

BOARD OF COMMISSIONERS
SARPY COUNTY, NEBRASKA
RESOLUTION AUTHORIZING CONTRACT WITH
THREE GALS AND A KART, LTD. FOR COFFEE SERVICES

WHEREAS, pursuant to Neb. Rev. Stat. §23-104(6)(Reissue 1997), the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. §23-103 (Reissue 1997), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, the Sarpy County Courthouse has space that can be utilized for coffee service by Three Gals and a Kart, Ltd.; and,

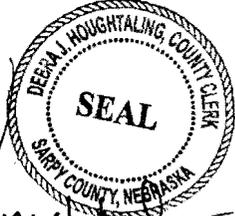
WHEREAS, Three Gals and a Kart, Ltd. is desirous of leasing this space at the Sarpy County Courthouse.

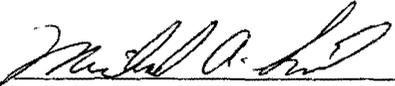
NOW, THEREFORE, BE IT RESOLVED BY THIS BOARD OF COUNTY COMMISSIONERS that the attached lease is hereby approved and the Chairman of such Board is authorized to sign the same.

Dated this 7th day of April, 2009.

Moved by Rich Jansen, and seconded by Rusty Hike, that the above Resolution be adopted. Carried.

YEAS: <u>Rusty Hike</u> <u>Rich Jansen</u> <u>Tom Doney</u> <u>Tom Michalski</u> <u>Patrick J. Thomas</u>	NAYS: <u>none</u> <hr/> <hr/>	ABSENT: <u>none</u> <hr/> <hr/>
		ABSTAIN: <u>none</u> <hr/> <hr/>

Attest:

Debra J. Venglar
Sarpy County Clerk

Approved as to form and content:

Deputy Attorney

Sarpy County Purchasing Department

SARPY COUNTY COURTHOUSE
1210 GOLDEN GATE DRIVE
SUITE 1129
PAPILLION, NE 68046-2845
FAX (402) 593-4304



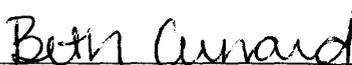
Brian E. Hanson, Purchasing Agent
(402) 593-2349
Debby Peoples, Assistant Purchasing Agent
(402) 593-4164
Beth Cunard, Purchaser/Contract Specialist
(402) 593-4476
Lois Spethman, Supply Clerk/Purchaser
(402) 593-2102

To: Sarpy County Board of Commissioners
From: Beth Cunard
Re: Coffee Service Agreement

On April 7, 2009 the County Board will be asked to approved the attached Lease Agreement with Three Gals and a Kart, Ltd. d/b/a Legal Grounds for Coffee Service for the Sarpy County Courthouse. Sarpy County has agreed to provide all infrastructure improvements and design a serving county with the project architect. In return, Legal Grounds will provide all required equipment and have increased their commission from 6% to 8 with Sarpy County retaining ownership of the serving counter.

If you have any questions, please feel free to contact me at 593-4476.

March 30, 2009



Beth Cunard

cc: Brian Hanson
Mark Wayne
Scott Bovick
Deb Houghtaling
Kerry Schmid

LEASE

This lease, executed in duplicate, by and between Sarpy County, hereinafter called the Lessor, and Three Gals and a Kart, Ltd. dba Legal Grounds, hereinafter called the Lessee.

WITNESSETH

1. **PREMISES.** The Lessor warrants and represents that it is the owner of those certain premises, with appurtenances, described as following:

Sarpy County Courthouse
1210 Golden Gate Drive
Papillion, NE 68046
- 1.1 The Lessor hereby leases to the Lessee, all of the described premises referred to as the Southwest Corner of the Courthouse Remodel Project, 1210 Golden Gate Drive, Papillion, NE 68046, as illustrated in Exhibit A.
2. **TERM.** The primary term of this lease is five (5) years commencing on July 1, 2009 until June 30, 2014 unless sooner terminated as hereinafter provided.
3. **RENTAL/OCCUPANCY.** Lessee agrees to pay an 8% commission on gross monthly sales for the entire lease term.
- 3.1 Commission is due and payable on the fifteenth day of each month following the month in which the commission was earned and commencing with the commencement of the term of this lease. First commission payment shall be due on September 15, 2009 payable to Sarpy County Treasurer, and forwarded to Brian E. Hanson, Sarpy County Fiscal Administrator, Sarpy County Courthouse, 1210 Golden Gate Drive, Papillion, Nebraska 68046, or to such other address as the Lessor may designate by a notice in writing.
- 3.2 Lessee shall make a \$1,000 deposit to Sarpy County prior to commencement of any work by Lessee to be returned to Lessee in accordance to Section 11.
4. **AUTHORITY TO ACT.** Each party hereto declares that it has taken all steps which are legally necessary or required to authorize this lease and the rights, duties, and obligations herein. Each party represents and warrants that each has the power and authority to enter into this lease, perform its obligations, and to consummate the contemplated transactions.
5. **NOTICES.** All notices herein provided to be given, or which may be given, by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States mail, certified and postage prepaid, and addressed as follows:

To the Lessor at:

Deb Houghtaling
Sarpy County Clerk
1210 Golden Gate Drive
Papillion, NE 68046

To the Lessee at:

3 Gals & a Kart, Ltd.
1111 N. 102nd Court, Ste. ~~300~~ 330
Omaha, NE 68114

6. ASSIGNMENT AND SUBLETTING: The Lessee shall not assign this lease without the written consent of the Lessor. Any occupant, assignee, or sublessee must agree to abide by all of the terms and provisions of this lease. Assignment or subletting shall not relieve Lessee of any of Lessee's obligations under this Lease; and, Lessor will continue to treat Lessee as the primary obligor for all of the rights, duties, terms, and obligations of this lease and subleasee/assignee/occupants as secondarily responsible.
7. INSPECTION. Lessee agrees to permit the Lessor and/or its authorized representative to enter the area at all reasonable times during usual business hours for the purpose of inspecting the same, or for the making of any necessary upkeep, maintenance or repairs for which the Lessor may be responsible.
8. DUTIES OF LESSEE. Prior to the commencement of any work, Vendor will place the required certificates of insurance on file with the Sarpy County Clerk.

Insurance Requirements

Lessee shall not commence work on this Agreement until he/she has obtained all insurance required under this Section and such insurance has been approved by Sarpy County, nor shall Lessee allow any subcontractors to commence work on his/her subcontract until similar insurance required of the subcontractor has been so obtained and approved.

The following insurance coverages shall be kept in force during the life of the Agreement and shall be primary with respect to any insurance or self-insurance programs covering the County, its commissioners/supervisors, officials, agents, representatives and employees.

Workers' Compensation and Employers Liability Insurance

The minimal acceptable limits shall be the statutory limits as required by the State of Nebraska for Coverage A, Workers' Compensation and \$500,000 each accident for Coverage B, Employers Liability.

Commercial General Liability Insurance

Coverage should include broad form coverage written on a commercial general liability form and written on an occurrence basis. The coverage must protect against claims for damages resulting from bodily injury, including death, personal injury and property damage.

The minimum acceptable limits of liability shall be \$1,000,000 each occurrence. If the coverage contains a general aggregate, such limit shall not be less than \$2,000,000. The products/completed operations limit shall not be less than \$2,000,000.

Certificate of Insurance

The Lessee shall furnish the County with a certificate(s) of insurance evidencing the coverages required in this section. Such certificate(s) shall specifically state that the insurance company or companies underwriting these insurance coverages shall give the County at least thirty (30) days' written notice in the event of cancellation of, or material change in, any of the coverages. If the certificate(s) is shown to expire prior to completion of all the terms of this Contract, the Vendor shall furnish a certificate(s) of insurance evidencing renewal of its coverage to the County.

The Lessee shall require each and every Subcontractor performing work under this Contract to maintain the same coverages required of the Lessee in this Section, and upon the request of the County, shall furnish the County with a certificate(s) of insurance evidencing the Subcontractor's insurance coverages required in this section.

Insurance Company

All insurance coverages herein required of the Lessee shall be written by an insurance company or companies transacting business as an admitted insurer in the State of Nebraska or under the Nebraska Surplus Lines Insurance Act. All insurance companies must possess a minimum A.M. Best Insurance Company rating of A-. Upon request by the County, the Lessee shall furnish evidence that the insurance company or companies being used by the Lessee meet the minimum requirements listed in this section.

Upon request by the County, the Lessee shall furnish the County with complete and accurate copies of the insurance policies required within this section. If at any time during the life of this Contract, the Lessee's insurance coverages and limits do not meet or exceed the minimum insurance requirements presented in this section, the Lessee is required to notify the County within thirty (30) days of any deviations from the minimum requirements presented in this section

- 8.1 Lessee will obtain and display any certificates required by any other governmental entity. All certificates shall be kept current for the term of the Lease.
- 8.2 Lessee is responsible for maintaining area inside and surrounding the coffee service area in a neat, clean and professional manner. All refuse, including coffee grounds, shall be disposed of in a manner approved by the Sarpy County Facilities Management Director. Lessor agrees to provide the use of janitorial closet as noted on Exhibit A, equipment and

- supplies to facilitate maintenance of the premise.
- 8.3 Lessee will put forth all reasonable efforts possible to reduce the amount of noise.
- 8.4 Lessee will pay forty five dollars (\$45) monthly charge for phone/data lines due the 15th of each month beginning July 15, 2009.
- 8.5 Lessee will provide all personal equipment required for the operation of the coffee service. Lessee is responsible for any loses or damage to personal equipment.
- 8.6 Any fixtures, equipment or personal property installed in or attached to the premises by or at the expense of Lessee, shall be and remain the property of the Lessee and Lessor agrees that Lessee shall have the right to remove any and all of its fixtures. Equipment and other personal property which it may have stored or installed by or at the expense of Lessor shall be and remain the property of the Lessor. Lessee agrees that it will, at its expense, repair any damage occasioned to the premises by reason of the removal of its trade fixtures, equipment and other personal property.
- 8.7 Any utility installations installed or attached to the premises by Lessee shall not be removed at the termination of this Lease and shall be the property of Lessor notwithstanding the fact that the removable personalty of the Lessee is attached to such installations.
- 8.8. Lessee responsible for all signage and advertisements, to be approved by Lessor.
9. DUTIES OF LESSOR. Lessor will provide for initial installation of water, sewer, power, phone/data, and millwork.
- 9.1 Lessor will pay monthly charges for water, sewer, and power.
10. ALTERATIONS. Lessee acknowledges that the premises are leased in "as is" or new condition. Lessee will not permit any alterations of or additions to any part of the of the premises, except by written consent of Lessor, which consent shall not be unreasonably withheld, and all alterations and additions to the premises shall remain for the benefit of Lessor, unless otherwise provided in said consent. Lessee hereby indemnifies Lessor against liens, costs, damages and expenses with respect to any such additions or alterations.
11. RETURN OF PREMISES. At the conclusion of this Lease, Lessee shall return the property to the Lessor in the same condition as it was received at commencement of this Lease, normal wear and tear expected. If at the conclusion of this Lease, damage other than normal wear and tear is incurred on leased premised, then Lessee shall reimburse Lessor for the cost of repairing such damage. If such reimbursement is not made, Lessor shall be entitled to retain Deposit set forth in Section 3.2. If premises is returned in satisfactory condition the Deposit set forth in Section 3.2 will be returned to Lessee.
12. DESTRUCTION OF PREMISES. Should the premises be made unfit for occupancy due to fire or other unavoidable casualty, tenancy shall immediately be suspended and Lessee shall pay commission only to the date of such occurrence. The portion of any advance

lease payment which is attributed to the period of time after the Lease has been terminated in the above manner shall be refunded by Lessor to Lessee. If the damage is not of a permanent nature, Lessor shall be responsible for repairing the same in a timely manner at Lessor's own expense and the commission payments shall be suspended until the premises have been put in proper condition for occupancy.

- 12.1 As used herein, the phrase "unfit for occupancy" shall mean that the premises shall be restored within 100 days for reoccupancy by tenant. In the event the restoration extends beyond such period of time, Lessee shall have the sole and exclusive right to decide to reoccupy after restoration or treat this Lease as completely terminated.
13. REPAIR AND MAINTENANCE. During the Lease term, the Lessor shall maintain the general landscaping, sidewalks and parking areas, the roof, exterior walls, exterior doors, exterior windows, and the building equipment in good repair and tenantable condition. Lessor's obligations include, but are not limited to, the maintenance and repair of the plumbing, heating, electrical, air conditioning, ventilating equipment, phone and data lines, and its fixtures to the end that all such facilities are kept in good operative condition. Lessor's obligations shall also include, but are not limited to furnishing and replacing electrical light bulbs, fluorescent tubes, ballasts and starters, and air conditioning and ventilating equipment filters.
14. HOLDING OVER. In the event Lessee remains in possession of the premises after the expiration of the Lease term, or any extension thereof, this Lease shall be automatically extended on a month-to-month basis, subject to thirty (30) days termination by either party, and otherwise on the terms and conditions herein specified, so far applicable, excepting only that commission payable during any holdover period shall be an amount mutually agreed by Lessee and lessor and not less than rental payable during the term thereof.
15. COMPLIANCE WITH LAW. Lessor and Lessee shall, at their own expense, comply with all applicable statutes, charters, law, ordinances, building and maintenance codes, rules, regulations, requirements and orders of duly constituted public authorities now or hereafter in any manner affecting the leased area. Lessee shall comply with all building and use or occupancy restrictions, conditions, and covenants of record; and shall also comply with the requirements of all policies of public liability, fire and other insurance at any time in force with respect to the premises.
- 15.1 The premises shall meet all current code requirements, including but not limited to fire/life safety codes and the Americans with Disabilities Act Accessibility Guidelines.
16. DEFAULT. In the event Lessee fails to pay any commission due hereunder or fails to keep and perform any of the other terms or conditions thereof, time being of the essence, then ten (10) days after written notice of default from Lessor, the Lessor may, if such default has not been corrected, resort to any and all legal remedies or combination of remedies which Lessor may desire to assert, including but not limited to one or more of the following: (1) Declare the Lease at an end and terminated; (2) sue for the commission due and to become due under the Lease or for any damages sustained by Lessor; and (3) continue the Lease in effect and relet the premises on such terms and conditions as Lessor may deem advisable with Lessee remaining liable for the monthly commission plus any

repair and alterations necessary to prepare the premises for reletting, less the commissions received from such reletting, if any. No action by Lessor shall be construed as an election to terminate the Lease unless written notice of such intention be given to Lessee. In case Lessor, after written notice from the Lessee indicating the Lessor has failed to comply with any requirements of this Lease in regard to a specified condition, shall fail, refuse, or neglect to comply therewith, within (30) days or in the event of an emergency constituting a hazard to the health or safety of the Lessee's employees, property, or invites, the Lessee may give Lessor notice of termination of this Lease.

17. OPTION TO RENEW. Provided Lessee is not in default under the terms of this Lease, Lessee and Lessor shall have the option to renew this Lease for one (1), two (2) year option upon the same terms and conditions as in effect during the primary term as set in Section 3, subject to commission adjustments as provided below. Lessee and Lessor shall exercise the option to renew this Lease by delivery of written notice of its election to renew to other party at least six (6) months prior to the expiration of the primary term of this lease.
- 17.1 The commission adjustment for the two (2) year renewal term shall be negotiated between the parties; and, the new commission shall be reduced to writing as an amendment to this Lease.
18. TERMINATION. This Lease may be terminated for breach within the terms and conditions of the Agreement, upon one hundred twenty (120) days written notification as provided in Section 5.

Executed in duplicate this 7th day of April, 2009.

LESSEE:

BY: 
3 Gals & a Kart, Ltd.
dba Legal Grounds

LESSOR:

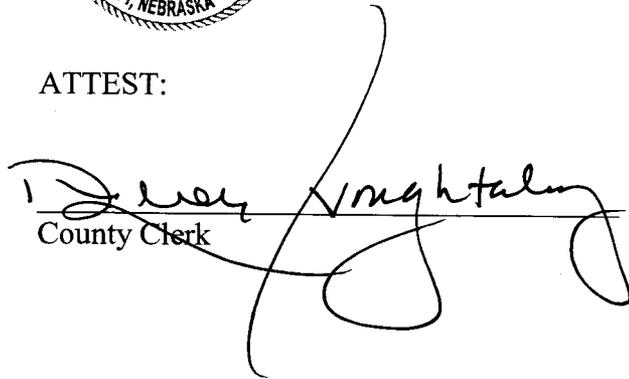
THE COUNTY OF SARPY, NEBRASKA

BY: 
Chairperson
Board of Commissioners

SEAL:



ATTEST:


County Clerk

Approved as to Form:

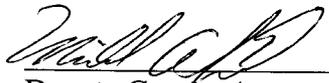
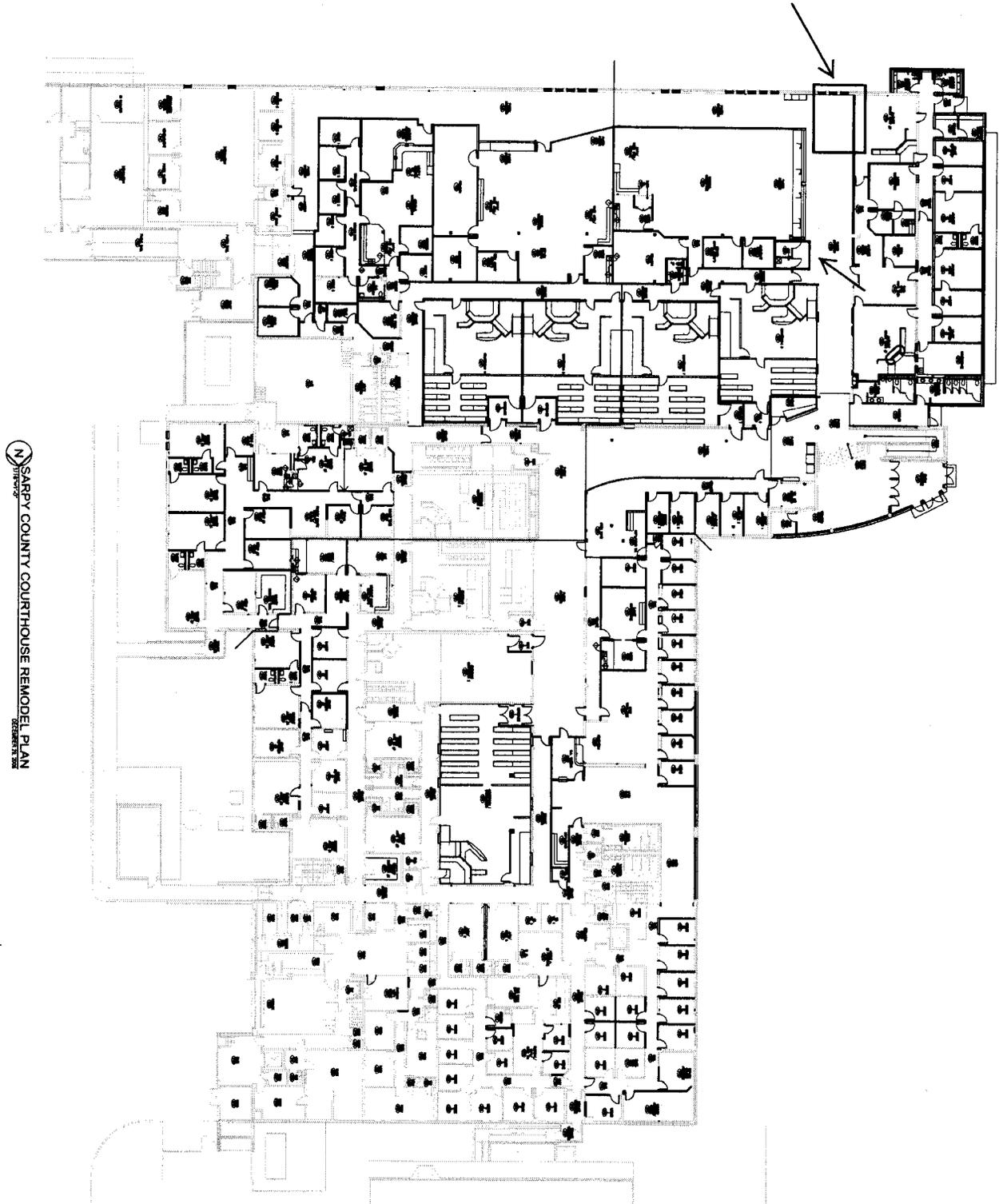

Deputy County Attorney

Exhibit A



N
SARPY COUNTY COURTHOUSE REMODEL PLAN
DESIGNED BY

Deb Houghtaling

Sarpy County Clerk

1210 Golden Gate Drive, Suite 1118
Papillion, Nebraska 68046-2895

Phone: (402) 593-2105
Fax: (402) 593-4360

Fred Uhe
Chief Deputy

April 10, 2009

3 Gals & a Kart Ltd.
1111 N. 102 Court #30030
Omaha NE 68114

RE: Lease Agreement

Action by the Sarpy County Board on April 7, 2009 is as follows:

Resolution: Authorize Chairman to sign lease agreement with Three Gals and a Kart, Ltd. d/b/a Legal Grounds for Coffee Service for a term commencing July 1, 2009 until June 30, 2014. (2009-075) Beth Cunard

MOTION: Jansen moved, seconded by Hike, to approve the Consent Agenda items as presented. Ayes: Hike, Jones, Richards, Thomas & Jansen. Nays: None.

Enclosed is a fully executed original of the lease agreement for your files.

PLEASE NOTE: Please provide the required insurance certificate(s) in the stated amount(s) per the Lease agreement, Section #8 prior to beginning work under this agreement.

Mail to: Sarpy County Clerk
Attn: Chris Vance
1210 Golden Gate Dr
Papillion NE 68046-2895

Sincerely,



Debra J. Houghtaling
Sarpy County Clerk

ec: Kerry Schmidt
Beth Cunard
Brian Hanson
Mark Wayne

Chris Vance

From: Beth Cunard
Sent: Tuesday, April 14, 2009 11:39 AM
To: April O'Loughlin
Cc: Chris Vance
Subject: Address

Your agreement has been sent back to the County due to a wrong address. Please provide me with the correct address.

Beth Cunard
Purchaser/Contracts Specialist
Sarpy County Purchasing Department
1210 Golden Gate Drive
Papillion, NE 68046

(402) 593-4476 Phone
(402) 593-4304 Fax



Please don't print this e-mail unless it is necessary