the HCC Program Manager

F. CANCELLATION

The County or the Grantee reserve the right of termination for cause on a thirty (30) day notice should it be determined that either has failed to materially comply with the terms and conditions of the agreement, or when both parties agree that the project

Grantee Initials:

will not produce beneficial results commensurate with further expenditure of funds or because of circumstances beyond the control of the County and/or Grantee.

G. GENERAL CONDITIONS

1) If a concern or problem occurs during the implementation of the grant project plan, the HCC Program Manager will work with County staff and the grantee to resolve the issue. If the concern persists, it can be brought before the Board of County Commissioners.

2) When issuing press releases, official statements or documents that describe the project funded by Douglas County, an acknowledgement of the Douglas County Board of County Commissioners and the Natural Cultural Heritage Program should be included.

3) The Grantee agrees that it will comply with and abide by all applicable statutes, including applicable zoning and building code requirements, the Federal Civil Rights Act of 1964, the Kansas Conflict of Interest Act, K.S.A. 75-4301 et seq., the Kansas Open Records Act, K.S.A. 45-215 through 45-225, and the Federal Immigration Reform and Control Act of 1986. The Grantee also agrees to retain all books, records, and other documents relative to this agreement for five (5) years after final payment, .

4) The grantee agrees that Douglas County and all of their officers, agents and employees shall not be liable for claims on account of personal bodily injuries or death or on account of property damages arising out of the work to be performed by the grant recipient hereunder and resulting solely from the negligent acts or omissions of the grant recipient, its agents, employees and subcontractors. Such claims may not be pursued in accordance with the provisions of the Kansas Tort Claims Act, K.S.A. 75-6101 et seq.

I have read the above agreement and agree to abide by all of its provisions. Upon execution, this Agreement controls all activities during the project period.

In witness whereof, the parties have executed this project agreement.

Kristi Billinger
Grantee, Authoring Official

6/26/2014
Date

Kristi Billinger, Director, Research Administration
University of Kansas Center for Research, Inc.
2385 Irving Hill Road
Lawrence, KS 66045-7568

Grantee Initials: KB

Read and Acknowledged:

Kelly Kindscher 6/24/14

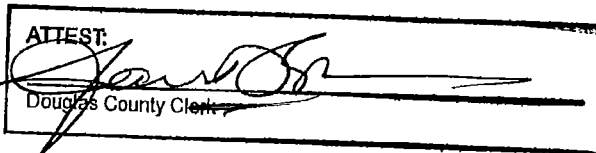
Grantee, Project Director (if different than above) Date

Kelly Kindscher, Senior Scientist/Professor
Kansas Biological Survey, University of Kansas
785-864-1529; kindsche@ku.edu

Nancy Thell

Douglas County

Date 6/30/14



Grantee Initials: kk

DRAFT MEMO

To: Douglas County Commission
From: Jan Shupert-Arick, Douglas County Heritage Coordinator
Re: Freedom's Frontier National Heritage Area Pass Through Program for Partners –
Creation of a Non-competitive Grant Program
Date: May 18, 2016

The Freedom's Frontier National Heritage Area Board of Directors has approved an incentive program to increase the amount of funding that would pass through FFNHA and assist FFNHA in meeting and exceeding required matching to qualify for federal funding. (See Pass Through Policy Proposal document at end of this memo.) This program is not intended to be a permanent opportunity. (Jim Ogle, Executive Director, FFNHA, estimates the life of the program to be 2-3 years.) Douglas County is a partner organization of FFNHA.

According to the FFNHA policy proposal, up to 10% of the Douglas County dollars allocated to local heritage organizations through the regular budget process and up to 10% of the DC Heritage Conservation Council Natural & Cultural grant program (only for grant projects that fit the guidelines of FFNHA) could come back to Douglas County as a non-competitive grant pool. This funding would provide new opportunities that support the newly formed Heritage Alliance * but only for projects that fit the FFNHA grant guidelines. Funds that have passed through since February 27, 2016 are eligible.

RECOMMENDATION

I recommend that Douglas County support the FFNHA Non-Competitive Grant Program in order to allow FFNHA to return up to 10% of the budgeted and heritage grant funds (competitive) to Douglas County and that the funds be assigned to the Heritage Alliance program.

* The funds could be used for previously identified needs agreed upon at the Heritage Alliance meetings. Examples include: signage, marketing, and the digitization of burial and cemetery records held in various and difficult to find collections across the county. Heritage Alliance members are also interested in seasonal staffing, first person interpreters, and program and fundraising assistance. New signage and marketing projects would result in an increase in heritage tourism, would promote a wider sharing and understanding of Douglas County history, and would result in an improved visitor experience in merely being able to find local historic sites. Collaborative projects in themselves support the idea of a shared heritage alliance across the county and encourage the efficient use of limited resources which relates to future sustainability for the heritage organizations in Douglas County.

“Pass Through” Policy Proposal

*Because FFNHA must secure \$300,000 in additional funding matches in this year in order to qualify to spend money in our 2016 budget from past federal funding.

*Because FFNHA needs an additional \$170,000 in matches to secure federal funding available to it from the National Park Service (NPS) through the federal appropriations process but not yet budgeted.

*Because “overmatch” is a critical part of the federal funding formula that could allow FFNHA to qualify for up to \$400,000/annually through the NPS.

FFNHA Trustees approve the following policy:

1. The Executive Director (ED) may approve agreements with organizations and governments in which FFNHA “passes-through” funding.
2. In order to incentivize organizations and government to participate, the ED may include, as part of the agreement, grants totaling no more than 10% of the “pass through” funds.
3. Such grants must meet the criteria established in our current competitive grant processes but made available to the receiving organization by agreeing to the “pass through.”
4. FFNHA will reimburse these grants upon presentation of documentation that the money was spent on criteria listed in point 3.
5. This incentive does not apply to in-kind gifts.

Example: County Alpha provides \$15,000/year in support to the “Alpha County Historical Society.” If that support “passes through” FFNHA for match purposes, then the “Alpha County Historical Society” is eligible to receive up to \$1,500 in a reimbursable grant.

This policy was approved by the Board, to be effective February 27, 2016 through December 31, 2017.



DOUGLAS COUNTY PUBLIC WORKS

3755 East 25th Street
Lawrence, KS 66046
(785) 832-5293 Fax (785) 842-1201
dgcopubw@douglas-county.com
www.douglas-county.com

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
Michael D. Kelly, P.S., County Surveyor

DATE : May 20, 2016

RE : Consent agenda
Acquisition of Easement; Drainage Structure Replacement
Project No. 2014-64; Structure No. 19.76N – 16.00E;

A project has been designed to replace a deficient drainage structure located approximately 1 mile northeast of the Lawrence airport on E1600 Road. Plans were developed in-house and negotiations with pertinent landowners for permanent and temporary easement have been completed.

Construction is currently planned for mid-summer 2016 and will be accomplished using county personnel.

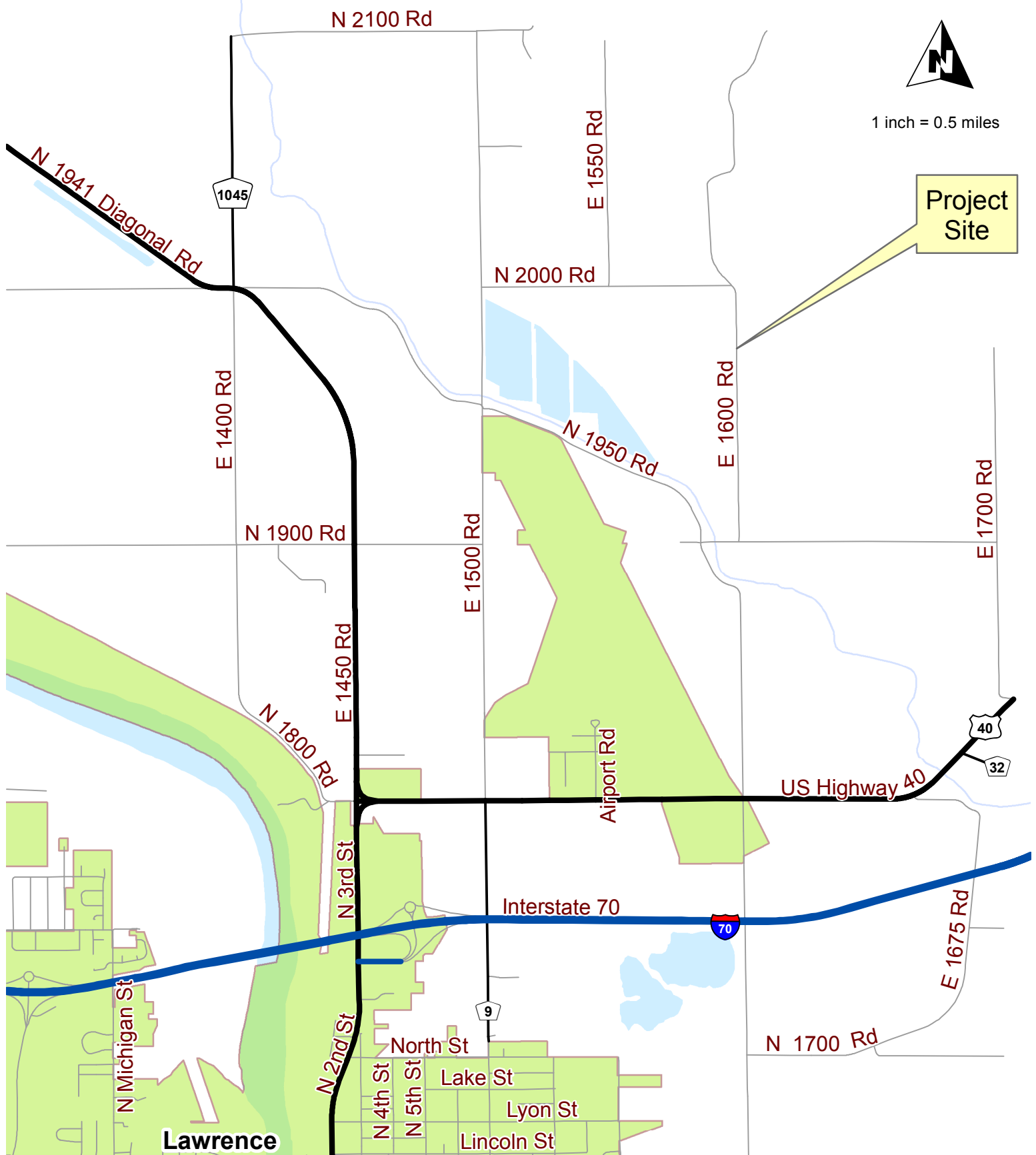
To ensure the proper completion of a necessary construction project approval is recommended for the attached CONTRACT's FOR HIGHWAY PURPOSES.

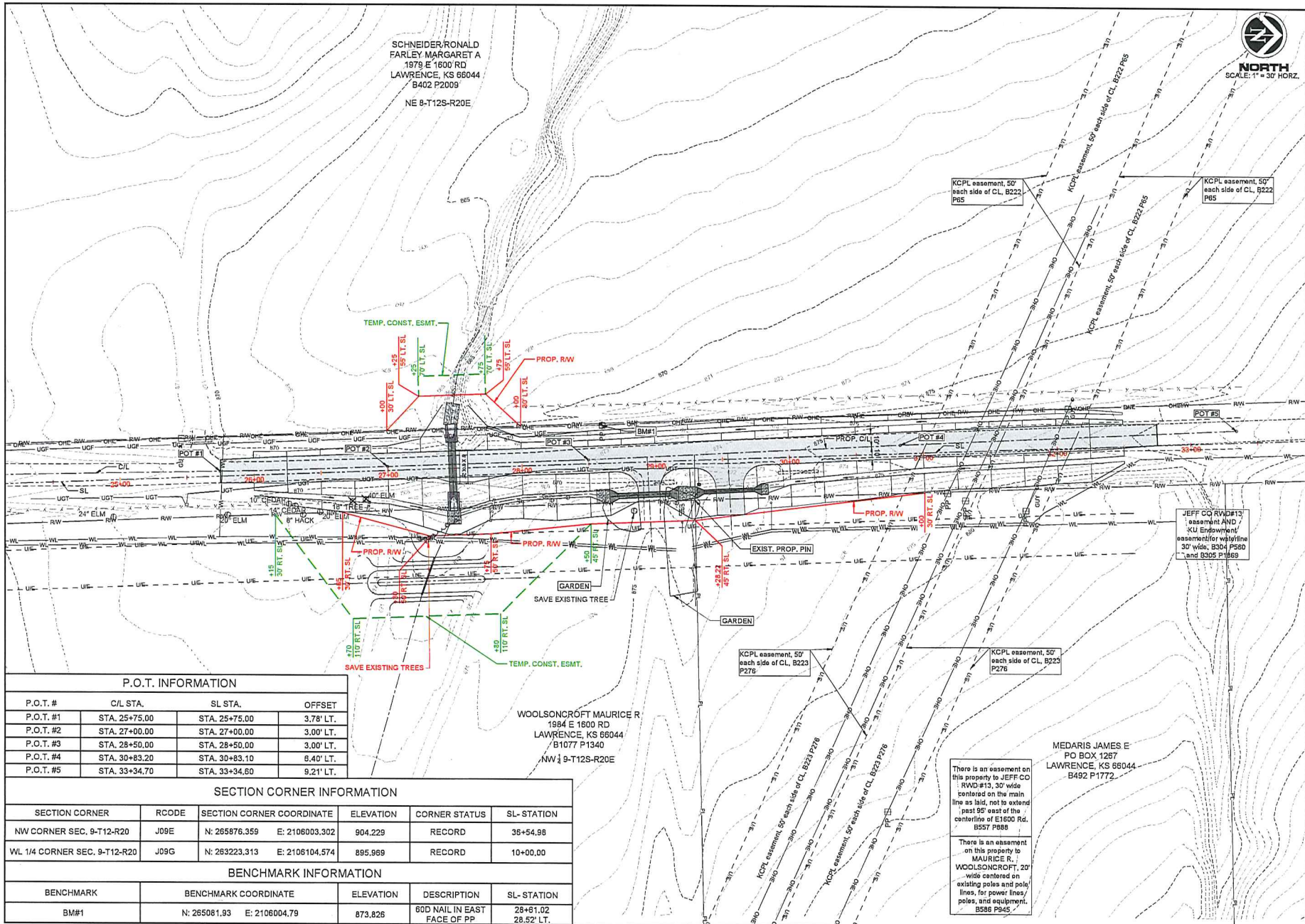
ACTION REQUIRED: Consent agenda approval of the CONTRACT's FOR HIGHWAY PURPOSES for Drainage Structure No. 19.76N – 16.00E.

Str. No. 19.76N - 16.00E



Project Site





P.O.T. INFORMATION

P.O.T. #	C/L STA.	SL STA.	OFFSET
P.O.T. #1	STA. 25+75.00	STA. 25+75.00	3.78' LT.
P.O.T. #2	STA. 27+00.00	STA. 27+00.00	3.00' LT.
P.O.T. #3	STA. 28+50.00	STA. 28+50.00	3.00' LT.
P.O.T. #4	STA. 30+83.20	STA. 30+83.10	6.40' LT.
P.O.T. #5	STA. 33+34.70	STA. 33+34.60	9.21' LT.

SECTION CORNER INFORMATION

SECTION CORNER	RCODE	SECTION CORNER COORDINATE	ELEVATION	CORNER STATUS	SL- STATION
NW CORNER SEC. 9-T12-R20	J09E	N: 265876.359 E: 2106003.302	904.229	RECORD	35+54.98
WL 1/4 CORNER SEC. 9-T12-R20	J09G	N: 263223.313 E: 2106104.574	895.969	RECORD	10+00.00

BENCHMARK INFORMATION

BENCHMARK	BENCHMARK COORDINATE	ELEVATION	DESCRIPTION	SL- STATION
BM#1	N: 265081.93 E: 2106004.79	873.826	60D NAIL IN EAST FACE OF PP	28+61.02 28.52' LT.

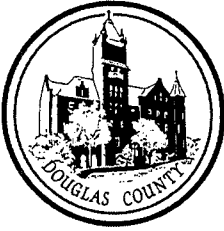
Douglas County Public Works
3755 East 25th Street
Lawrence, Kansas 66046



Project: 2014-64
Funding: 1976-1600
Designed by: J.E.
Drawn by: J.E.
Checked by: C.V.
Date: 12/01/15

GENERAL LAYOUT & R/W
SHEET 3 OF 12

CULVERT REPLACEMENT 19.76N 16.00E
PROJECT #2014-64 (CIP)
STRUCTURE NO. 19.76N 16.00E



DOUGLAS COUNTY PUBLIC WORKS

3755 E. 25th Street
Lawrence, KS 66046
(785) 832-5293 Fax (785) 842-1201
dgcopubw@douglascountyks.org
www.douglascountyks.org

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 : May 18, 2016

Re : Consent Agenda authorization to exchange federal funds under the
Federal-Aid Fund Exchange Master Agreement

In mid-April 2016 the BoCC signed a Federal-Aid Fund Exchange Master Agreement with KDOT. The Master Agreement stipulates terms under which Douglas County can exchange our federal obligation authority funds for state funds. The Master Agreement is valid for the duration of the Federal Fund Exchange Program.

Douglas County's currently available federal obligation authority funding is \$674,891.58. We need to submit a Request to Exchange Federal Funds form to notify KDOT of our intent to exchange the funds. The exchange rate remains \$0.90 state funds per \$1.00 federal obligation authority, which means Douglas County would receive \$607,402.42 in exchange for the \$674,891.58 in federal obligation authority funding.

Following submittal of the Request to Exchange Federal Funds form to KDOT, we will need to submit a Request for Reimbursement form along with backup information in order to receive the exchanged funds for work already performed. The Request for Reimbursement will not require BOCC approval.

Action Required: Consent Agenda authorization for the Public Works Director to sign the Request to Exchange Federal Funds form notifying KDOT that Douglas County wishes to exchange our current balance of federal funds for state funds at the exchange rate of \$0.90 state funds per \$1.00 federal obligation authority funds.



**KANSAS DEPARTMENT OF TRANSPORTATION
BUREAU OF LOCAL PROJECTS
REQUEST TO EXCHANGE FEDERAL FUNDS UNDER THE FEDERAL-AID FUND
EXCHANGE MASTER AGREEMENT**

Date: March 31, 2016

County/City:

Douglas

Federal Funds to Be Exchanged:

\$674,891.58

The Secretary of Transportation is hereby requested to make available to the city/county State Funds in exchange for the city's/county's allotment of Federal Funds in the amount stated above. The Exchange will be made under the Terms and Conditions as set forth in the city/county's Federal Fund Exchange Master Agreement previously executed between the city/county and the Secretary. This request shall be attached to and become a part of the city/county's Federal Funds Exchange Agreement.

Contact Person: _____ Title: _____

Address: _____

Phone: _____ Email: _____

*Signature** *Date*

Typed or Printed Name

Title

**The representative signing this request must be authorized by law to bind the city/county to an agreement.*

OFFICE OF

Jim Martin, Undersheriff
111 E 11th St – Operations
Lawrence, KS 66044
(785) 841-0007, fax (785) 841-5168



THE SHERIFF

Gary Bunting, Undersheriff
3601 E 25th St – Corrections
Lawrence, KS 66046
(785) 830-1000, fax (785) 830-1085

KENNETH M. MCGOVERN
Sheriff

MEMORANDUM

To: The Board of County Commissioners
County Administrator Craig Weinaug

From: Sheriff Kenneth M. McGovern

Date: May 20, 2016

Subject: Request to Amend Contract with Advanced Correctional Healthcare

On April 13, 2016, the Board of County Commissioners approved the Douglas County Sheriff's Office's to enter into an inmate medical services contract with Advanced Correctional Healthcare (ACH). The total annual cost of this contract is \$597,333.94 which includes a \$75,000 pool of money for the payment of certain medication and outside medical expenses.

The Sheriff's Office is requesting permission to amend this contract for two reasons. First, our agency would like to reallocate the nursing and certified medical technician services cost portion of the contract to the pool of money. This would increase the \$75,000 pool to \$420,000 (Articles 1.18, 1.21.2, and 1.21.4). The purpose would be to allow ACH to offer slightly higher wages to our some of our current staff who are experienced and have been loyal. The potential impact would be that it could reduce the original \$75,000 pool by an estimated \$20,000 for wages.

Secondly, the previously approved contract limits annual contract renewal cost increases to the twelve-month Consumer Price Index for medical care or zero percent, whichever is higher. Language has been added to limit an annual increase to not exceed three percent (Article 3.1.1). The rest of the contract and overall cost of \$597,333.94 would remain the same.

I recommend that the Board of County Commissioners approve this request to amend the contract with ACH. Undersheriff Gary Bunting and/or I will be available to answer any questions.

AGREEMENT FOR THE PROVISION OF INMATE HEALTH SERVICES
DOUGLAS COUNTY, KANSAS

This Agreement for the Provision of Inmate Health Services (hereinafter referred to as the “AGREEMENT”), effective as of the date of the last signature hereto, entered into by and between the County of Douglas, located in the State of Kansas (hereinafter referred to as the “COUNTY”) and Douglas County Sheriff in his official capacity (hereinafter referred to as the “SHERIFF”), and Advanced Correctional Healthcare, Inc. (hereinafter referred to as “ACH”), an Illinois corporation.

RECITALS

WHEREAS, the COUNTY desires to provide professional and responsive healthcare services to the inmates of the Douglas County Detention Center (hereinafter referred to as the “FACILITY”); and

WHEREAS, ACH is a corporation which provides professional and responsive healthcare services in incarceration facilities.

NOW THEREFORE, the parties enter into this AGREEMENT as hereinafter set forth.

DEFINITIONS

CORPORATE HOLIDAYS - New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

COUNTY INMATES – Inmates booked into the custody of the COUNTY or SHERIFF and presently incarcerated in the FACILITY, but not to include NON-COUNTY INMATES.

ELECTIVE CARE - Care which, if not provided, would not, in the opinion of ACH’s practitioner (a licensed practitioner employed by ACH), cause the inmate’s health to deteriorate, or cause harm to the inmate’s well-being.

MID-LEVEL PRACTITIONER – An advanced registered nurse practitioner or physician assistant who has completed an advanced training program. A MID-LEVEL PRACTITIONER will be duly licensed to practice medicine in the appropriate state.

MOBILE SERVICES – Laboratory services that are drawn on-site and sent off-site for testing, and any ancillary medical services in which a provider comes on-site to perform work using the provider’s equipment and/or staff, including, but not limited to X-ray services.

NON-COUNTY INMATES – Inmates who are covered by a government health program for American Indians; work release inmates while on work release; inmates during transport to/from outside facilities; and inmates housed in the FACILITY for other counties, State Department of Corrections, U.S. Immigration and Customs Enforcement (ICE), U.S. Marshals, and/or other federal agencies.

OFF-SITE SERVICES – Medical services including, but not limited to, consultation services, dental care not performed on-site, diagnostic testing, hospital services, medically-indicated emergency ground ambulance transportation, mental health services not performed on-site, laboratory services that are drawn off-site, and specialty services.

SPECIFIED MEDICATIONS – Medications related to the treatment of HIV, AIDS, HIV/AIDS related diseases, hepatitis, cystic fibrosis, multiple sclerosis, cancer, and/or active tuberculosis, as well as medications listed as biological and/or anti-rejection drugs. Medications related to these treatments will be defined in accordance with medical literature.

ARTICLE 1:
DUTIES AND OBLIGATIONS OF ACH

For and in consideration of the compensation to be paid to ACH as hereinafter set forth, ACH agrees as follows:

- 1.1 ADVANCED TRAINING. The FACILITY is entitled to receive one copy each of the training videos produced and sold by ACH at no additional charge, with the following exception: facilities will not receive training videos which cover topics for which they have already received an ACH training video covering that topic. If a training video is lost or stolen, the FACILITY may be charged a replacement fee to replace the video. ACH training videos are to be viewed by the FACILITY staff only and are not to be reproduced except with the prior written permission of ACH. ACH does not guarantee training credits and is not responsible for obtaining training credits on behalf of the FACILITY staff.
- 1.2 COLLECTION OF DNA/PHYSICAL EVIDENCE AND FORENSIC INFORMATION. ACH will perform body cavity searches on-site with signed consent from the inmate in accordance with the following guidelines: ACH staff are prohibited from participating in the collection of forensic evidence, except when: (1) complying with state laws that require blood samples from inmates, so long as there is consent of the inmate and ACH staff are not involved in any punitive action taken as a result of an inmate's nonparticipation in the collection process, (2) conducting body cavity searches, and blood or urine testing for alcohol or other drugs when done for medical purposes by a practitioner's order, and/or (3) conducting inmate-specific, court-ordered laboratory tests, examinations, oral swabs, or radiology procedures with consent of the inmate. ACH will not pay for any costs associated with any body cavity search or any other collection of forensic information, including, but not limited to, any associated medical fees, laboratory fees, added personnel costs, and/or court costs.
 - 1.2.1 SEXUAL ASSAULT. In the case of sexual assault, the inmate victim will be sent to the hospital for appropriate collection of evidence which includes chain of custody, counseling, and care. Court-ordered body cavity searches will be referred to the appropriate facility or emergency room.
- 1.3 CQI MEETINGS. ACH will review, at the scheduled Continuous Quality Improvement (CQI) meetings with the SHERIFF or designee, the healthcare reports concerning the overall operation of the healthcare services program and the general health of the inmates of the FACILITY.
- 1.4 DENTAL CARE. ACH will provide dental triage screenings for inmates for the purpose of identifying serious dental needs. POOL money will pay for any costs associated with dental care.
- 1.5 ECTOPARASITES. For inmates presenting with symptoms of ectoparasitic infection (as determined by the ACH practitioner), ACH will provide and pay for medically indicated treatment. For inmates without symptoms of ectoparasitic infection, ACH will provide treatment at the SHERIFF'S request, and the COUNTY will be responsible for the cost of the treatment. ACH will not be responsible for facility cleaning for ectoparasites.
- 1.6 ELECTIVE CARE. ACH will not provide ELECTIVE CARE to inmates. Decisions concerning ELECTIVE CARE will be consistent with the applicable American Medical Association (AMA) standards.
- 1.7 FACILITY STAFF TRAINING. Upon request of the SHERIFF, ACH will provide training for FACILITY staff on topics to be mutually agreed upon.
- 1.8 HEALTH EDUCATION AND EVALUATIONS. ACH will provide health education materials to the SHERIFF for inmate education. ACH will also provide on-site health evaluations and medical care for inmates. Additionally, ACH will provide basic physical examinations for potential inmate workers to ensure the inmates are physically capable of performing assigned work duties.
- 1.9 INMATE LABOR. Inmates will not be employed or otherwise engaged or utilized by ACH in the direct rendition of any healthcare services.

- 1.10 MEDICAL CLAIMS RE-PRICING. ACH will be responsible for the re-pricing of medical claims. Once claims are received, ACH will calculate the applicable discount (if any) and confirm the integrity of the claim prior to payment.
- 1.11 MEDICAL RECORDS. Inmate medical records will always be the property of the SHERIFF and will remain with the SHERIFF. ACH will maintain or require being maintained medical records for each inmate who has received healthcare services. The medical records will be kept separate from the inmate's confinement record. A complete copy of the original applicable medical record will be available to accompany each inmate who is transferred from the FACILITY to another location for off-site services or transferred to another institution. Medical records will be kept confidential, subject to applicable laws and exemptions regarding confidentiality of inmate medical records. ACH will comply with the SHERIFF's policy with regard to access by inmates to their medical records. The SHERIFF will provide ACH with reasonable ongoing access to all medical records, even after the expiration of this AGREEMENT, for the purpose of defending litigation.
- 1.12 MEDICAL SUPPLIES (DISPOSABLE). ACH will pay for and provide disposable medical supplies intended for one-time use, not to include durable or reusable medical supplies. Typical disposable medical supplies expected in a medical unit would be tongue blades, Band-Aids, gauze pads, medical tape, sterile water, saline, pregnancy tests, blood sugar strips, peak flow mouth pieces, O2 tubing, urine test strips, syringes, gloves **for the medical staff**, med cups, lancets, ammonia ampules, cotton-tip applicators, and alcohol preps.
- 1.13 MENTAL HEALTH SERVICES – CRISIS INTERVENTION. ACH will refer inmates to crisis intervention services when indicated. The crisis intervention services will be provided by the FACILITY staff in concert with ACH staff. ACH will coordinate with the medical and programming services (e.g., chemical dependence) at the FACILITY so that patient management is appropriately integrated, health needs are met, and the impact of any of these conditions on each other is adequately addressed. ACH will use an integrated and multidisciplinary team (including FACILITY staff) to develop treatment plans for inmates displaying problematic behavior.
- 1.14 MOBILE SERVICES. When MOBILE SERVICES are required for medical reasons and are available to come to the FACILITY, ACH will arrange for those services for inmates in accordance with the SHERIFF's policies and procedures. POOL money will pay for the costs associated with MOBILE SERVICES.
- 1.15 OFF-SITE SERVICES. When OFF-SITE SERVICES are required for medical reasons, ACH will arrange for those services for inmates and in accordance with the SHERIFF's policies and procedures. POOL money will pay for any costs associated with OFF-SITE SERVICES.
- 1.16 OTHER SERVICES AND EXPENSES. ACH will not provide and will not pay for any services, supplies and/or equipment which are not specifically contained in this AGREEMENT.
- 1.17 PHARMACEUTICALS.
- 1.17.1 COURT-ORDERED MEDICATIONS AND TESTING. ACH will provide all court-ordered medications and testing to inmates.
- 1.17.1.1 COUNTY INMATES. ACH will only pay for court-ordered medications that (1) the ACH practitioner considers appropriate and (2) are not included on the SPECIFIED MEDICATIONS list. All other court-ordered medications and testing for COUNTY INMATES will be paid for with POOL money.
- 1.17.1.2 NON-COUNTY INMATES (not to include inmates housed for ICE). ACH will only pay for court-ordered medications that (1) the ACH practitioner considers appropriate and (2) are prescribed over-the-counter medications. All other court-ordered medication and testing for NON-COUNTY INMATES will be billed to the COUNTY so the COUNTY may seek reimbursement from the responsible authority of the NON-COUNTY INMATE.
- 1.17.2 HOME MEDICATIONS. The COUNTY agrees to allow home medications in the FACILITY when they are able to be properly verified.

- 1.17.3 COUNTY INMATES. ACH will provide all medically-indicated pharmaceuticals for COUNTY INMATES. ACH will pay for prescription medications; prescribed over-the-counter medications; and psychotropic medications which are prescribed by ACH practitioners; with the following exception: POOL money will pay for all SPECIFIED MEDICATIONS. POOL money will also pay for all psychotropic medications which are prescribed by non-ACH practitioners.
- 1.17.4 INMATES HOUSED FOR ICE. ACH will provide all medically-indicated pharmaceuticals for inmates housed for ICE. ACH will not pay for any pharmaceuticals for ICE inmates. Prescription medications will be billed directly to ICE by the applicable pharmacy. The COUNTY will pay for any prescription medications for which ICE refuses to pay, as well as any prescribed over-the-counter medications.
- 1.17.5 NON-COUNTY INMATES (not to include inmates housed for ICE). ACH will provide all medically-indicated pharmaceuticals for NON-COUNTY INMATES. ACH will only pay for prescribed over-the-counter medications. All other prescription medications will be billed to the COUNTY so the COUNTY may seek reimbursement from the responsible authority of the NON-COUNTY INMATE.
- 1.18 POOL. The COUNTY will have a POOL of four hundred twenty thousand dollars (\$420,000.00) to be used every twelve (12) months (hereinafter referred to as the "POOL"). The POOL money will be spent as indicated in this AGREEMENT. Certain NON-COUNTY INMATE costs (including but not limited to dental care, MOBILE SERVICES, OFF-SITE SERVICES, and SPECIFIED MEDICATIONS) will not be paid for with POOL money.
- 1.18.1 The date of service for outpatient care, or date of admission for hospitalization, or date of the prescription, will be used to determine the calendar month in which the expenses are to be applied toward the POOL. Any costs exceeding the POOL will be reconciled back to the COUNTY at the time the costs exceed the POOL, or monthly, as needed.
- 1.18.2 All monies remaining in the POOL after receipt of invoices will be returned to the COUNTY within ninety (90) days after the twelve (12) month term. Invoices received more than ninety (90) days after the close of the twelve (12) month term will be forwarded to the COUNTY for payment.
- 1.18.3 In the event this AGREEMENT is terminated prior to the twelve (12) month term in which the POOL applies, any remaining POOL monies will be prorated for the portion of the twelve (12) month term elapsed. Costs exceeding the prorated amount will be paid by the COUNTY.
- 1.19 PRISON RAPE ELIMINATION ACT OF 2003 (PREA). Should the SHERIFF choose to comply with PREA, ACH will endeavor to comply with PREA, applicable PREA standards, and the FACILITY's policies related to PREA for preventing, detecting, monitoring, investigating, and eradicating any form of sexual abuse within the FACILITY. ACH acknowledges that, in addition to self-monitoring, the FACILITY may conduct announced or unannounced monitoring to include on-site monitoring.
- 1.20 SHERIFF'S POLICIES, PROCEDURES, AND PROTOCOLS. ACH staff will operate within the requirements of the SHERIFF's policies, procedures, and protocols as communicated to ACH staff by the SHERIFF or designee. Such policies, procedures, and protocols may change from time to time; if so, the SHERIFF or designee will promptly notify ACH staff, provide them with a written copy of the modified policy, procedure, or protocol, and provide any necessary training to the ACH staff. All policies, procedures, and protocols regarding operations within the FACILITY will at all times remain the property of the SHERIFF and will remain at the FACILITY after termination of this AGREEMENT.
- 1.21 STAFFING. ACH will provide staffing coverage as requested by the SHERIFF and detailed in this staffing section.
- 1.21.1 MEAL BREAKS. It is understood and agreed that ACH employees are allowed to leave the premises during the work day for meal breaks.
- 1.21.2 NURSING. ACH will provide on-site licensed practical nursing coverage for one hundred fifty-two (152) hours per week and registered nursing coverage for forty (40) hours per week on a schedule approved by

the SHERIFF. When approved by the SHERIFF or designee, hours worked in excess of the contracted amount will be billed monthly to the COUNTY at the prevailing wage and benefit rate of the ACH employee. For hours of absence due to CORPORATE HOLIDAYS, paid time off, or sick time, the hours will not be replaced or credited. For all other absences, ACH endeavors to provide replacement coverage, and if it is unable to do so, ACH's Director of Medical Operations for the FACILITY and the SHERIFF or designee will negotiate a mutually agreeable remedy. Wages for the nursing staff will be paid for with POOL money.

1.21.3 PRACTITIONER. A physician and/or MID-LEVEL PRACTITIONER will visit the FACILITY weekly or as otherwise agreed by the SHERIFF and ACH, and will stay until all work is completed. A MID-LEVEL PRACTITIONER will only be used with the approval of the SHERIFF. The physician and/or MID-LEVEL PRACTITIONER will be available by telephone to the FACILITY and medical staff on an on-call basis, seven (7) days per week, twenty-four (24) hours per day. For scheduled visits that fall on CORPORATE HOLIDAYS, coverage will be provided by telephone only.

1.21.4 CERTIFIED MEDICAL TECHNICIAN. ACH will provide on-site certified medical technician for forty (40) hours per week on a schedule approved by the SHERIFF. When approved by the SHERIFF or designee, hours worked in excess of the contracted amount will be billed monthly to the SHERIFF at the prevailing wage and benefit rate of the ACH employee. For hours of absence due to CORPORATE HOLIDAYS, paid time off, or sick time, the hours will not be replaced or credited. For all other absences, ACH endeavors to provide replacement coverage, and if it is unable to do so, ACH's Director of Medical Operations for the FACILITIES and the SHERIFF or designee will negotiate a mutually agreeable remedy. Wages for the certified medical technician will be paid for with POOL money.

1.22 TUBERCULOSIS (TB) TESTING.

1.22.1 FACILITY STAFF. ACH will perform TB skin tests as directed by the SHERIFF. The COUNTY will pay for the TB serum and related supplies. Upon the SHERIFF's request, ACH will secure the serum and related supplies through the correctional pharmacy to secure the best possible price, then bill the COUNTY for those costs.

1.22.2 INMATES. ACH will provide TB skin tests as directed by the SHERIFF. ACH will pay for the TB serum and related supplies.

ARTICLE 2: **DUTIES AND OBLIGATIONS OF THE COUNTY**

2.1 BIOMEDICAL WASTE DISPOSAL. The COUNTY will be responsible for the provision of and cost of biomedical waste disposal services at the FACILITY consistent with all applicable laws. Typical biomedical waste expected in the medical unit would be bandages, dressings, gloves, hypodermic needles, laboratory containers, sharps, and syringes.

2.2 DUTY TO PROTECT INMATES. The non-delegable duty to protect inmates is, and always will be, vested in the SHERIFF. This AGREEMENT does not result in the assumption of a non-delegable duty by ACH. As such, the SHERIFF specifically retains the duty and obligation for security of the inmates. This duty extends to the control of inmate movement. ACH and its personnel will assume no responsibility for the movement of inmates and assume no responsibility for inmate protection at any time.

2.3 HIRING OF ACH STAFF. While ACH is pleased to provide staffing during this engagement, ACH does not expect the COUNTY to offer permanent employment to ACH employees or independent contractors. ACH has a significant investment in the training and professional development of our employees and independent contractors and they are valued employees and independent contractors of ACH. If the COUNTY should hire any ACH employee or independent contractor during this AGREEMENT term or within one (1) year after this AGREEMENT's termination, the COUNTY will be billed a professional replacement fee of Ten Thousand Dollars (\$10,000) to compensate ACH for each employee or independent contractor, with the following

exception: this does not apply to any medical staff member who was employed by the COUNTY prior to this AGREEMENT.

- 2.4 INMATE INFORMATION. The SHERIFF will provide, as needed, information pertaining to inmates that ACH and the SHERIFF mutually identify as reasonable and necessary for ACH to adequately perform its obligations to the SHERIFF and the COUNTY. Additionally, during this AGREEMENT period, and for a reasonable time thereafter, the SHERIFF will provide ACH, at ACH's request, the SHERIFF's records relating to the provision of healthcare services to inmates as may be reasonably requested by ACH in connection with an investigation of, or defense of, any claim by a third party related to ACH's conduct. As ACH may reasonably request, and consistent with applicable state and federal laws and the foregoing provision, the SHERIFF will also make available to ACH such records as are maintained by the SHERIFF, hospitals, and other off-site healthcare providers involved in the care or treatment of inmates (to the extent the SHERIFF has any control over those records). Any such information provided by the SHERIFF to ACH that the SHERIFF considers confidential will be kept confidential by ACH and will not, except as may be required by law, be distributed to any third party without the prior written approval of the SHERIFF. Notwithstanding any provision of this AGREEMENT to the contrary, the SHERIFF's internal affairs investigative records will not be required to be provided to ACH or any other person or entity (except as may be required by law).
- 2.5 MEDICAL EQUIPMENT (DURABLE). Medical equipment remains the responsibility of the SHERIFF. At the SHERIFF's request, ACH may assist the SHERIFF in securing the equipment at cost-effective pricing. Typical durable medical equipment expected in a medical unit would be: exam table, exam stool, ophthalmic / otoscope, peak flow meter, digital thermometer, stethoscope, X-large and large blood pressure cuffs, emesis basin, CPR AmbuBag (adult & 2-way mask), refrigerator (small), and scales. Upon termination of this AGREEMENT, the medical equipment will be in good working order, with allowances made for reasonable wear and tear.
- 2.6 NON-MEDICAL CARE OF INMATES. The COUNTY will provide and pay for all other personal (non-medical) needs of the inmates while in the FACILITY, including, but not limited to: daily housekeeping services; dietary services, including special supplements, liquid diets, or other dietary needs; building maintenance services; personal hygiene supplies and services; clothing; and linen supplies.
- 2.7 OFFICE EQUIPMENT (DURABLE). The SHERIFF will provide use of COUNTY-owned office equipment and all necessary utilities in place at the FACILITY's healthcare unit. Typical office equipment expected in a medical unit would be a locking file (recommended four-drawer); paper punch; staple remover; stapler; cabinet for storing medical supplies such as Band-Aids, gauze, etc.; computer; fax machine; copier / printer; and toner. Upon termination of this AGREEMENT, the office equipment will be in good working order, with allowances made for reasonable wear and tear.
- 2.8 OFFICE SUPPLIES (DISPOSABLE). The COUNTY will provide disposable office supplies, such as medical charts, paper, pens, staples, and Post-It notes which are required for the provision of inmate healthcare services.
- 2.9 SECURITY. The SHERIFF will maintain responsibility for the physical security of the FACILITY and the continuing security of the inmates. ACH and the SHERIFF understand that adequate security services are necessary for the safety of the agents, employees, and subcontractors of ACH, as well as for the security of inmates and FACILITY staff, consistent with the correctional setting. The SHERIFF will provide security sufficient to enable ACH and its personnel to safely provide the healthcare services described in this AGREEMENT. The SHERIFF will screen ACH's proposed staff to ensure that they will not constitute a security risk. The SHERIFF will have final approval of ACH's employees in regards to security/background clearance.

ARTICLE 3: **COMPENSATION/ADJUSTMENTS**

- 3.1 ANNUAL AMOUNT/MONTHLY PAYMENTS. The annualized amount to be paid by the COUNTY to ACH under this AGREEMENT is to be five hundred ninety-seven thousand three hundred thirty-three dollars and ninety-four cents (\$597,333.94). The COUNTY will make monthly payments of forty-nine thousand seven hundred seventy-seven dollars and eighty-three cents (\$49,777.83), which is equal to 1/12 of the annualized amount, during the term of this AGREEMENT. ACH will bill the COUNTY approximately thirty (30) days prior

to the month in which services are to be rendered. The COUNTY agrees to pay ACH prior to the tenth (10th) day of the month in which services are rendered.

3.1.1 ANNUAL AMOUNT UPON RENEWAL. Upon the annual anniversary date of this AGREEMENT, the annualized amount of increase for compensation will be the 12-Month Consumer Price Index (CPI) for medical care, but will not be lower than zero percent (0%) or higher than three percent (3%). The CPI will be calculated from the most recent CPI data as published by the Bureau of Labor Statistics. The annual increase will be provided to the COUNTY by ACH no later than April 1 of the year before the commencement of the possible one year term extension.

3.2 QUARTERLY ADJUSTMENTS. Account reconciliation will be completed for variances in the ADP and other expenses, such as equipment or services purchased by ACH (with prior approval of the COUNTY) on behalf of the COUNTY.

3.2.1 AVERAGE DAILY POPULATION (ADP). ADP for a given quarter will be determined from the FACILITY census records. For billing purposes, the COUNTY INMATE ADP will be 186 and the NON-COUNTY INMATE ADP will be 0. Inmates who are not presently incarcerated in the FACILITY (i.e., persons on electronic monitoring or probation, or who are hospitalized, or in halfway housing or early release housing) should not be counted in either ADP reported to ACH by the COUNTY. The ADPs reported to ACH should only include those inmates presently incarcerated in the FACILITY.

3.2.2 PER DIEM.

3.2.2.1 GENERAL. Per diem rate(s) are intended to cover additional costs in those instances where minor, short-term changes in the inmate population results in the higher utilization of routine supplies and services. The per diem is not intended to provide for any additional fixed costs, such as new fixed staffing positions that might prove necessary if the inmate population grows significantly and is sustained. ACH will request the monthly count for these separate populations on a quarterly basis.

3.2.2.2 COUNTY INMATES. When the ADP exceeds or falls below the contracted rate in any calendar quarter, the compensation variance will be figured on the average number of COUNTY INMATES above or below the contracted ADP for that quarter multiplied by the per diem rate of \$0.67 per inmate per day. (Example: If the ADP for a quarter is 10 above the contracted ADP, additional compensation due will be calculated as follows: 10 x \$0.67 x 91)

3.2.2.3 NON-COUNTY INMATES. To cover the cost of incidental medical expenses for NON-COUNTY INMATES (such as disposable medical supplies, biomedical waste disposal services, and medical malpractice and civil rights insurance coverage), a separate per diem rate of \$0.27 per inmate per day will be assessed for each NON-COUNTY INMATE housed in the FACILITY in excess of the contracted NON-COUNTY INMATE ADP.

3.2.3 ARREARS. Any contract amount in arrears will be settled through reconciliation and adjusted accordingly. Adjustments will be made to the first monthly invoice prepared after reconciliation between ACH and the COUNTY. Payment of the adjusted amount will be due upon receipt of said invoice.

ARTICLE 4: **TERM AND TERMINATION**

4.1 TERM. The term of this AGREEMENT will begin on July 1, 2016 at 12:01 A.M. and will continue in full force and effect until June 30, 2017 at 11:59 P.M., unless earlier terminated, extended, or renewed pursuant to this AGREEMENT. The COUNTY will have the option to renew this AGREEMENT for up to four (4) additional one (1) year terms, provided that the COUNTY provided notice to ACH at least 30 days prior to the date this AGREEMENT would otherwise terminate. The term of this AGREEMENT will extend one additional year each time the COUNTY exercises its option to renew. The COUNTY's extension of this AGREEMENT one or more

times will not require the COUNTY to exercise its option to extend for the full four (4) additional years. ACH agrees to provide the COUNTY with the annual increase for the extended term as detailed in section 3.1.1 above.

4.2 TERMINATION.

4.2.1 TERMINATION FOR LACK OF APPROPRIATIONS. It is understood and agreed that this AGREEMENT will be subject to annual appropriations by the COUNTY. If funds are not appropriated for this AGREEMENT, then upon exhaustion of such funding, the COUNTY and the SHERIFF will be entitled to immediately terminate this AGREEMENT without penalty or liability. Recognizing that such termination may entail substantial costs for ACH, the COUNTY and the SHERIFF will act in good faith and make every effort to give ACH reasonable advance notice of any potential problem with funding or appropriations. The COUNTY agrees to pay for services rendered up to the point of termination.

4.2.2 30-DAY OUT CLAUSE. Notwithstanding anything to the contrary contained in this AGREEMENT, the COUNTY, the SHERIFF, or ACH may, without prejudice to any other rights they may have, terminate this AGREEMENT by giving thirty (30) days' advance written notice to the other party. If thirty (30) days' advance written notice is provided, termination will be without penalty to any of the parties. If the SHERIFF or the COUNTY gives ACH less than thirty (30) days' advance written notice, the COUNTY agrees to pay to ACH a penalty equal to one (1) month's contract price as an early termination fee.

ARTICLE 5: **GENERAL TERMS AND CONDITIONS**

5.1 ADVICE OF COUNSEL. Each of the parties (a) has had the opportunity to seek counsel, legal or otherwise, prior to entering into this AGREEMENT, (b) is freely entering into this AGREEMENT of his/her or its own volition, and (c) understands and agrees that this AGREEMENT will be construed as if drafted by both parties and not by one party solely.

5.2 ARBITRATION; GOVERNING LAW. The parties hereby agree that any dispute arising under this AGREEMENT, or in connection with any breach thereof, will be finally resolved through binding arbitration conducted in Lawrence, Kansas, in accordance with the Commercial Arbitration Rules of the American Arbitration Association by a single, neutral arbitrator appointed in accordance with such Rules. No punitive damages may be granted by the arbitrator. The parties agree that the arbitrator's decision will be the sole, exclusive and binding remedy between them regarding any and all such disputes. This AGREEMENT, and any arbitration conducted thereby, will be governed by the laws of the State of Kansas (without reference to conflicts of laws principles).

5.3 ASSIGNMENT. ACH may not assign this AGREEMENT or any rights hereunder in whole or in part. Subject to the foregoing, this AGREEMENT will inure to the benefit of and be binding upon each of the heirs, permitted assigns, and successors of the respective parties. Any assignment in violation of this section will be null and void.

5.4 ATTORNEY FEES AND COSTS. In the event a lawsuit, arbitration, or mediation is initiated by either party, the party against whom a judgment or award is entered will also be liable for costs of suit and reasonable attorneys' fees as set by the court or arbitrator.

5.5 AUTHORITY. The persons signing below represent that they have the right and authority to execute this AGREEMENT for their respective entities and no further approvals are necessary to create a binding AGREEMENT.

5.6 COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS. The SHERIFF, the COUNTY, and ACH agree that no party will require performance of any ACH or COUNTY employee, agent or independent contractor that would violate federal, state and/or local laws, ordinances, rules and/or regulations.

5.7 COUNTERPARTS; HEADINGS. This AGREEMENT may be executed in counterparts, each of which will be an original and all of which will constitute one AGREEMENT. The headings contained in this AGREEMENT are for reference purposes only and will not affect in any way the meaning or interpretation of this AGREEMENT.

The terms “inmate” and “detainee” may be used interchangeably throughout this AGREEMENT and will not affect in any way the meaning or interpretation of this AGREEMENT.

- 5.8 DEPARTMENT OF JUSTICE REQUIREMENTS. The COUNTY will be responsible for any additional services required at the FACILITY as the result of governmental (including, but not limited to, the Department of Justice, Immigration and Customs Enforcement, Department of Corrections, Federal Bureau of Prisons, or United States Marshals Service) investigation, mandate, memorandum, or order.
- 5.9 ENTIRE AGREEMENT; AMENDMENT. This AGREEMENT represents the entire understanding of the parties with respect to the subject matter hereof, supersedes and cancels all prior agreements, understandings, arrangements, or representations between the parties with respect to such subject matter, and may only be amended by written agreement of both parties. The parties agree that their performances hereunder do not obligate either party to enter into any further agreement or business arrangement.
- 5.10 EQUAL EMPLOYMENT OPPORTUNITY. It is the policy of ACH to provide equal employment opportunities to all employees and applicants for employment without regard to race, color, religion, sex, national origin, disability, age, or genetics. In addition, it is the policy of ACH to comply with applicable state and local laws governing nondiscrimination in employment in every location in which ACH has facilities and employees. This policy applies to all terms and conditions of employment including, but not limited to, recruitment, hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, benefit plans, all forms of compensation, and training.
- 5.11 EXCUSED PERFORMANCE. In case performance of any terms of parts hereof will be delayed or prevented because of compliance with any law, decree, or order of any governmental agency or authority of local, state, or federal governments or because of riots, public disturbances, strikes, lockouts, differences with workers, fires, floods, Acts of God, or any other reason whatsoever which is not within the control of the parties whose performance is interfered with and which, by the exercise of reasonable diligence, said party is unable to prevent, the party so suffering may at its option, suspend, without liability, the performance of its obligations hereunder during the period such cause continues.
- 5.12 FURTHER ACTS. The parties agree to perform any further acts and execute and deliver any further documents that may be reasonably necessary to carry out the provisions of this AGREEMENT.
- 5.13 GROUP PURCHASING. The COUNTY authorizes ACH to sign up the FACILITY as a ship-to site under ACH’s group purchasing plan.
- 5.14 HOLD HARMLESS AND INDEMNIFY.
- 5.14.1 ACH will hold harmless and indemnify the COUNTY and SHERIFF (together with their respective employees) against any loss or damage, including reasonable attorneys’ fees and other costs of litigation, solely caused or necessitated by the negligent, reckless, intentional, or deliberately indifferent conduct of ACH or its employees, which is related to medical treatment or care provided by ACH. With respect to any claim for indemnification, the COUNTY will (i) give written notice thereof to ACH within a reasonable period following the event or occurrence as to which the right to indemnification is or may be asserted and (ii) allow ACH (including the employees, agents, and counsel) reasonable access to any of its employees, property, and records for the purposes of conducting an investigation of such claim and for the purpose of obtaining statements, photographs, and taking such other steps as may be necessary to preserve evidence of the occurrence on which the claim is based. If the COUNTY denies ACH reasonable access as set forth, after written request therefore, the COUNTY will assume sole responsibility for the claim for which indemnification is sought and will not be entitled to indemnity.
- 5.14.2 The COUNTY will hold harmless and indemnify ACH (together with its respective employees) against any loss or damage, including reasonable attorneys’ fees and other costs of litigation, solely caused or necessitated by the negligent, reckless, intentional, or deliberately indifferent conduct of the COUNTY or its employees, which is related to medical treatment or care provided by ACH. With respect to any claim for indemnification, ACH will (i) give written notice thereof to the COUNTY within a reasonable period

following the event or occurrence as to which the right to indemnification is or may be asserted and (ii) allow the COUNTY (including the employees, agents, and counsel) reasonable access to any of its employees, property, and records for the purposes of conducting an investigation of such claim and for the purpose of obtaining statements, photographs, and taking such other steps as may be necessary to preserve evidence of the occurrence on which the claim is based. If ACH denies the COUNTY reasonable access as set forth, after written request therefore, ACH will assume sole responsibility for the claim for which indemnification is sought and will not be entitled to indemnity.

- 5.15 INDEPENDENT CONTRACTORS. In order to discharge its obligations hereunder, ACH may engage certain healthcare professionals as independent contractors rather than employees.
- 5.16 INSURANCE.
- 5.16.1 ACH will maintain commercial automobile liability insurance with minimum limits of One Million Dollars (\$1,000,000) per occurrence, covering owned, hired, and non-owned automobiles.
- 5.16.2 ACH will maintain one or more commercial general liability insurance policies with minimum limits of bodily injury and/or property damage: One Million Dollars (\$1,000,000) each occurrence and an annual policy aggregate of Two Million Dollars (\$2,000,000).
- 5.16.3 ACH will maintain professional liability insurance, including civil rights liability, with minimum limits of One Million Dollars (\$1,000,000) each occurrence, Three Million Dollars (\$3,000,000) annual aggregate.
- 5.16.4 ACH will maintain workers' compensation and employer's liability insurance covering its employees while on the FACILITY's premises that complies with the statutory minimum requirements in the applicable state(s).
- 5.16.5 ADDITIONAL INSURED. ACH will name the SHERIFF and the COUNTY as an additional insured for the sole negligence of ACH under the commercial automobile, commercial general and professional liability portions of insurance and provide the COUNTY with a Certificate of Insurance specific to correctional facilities evidencing the terms of the insurance coverage and policy limits.
- 5.17 NEW LEGISLATION. Should new legislation require substantial new medical treatment, the COUNTY will pay for it, unless specifically agreed upon between ACH and the COUNTY.
- 5.18 NO GRANT OF RIGHTS. Each of the parties understands and agrees that no grant or license of a party's rights in any patent, trademark, trade secret, copyright and/or other intellectual property right is made hereby, expressly or by implication.
- 5.19 NO RELATIONSHIP OR AUTHORITY. The parties agree that ACH will at all times be an independent contractor in the performance of the services hereunder, and that nothing in this AGREEMENT will be construed as or have the effect of constituting any relationship of employer/employee, partnership, or joint venture between the COUNTY and ACH. ACH does not have the power or authority to bind the COUNTY or to assume or create any obligation or responsibility on the COUNTY's behalf or in the COUNTY's name, except as otherwise explicitly detailed in this AGREEMENT, and ACH will not represent to any person or entity that ACH has such power or authority. ACH will not act as an agent nor will ACH be deemed to be an employee of the COUNTY for the purposes of any employee benefit program.
- 5.20 NOTICE. Any notice required or permitted to be given hereunder will be in writing and delivered by overnight courier (e.g., FedEx), or by facsimile (receipt confirmed), to the respective addresses in this section or such other addresses as may be designated in writing by the applicable party from time to time, and will be deemed to have been given when sent. To the SHERIFF and/or the COUNTY: Douglas County Detention Center, 3601 E. 25th Street, Lawrence, Kansas 66046; facsimile: 785.830.1085. To ACH: Advanced Correctional Healthcare, Inc., Attn: Contract Attorney, 3922 West Baring Trace, Peoria, IL 61615; facsimile: 309.214.9977; email: jkolberg@advancedch.com.

- 5.21 OTHER CONTRACTS AND THIRD PARTY BENEFICIARIES. The parties acknowledge that ACH is not bound by or aware of any other existing contracts to which either the SHERIFF or the COUNTY are a party and which relate to the provision of healthcare to inmates at the FACILITY. The parties agree that they have not entered into this AGREEMENT for the benefit of any third person(s) and it is their express intention that this AGREEMENT is intended to be for their respective benefits only and not for the benefits of others who might otherwise be deemed to constitute third party beneficiaries thereof.
- 5.22 SEVERABILITY. If any provision of this AGREEMENT, or any portion thereof, is found to be invalid, unlawful, or unenforceable to any extent, such provision will be enforced to the maximum extent permissible so as to effect the intent of the parties, and the remainder of this AGREEMENT will continue unaffected in full force and effect. The parties will negotiate in good faith an enforceable substitute provision for such invalid provision that most nearly achieves the same intent and economic effect.
- 5.23 SUBCONTRACTING. In order to discharge its obligations hereunder, ACH may subcontract services including, but not limited to, pharmaceutical services, biomedical waste disposal, and mobile services.
- 5.24 USE BY OTHER PUBLIC AGENCIES (PIGGYBACK). ACH agrees to allow the COUNTY to authorize other public agencies in the COUNTY to purchase the proposed items by issuance of a purchase order at the same terms and conditions as this AGREEMENT, and to make payments directly to ACH during the period of time that this AGREEMENT is in effect.
- 5.25 USE OF NAME. It is understood and agreed by ACH that ACH's name may appear in certain COUNTY disclosure documents, including those required by law and in other regulatory and administrative filings in the ordinary course of the COUNTY's operations.
- 5.26 WAIVER. Any waiver of the provisions of this AGREEMENT or of a party's rights or remedies under this AGREEMENT must be in writing to be effective. Failure, neglect, or delay by a party to enforce the provisions hereof or its rights or remedies at any time, will not be construed as a waiver of such party's rights or remedies hereunder and will not in any way affect the validity of this AGREEMENT or prejudice such party's right to take subsequent action.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the date and year written below.

ADVANCED CORRECTIONAL HEALTHCARE, INC.

Sherri Miller
President & Chief Operations Officer

Date

COUNTY OF DOUGLAS, KANSAS

Ken McGovern, Sheriff

Date

Jim Flory
Chair of County Commissioners

Date

Jameson D. Shew
County Clerk

Date

Please complete and return via fax to 309.214.9977 or email to jkolberg@advancedch.com.

If this contract is not returned to ACH by March 28, 2016, the price may be subject to increase.

Memorandum

City of Lawrence-Douglas County

Planning & Development Services

TO: Board of County Commissioners

CC: Craig Weinaug, County Administrator

FROM: Mary Miller, Planner

Date: May 12, 2016

RE: Applicant's request for a one-year extension to the approval of **CUP-15-00060**: Conditional Use Permit for a micro-distillery, located at 1743 N 200 Road, Baldwin City. Request submitted by William and Glynnis Murphy, owners of Sunwise Turn Farms LLC, property owner of record.

ATTACHMENTS:

A: Applicant's email discussing the need for an extension and possible future plans.

B: Approved CUP plans.

BACKGROUND

At their June 3, 2015 meeting, the Board of County Commissioners voted unanimously to approve the Conditional Use Permit for a micro-distillery at 1743 N 200 Road, Baldwin City subject to the following conditions:

1. The following standards apply to the use:
 - a. A maximum of 4 full-time equivalent employees are permitted.
 - b. The total area of the structures used for operation, production, or storage may not exceed 10,000 sq ft.
 - c. Noise, light, vibration, or odor associated with the production may not be perceptible beyond the site boundary/property lines.
 - d. The process must comply with EPA water and air quality standards.
 - e. All equipment used in production shall be located wholly within a building or structure or be screened from the public rights-of-way and adjacent residential buildings.
 - f. Product shall be enclosed within a building or structure so that it is not visible from the property lines.
 - g. Deliveries from vehicles with a GVW (Gross Vehicle Weight) that exceeds 5 tons in capacity are limited to no more than 2 trips (to and from the site) per day.
2. Provision of a revised CUP plan with the following changes:
 - a. Identify the areas where storage for the aging process may occur and add the following note *"If storage is to occur in any structure other than the Morton building, the Zoning and Codes Office shall be notified, all necessary building permits*

obtained, and the structure shall be brought into compliance with current building codes before use."

b. Add the following notes:

- i. *"The Conditional Use Permit will be administratively reviewed by the Zoning and Codes Office every 5 years following approval."*
- ii. *"Prior to the commencement of the use, the wastewater treatment measures for the Morton Building shall be installed as required by the Douglas County Health Department. If a floor drain is permitted at this time, connection to a septic system shall be provided when plumbing fixtures such as a restroom or hand-washing sink are installed in the Morton Building."*

EXTENSION REQUEST

Per Section 12-319-2, if a building permit is not obtained for the site within one year of the Commission's approval of the CUP, the approval becomes null and void unless an extension is requested prior to that date. The applicant submitted a written request for an extension prior to the deadline.

The applicant indicated that late freezes and the loss of trees to disease slowed their progress on the micro-distillery and noted: *"Therefore, our primary focus over the past few years has been on nurturing the orchard back to health and productivity."* They also noted that their application for a distillation permit is still pending, due to the fact that all the necessary micro-distillery equipment must be installed and functional before a permit can be granted. They are considering constructing a separate building for the distillery and submitted several questions to the Zoning and Codes Office regarding building requirements. The changes they discussed may be accommodated by a site plan, with County Commission approval, or may require a revised Conditional Use Permit, depending on the scale of their future plans.

RECOMMENDATION:

Based on these factors, staff recommends approval of a one-year extension to the approval for CUP-15-00060, Conditional Use Permit for a micro-distillery at 1743 N 200 Road subject to the conditions approved by the County Commission at their June 3, 2015 meeting.

April 20, 2016

Douglas County Zoning & Codes Department
Attn: Kanitha
3755 E 25th Street
Lawrence, KS 66046

Dear Kanitha/Zoning & Codes Department,

Thank you for your reminder letter concerning the Conditional Use Permit. Please allow me to update you on the status of our micro-distillery project.

Mother Nature has reminded us to be patient. She brought us a late freeze last April, resulting in the loss of our entire apple crop. That has actually happened 2 out the last 3 and 3 out of the last 6 six years!

When we acquired it in 2009, the orchard was so overgrown with vines that it didn't produce much fruit despite favorable weather. There were 170-180 trees in the orchard back then. We thought we had rescued most of those, but the 2013-14 drought was very hard on them. So, we have lost more than half of them to disease - primarily borers and fireblight. Many of them were about 50 years old, in any case, as the northwest section of the orchard was planted in the early 1960s. Some may have been even older. We know that the orchard existed at least as far back as the 1940s.

We planted 24 two-year old trees in 2013. About ten of them survived after sustaining deer antler damage. We planted 424 bench-grafts last May, primarily English and French cider apple varieties. Unfortunately, the rootstock and the grafting technique used by the nursery where we acquired the trees were sub-standard. Only about 70 of those trees are still alive.

Apple trees take about five years, on the average, to become productive. Therefore, our primary focus over the past few years has been on nurturing the orchard back to health and productivity. To this end, we have experimented with various types of wire cages to protect young trees from deer damage. We also began hand-irrigating the orchard via hoses attached to a truck-mounted water tank. That is a very time-consuming and labor intensive process. Therefore, we recently began the installation of a pump driven irrigation system.

We have had to make some repairs to the pond. Eventually, the leaky dam will need more extensive work. We found the estimates we obtained for that project to be cost-prohibitive. We think we can perform that task ourselves, once we have acquired the necessary equipment. We still have one full-time employee. Fortunately, he has past experience in that area.

Glynis and I work at the orchard as much as time allows, given that we still have full-time jobs in Overland Park. We created 100 bench-grafts this Spring, using superior

rootstock and scionwood. These will be nurtured in the greenhouse on the northeast section of the property. The greenhouse had been neglected and used primarily for storage over the last 10-15 years. After removing the dead, 50 feet tall, 4 feet in diameter pine which stood perilously close to the building, we performed the necessary maintenance and cleaning. Now we have a functional fiberglass-sided greenhouse for the young trees.

This week, we will be performing 20-30 more grafts. These pieces of scionwood will be grafted onto older trees in the orchard in the hope that we can thereby obtain at least a small crop of cider apples without waiting five years for the bench-grafts to become productive. Older cider apple trees are generally unavailable at nurseries. Even if they were, repopulating the orchard that way would be cost-prohibitive. We believe that we can add about 100 trees to the orchard every year at minimal cost using our bench-graft strategy. We will use our own scionwood as well as rootstock that we will raise from trees planted last year. Some of those bench-grafts survived, but lost their grafts. They will be useful for producing rootstock rather than apples.

We performed soil tests this year. Based on those results, we will need to add some nutrients to the orchard soil. We continue to rely on natural, organic farming strategies. We constructed two large compost bins. These will provide the enriched soil we need. We are in the process of removing a stand of cedar trees from where they had encroached upon the southwest pasture. Cedar trees are sources for cedar apple rust. The idea is to make the southwest pasture suitable for growing apple trees in the future.

Our application to the TTB for a distillation permit is still pending. The big hold-up is that one must have all the necessary micro-distillery equipment installed and functional before a permit can be granted. Therefore, we designed the facility and began contacting equipment vendors last year. Conversations we had and additional knowledge we acquired during that process led us to question whether using the Morton Building for the micro-distillery is the best idea. There would be advantages to building a separate facility, especially since it could be designed exactly as desired for its intended purpose. This idea raises various new questions.

We would like to have input from the Zoning & Codes Department about this idea. We do not have anything other than a conceptual design at this point. The basic concept we have in mind is a structure that would include a tasting room, a physical plant and an area for aging barrels and product storage (the cellar). The physical plant would basically include areas for cleaning and pressing apples, for fermentation tanks, for distillation and for bottling, labeling and boxing. The physical plant would be off-limits to visitors, but parts of it could be visible through windows. The orchard, the tasting room and the viewing windows might attract agritourists to the area. Children could enjoy apples and apple cider. Hard apple cider and apple brandy might be enjoyed by adults. It would be nice to include a kitchen near the tasting room, as well. Besides cider apples, we have planted trees that produce apples that are excellent for making pies and applesauce. A deck overlooking the orchards would be a nice feature to offer

visitors. But it's probably not helpful for me to go too far in my thoughts about such a scenario until more basic questions have been resolved.

I don't have specifics such as square feet, projected visitor numbers, parking lot size or that sort of thing currently. What I do know is that we would like to put the structure on the 1.5 acre parcel, pretty much where the collapsed foundation of the original farmhouse is now. There are several large maple trees between the foundation and the road at this time. KCP&L has marked them for removal, however. So, the structure would be visible from the road and fairly close to it. We would like it to have a pleasing appearance. We would anticipate installing a septic tank. If I remember correctly, a man from your Department came out to look at the smaller parcel before we acquired the property in 2009. We were interested to know whether a home could be built on it, if we ever wished to do so. As I recall, he wrote a letter stating that it would be possible. He thought there was room for a septic tank system. I don't have that letter handy at the moment.

Would the Zoning & Codes Department be able to give us some guidance as to what we could realistically consider building along these lines? We would seek further input from the Department as plans got more specific. We have not consulted an architectural firm yet. We understand that this concept is a departure from the project we described during the process of obtaining a Conditional Use Permit last year. We can still adhere to the original concept, if necessary. We are just thinking that the new plan might turn out better. Would such a change in plans make it necessary to start the CUP process over from the beginning? Or, is it possible to amend a CUP, or something of that nature?

We have had discussions with our banker about this matter. Indications are favorable about the bank's willingness to provide financing for such a project. However, they do have questions about exactly what we intend to build. So, we are at a point in time where we need to decide whether to stick with the original plan or upgrade it. In order to make that decision, we need input from the Department about what would be an acceptable, permissible structure and also what would be required for approval. We would then work with an architect to get a more specific design. Finally, we would need to look at the building cost and get financing. It's possible that this plan upgrade could turn out to not make good business sense, even if it is approvable.

The bottom line is that we are 4-5 years away from having the orchard fully productive. We are 1-2 years away from getting our distillery permit, depending on whether we build a custom facility. We anticipate limited production of cider, hard apple cider and apple brandy until the new cider apple trees begin bearing fruit. We think 5 years is a reasonable estimate for when the micro-distillery could be fully operational. Of course, that depends on Mother Nature, too!

We want to thank the Department for your guidance and support of our project over the last 12-24 months and look forward to your further input and guidance.

Sincerely,

Rory and Glynis Murphy

**REVISED ACCESSORY DWELLING UNIT DRAFT LANGUAGE REVISED PER
COMMISSION DIRECTION AT MAY 18 MEETING**

(Sections which have been revised are **highlighted**. New
language is shown as **bold underlined text**. Deleted
language is shown as ~~struckthrough~~.)

DEFINITIONS

12-303 Definitions

12-303-1.95 ACCESSORY DWELLING UNIT: A dwelling unit that is incidental to and located on the same lot, vested parcel, or Residential Development Parcel as the principal dwelling.

12-303-1.96 VESTED PARCEL: a parcel lawfully created within the A (Agricultural) District, A-1 (Suburban-Home Residential) District, or R-1 (Single-Family Residential) District in the Unincorporated Area of Douglas County on or before December 31, 2006, that has been maintained in individual ownership (that is, not further divided). (See Section 11-108(e) of the *Subdivision Regulations for Lawrence and the Unincorporated Areas of Douglas County, KS*.)

DISTRICTS

12-306 'A' Agricultural District

12-306-2.27 Accessory Dwelling Unit.

One Accessory Dwelling Unit is allowed when it is accessory to a principal dwelling on the same vested parcel, Residential Development Parcel or platted lot subject to the supplemental use regulations in Section 12-319.9

12-307 'A-1' Suburban Home Residential District

12-307-2.17 Accessory Dwelling Unit.

One Accessory Dwelling Unit is allowed when it is accessory to a principal dwelling on the same platted lot or vested parcel, subject to the supplemental use regulations in Section 12-319.9.

12-308 'R-1' Single-Family Residential District

12-308-2.16 Accessory Dwelling Unit.

One Accessory Dwelling Unit is allowed when it is accessory to a principal dwelling on the same platted lot or vested parcel, subject to the supplemental use regulations in Section 12-319.9.

STANDARDS

12-319.9 Accessory Dwelling Units

a. Accessory Dwelling Units are allowed in certain situations to

- 1) Create additional housing options while maintaining the rural character of unincorporated Douglas County;
- 2) Provide an independent living area for residents with health issues or disabilities, in close proximity to a caretaker; and
- 3) Provide housing for persons employed on a farm.

b. The Accessory Dwelling Unit shall be occupied by a relative/family member, caregiver, or farm employee for not less than three years following the issuance of the certificate of occupancy for the Accessory dwelling Unit.

1) This time can be reduced in the instance that the Accessory Dwelling Unit

was occupied initially by a relative and the relative is deceased or the Accessory Dwelling Unit was initially occupied by a caregiver and the recipient of the care no longer lives in the home or is deceased.

2) An Affidavit of Occupancy shall be provided to the Zoning and Codes Director prior to the issuance of a Certificate of Occupancy.

- c. One Accessory Dwelling Unit is permitted on a vested parcel, platted lot or a Residential Development Parcel, which contains a dwelling. This dwelling would be considered the principal dwelling.
- d. An Accessory Dwelling Unit may be established by one of the following means:
 - 1) Conversion of existing space within a principal dwelling or construction of an addition to a principal dwelling.
 - 2) Conversion of existing space within an accessory structure or construction of an addition to an accessory structure.
 - 3) Construction of a separate accessory structure which will include the Accessory Dwelling Unit.
- e. An Accessory Dwelling Unit shall not be allowed within or attached to a mobile home but may be allowed within a manufactured home.
- f. There shall be no more than one Accessory Dwelling Unit per vested parcel, Residential Development Parcel or platted lot.
- g. All Accessory Dwelling Units, whether new construction or conversion of existing space, shall comply with the Douglas County Construction Codes.
- h. An Accessory Dwelling Unit may be located in a structure which the Zoning and Codes Director has determined is a legal nonconforming structure with respect to building height or setbacks provided any addition to the structure does not extend or increase the degree of nonconformity.
- i. The following standards apply to all Accessory Dwelling Units:
 - 1) The Accessory Dwelling Unit, if located in a newly constructed detached accessory structure, shall be located a minimum distance of 25 ft from the primary structure.
 - 2) An Accessory Dwelling Unit that is located within or attached to the principal dwelling may utilize the same septic system and water source as the principal dwelling provided the septic system is adequately sized per the Douglas County Health Department requirements.
 - 3) A detached Accessory Dwelling Unit shall have a water source and septic system that are separate from those serving the principal dwelling.
 - 4) The following area requirements apply to a detached Accessory Dwelling Unit:

- a) A minimum of 3 acres outside the regulatory floodplain must be provided for the septic systems of the principal dwelling and Accessory Dwelling Unit (6 acres total) if the dwellings are served by Rural Water or other public water source.
 - b) A minimum of 5 acres outside the regulatory floodplain must be provided for the septic systems of the principal dwelling and Accessory Dwelling Unit (10 acres total) if the dwellings are served by well water.
- 5) The Accessory Dwelling Unit and the principal dwelling unit shall share a common access drive unless a new access is approved by the County Engineer. To the greatest extent feasible, existing driveways shall be utilized.
 - 6) An Accessory Dwelling Unit may have an area of up to 1,000 sq ft provided the area of the Accessory Dwelling Unit is not greater than that of the primary dwelling. **This area may be increased to 1,400 sq ft provided the area of the Accessory Dwelling Unit is not greater than 80 % of the area of the primary dwelling.**
 - 7) Separate sale or ownership of an Accessory Dwelling Unit is prohibited, unless the parcel or lot is subdivided in accordance with the Subdivision Regulations, creating a separate lot or Residential Development Parcel for each dwelling.
 - 8) The Accessory Dwelling Unit may be rented, but shall not be used as a short term lodging use such as a Bed & Breakfast or motel.
 - 9) An Accessory Dwelling Unit is subject to the same occupancy limits as the principal dwelling. (one family, or group living as a household unit--limited to 4 adults if any of the residents are not related)
- j. The following standards also apply to Accessory Dwelling Units in the A-1 and R-1 Districts:
- 1) The Accessory Dwelling Unit should be located behind the front plane of the principal dwelling whenever possible.
 - 2) The Accessory Dwelling Unit or the principal dwelling shall be occupied by the owner of the property.

k. Accessory Dwelling Unit Administrative Registration:

- 1) Accessory Dwelling Units must be registered with the Zoning and Codes Director prior to their establishment. The Registration application, available from the Zoning and Codes Office, shall be provided to the Zoning and Codes Office along with a plot plan with the following information, at a minimum:
 - a) Locations of both the principal and accessory dwellings;
 - b) Property boundaries. For large properties, the boundaries in the area of the dwellings may be shown;

- c) The distance between the structures and the property boundaries.
 - d) Location of access drive.
 - e) Area and height of the principal and accessory dwellings.
 - f) Locations of the septic system(s);
- 2) The Zoning and Codes Director shall review the registration application to insure compliance with the Accessory Dwelling Unit Standards, the required setbacks, and to insure adequate access is provided for Fire/Medical emergency vehicles.
- 3) When approved, the registration is completed with the filing of an Affidavit **of Occupancy** with the **Zoning and Codes Director** ~~Register of Deeds~~ that includes the legal description of the property and identifies the structure as an Accessory Dwelling Unit subject to the standards in Section 12-319.9 of the Zoning Regulations.
- a) **The affidavit shall note that the occupant of the Accessory Dwelling Unit shall be either a relative/family member, caregiver, or farm employee for not less than 3 years after the Certificate of Occupancy is issued for the Accessory Dwelling Unit.**
- b) In the A-1 and R-1 Districts, the affidavit shall also note the requirement that one of the dwelling units is to be occupied by the owner of the property.

I. ADU Registration requiring Board of County Commission Approval.

- 1) A registration for an Accessory Dwelling Unit on a property with a Conditional Use Permit or a Type 2 Rural Home Occupation Business may not be administratively approved, but requires approval by the Board of County Commissioners.
- a. The registration application shall be reviewed by the Zoning and Codes Director for compliance with the standards in this section and a recommendation forwarded to the Board of County Commissioners.
 - b. The Board of County Commissioners may approve the Accessory Dwelling Unit in addition to the other uses on the property if they determine the combined uses are compatible with nearby land uses.
- 2) The applicant shall provide written notice of the Accessory Dwelling Unit as noted below:
- a) The applicant shall obtain a list of property owners within 1000 ft of the vested parcel, Residential Development Parcel, or platted lot on which the Accessory Dwelling Unit is proposed from the Douglas County Clerk's Office. If the notification area includes land within the corporate limits of a city, the list shall extend 200 feet into the city. If the notification area extends into the adjacent County, notice must be sent to property owners in the adjacent County.

- b) The applicant shall mail a letter which contains the information below to the property owners on the list to advise them of the proposed Accessory Dwelling use and provide them the opportunity to contact the applicant or the Zoning and Codes Department if they have questions:

"An Accessory Dwelling Unit at ADDRESS is in the process of being registered with Douglas County. The property at ADDRESS also contains NAME OF BUSINESS a Type 2 Rural Home Occupation Business or Conditional Use and therefore requires approval of the Douglas County Board of County Commissioners. Please contact me at PHONE NUMBER, EMAIL ADDRESS with any questions regarding this registration or the Douglas County Zoning and Codes Department at 785-331-1343 for information."

- c) A copy of the notification letter, the certified property owner list, and certification of the dates the letters were mailed to the addresses on the list shall be included with the Accessory Dwelling Unit registration materials noted in Section 12-3XX(i)(1).
- d) The Accessory Dwelling Unit registration will be placed on a Board of County Commissioner's agenda for consideration a minimum of 20 days following the date of the letter.

4) When approved, the registration is completed with the filing of an Affidavit **of Occupancy** with the **Zoning and Codes Director** Register of Deeds that includes the legal description of the property and identifies the structure as an Accessory Dwelling Unit subject to the standards in Section 12-319.9 of the Zoning Regulations.

a) **The affidavit shall note that the occupant of the Accessory Dwelling Unit shall be either a relative/family member, caregiver, or farm employee for not less than 3 years after the Certificate of Occupancy is issued for the Accessory Dwelling Unit.**

- b) In the A-1 and R-1 Districts, the affidavit shall also note the requirement that one of the dwelling units is to be occupied by the owner of the property.

SECTION 2: REVISIONS TO EXISTING LANGUAGE IN OTHER PORTIONS OF THE ZONING REGULATIONS

Proposed language in ***bold italics***, Deleted language shown as ~~*struckthrough*~~.

12-321-2 CONSTRUCTION REQUIREMENTS

All new dwellings constructed, and all dwellings moved from one location to another shall;

12-321-2.01 ~~Provide a minimum floor area of eight hundred square feet for each family.~~
Comply with the Construction Codes, Chapter 13 of the Douglas County Codes.

SECTION 3: REVISIONS TO EXISTING LANGUAGE IN THE SUBDIVISION REGULATIONS:

Proposed language in ***bold italics***, Deleted language shown as ~~struckthrough~~.

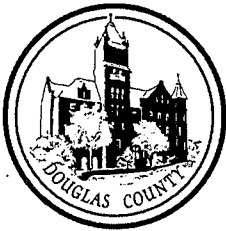
11-104 (d) Restrictive Covenant

The Immediate Development Area and Future Development Area each shall be restricted by a separate instrument, satisfactory to the County Counselor, which shall:

- (3) For the Immediate Development Area, limit each Residential Development Parcel to one principal dwelling, ***one accessory dwelling unit***, and ~~accessory buildings until annexation into a city and municipal water and Sanitary Sewer service are extended to the property;~~

11-106(d) Residential Development Parcel (RDP)

- (2) Residential Development Parcels can be created through the Certificate of Survey process only when the Planning Director finds: the property is being divided for single-family residential purposes ***(limited to a maximum of one principal dwelling and one accessory dwelling unit for each Residential Development Parcel)***.
- (3) With respect to any division made according to this Section, the subsequent Residential Development Parcels shall be considered Parcels but shall not be considered platted Lots created through a Major or Minor Subdivision/Replat process. Each Residential Development Parcel shall be eligible for the issuance of building permits for one single-family ***principal dwelling, one single-family accessory dwelling unit***, and other permitted accessory uses, buildings, and structures. Use for any other purpose (other than agricultural use), construction of more than one single-family ***principal dwelling*** or ***one single-family accessory dwelling unit***, ~~or further division of the Residential Development Parcel~~ shall be prohibited. Development for any other use will require review through the Major Subdivision process.



DOUGLAS COUNTY PUBLIC WORKS

3755 E. 25th Street
Lawrence, KS 66046
(785) 832-5293 Fax (785) 842-1201
dgcopubw@douglascountyks.org
www.douglascountyks.org

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 : May 19, 2016

Re : Determine 2017 road maintenance budget for the Hesper CRID

The BOCC created the Hesper Charter Road Improvement District (Hesper CRID) in December 2004 by Home Rule Resolution No. HR 04-12-3. The CRID includes portions of N 1100 Road, E 2300 Road and N 1137 Road, all east of Route 1061, totaling 2.81 centerline miles. The CRID made capital improvements to these roads in 2005. The improvements consisted of adding a nominal 4" crushed rock base, priming and double chip sealing the surface, and replacing crossroad culverts. CRID property owners were assessed for the cost of the capital improvements (approximately \$231,000). In addition, CRID property owners are assessed for a portion of road maintenance costs with Eudora Township (now, Douglas County) funding the remaining maintenance costs.

In January 2006, Douglas County entered into a 3-party road maintenance agreement with Eudora Township and the CRID. The road maintenance agreement established the method of determining assessments to CRID property owners for road maintenance. Under the agreement, Eudora Township was to contribute a percentage of total road maintenance revenues determined as follows: the assessed valuation of property within the CRID divided by the total assessed valuation of all property within Eudora Township. The CRID property owners are assessed for the total road maintenance budget less the percentage of township road maintenance revenues determined as indicated above. In August 2011, the BOCC determined Douglas County will assume responsibility for what would be Eudora Township's contribution under the January 2006 maintenance agreement.

Attached is a spreadsheet showing previous and projected maintenance costs. Please note that in 2014, the Hesper CRID roads were patched and chip sealed. We anticipate another chip seal project for Hesper CRID roads in 2018.

Last year the 2016 maintenance budget was set at \$40,000. In our discussions in 2011, it was determined we would keep the maintenance budget fairly constant until 2017, when the capital improvements assessments expire. That is reflected in the

spreadsheet. I show an increased maintenance budget of \$52,000 for 2017, then increasing to \$54,000 annually from 2018 through 2023.

The second spreadsheet calculates the 2017 assessments required for each Individual Property Owner (IPO). The spreadsheet assumes a \$52,000 budget for 2017. The spreadsheet shows Douglas County (in lieu of Eudora Township) contributing \$39,245 of the total \$52,000. This leaves \$12,755 to be paid by the IPO's. There are 42 IPO's, so each would be assessed \$303.70. Last year's assessments were \$204.97 per IPO.

I recommend the BOCC set a \$52,000 total road maintenance budget for the Hesper Charter Road Improvement District for 2017.

Action Required: Determine the 2017 road maintenance budget for the Hesper Charter Road Improvement District.

HESPER CHARTER ROAD IMPROVEMENT DISTRICT
Maintenance Expense Projections

Date: 5/3/2016
By: KAB

<u>Year</u>	<u>Hesper CRID Budget</u>	<u>Projected Budget</u>	<u>Actual Maintenance Costs</u>	<u>Anticipated Maintenance Costs</u>	<u>Comments</u>
2006	\$ 19,656		\$ 1,734.94		
2007	\$ 19,656		\$ 9,361.80		
2008	\$ 24,585		\$ 51,792.07		
2009	\$ 29,175		\$ 59,731.55		
2010	\$ 29,175		\$ 35,210.00		
2011	\$ 30,000		\$ 35,052.75		
2012	\$ 34,177		\$ 1,733.07		
2013	\$ 35,000		\$ 29,419.79		
2014	\$ 38,000		\$ 109,385.55		
2015	\$ 40,000		\$ 1,561.37		
2016	\$ 40,000				
Subtotals	\$ 339,424		\$ 334,982.89		
2016				\$ 20,000	Patching
2017*		\$ 52,000		\$ 25,000	Patching
2018		\$ 54,000		\$ 120,000	Patch & chip seal
2019		\$ 54,000		\$ 2,000	reduced maintenance
2020		\$ 54,000		\$ 20,000	Patching
2021		\$ 54,000		\$ 35,000	Patching
2022		\$ 54,000		\$ 125,000	Patch & chip seal
2023		\$ 54,000		\$ 5,000	reduced maintenance
2024		\$ 56,000		\$ 20,000	Patching
2025		\$ 56,000		\$ 45,000	Patching
2026		\$ 56,000		\$ 130,000	Patch & chip seal
Subtotal		\$ 544,000		\$ 547,000	
20-year total expenses				\$ 881,983	
Less: Budget thru 2016				\$ 339,424	
2017 thru 2026 total budget required:				\$ 542,559	
2017 thru 2026 average annual budget required:				\$ 54,256	

*Capital improvements assessment (currently ~\$780/yr/IPO) ends in 2017.

Date: 5/3/2016
By: KAB

HESPER CHARTER ROAD IMPROVEMENT DISTRICT--2017 Budget

2015 DISTRICT CONTRIBUTIONS TO ROAD MAINTENANCE COSTS

Assumptions:

1. Township performs no maintenance activities and contributes no funds towards maintenance.
2. County contribution towards maintenance expenses calculated as:
(Hesper CRID valuation/Eudora Twp valuation) x Eudora Twp road budget
3. Hesper CRID contribution equals Total Estimated Maintenance Expense less County contribution
4. County forces perform all maintenance activities except chip seals.

Hesper Improvement District total valuation (2016)*:	\$	1,086,681
Eudora Township total valuation (2016)*:	\$	16,595,969
Percentage of improvement district value to total township value:		6.55%

Township Road Fund budget, 2016**:	\$	599,350
Amount to be allocated to improvement district maintenance:	\$	39,245

Calculation of Improvement District contribution to annual maintenance expense:

Total estimated annual maintenance expense:	\$	52,000
Improvement District assessments required:	\$	12,755
	\$	52,000
		Maint. Assess.
		per IPO
Annual maint assessment per IPO:	<u>IPO's</u> 42	\$ 303.70

*values provided by DGCO Appraiser's Office

**township road fund budget provided DGCO Budget Office