

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

Amended Agenda

WEDNESDAY, JANUARY 23, 2013

4:00 p.m.

CONSENT AGENDA

- (1) (a) Consider approval of Commission Orders; and
- (b) Receipt of forfeitures per K.S.A. 60-4117(d)(2) as received from the Sheriff's Office
- (c) Consider resolution allowing Kanwaka Township to install gate on E 800 Road (Michael Kelly);
- (d) Consider resolution relocating description of E1450 Road between 708N and N800 Road (Michael Kelly);
- (e) Consider revision to proposed Westar easement crossing fairgrounds to provide service to Farmland development (Weinaug);
- (f) Consider approval to purchase used boom lift equipment for Public Works Department (Keith Browning)

REGULAR AGENDA

- (2) Consider approval of Life in Color Venue License Agreement for event at fairgrounds (Bill Bell)
- (3) Executive Session to discuss acquisition of real property and/or easements for right of way for a county road project. The justification is to prevent cost escalations and to detriment of the Douglas County and its taxpayers.
- (4) (a) Consider approval of Accounts Payable (if necessary)
- (b) Appointments
- (c) Public Comment
- (d) Miscellaneous
- (5) Adjourn

WEDNESDAY, JANUARY 30, 2013

Jackie items.

WEDNESDAY, FEBRUARY 6, 2013

WEDNESDAY, FEBRUARY 13, 2013

WEDNESDAY, FEBRUARY 20, 2013 – 4:00 meeting only

WEDNESDAY, FEBRUARY 27, 2013

TENTATIVE - CUP-12-00099: Consider a Conditional Use Permit for sand excavation and extraction for Penny Sand Pit, approximately 434 acres located on the NE Corner of N 1500 Road & E 1850 Road. Submitted by Landplan Engineering, for William Penny & Van LLC, property owners of record. (Mary Miller will present the item.)

WEDNESDAY, MAY 22, 2013-Cancelle

Note: The Douglas County Commission meets regularly on Wednesdays at 4:00 P.M. for administrative items and 6:35 P.M. for public items at the Douglas County Courthouse. Specific regular meeting dates that are not listed above have not been cancelled unless specifically noted on this schedule.



STEVE M. HORNBERGER
UNDERSHERIFF

111 E. 11TH STREET
LAWRENCE, KS 66044-2990
PHONE: (785) 841-0007
FAX: (785) 841-5168

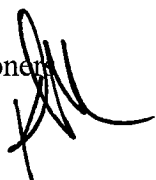
KENNETH M. MCGOVERN
SHERIFF

KENNETH L. MASSEY
UNDERSHERIFF

3601 E. 25TH STREET
LAWRENCE, KS 66046-5616
PHONE: (785) 830-1000
FAX: (785) 830-1085

MEMORANDUM

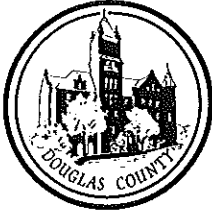
January 14, 2013

TO: The Board of County Commissioners
From: Kenneth M. McGovern, Sheriff 
Ref: Reporting of *State* Forfeitures per K.S.A. 60-4117(d)(2)

This memorandum is to notify the Board of County Commissioners, per K.S.A. 60-4117(d)(2) that the Lawrence-Douglas County Drug Enforcement Unit (DEU) received the following *state forfeiture funds* in the year 2012.

<i>Date Deposited:</i>	<i>Case #:</i>	<i>Amount Awarded:</i>	<i>DEU's Share after all costs:</i>
12/06/2012	DU-11-000036	Vehicle – value \$10,000	Converted to use by DEU
12/06/2012	DU-11-000040	\$14,500.00	\$6,898.98 DEU and \$1,217.47 DGSO share for K9 fund
12/06/2012	DU-11-000051	\$74,100.00	\$62,683.73
12/13/2012	DU-12-000038	\$35,000.00	\$23,550.37

Total DEU Share after all costs: \$ 93,133.08
Total DGSO K9 Share after all costs: \$ 1,217.47
Value of vehicle converted to DEU use: \$ 10,000.00



DOUGLAS COUNTY PUBLIC WORKS

1242 Massachusetts Street
Lawrence, KS 66044-3350
(785) 832-5293 Fax (785) 841-0943
dgcopubw@douglas-county.com
www.douglas-county.com

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

MEMORANDUM

TO : Douglas County Commission

FROM: Keith A. Browning, P.E., Director of Public Works/County Engineer *KAB*
Michael D. Kelly, P.S., County Surveyor *MK*

DATE : January 18, 2013

RE : Placement of gate on E800 Road

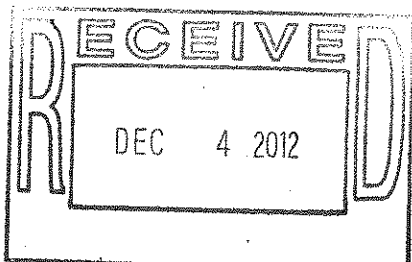
Attached is correspondence from Kanwaka Township requesting authorization for the placement of a gate across E800 Road within their township. The location proposed is close to the north boundary of the Clinton Lake state park. See the attached map.

Installing the gate will help eliminate unwarranted access by vehicles involved in illegal and nuisance activities.

It should be noted that in many other approved gate locations the road in question has been previously declared to be a "minimum maintenance" road. In this particular location the road has already been closed by the township and is considered a "road of record not traveled".

A resolution has been prepared which will authorize the installation of a gate at the desired location.

ACTION REQUIRED: A motion is required to authorize the Board to affix their signatures to the attached resolution.



KANWAKA TOWNSHIP
DOUGLAS COUNTY, KANSAS
548 N 1700 ROAD, LAWRENCE, KS 66049

D. A. Wulfkuhle, Trustee- 887-6107

J. M. Walsner, Clerk-766-5517

Martin Johnston, Treasurer-887-8014

Jeff Skinner
Road Supt- 887-6511

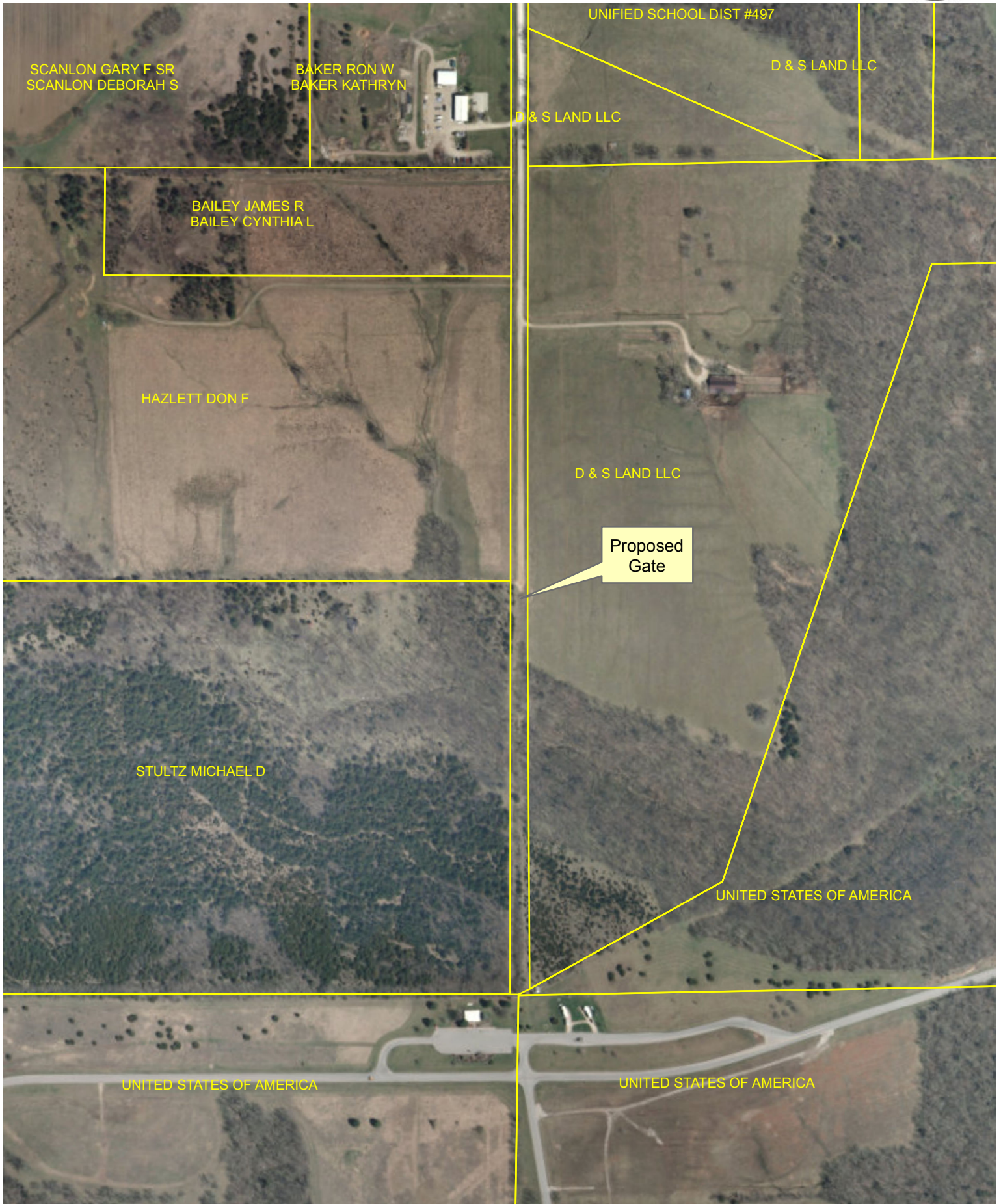
Chris Lesser
Fire Chief- 887-6607

The Kanwaka Township Board is seeking approval for the installation of gates to restrict access on E 800 road at the location of 1422 East 800. This road has been closed at this location since 1993 when a structure was washed out. The property on the west side of E800 road served by this portion of road was returned to tillable farmland in 2011 and the township installed a new cross road tube to allow access to the south side of the property. There are 2 landowners served by this portion of road both of whom are in agreement with the need for gates to restrict access in an area that has had a history of illegal dumping and ATV usage

Proposed Gate Location



1 inch = 400 feet
200 100 0 200 Feet



RESOLUTION NO. 2013 - _____

A RESOLUTION PROVIDING FOR THE INSTALLATION OF A GATE ON
E800 ROAD (PERMANENT ROAD RECORD NO. 65) IN KANWAKA
TOWNSHIP

WHEREAS, pursuant to K.S.A. 68-126, the board of county commissioners of any county are empowered to authorize and permit the construction and maintenance of fences and gates across public roads under their jurisdiction;

AND WHEREAS, the Board of County Commissioners of Douglas County, Kansas has received a request from the Kanwaka Township Board to allow a gate to be placed on E800 Road for the purpose of restricting travel thereon to those with a legitimate need and to reduce unlawful activities within the right-of-way;

AND WHEREAS, the surrounding lands are used largely as pasture lands by the adjacent owners and the convenience of the traveling public will not be materially affected by the placement of a gate across said road at the location described to-wit:

Approximately 1,260 feet north of the southwest corner of the Southwest Quarter (SW ¼) of Section 6, Township 13 South, Range 19 East of the Sixth Principal Meridian; and,

BE IT NOW THEREFORE RESOLVED by this Board of County Commissioners of Douglas County, Kansas that a gate may be placed at the above described location, provided that:

1. If the gate is locked a key will be provided to:
 - a.) The Kanwaka Township Trustee;
 - b.) The Kanwaka Township Fire Department;
 - c.) The Douglas County Sheriff;
 - d.) Any affected landowner requiring access to his/her property;
 - e.) Any other citizen upon proof of legitimate need for access; and,
2. A sign be erected and maintained at said gate by Kanwaka Township stating the authority for the installation of said gate and to provide guidance for gaining access; and,
3. Sixteen (16) square feet of red and white reflective material shall be placed and maintained on said gate immediately upon erection by Kanwaka Township.
4. The township shall routinely inspect and perform required maintenance to the gate.

ADOPTED this _____ day of _____, 2013.

BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, KANSAS

Mike Gaughan, Chairman

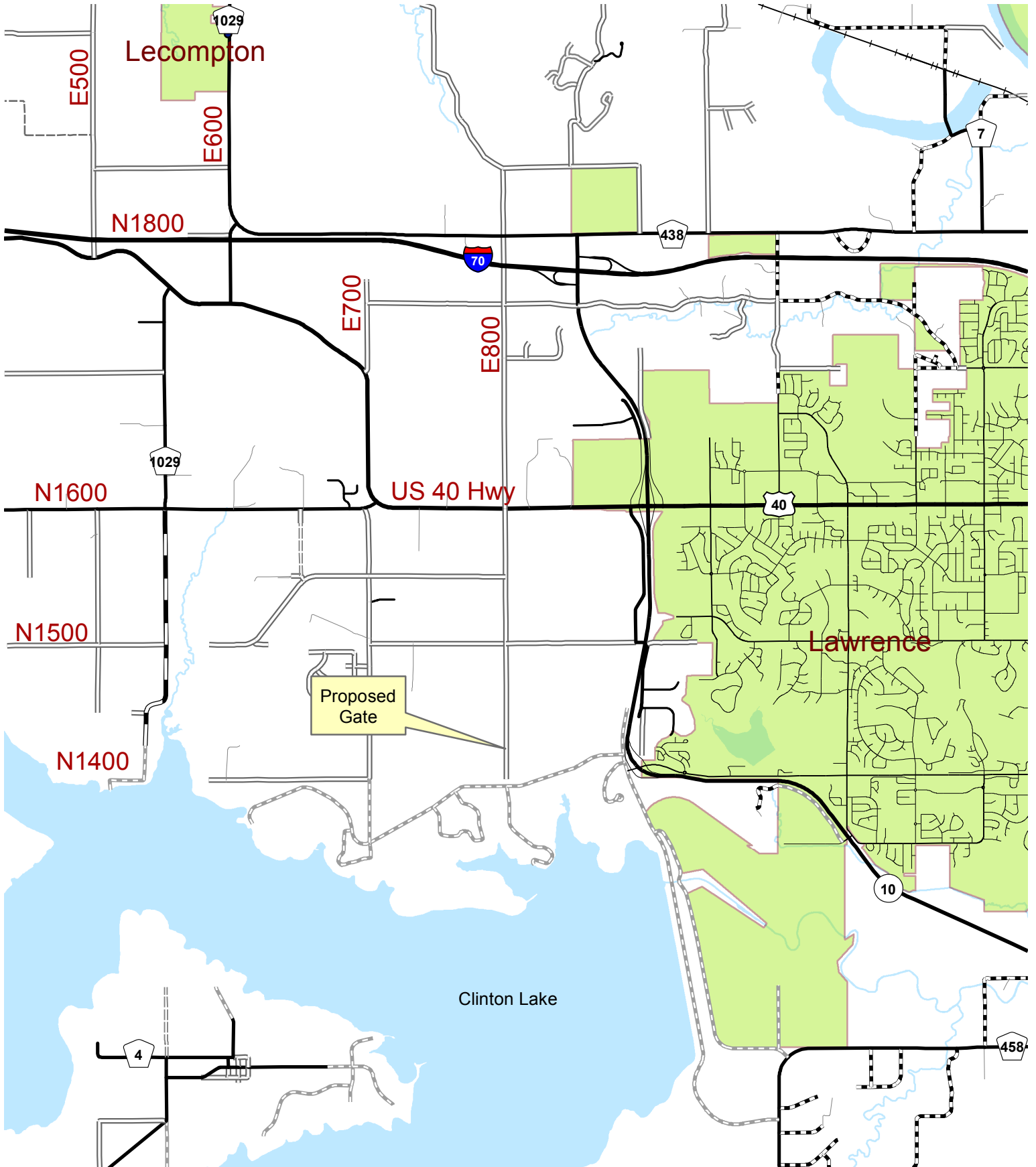
ATTEST:

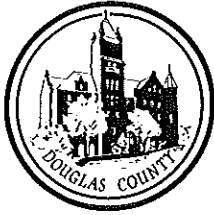
Nancy Thellman, Member

Jamie Shew, County Clerk

Jim Flory, Member

Proposed Gate General Location Map





DOUGLAS COUNTY PUBLIC WORKS

1242 Massachusetts Street
Lawrence, KS 66044-3350
(785) 832-5293 Fax (785) 841-0943
dgcopubw@douglas-county.com
www.douglas-county.com

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

MEMORANDUM

TO : Douglas County Commission

FROM: Keith A. Browning, P.E., Director of Public Works/County Engineer *KAB*
Michael D. Kelly, L.S., County Surveyor *MK*

DATE : January 18, 2013

RE : Road Relocation; E1450 Road: 708N to N800 Road

A portion of E1450 Road is traveled in a location different than originally described when established in 1875. The originally described roadway was intended to cross a creek on the east side of the north/south section line in this area but the road was constructed to cross the creek on the west side of the section line instead.

This issue was identified during the process to review/approve a Boundary Survey prepared for the Huntsinger property lying in the north half mile of the road.

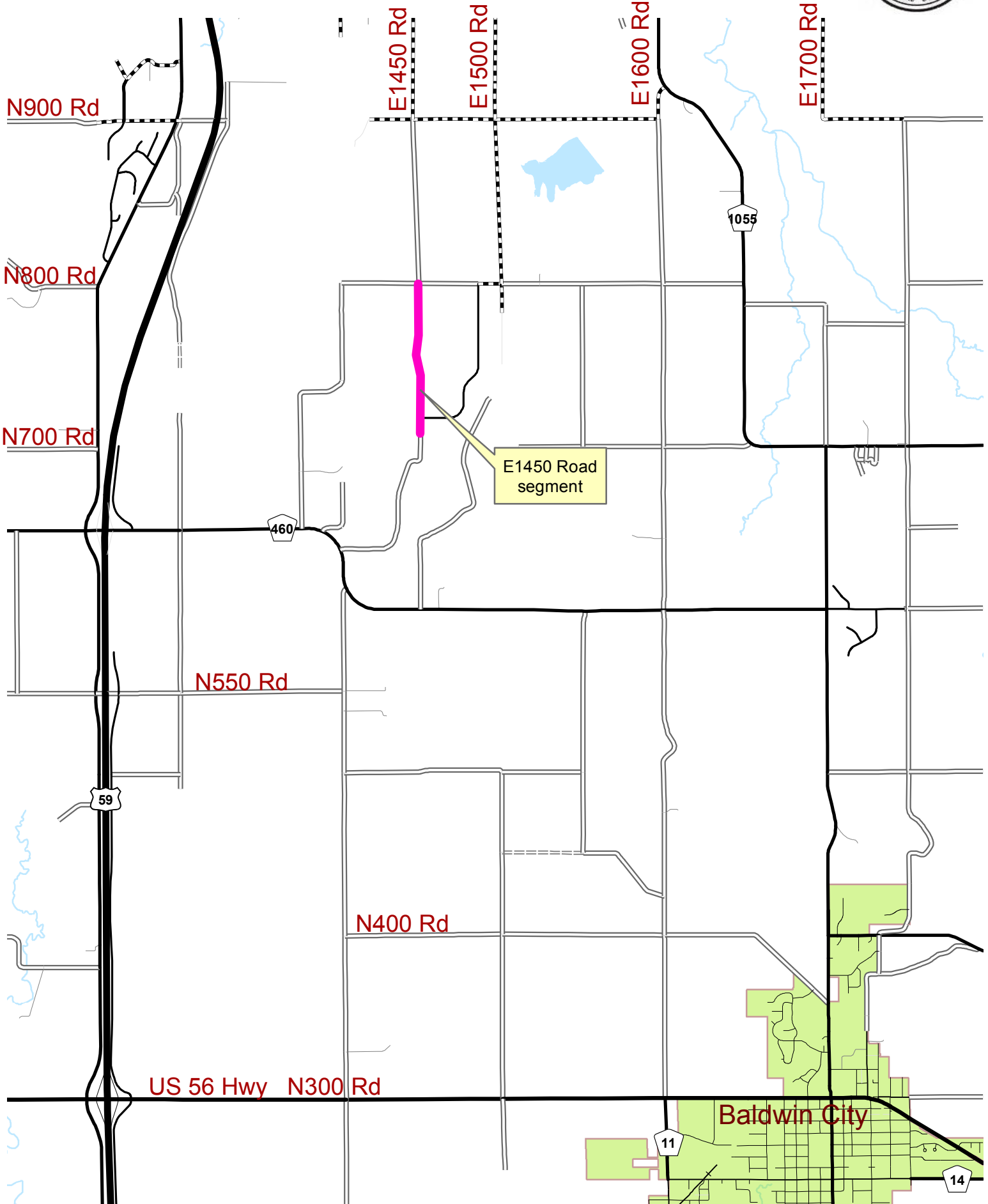
A resolution has been prepared that will relocate the road's official description to the location as traveled.

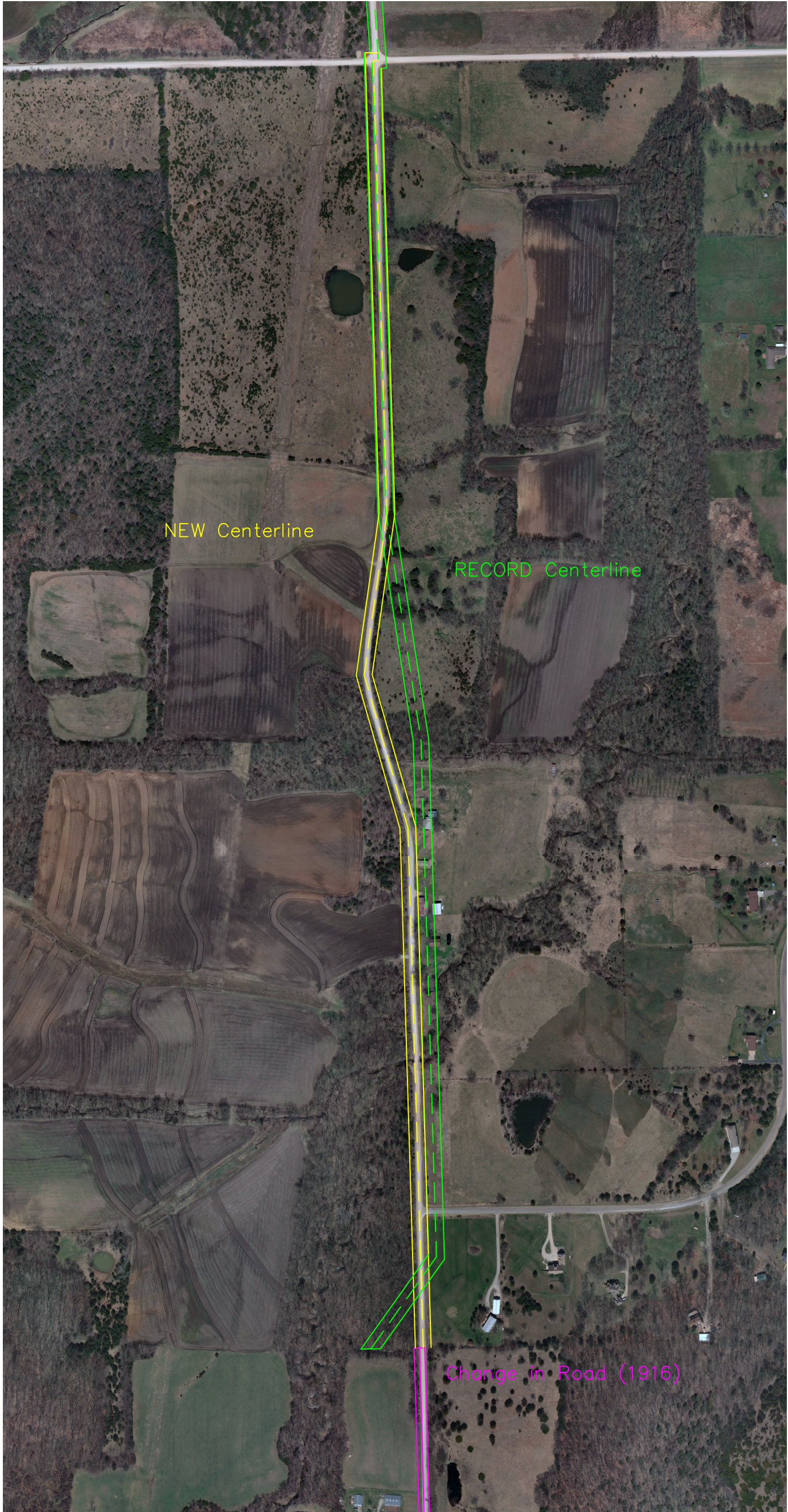
Action Required: Consider and approve the proposed relocation of E1450 Road utilizing the attached resolution.

E1450 Road General Location Map



2,000 1,000 0 2,000 Feet
1 inch = 4,000 feet





NEW Centerline

RECORD Centerline

Change in Road (1916)

RESOLUTION NO. _____

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF
DOUGLAS COUNTY, KANSAS FORMALLY AMENDING DOUGLAS
COUNTY ROAD RECORDS.

WHEREAS, on or about April 15, 1875, after viewing, surveying, laying out, and assessing damages, all in accordance with applicable law, the Board of County Commissioners of Douglas County, Kansas (the "Board") established public road right of way, designated as Permanent Road Record No. 249, a portion of which is now also known as E1450 Road, said portion generally located between N800 Road and 708N (hereinafter referred to as the "Public Road"); and

WHEREAS, said portion of the Public Road was constructed and opened for public use shortly after it was laid out and established and has, thereafter, been continuously traveled, improved, and maintained as a public road; and

WHEREAS, pursuant to *Shaffer v. Weech*, 34 Kan. 595; 9 P. 202 (1886), where real facts as to where a road was actually surveyed and located are shown to differ from the map and field notes of the original survey, the map and field notes of the original survey no longer control; and

WHEREAS, recent and more accurate surveys have shown that a portion of the Public Road, as laid out, constructed, opened, and thereafter continuously used, differs from the described location of the Public Road contained in the map and field notes of the original survey of the Public Road; and

WHEREAS, the Board adopts this Resolution to harmonize its permanent road records with the actual location of the Public Road.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS AS FOLLOWS:

1. Finding of Difference. The Board finds that its permanent road records relating to the portion of Public Road differ from better and more recent evidence identifying the actual location of the Public Road. The actual location of the Public Road, as determined by better and more recent evidence, is as follows:

a portion of Road #249 in Section 7, Township 14 South, Range 20 East of the Sixth Principal Meridian in Douglas County, Kansas, more particularly described as:

beginning on the north line of said Section 7, a distance of 45 links west of the northeast corner of the Northwest Quarter of said Section; thence South 89 degrees 5 minutes 43 seconds West along said north line a distance of 19.00 feet; thence South 1 degree 43 minutes 16 seconds East parallel with the east

line of said Northwest Quarter a distance of 1726.19 feet; thence South 8 degrees 0 minutes 51 seconds West a distance of 621.02 feet; thence South 15 degrees 57 minutes 25 seconds East a distance of 334.66 feet to the south line of said Northwest Quarter; thence continuing South 15 degrees 57 minutes 25 seconds East a distance of 269.79 feet to a point 5 feet (measured perpendicularly) west of the east line of the Southwest Quarter of said Section; thence South 1 degree 42 minutes 27 seconds East parallel with said east line a distance of 1981.43 feet to the north end of a change in Road #249 (from the year 1916) and the point of termination.

2. Adoption of Road Survey. The Board adopts the attached Road Survey, dated _____, 20__ and prepared by the County Surveyor, as the amended Road Survey for the portion of the Public Road described in such amended Road Survey, showing portions of the Public Road as actually laid out, constructed, opened, and, thereafter, continuously traveled, improved, and maintained as a public road.

3. Original Road Records Superseded. This Resolution and the amended Road Survey identified in Section 2 supersede inconsistent provisions shown on the map and filed notes of the original survey of the Public Road; any such inconsistent provisions do not control the location of the Public Road and are not claimed as public road right of way.

4. Recordation with Permanent Road Records. This Resolution and the amended Road Survey identified in Section 2 shall be recorded in the permanent road records of Douglas County, Kansas.

5. Effective Date. This Resolution shall be in full force and effect from and after its adoption by the Board.

ADOPTED this _____ day of _____, 2013.

BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, KANSAS

Mike Gaughan, Chair

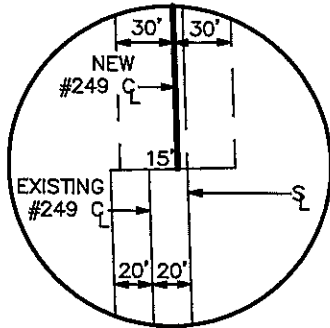
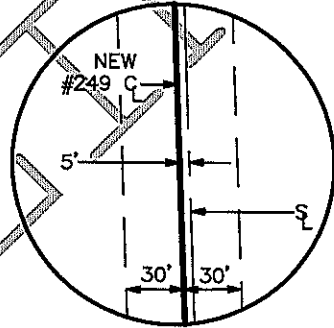
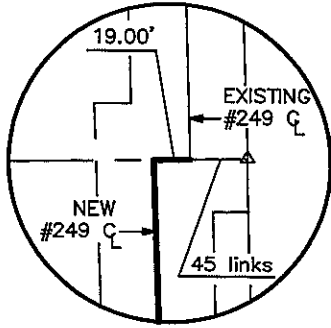
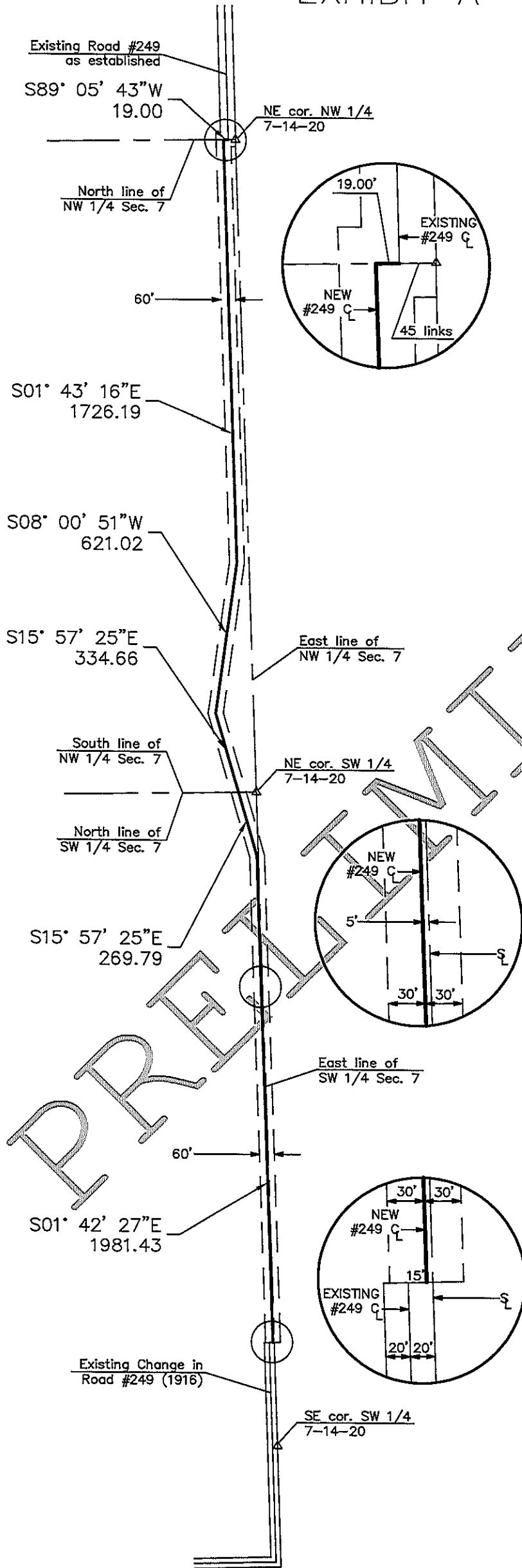
ATTEST:

Nancy Thellman, Member

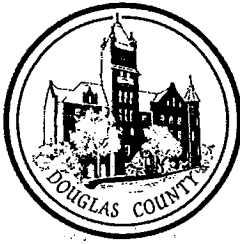
Jameson D. Shew, County Clerk

Jim Flory, Member

EXHIBIT A



PRELIMINARY




DOUGLAS COUNTY ADMINISTRATOR

1100 Massachusetts Street
Lawrence, KS 66044-3064
(785) 832-5328 Fax (785) 832-5148
cweinaug@douglas-county.com

G. Craig Weinaug
County Administrator

MEMORANDUM

DATE: January 18, 2013
TO: County Commissioners
FROM: Craig Weinaug 
RE: Amended Westar Easement

Attached please find materials related to an easement across a small portion of fairground's property which you have already approved. As you recall, this easement was granted to provide better Westar utility access to the industrial park that the City of Lawrence is developing on the Farmland property.

The reason this easement is back on your consent agenda is that Westar determined that they would need to add a wooden pole to the two steel towers that were authorized by the County Commission. Their final design is therefore slightly inconsistent with the easement that you previously approved. However, I have verified with Mark Heckler, representing the Lawrence Park's Department that this additional wooden pole will not interfere with the City's use of the ball diamond that is adjacent to the Westar easement.

I therefore recommend that you approve this easement as amended.



MEMORANDUM

To: Craig Weinaug, Douglas County Administrator
From: Chad Luce, Westar Energy
Date: January 15, 2013
Re: Douglas County Fairgrounds Easement

As we discussed at the August 8, 2012 and September 19, 2012 Douglas County Commission Meetings, Westar Energy is requesting a utility easement on the eastern boundary of the Douglas County Fairgrounds. This easement on Fairgrounds property will save Westar approximately three months of construction time and will increase reliability to the new substation.

After further consultation with Westar's Transmission and Power Delivery Departments, it has been determined that the line needs to be constructed with three poles on Fairgrounds property, instead of the aforementioned two poles.

Please let me know when I can again appear before the Douglas County Commission to explain our updated plan in greater detail. Thank you for your consideration.

AD - Crabtree, Robin

From: AD - Weinaug, Craig
Sent: Friday, January 18, 2013 1:51 PM
To: AD - Crabtree, Robin
Subject: FW: Westar Easement

-----Original Message-----

From: Chad.Luce@westarenergy.com [<mailto:Chad.Luce@westarenergy.com>]
Sent: Thursday, January 17, 2013 3:58 PM
To: AD - Weinaug, Craig
Subject: RE: Westar Easement

Craig:

I just spoke with Mark Hecker and explained that the location of the third pole will be adjacent to the salvage yard fence, well away from the ball fields. He is satisfied and instructed me to proceed. Please let me know if there is anything else you require. Thank you.

Chad Luce
Manager
Customer & Community Relations
Westar Energy
818 S. Kansas Ave.
PO Box 889
Topeka, KS 66601
(785) 575-8134 - Topeka Office
(785) 760-1967 - Cell
(785) 575-1870 (FAX)

From: <weinaug@douglas-county.com>
To: <Chad.Luce@westarenergy.com>,
Date: 01/16/2013 12:46 PM
Subject: RE: Westar Easement

Chad:

I reached Mark's secretary over the noon hour. He is supposed to call you at the number below to tell you how to get contact him.

Craig

-----Original Message-----

From: Chad.Luce@westarenergy.com [<mailto:Chad.Luce@westarenergy.com>]
Sent: Wednesday, January 16, 2013 9:17 AM
To: AD - Weinaug, Craig
Subject: Re: Westar Easement

Craig:

SE/4, S5, T13S, R20E

GRANT OF RIGHT OF WAY

For and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, the undersigned Grantor(s), hereinafter referred to as Grantor, does hereby grant, convey and warrant unto WESTAR ENERGY, INC., (Grantee), its successors, assigns, and lessees the right and easement to erect, install, alter, reconstruct, operate, and maintain under varying conditions of operation, renew, replace, relocate, and remove electric and communication transmission and distribution lines, the wood and steel poles and towers, anchors, guys, crossarms, insulators, conductors, underground conduit, ducts, cables, and other equipment appurtenant thereto for the transmission and distribution of electric energy and communications in, along, under, across, and over certain lands owned by Grantor situated in **Douglas** County, State of **Kansas**, and described as follows:

A strip of land in the **Southeast** Quarter of Section **5** Township **13S**, Range **20E** of the 6th P.M., **Douglas** County, Kansas, more particularly described as follows:

See Exhibit "A" and Exhibit "B" attached hereto and made part of this instrument by reference;

together with the right of ingress to and egress from the above described land and contiguous land owned by Grantor for the purpose of surveying, erecting, constructing, maintaining, inspecting, rebuilding, replacing and repairing Grantee's lines which shall be located upon the land specifically described above.

Grantee shall have the further rights to erect, maintain and use gates in all fences which cross or which shall hereafter cross the route of said lines together with the right to trim, remove, eradicate, cut and clear away any trees, limbs and brush on above described land now or at any future time. Grantee shall have the further right to trim and clear away any trees, limbs, and brush on lands adjacent to above described right of way whenever in its judgment such will interfere with or endanger the construction, operation or maintenance of said lines. Grantee shall at its election have the right to remove said trees, limbs, and brush by bulldozing. All logs, limbs and brush shall be burned or removed by the Grantee unless otherwise agreed to by Grantor. In

exercising its right of ingress and egress the Grantee shall, whenever practicable, use existing roads or lanes, and shall repair any damage caused by its use thereof.

The Grantor, his heirs or assigns, may cultivate, use and enjoy the land above described, provided such use shall not in the judgment of Grantee, interfere with or endanger the construction, operation or maintenance of said lines, and provided further that no improvements or buildings shall be constructed or placed on the said right of way without the prior written consent of the Grantee.

Grantee shall repair any physical damage to property of Grantor, or pay all damages on account of physical injury to property of Grantor by the erection, installation, reconstruction, operation, and maintenance under varying conditions of operation, renewal, and removal of said lines, said damages, if not mutually agreed upon, shall be ascertained by three disinterested persons, one of whom shall be selected by each, Grantor and Grantee, their heirs or successors, assigns or lessees, and the third by the two so selected. The damages determined by such persons, or a majority of them, shall be conclusive as to the facts.

This grant shall be binding upon the heirs, successors and assigns of the undersigned.

WITNESS the hand of the Grantor this ____ day of _____, 20 ____.

THE COUNTY OF DOUGLAS,
STATE OF KANSAS

ACKNOWLEDGMENT

STATE OF)
) SS:
COUNTY OF)

I, _____, do hereby certify that

personally known to me to be the same person(s) whose name(s) is/are subscribed to the foregoing instrument, appeared before me in person and acknowledged that _____ signed and delivered the said instrument as a free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and seal this _____ day of _____, 20____.

My appointment expires:

Notary Public

ACKNOWLEDGMENT

STATE OF)
) SS:
COUNTY OF)

I, _____, do hereby certify that

personally known to me to be the same person(s) whose name(s) is/are subscribed to the foregoing instrument, appeared before me in person and acknowledged that _____ signed and delivered the said instrument as a free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and seal this _____ day of _____, 20____.

My appointment expires:

Notary Public

Exhibit 'B'

Additional Stipulations

Westar's request for Grant of Right of Way was approved by the County Commission under the stipulations below. Any substantial changes to these stipulations, other than emergency restoration efforts, will require prior approval by the Douglas County Administrator.

1. Westar will erect and maintain two steel pole structures, and one wooden pole within the granted easement. Placement of these poles will be consistent with plans approved by Douglas County at the City of Lawrence and Park's Department
2. Westar will ground the existing ball field fence and ensure no line conductors overhang the existing playing field.
3. Westar will ensure that no poles or other obstructions will block or prevent the use of the existing east/west dirt access road, located just south of the existing ball field fence.

MEMORANDUM

TO: Board of County Commissioners

FROM: Keith A. Browning, P.E., Director of Public Works/County Engineer
Doug Stephens, Operations Division Manager

Date: January 17, 2013

Re: Purchase of used Boom Lift for Public Works

Douglas County Public Works received a bid to purchase a used 2004 Genie Model S-60 boom lift with approximately 2500 hours. The boom lift is capable of carrying 500 pounds or two men on an eight foot work platform. We have researched the cost of similar pieces of equipment and feel that the asking price of \$28,500 is reasonable. A new unit costs \$99,900. The seller (United Rentals) previously allowed the Operations Division to demo this piece of equipment and verify that it is in good mechanical condition.

The boom lift will be used to maintain County road rights of way by removing tree limbs and brush that overhang County roadways. In addition, the lift will be used for storm cleanup, clearing sight triangles, building maintenance and inspection of bridges where ground access is available. Currently we do not have any equipment that will allow this type of work to be accomplished.

Sufficient funds are available in Fund 232, Funded Depreciation, to purchase this equipment.

Action Required: Consent Agenda approval to purchase the used 2004 Genie Model S-60 boom lift and to pay for this equipment out of Fund 232.

AD - Crabtree, Robin

From: AD - Weinaug, Craig
Sent: Tuesday, January 22, 2013 3:56 PM
To: AD - Crabtree, Robin
Subject: FW: Life In Color - Venue License
Attachments: LIC - County Fairgrounds (1-22-13 redlines).PDF; LIC - County Fairgrounds (1-22-13 clean).doc

From: MT - Bell, Bill
Sent: Tuesday, January 22, 2013 3:29 PM
To: AD - Weinaug, Craig; ADS - Plinsky, Sarah; County Commissioner - Flory, James; County Commissioner - Gaughan, Mike; County Commissioner - Thellman, Nancy
Subject: FW: Life In Color - Venue License

Commissioners....I sent you some information early on about the paint party event at the fairgrounds on Apr. 26th. Craig had Evan Ice go through the contract and make appropriate changes so that we are comfortable with the event. I was able to negotiate a \$2.00 per ticket sold(they expect 6000) to go to the fair board, 100% of the fees that the operator will sell the rights to a local vendor for concessions(possibly \$4000) to go to the 4-h council, as well as 20% of merchandise sold profit. The company will carpet the field(carnival area) so that no paint gets on the ground, as well as fence in the area with temporary fencing for the event. They will hire the Sheriff's department for parking and security as well as the EMT's from fire and medical. They have their own security for inside of the actual event area. They will not be using any of the buildings or restrooms at the fairgrounds. They will pack up and leave on the 27th. I will be available to walk this item on tomorrow and answer any further questions you may have. Thanks, Bill.

From: Evan H. Ice [<mailto:EIce@stevensbrand.com>]
Sent: Tuesday, January 22, 2013 10:50 AM
To: AD - Weinaug, Craig; MT - Bell, Bill
Subject: Life In Color - Venue License

Bill and Craig,

Attached is a redline version (PDF file) and clean version (Word file) of the Life in Color contract. I made the revisions Bill and I discussed this morning – I said that the contract with the Sheriff and with Fire & Medical must be in place and prepaid 14 days before the event, which is consistent with the damage deposit and proof of insurance. I also added provisions that the license is contingent upon them providing proof of insurance and prepaying the Sheriff and Fire & Medical. I know that the Sheriff charges in advance (to avoid a Wakarusa Festival-type problem where we have to chase the event organizer around for money after the fact). Seems like we want some ability to stop the Event (or at least the leverage to do so) if things are not prepaid.

One remaining open issue is the timing of the license payments – the last section of Schedule A. My thought here is that Life in Color could tell us what they normally do and we could consider it and see if it makes sense. In the alternative, we could propose something to them. Let me know if you want me to do anything further her at this time.

Evan H. Ice
eice@stevensbrand.com

STEVENS & BRAND, L.L.P.
Attorneys at Law
U. S. Bank Tower
900 Massachusetts Street - Suite 500
Post Office Box 189

Lawrence, Kansas 66044-0189
Phone: (785) 843-0811
Fax: (785) 843-0341
www.stevensbrand.com

CONFIDENTIALITY STATEMENT:

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LIFE IN COLOR
VENUE LICENSE AGREEMENT

This VENUE LICENSE AGREEMENT (the “Agreement”) is made and entered into as of January __, 2013 (the “Effective Date”), between the BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS-FAIR BOARD (“Operator”) and SFX-LIC OPERATING LLC, a Delaware limited liability company (“Licensee”) (Operator and Licensee are each a “Party” and collectively the “Parties.”)

WHEREAS, Licensee is engaged in the business of organizing, promoting, arranging, conducting, hosting and licensing events and concerts having a paint party theme under the trademarks LIFE IN COLOR and WORLD’S LARGEST PAINT PARTY using particular themes and decorative elements (the “Paint Party”);

WHEREAS, Licensee wishes to utilize the premises of Operator set forth on Schedule A, excluding all buildings and on-site restrooms (the “Facility”) to operate, manage and promote a Paint Party (the “Event”); and

WHEREAS, Operator wishes to grant Licensee a license to use the Facility for the Event.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Parties agree as follows:

1. Grant of License. Operator hereby grants Licensee an exclusive license to use the Facility, ~~together with all related environs~~ and rights of ingress and egress from the Facility, together with such other rights as are set forth below, for the sole purpose of conducting the Event at the time and date specified on Schedule A. Licensee shall comply with all of Operator’s rules, regulations, and policies relating to usage of the Facility, copies of which Licensee acknowledges having received and revised. This license and Licensee’s ability to hold the Event is contingent upon Licensee complying with all material terms and conditions of this Agreement, including but not limited to Licensee providing proof of insurance as required in this Agreement and entering into a separate contract with the Douglas County Sheriff and with the Lawrence-Douglas County Fire & Medical Department and paying their estimated fees in advance, as required in this Agreement.
2. License Fee. As consideration for the use of the Facility, Licensee shall pay Operator’s designee, the license fee specified on Schedule A (the “License Fee”). The License Fee and other payments from Licensee under this Agreement are in lieu of the Operator’s regular usage fees. Licensee shall provide Operator with an accounting and access to Licensee’s books and records to verify Licensee’s calculations of the License Fee due Operator’s designee.
3. Damage Deposit. In addition to the foregoing, a damage deposit in the amount set forth on Schedule A is payable by cashier’s check or money order on or before the date set forth on Schedule A (the “Damage Deposit”). An inspection of the Facility will take place prior to move-in and immediately following move-out with Operator and Licensee to determine the

condition of the Facility. The Licensee accepts the Facility “as is” and hereby assumes the complete responsibility for the maintenance and cleaning of the Facility, unless Operator has agreed to assume said cleaning duties elsewhere in this Agreement. Licensee shall, at the termination of this Agreement, restore the Facility to its condition immediately prior to move-in, normal wear and tear excepted. Should Licensee fail to properly maintain and clean the Facility as determined by Operator, Operator may perform or cause to be performed said maintenance and cleaning, all at Licensee's expense. The Damage Deposit shall be applied by Operator against its costs incurred in performing Licensee's maintenance and cleaning duties, and all costs so incurred by Operator related to the Event in excess of the Damage Deposit will be billed after notification to Licensee, along with invoices or other written evidence of any such damage or excess clean-up costs and payment shall be due by Licensee thereon within thirty (30) days of billing. The Damage Deposit amount is in addition to the License Fee and estimated direct Event related expenses and any unused portion shall be applied toward the payment of unpaid event expenses and/or refunded to the Licensee.

4. Sale of Tickets. Sale of tickets shall be by Licensee or its agents and Operator shall have no obligation with regards to same. Cancellation for any reason without rescheduling shall entitle ticket purchasers to a refund of the ticket price by Licensee or its ticket agent. Subject to the foregoing sentence, Ticket refund policy will be governed by Ticketfly’s or other vendor’s (approved by the Operator) current refund policy. Such ticket refund shall be made by Licensee. The costs of the refund, if any, shall be paid by the Licensee and/or its ticket agent. Licensee shall ensure compliance with all applicable local, state and federal standards, rules, regulations and laws relating to the sale or distribution of tickets, including but not limited to, the American with Disabilities Act of 1990. Licensee agrees to indemnify and hold Operator harmless from any and all claims relating to the sale of tickets by Licensee or Licensee’s bonded ticket sales agent including, but not limited to, claims relating to the refund of the ticket price and claims relating to sales tax on the gross receipt from the sale of tickets. Licensee shall not offer for sale tickets for admission until this Agreement has been fully executed and any required Damage Deposit paid.

5. Services to be Provided by Licensee. The services not furnished by Operator as listed in Section 6 below, but necessary for the Event, shall be the sole responsibility and expense of the Licensee. These services shall include, but are not limited to:
 - 5.1. Set-up (under Operator guidelines, includes all necessary permits)
 - 5.2. All lighting and/or generators to power the lighting in and around the grounds of the Facility
 - 5.3. Law enforcement personnel (in the number Douglas County Sheriff determines, at the Sheriff’s standard rates – contract must be in place with the Sheriff and estimated fee paid in advance no later than 14 days prior to the Event)
 - 5.4. Private security personnel
 - 5.5. Overnight security
 - 5.6. Ticket selling operations
 - 5.7. Ticket taking personnel
 - 5.8. All signage related to the Event
 - 5.9. Labor personnel (pre-Event, during Event, and post-Event coordination)

- 5.10. Fire Department personnel
 - 5.11. Medical personnel and equipment (in the number consistent with Lawrence-Douglas County Fire & Medical Department policy, at the Department's standard rates – contract must be in place with the Department and estimated fee paid in advance no later than 14 days prior to the Event)
 - 5.12. Clean-up (during entire length of time on Facility grounds)
 - 5.13. Trash dumpsters
 - 5.14. Port-A-Lets
 - 5.15. Water hook-up (including hoses)
 - 5.16. Fencing (around entire Event compound)
 - 5.17. Carpet, if applicable
 - 5.18. Parking personnel (in the number Douglas County Sheriff determines, at the Sheriff's standard rates – contract must be in place with the Sheriff and estimated fee paid in advance no later than 14 days prior to the Event)
6. Services to be provided by Operator. In addition to the License Fee and other fees and costs required herein, Licensee shall pay Operator for all direct Event-related expenses incurred by Operator for services listed on Schedule A, to the extent that such services are provided in connection with the Event. Any services provided by Operator and not specified in Schedule A shall be provided by Operator at no extra charge, but Operator shall have no obligation to provide any services not specified in Schedule A.
7. Sales Tax. The License Fee and expense payments described herein ~~are not~~may be subject to applicable sales taxes. ~~If applicable, said taxes must be paid to Operator.~~Other- Taxes on any other charges related to the Event that are deemed sales taxable shall be payable to the Operator; provided, however, that Licensee shall pay all sales taxes relating to the sale of tickets directly to the Kansas Department of Revenue. Operator shall provide Licensee with Sales tax will not be applied if a proper state sales tax exemption certificate or other documentation to establish no sales tax is due on the Licensee Fee and other expense payments made by Licensee to Operator's designee is provided.
8. Person(s) to be Admitted without Charge. Licensee shall admit without charge: members, employees, agents and representatives of Operator; concessions personnel; officers of local police and fire departments in the discharge of official duties; on-duty ambulance attendants and other necessary medical personnel; and working members of the newspaper, radio and television press. Operator shall not exact a requirement for an admission ticket or receive as fee any percentage of the price of an admission ticket of any such person.
9. Concessions. Operator grants Licensee the right to control, sell, rent, and/or supervise (or assign to others the right to do so), refreshments, beverages, candies, food, snacks, and other similar concessions at the Event; provided, however, that no liquor, wine, spirits, cereal malt beverages or any other alcohol shall be sold, consumed, or possessed at the Facility. In addition to the License Fee, a portion of the proceeds generated from concessions shall be paid to Operator's designee in accordance with Schedule A. Licensee shall provide Operator with an accounting and access to Licensee's books and records to verify Licensee's calculations of the fees due Operator's designee. Licensee shall indemnify and hold Operator and its employees, elected officials, officers, directors and agents harmless

from any and all claims, losses, fines or expenses incurred as a result of the sale of concessions, including costs of litigation and reasonable attorney's fees.

10. Merchandising. Operator grants Licensee the right to control, sell, rent, supervise or give away (or assign to others the right to do so) all programs, merchandise, novelties or other similar merchandise (non-consumable items) at the Event. In addition to the License Fee, a portion of the proceeds generated from merchandise shall be paid to Operator's designee, in accordance with Schedule A. Licensee shall provide Operator with an accounting and access to Licensee's books and records to verify Licensee's calculations of the fees due Operator's designee.
11. Parking Rights. Persons attending the Event may park in designated parking areas at the Facility for no additional charge. Operator shall have the right to collect reasonable charges from Event patrons for parking on Operator property and to retain the entire proceeds from such collections. The parking fees are set forth on Schedule A. Operator will Licensee, at Licensee's cost, shall contract separately with the Douglas County Sheriff to provide parking lot personnel. at no charge.
12. Fee Payment Schedule. All payments, including the License Fee, proceeds from concessions and merchandise, and any additional amounts due in accordance with the Agreement are payable by wire transfer, cashier's check or money order, unless otherwise specifically approved by Operator. The Schedule for payment is set forth on Schedule A.
13. Supervision by Operator. Operator shall have the right to supervise all operations of Licensee at the Facility in order to insure that the Facility is not subjected to risk of damage. Operator reserves the right to preclude any act or use of equipment by Licensee when, in the reasonable opinion of Operator, required to protect persons or property from exposure to risk. ~~Operator shall also have the right to supervise use of the Facility by Licensee to assure that the Facility continues to be used as a sports and recreational facility as required by Operator's enabling legislation~~
14. Care of Premises. Licensee shall use and occupy the Facility solely for the purpose set forth herein and always in a safe and careful manner. Licensee shall not take any action or suffer an action to be taken which will in any way mar, deface or injure any part of the Facility, normal wear and tear excepted. The Licensee agrees that if any portion of the premises, during the term of this Agreement, shall be damaged by the act, default, or negligence of the Licensee, or of the Licensee's agents, employees, patrons, guests, or any person admitted to the premises by Licensee, the Licensee will pay to Operator upon demand a sum of money necessary to restore the premises and equipment to their previous condition.
15. Copyrighted Material. Licensee shall ensure that any copyrighted material to be performed in connection with the Event has been duly authorized and licensed by the owners of such copyright or the owner's authorized representative. Licensee shall indemnify and hold Operator and its employees, elected officials, officers, directors and agents harmless from any and all claims, losses, fines or expenses incurred as a result of performance of any copyrighted material that has occurred, including costs of litigation and reasonable attorney's

fees. Licensee shall, upon the reasonable request of Operator, show reasonable proof of authorization to perform copyrighted material.

16. Signage, Advertising and Promotional Material. Licensee may post or exhibit or permit the posting or exhibition of signs, advertisements, billboards, lithographics, poster or banners on or about the Facility promoting the Event in compliance with the terms and conditions set forth by Operator and provided to Licensee within five (5) days of execution of this Agreement. Licensee shall promptly remove all signage after the Event has been held.
17. Lost or Checked Articles. Licensee agrees that Operator shall have the sole right to collect and have custody of articles left, lost or checked in by persons entering the Facility. No other person shall collect or interfere with the collection or custody of such articles and Operator shall take possession of any articles collected as a gratuitous bailee.
18. Structures. No structure shall be erected on the Facility by or on Licensee's behalf without the prior written consent of Operator, which shall not be unreasonably withheld, but Operator shall have the right to require that any proposed structure be designed, constructed and maintained in such a manner and from such materials as will insure safety to persons and property, and to refuse to permit erection of any structure which endangers the safety of spectators.
19. Background Checks. Licensee represents and warrants to Operator that it has performed background checks on all of its employees that will be providing services in or about the Facility pertaining to the Event.
20. Indemnity. Licensee agrees to indemnify, defend and hold harmless Operator and its employees, elected officials, officers, directors and agents from any and all claims for personal injury, death or property/equipment damage to the field, structure or parking lots and any other losses, damages, charges or expenses, including costs of litigation and reasonable attorney's fees, which arise out of, are in connection with, or are because of the use of the Facility by Licensee, except as set forth below. ~~Operator agrees to indemnify, defend and hold harmless Licensee and its employees, officers, directors and agents from any and all claims for personal injury, death or property/equipment damage to the field, structure or parking lots and any other losses, damages, charges or expenses which arise out of, are in connection with, or are because of the any disrepair, unsafe condition, design defect or manufacturing defect of Facility or any action by Operator or its employees, officers, directors or agents. Operator shall compensate Licensee for tort liability to the extent required in the Kansas Tort Claims Act.~~
21. Insurance.
 - 21.1. Cancellation Policy. Operator and Licensee shall each have the option, but not the obligation, to acquire cancellation policy(ies) of insurance to cover, in its discretion, its own risk of loss in the event of cancellation of the Event for insurable reasons. For the purposes of clarity, (i) each Party shall be solely responsible for the cost of the

- premium for its own such policies; and (ii) each Party shall be entitled for its own account to the payment of any claim proceeds there.
- 21.2. Other Insurance. Licensee shall maintain in full force and effect, for a period commencing twenty-four (24) hours prior to the Event and terminating twenty-four hours after the Event (the “Insured Period”), the following insurance coverage:
- 21.2.1. Commercial General Liability Insurance. Licensee shall maintain commercial general liability insurance (with customary exclusions) with limits per occurrence and in the aggregate of not less than Three Million U.S. Dollars (\$3,000,000) with respect to bodily injury (including death) and property damage arising out of or related to the negligence of Licensee, as applicable. Licensee’s policy shall name Operator and its respective officers, agents, officers, servants and employees as additional insured.
- 21.2.2. Workers’ Compensation Insurance and Employers’ Liability Insurance. Licensee shall maintain workers’ compensation insurance, employers’ liability insurance and all other locally required insurance of similar or equivalent character applicable or relating to the employment by Licensee of their respective employees, servants, agents or independent contractors, if any, in connection with the Event at the Facility. No workers’ compensation insurance has been or will be obtained by Operator on account of Licensee or Licensee’s employees.
- 21.2.3. Automobile Insurance. Licensee shall maintain, and cause each of its respective vendors to maintain, personal injury, liability and property damage automobile insurance with customary exclusions with limits per accident of not less than One Million U.S. Dollars (\$1,000,000) for bodily injury and property damage.
- 21.3. Certificate of Insurance. Licensee shall forward the certificates of insurance certifying to the existence and issuance of the required policies not later than fifteen (15) business days following the full execution hereof, but no later than thirty (30) days prior to the Event. If Licensee fails to maintain the aforementioned insurance, Operator may obtain (but is not obligated to obtain) such insurance, and deduct and retain the amount of the premiums for such insurance from any sums due Licensee under this Agreement. The procurement of insurance by Operator is an alternative to other remedies Operator may have and is not intended to be the exclusive remedy for failure of Licensee to maintain insurance.
- 21.4. Change in Coverage. Licensee shall cause its insurer(s) to agree to notify Operator not less than ten (10) business days prior to any reduction or change in or expiration or cancellation of insurance coverage required under this Section 21.
22. Force Majeure. If the Event is cancelled due to a Force Majeure Event (as defined below) then: (i) neither party shall be in breach of its obligations by reason of such cancellation, (ii)

both Parties shall use reasonable efforts to reschedule the Event at a mutually agreeable new Event date, (iii) if the Event is not rescheduled within thirty (30) days of the cancellation, then either party may terminate this Agreement by written notice to the other party. “Force Majeure Event” shall mean any of the following, the occurrence of which makes performance of the Event impossible, impracticable or unsafe: an act of God (including without limitation earthquake), inevitable accident, fire, strike or other labor dispute, war or threat of war, act of public enemy, act of terrorism or threats thereof, riot or civil commotion, national state of emergency, enactment, rule, order or act of any government or governmental instrumentality, failure of technical facilities, epidemic (including a health epidemic), illness, injury, disability or death of Artist, interruption in, or substantial delay or failure of, technical facilities, or failure or substantial delay of necessary transportation services, inability to obtain necessary visas for artists or key Event personnel, or any other event or condition beyond Licensee’s or Operator’s reasonable control, as applicable. Inclement weather shall not be deemed a Force Majeure Event and Licensee assumes all risks of weather conditions prohibiting performance of all or any part of the Event, provided, however, that should such weather conditions be severe or threatening enough to threaten public safety, then such weather conditions shall be deemed a Force Majeure Event hereunder.

23. Waiver. No waiver by either Party of any breach of any term, covenant or condition of this Agreement nor the failure of either Party to seek redress for violation of or to insist upon the strict performance of any term, covenant or condition shall be considered to be a waiver of such term, covenant, condition or provision or a waiver of either Party’s rights in the event of any subsequent breach. No provision of this Agreement shall be deemed to be waived or modified by either party unless such waiver or modification is made in a written instrument signed by both parties.
24. Assignments. Licensee shall not assign this Agreement without the written consent of Operator nor suffer any use of the Facility other than those permitted by this Agreement. Operator shall not assign this Agreement without the written consent of Licensee. Notwithstanding the foregoing, either Party may assign this Agreement to an affiliate or to an entity that acquires all or substantially all of the Party’s stock or assets. In the event Licensee assigns this Agreement to an affiliate, Licensee shall remain responsible for of Licensee’s obligations under this Agreement unless and until Operator releases Licensee in writing.
25. Applicable Laws and Regulations. Licensee shall comply with the requirements of all statutes, laws, ordinances or regulations of any governmental agency which may be applicable to use of the Facility by Licensee, including any noise abatement and/or curfew rules. Licensee shall obtain any and all required permits and licenses and shall be responsible for payment of any taxes which may be imposed.
26. Permits and Licenses. Licensee shall be solely responsible for obtaining all necessary permits and licenses in connection with the Event, including but not limited to any necessary governmental (e.g., local, city, state, regional and federal governmental entities), venue, parking, copyright, electric and/or pyrotechnic permits,
27. Representations and Warranties of Parties. Each Party represents and warrants that:

27.1. it has the right and power to execute this Agreement and perform as indicated herein without violation of any other agreements, whether written or oral, which would prohibit it from performing its obligations under this Agreement and

27.2. its entry into this Agreement will not infringe upon any rights of any third parties or cause a breach of any other agreements to which it is a party.

28. Licensee's Policies. Licensee may, as promoter/sponsor of the Event, impose its policies (including conditions and limitations) relating to admission and conduct of the Event; provided such policies are lawful and not in conflict with operational requirements of Operator. Licensee shall provide all such policies to Operator at least ten (10) business days prior to the Event and Operator shall notify Licensee within two (2) business days thereafter should any of said policies be in conflict with Operator's operational requirements, whereupon the Parties shall have good faith discussions to implement a similar policy that is not in such conflict.

29. Miscellaneous.

29.1. Entire Agreement. This Agreement embodies the entire agreement and understanding of the Parties in respect of the subject matter contained herein or therein. There are no agreements, representations, warranties or covenants other than those expressly set forth herein or therein. This Agreement supersedes all prior agreements and understandings between the Parties with respect to such subject matter.

29.2. Invalid or Unenforceable Provisions. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted or modified by a court of competent jurisdiction in such a way as to make it valid and enforceable.

29.3. Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns. No Party may assign either this Agreement or any of its rights, interests, or obligations hereunder without the prior written approval of the other Party.

29.4. Waiver and Modification. No change or modification of this Agreement shall be valid unless it is in writing and is signed by the Parties hereto. No waiver of any provision of this Agreement shall be valid unless in writing and signed by the person against whom it is sought to be enforced. Failure of any party at any time to insist upon strict performance of a condition, promise, agreement, or understanding set forth herein, shall not be construed as a waiver or relinquishment of the right to insist upon strict performance of the same condition, promise, agreement or understanding at a future time.

29.5. Headings. Headings and other captions in this Agreement are for convenience of reference only and shall not be used in interpreting, construing or enforcing any of the provisions of this Agreement.

29.6. Notices. All notices and other communications required or permitted to be given under this Agreement shall be in writing and shall be delivered either by personal service, facsimile (with confirmation of receipt), email (with confirmation of receipt) or prepaid overnight courier service and addressed as follows:

If to Licensee: SFX-LIC Operating LLC
2800 Biscayne Boulevard
Suite 900B
Miami, Florida 33137
Attn:
Fax: (954) 688-2488
Email:

If to Operator: As set forth on Schedule A

If delivered personally, such notices or other communications shall be deemed delivered upon delivery. If sent by fax, such notice or other communications shall be deemed delivered when received provided that the sender has confirmation of receipt. If sent by prepaid overnight courier service, such notices or other communications shall be deemed delivered upon delivery or refusal to accept delivery as indicated on the return receipt. Either party may change its address at any time by written notice to the other party as set forth above.

29.7. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of ~~Kansas~~New York applicable to contracts executed and performed entirely within the State, without regard to the conflicts of laws rules thereof.

29.8. Jurisdiction and Venue. Each of the Parties irrevocably and unconditionally submits to the exclusive jurisdiction of the United States District Court for the ~~Southern~~District of ~~Kansas~~New York or any ~~Kansas~~New York State court sitting in ~~Douglas~~New York County for the purposes of enforcing this Agreement. In any action, suit or other proceeding, each of the Parties irrevocably and unconditionally waives and agrees not to assert by way of motion, as a defense or otherwise any claims that it is not subject to the jurisdiction of the above courts, that such action or suit is brought in an inconvenient forum or that the venue of such action, suit or other proceeding is improper. Each of the Parties also agrees that any final and non-appealable judgment against a Party in connection with any action, suit or other proceeding may be enforced in any court of competent jurisdiction, either within or outside of the United States.

29.9. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Venue License Agreement as of the date first written above.

SFX-LIC OPERATING LLC

By: _____
Name: _____
Title: _____
Date: _____

BOARD OF DOUGLAS COUNTY
COMMISSIONERS, FAIR BOARD
OF DOUGLAS COUNTY, KANSAS
COMMISSIONERS

By: _____
Name: Mike Gaughan_____
Title: Chair
Date: _____

Attest:

Jameson D. Shew, Douglas County Clerk

SCHEDULE A

Operator Address for Notice:	DOUGLAS COUNTY, <u>KANSAS FAIR BOARD</u> <u>111 E. 11th St. 2110 Harper</u> Lawrence, Kansas. 6604 <u>46</u> Attn: <u>Bill Bell</u> Phone: <u>(785) 832-5330</u> Fax: <u>(785) 832-5262</u> Email: <u>bbell@douglas-county.com</u>
Facility:	<u>Portions of Douglas County Fair Grounds consisting of Site #1 and/or Site #2, as described below, together with parking, located at 2110 Harper, Lawrence, Kansas. 66046</u>
Move-In Date (Begin):	April 25, 2013, 8:00 a.m.
Event:	<u>Set-Up: April 256, 2013, 7:00 a.m. — a.m./p.m. — midnight 12 a.p.m. — a.m/p.m.</u> <u>Set-Up and Event: April 267, 2013, 7:00 a.m. — a.m./p.m. — midnight 12 p.m. — a.m/p.m.</u>
Move-Out Date (End):	April 27, 2013, <u>87:00 a.m. — out by end of day</u>
Event Location at Facility:	The Event shall occur at the Facility at what has been designated by the Parties as Site #1, located at <u>—south field carnival area—</u> . In the event that Site #1 is rendered unusable due to <u>—weather—</u> , the Event shall occur at the Facility at what has been designated by the Parties as Site #2 located at <u>—east parking area, farmland.—</u> . If the Event is held at Site #1, Licensee shall, at its expense, cover the entire grassed area with suitable carpeting so as to prevent damage.
License Fee:	Two Dollars (\$2.00) from the sale price of every ticket sold and collected for the Event, <u>payable to Douglas County Fair Board.</u>
Damage Deposit Amount and Due Date:	\$2,650.00 14 days prior to the <u>e</u> Event
Additional Operator Services and Charges:	None
Concession Fee Percentage to Operator:	100% <u>of fee the concessionaire pays Licensee, payable to Douglas County 4-H Foundation.</u>
Merchandise Fee Percentage to Operator:	20% <u>, payable to Douglas County 4-H Foundation, Inc.</u>
Parking Fee Charges:	General parking: None

LIFE IN COLOR
VENUE LICENSE AGREEMENT

This VENUE LICENSE AGREEMENT (the "Agreement") is made and entered into as of January __, 2013 (the "Effective Date"), between the BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS ("Operator") and SFX-LIC OPERATING LLC, a Delaware limited liability company ("Licensee") (Operator and Licensee are each a "Party" and collectively the "Parties.")

WHEREAS, Licensee is engaged in the business of organizing, promoting, arranging, conducting, hosting and licensing events and concerts having a paint party theme under the trademarks LIFE IN COLOR and WORLD'S LARGEST PAINT PARTY using particular themes and decorative elements (the "Paint Party");

WHEREAS, Licensee wishes to utilize the premises of Operator set forth on Schedule A, excluding all buildings and on-site restrooms (the "Facility") to operate, manage and promote a Paint Party (the "Event"); and

WHEREAS, Operator wishes to grant Licensee a license to use the Facility for the Event.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Parties agree as follows:

1. Grant of License. Operator hereby grants Licensee an exclusive license to use the Facility, and rights of ingress and egress from the Facility, together with such other rights as are set forth below, for the sole purpose of conducting the Event at the time and date specified on Schedule A. Licensee shall comply with all of Operator's rules, regulations, and policies relating to usage of the Facility, copies of which Licensee acknowledges having received and revised. This license and Licensee's ability to hold the Event is contingent upon Licensee complying with all material terms and conditions of this Agreement, including but not limited to Licensee providing proof of insurance as required in this Agreement and entering into a separate contract with the Douglas County Sheriff and with the Lawrence-Douglas County Fire & Medical Department and paying their estimated fees in advance, as required in this Agreement.
2. License Fee. As consideration for the use of the Facility, Licensee shall pay Operator's designee, the license fee specified on Schedule A (the "License Fee"). The License Fee and other payments from Licensee under this Agreement are in lieu of the Operator's regular usage fees. Licensee shall provide Operator with an accounting and access to Licensee's books and records to verify Licensee's calculations of the License Fee due Operator's designee.
3. Damage Deposit. In addition to the foregoing, a damage deposit in the amount set forth on Schedule A is payable by cashier's check or money order on or before the date set forth on Schedule A (the "Damage Deposit"). An inspection of the Facility will take place prior to move-in and immediately following move-out with Operator and Licensee to determine the

condition of the Facility. The Licensee accepts the Facility “as is” and hereby assumes the complete responsibility for the maintenance and cleaning of the Facility, unless Operator has agreed to assume said cleaning duties elsewhere in this Agreement. Licensee shall, at the termination of this Agreement, restore the Facility to its condition immediately prior to move-in, normal wear and tear excepted. Should Licensee fail to properly maintain and clean the Facility as determined by Operator, Operator may perform or cause to be performed said maintenance and cleaning, all at Licensee's expense. The Damage Deposit shall be applied by Operator against its costs incurred in performing Licensee's maintenance and cleaning duties, and all costs so incurred by Operator related to the Event in excess of the Damage Deposit will be billed after notification to Licensee, along with invoices or other written evidence of any such damage or excess clean-up costs and payment shall be due by Licensee thereon within thirty (30) days of billing. The Damage Deposit amount is in addition to the License Fee and estimated direct Event related expenses and any unused portion shall be applied toward the payment of unpaid event expenses and/or refunded to the Licensee.

4. Sale of Tickets. Sale of tickets shall be by Licensee or its agents and Operator shall have no obligation with regards to same. Cancellation for any reason without rescheduling shall entitle ticket purchasers to a refund of the ticket price by Licensee or its ticket agent. Subject to the foregoing sentence, ticket refund policy will be governed by Ticketfly’s or other vendor’s (approved by the Operator) current refund policy. Such ticket refund shall be made by Licensee. The costs of the refund, if any, shall be paid by the Licensee and/or its ticket agent. Licensee shall ensure compliance with all applicable local, state and federal standards, rules, regulations and laws relating to the sale or distribution of tickets, including but not limited to, the American with Disabilities Act of 1990. Licensee agrees to indemnify and hold Operator harmless from any and all claims relating to the sale of tickets by Licensee or Licensee’s bonded ticket sales agent including, but not limited to, claims relating to the refund of the ticket price and claims relating to sales tax on the gross receipt from the sale of tickets. Licensee shall not offer for sale tickets for admission until this Agreement has been fully executed and any required Damage Deposit paid.
5. Services to be Provided by Licensee. The services not furnished by Operator as listed in Section 6 below, but necessary for the Event, shall be the sole responsibility and expense of the Licensee. These services shall include, but are not limited to:
 - 5.1. Set-up (under Operator guidelines, includes all necessary permits)
 - 5.2. All lighting and/or generators to power the lighting in and around the grounds of the Facility
 - 5.3. Law enforcement personnel (in the number Douglas County Sheriff determines, at the Sheriff’s standard rates – contract must be in place with the Sheriff and estimated fee paid in advance no later than 14 days prior to the Event)
 - 5.4. Private security personnel
 - 5.5. Overnight security
 - 5.6. Ticket selling operations
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- 5.10. Fire Department personnel
 - 5.11. Medical personnel and equipment (in the number consistent with Lawrence-Douglas County Fire & Medical Department policy, at the Department's standard rates – contract must be in place with the Department and estimated fee paid in advance no later than 14 days prior to the Event)
 - 5.12. Clean-up (during entire length of time on Facility grounds)
 - 5.13. Trash dumpsters
 - 5.14. Port-A-Lets
 - 5.15. Water hook-up (including hoses)
 - 5.16. Fencing (around entire Event compound)
 - 5.17. Carpet, if applicable
 - 5.18. Parking personnel (in the number Douglas County Sheriff determines, at the Sheriff's standard rates – contract must be in place with the Sheriff and estimated fee paid in advance no later than 14 days prior to the Event)
6. Services to be provided by Operator. In addition to the License Fee and other fees and costs required herein, Licensee shall pay Operator for all direct Event-related expenses incurred by Operator for services listed on Schedule A, to the extent that such services are provided in connection with the Event. Any services provided by Operator and not specified in Schedule A shall be provided by Operator at no extra charge, but Operator shall have no obligation to provide any services not specified in Schedule A.
7. Sales Tax. The License Fee and expense payments described herein are not subject to applicable sales taxes. Other taxes on any other charges related to the Event that are deemed sales taxable shall be payable to the Operator; provided, however, that Licensee shall pay all sales taxes relating to the sale of tickets directly to the Kansas Department of Revenue. Operator shall provide Licensee with a proper state sales tax exemption certificate or other documentation to establish no sales tax is due on the Licensee Fee and other expense payments made by Licensee to Operator's designee.
8. Person(s) to be Admitted without Charge. Licensee shall admit without charge: members, employees, agents and representatives of Operator; concessions personnel; officers of local police and fire departments in the discharge of official duties; on-duty ambulance attendants and other necessary medical personnel; and working members of the newspaper, radio and television press. Operator shall not exact a requirement for an admission ticket or receive as fee any percentage of the price of an admission ticket of any such person.
9. Concessions. Operator grants Licensee the right to control, sell, rent, and/or supervise (or assign to others the right to do so), refreshments, beverages, candies, food, snacks, and other similar concessions at the Event; **provided, however, that no liquor, wine, spirits, cereal malt beverages or any other alcohol shall be sold, consumed, or possessed at the Facility.** In addition to the License Fee, a portion of the proceeds generated from concessions shall be paid to Operator's designee in accordance with Schedule A. Licensee shall provide Operator with an accounting and access to Licensee's books and records to verify Licensee's calculations of the fees due Operator's designee. Licensee shall indemnify and hold Operator and its employees, elected officials, officers, directors and agents harmless

from any and all claims, losses, fines or expenses incurred as a result of the sale of concessions, including costs of litigation and reasonable attorney's fees.

10. Merchandising. Operator grants Licensee the right to control, sell, rent, supervise or give away (or assign to others the right to do so) all programs, merchandise, novelties or other similar merchandise (non-consumable items) at the Event. In addition to the License Fee, a portion of the proceeds generated from merchandise shall be paid to Operator's designee, in accordance with Schedule A. Licensee shall provide Operator with an accounting and access to Licensee's books and records to verify Licensee's calculations of the fees due Operator's designee.
11. Parking Rights. Persons attending the Event may park in designated parking areas at the Facility for no additional charge. Licensee, at Licensee's cost, shall contract separately with the Douglas County Sheriff to provide parking lot personnel. at no charge.
12. Fee Payment Schedule. All payments, including the License Fee, proceeds from concessions and merchandise, and any additional amounts due in accordance with the Agreement are payable by wire transfer, cashier's check or money order, unless otherwise specifically approved by Operator. The Schedule for payment is set forth on Schedule A.
13. Supervision by Operator. Operator shall have the right to supervise all operations of Licensee at the Facility in order to insure that the Facility is not subjected to risk of damage. Operator reserves the right to preclude any act or use of equipment by Licensee when, in the reasonable opinion of Operator, required to protect persons or property from exposure to risk.
14. Care of Premises. Licensee shall use and occupy the Facility solely for the purpose set forth herein and always in a safe and careful manner. Licensee shall not take any action or suffer an action to be taken which will in any way mar, deface or injure any part of the Facility, normal wear and tear excepted. The Licensee agrees that if any portion of the premises, during the term of this Agreement, shall be damaged by the act, default, or negligence of the Licensee, or of the Licensee's agents, employees, patrons, guests, or any person admitted to the premises by Licensee, the Licensee will pay to Operator upon demand a sum of money necessary to restore the premises and equipment to their previous condition.
15. Copyrighted Material. Licensee shall ensure that any copyrighted material to be performed in connection with the Event has been duly authorized and licensed by the owners of such copyright or the owner's authorized representative. Licensee shall indemnify and hold Operator and its employees, elected officials, officers, directors and agents harmless from any and all claims, losses, fines or expenses incurred as a result of performance of any copyrighted material that has occurred, including costs of litigation and reasonable attorney's fees. Licensee shall, upon the reasonable request of Operator, show reasonable proof of authorization to perform copyrighted material.
16. Signage, Advertising and Promotional Material. Licensee may post or exhibit or permit the posting or exhibition of signs, advertisements, billboards, lithographics, poster or banners on or about the Facility promoting the Event in compliance with the terms and conditions set

forth by Operator and provided to Licensee within five (5) days of execution of this Agreement. Licensee shall promptly remove all signage after the Event has been held.

17. Lost or Checked Articles. Licensee agrees that Operator shall have the sole right to collect and have custody of articles left, lost or checked in by persons entering the Facility. No other person shall collect or interfere with the collection or custody of such articles and Operator shall take possession of any articles collected as a gratuitous bailee.
18. Structures. No structure shall be erected on the Facility by or on Licensee's behalf without the prior written consent of Operator, which shall not be unreasonably withheld, but Operator shall have the right to require that any proposed structure be designed, constructed and maintained in such a manner and from such materials as will insure safety to persons and property, and to refuse to permit erection of any structure which endangers the safety of spectators.
19. Background Checks. Licensee represents and warrants to Operator that it has performed background checks on all of its employees that will be providing services in or about the Facility pertaining to the Event.
20. Indemnity. Licensee agrees to indemnify, defend and hold harmless Operator and its employees, elected officials, officers, directors and agents from any and all claims for personal injury, death or property/equipment damage to the field, structure or parking lots and any other losses, damages, charges or expenses, including costs of litigation and reasonable attorney's fees, which arise out of, are in connection with, or are because of the use of the Facility by Licensee, except as set forth below. Operator shall compensate Licensee for tort liability to the extent required in the Kansas Tort Claims Act.
21. Insurance.
 - 21.1. Cancellation Policy. Operator and Licensee shall each have the option, but not the obligation, to acquire cancellation policy(ies) of insurance to cover, in its discretion, its own risk of loss in the event of cancellation of the Event for insurable reasons. For the purposes of clarity, (i) each Party shall be solely responsible for the cost of the premium for its own such policies; and (ii) each Party shall be entitled for its own account to the payment of any claim proceeds there.
 - 21.2. Other Insurance. Licensee shall maintain in full force and effect, for a period commencing twenty-four (24) hours prior to the Event and terminating twenty-four hours after the Event (the "Insured Period"), the following insurance coverage:
 - 21.2.1. Commercial General Liability Insurance. Licensee shall maintain commercial general liability insurance (with customary exclusions) with limits per occurrence and in the aggregate of not less than Three Million U.S. Dollars (\$3,000,000) with respect to bodily injury (including death) and property damage arising out of or related to the negligence of Licensee, as applicable. Licensee's policy shall name Operator and its

respective officers, agents, officers, servants and employees as additional insured.

- 21.2.2. Workers' Compensation Insurance and Employers' Liability Insurance. Licensee shall maintain workers' compensation insurance, employers' liability insurance and all other locally required insurance of similar or equivalent character applicable or relating to the employment by Licensee of their respective employees, servants, agents or independent contractors, if any, in connection with the Event at the Facility. No workers' compensation insurance has been or will be obtained by Operator on account of Licensee or Licensee's employees.
- 21.2.3. Automobile Insurance. Licensee shall maintain, and cause each of its respective vendors to maintain, personal injury, liability and property damage automobile insurance with customary exclusions with limits per accident of not less than One Million U.S. Dollars (\$1,000,000) for bodily injury and property damage.
- 21.3. Certificate of Insurance. Licensee shall forward the certificates of insurance certifying to the existence and issuance of the required policies not later than fifteen (15) business days following the full execution hereof, but no later than thirty (30) days prior to the Event. If Licensee fails to maintain the aforementioned insurance, Operator may obtain (but is not obligated to obtain) such insurance, and deduct and retain the amount of the premiums for such insurance from any sums due Licensee under this Agreement. The procurement of insurance by Operator is an alternative to other remedies Operator may have and is not intended to be the exclusive remedy for failure of Licensee to maintain insurance.
- 21.4. Change in Coverage. Licensee shall cause its insurer(s) to agree to notify Operator not less than ten (10) business days prior to any reduction or change in or expiration or cancellation of insurance coverage required under this Section 21.
22. Force Majeure. If the Event is cancelled due to a Force Majeure Event (as defined below) then: (i) neither party shall be in breach of its obligations by reason of such cancellation, (ii) both Parties shall use reasonable efforts to reschedule the Event at a mutually agreeable new Event date, (iii) if the Event is not rescheduled within thirty (30) days of the cancellation, then either party may terminate this Agreement by written notice to the other party. "Force Majeure Event" shall mean any of the following, the occurrence of which makes performance of the Event impossible, impracticable or unsafe: an act of God (including without limitation earthquake), inevitable accident, fire, strike or other labor dispute, war or threat of war, act of public enemy, act of terrorism or threats thereof, riot or civil commotion, national state of emergency, enactment, rule, order or act of any government or governmental instrumentality, failure of technical facilities, epidemic (including a health epidemic), illness, injury, disability or death of Artist, interruption in, or substantial delay or failure of, technical facilities, or failure or substantial delay of necessary transportation services, inability to obtain necessary visas for artists or key Event personnel, or any other event or condition beyond Licensee's or Operator's reasonable control, as applicable. Inclement weather shall

not be deemed a Force Majeure Event and Licensee assumes all risks of weather conditions prohibiting performance of all or any part of the Event, provided, however, that should such weather conditions be severe or threatening enough to threaten public safety, then such weather conditions shall be deemed a Force Majeure Event hereunder.

23. Waiver. No waiver by either Party of any breach of any term, covenant or condition of this Agreement nor the failure of either Party to seek redress for violation of or to insist upon the strict performance of any term, covenant or condition shall be considered to be a waiver of such term, covenant, condition or provision or a waiver of either Party's rights in the event of any subsequent breach. No provision of this Agreement shall be deemed to be waived or modified by either party unless such waiver or modification is made in a written instrument signed by both parties.
24. Assignments. Licensee shall not assign this Agreement without the written consent of Operator nor suffer any use of the Facility other than those permitted by this Agreement. Operator shall not assign this Agreement without the written consent of Licensee. Notwithstanding the foregoing, either Party may assign this Agreement to an affiliate or to an entity that acquires all or substantially all of the Party's stock or assets. In the event Licensee assigns this Agreement to an affiliate, Licensee shall remain responsible for of Licensee's obligations under this Agreement unless and until Operator releases Licensee in writing.
25. Applicable Laws and Regulations. Licensee shall comply with the requirements of all statutes, laws, ordinances or regulations of any governmental agency which may be applicable to use of the Facility by Licensee, including any noise abatement and/or curfew rules. Licensee shall obtain any and all required permits and licenses and shall be responsible for payment of any taxes which may be imposed.
26. Permits and Licenses. Licensee shall be solely responsible for obtaining all necessary permits and licenses in connection with the Event, including but not limited to any necessary governmental (e.g., local, city, state, regional and federal governmental entities), venue, parking, copyright, electric and/or pyrotechnic permits,
27. Representations and Warranties of Parties. Each Party represents and warrants that:
 - 27.1. it has the right and power to execute this Agreement and perform as indicated herein without violation of any other agreements, whether written or oral, which would prohibit it from performing it obligations under this Agreement and
 - 27.2. its entry into this Agreement will not infringe upon any rights of any third parties or cause a breach of any other agreements to which it is a party.
28. Licensee's Policies. Licensee may, as promoter/sponsor of the Event, impose its policies (including conditions and limitations) relating to admission and conduct of the Event; provided such policies are lawful and not in conflict with operational requirements of Operator. Licensee shall provide all such policies to Operator at least ten (10) business days prior to the Event and Operator shall notify Licensee within two (2) business days thereafter

should any of said policies be in conflict with Operator's operational requirements, whereupon the Parties shall have good faith discussions to implement a similar policy that is not in such conflict.

29. Miscellaneous.

- 29.1. Entire Agreement. This Agreement embodies the entire agreement and understanding of the Parties in respect of the subject matter contained herein or therein. There are no agreements, representations, warranties or covenants other than those expressly set forth herein or therein. This Agreement supersedes all prior agreements and understandings between the Parties with respect to such subject matter.
- 29.2. Invalid or Unenforceable Provisions. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted or modified by a court of competent jurisdiction in such a way as to make it valid and enforceable.
- 29.3. Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns. No Party may assign either this Agreement or any of its rights, interests, or obligations hereunder without the prior written approval of the other Party.
- 29.4. Waiver and Modification. No change or modification of this Agreement shall be valid unless it is in writing and is signed by the Parties hereto. No waiver of any provision of this Agreement shall be valid unless in writing and signed by the person against whom it is sought to be enforced. Failure of any party at any time to insist upon strict performance of a condition, promise, agreement, or understanding set forth herein, shall not be construed as a waiver or relinquishment of the right to insist upon strict performance of the same condition, promise, agreement or understanding at a future time.
- 29.5. Headings. Headings and other captions in this Agreement are for convenience of reference only and shall not be used in interpreting, construing or enforcing any of the provisions of this Agreement.
- 29.6. Notices. All notices and other communications required or permitted to be given under this Agreement shall be in writing and shall be delivered either by personal service, facsimile (with confirmation of receipt), email (with confirmation of receipt) or prepaid overnight courier service and addressed as follows:

If to Licensee:	SFX-LIC Operating LLC 2800 Biscayne Boulevard Suite 900B Miami, Florida 33137
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Attn:
Fax: (954) 688-2488
Email:

If to Operator: As set forth on Schedule A

If delivered personally, such notices or other communications shall be deemed delivered upon delivery. If sent by fax, such notice or other communications shall be deemed delivered when received provided that the sender has confirmation of receipt. If sent by prepaid overnight courier service, such notices or other communications shall be deemed delivered upon delivery or refusal to accept delivery as indicated on the return receipt. Either party may change its address at any time by written notice to the other party as set forth above.

- 29.7. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Kansas applicable to contracts executed and performed entirely within the State, without regard to the conflicts of laws rules thereof.
- 29.8. Jurisdiction and Venue. Each of the Parties irrevocably and unconditionally submits to the exclusive jurisdiction of the United States District Court for the District of Kansas or any Kansas State court sitting in Douglas County for the purposes of enforcing this Agreement. In any action, suit or other proceeding, each of the Parties irrevocably and unconditionally waives and agrees not to assert by way of motion, as a defense or otherwise any claims that it is not subject to the jurisdiction of the above courts, that such action or suit is brought in an inconvenient forum or that the venue of such action, suit or other proceeding is improper. Each of the Parties also agrees that any final and non-appealable judgment against a Party in connection with any action, suit or other proceeding may be enforced in any court of competent jurisdiction, either within or outside of the United States.
- 29.9. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Venue License Agreement as of the date first written above.

SFX-LIC OPERATING LLC

By: _____
Name: _____
Title: _____
Date: _____

BOARD OF COUNTY COMMISSIONERS,
OF DOUGLAS COUNTY, KANSAS

By: _____
Name: Mike Gaughan
Title: Chair
Date: _____

Attest:

Jameson D. Shew, Douglas County Clerk

SCHEDULE A

Operator Address for Notice:	DOUGLAS COUNTY, KANSAS 111 E. 11 th St. Lawrence, Kansas. 66044 Attn: Bill Bell Phone: (785) 832-5330 Fax: (785) 832-5262 Email: bbell@douglas-county.com
Facility:	Portions of Douglas County Fair Grounds consisting of Site #1 and/or Site #2, as described below, together with parking, located at 2110 Harper, Lawrence, Kansas. 66046
Move-In Date (Begin):	April 25, 2013, 8:00 a.m.
Event:	Set-Up: April 25, 2013, 7:00 a.m. – midnight. Set-Up and Event: April 26, 2013, 7:00 a.m. – midnight.
Move-Out Date (End):	April 27, 2013, 7:00 a.m. – out by end of day
Event Location at Facility:	The Event shall occur at the Facility at what has been designated by the Parties as Site #1, located at south field carnival area. In the event that Site #1 is rendered unusable due to weather, the Event shall occur at the Facility at what has been designated by the Parties as Site #2 located at east parking area, farmland. If the Event is held at Site #1, Licensee shall, at its expense, cover the entire grassed area with suitable carpeting so as to prevent damage.
License Fee:	Two Dollars (\$2.00) from the sale price of every ticket sold and collected for the Event, payable to Douglas County Fair Board.
Damage Deposit Amount and Due Date:	\$2,650.00 14 days prior to the Event
Additional Operator Services and Charges:	None
Concession Fee Percentage to Operator:	100% of fee the concessionaire pays Licensee, payable to Douglas County 4-H Foundation.
Merchandise Fee Percentage to Operator:	20%, payable to Douglas County 4-H Foundation, Inc.
Parking Fee Charges:	General parking: None Premium parking: None
Parking Fee Percentage to Licensee:	None

Schedule for Payment of License Fees and Percentages:	
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