

RESOLUTION APPROVING OPTION YEAR FOR FARM LEASE AT THE SHERIFF'S OFFICE

WHEREAS, pursuant to Neb. Rev. Stat. §23-104(6) (Reissue 2007), 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 2007), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, Sarpy County has entered into a contract with LeRoy Keller for farming of excess land surrounding the Sheriff's Office located at 8335 Platteview Road; and,

WHEREAS, LeRoy Keller is desirous of leasing the land to plant, maintain and harvest a crop for the purpose of weed control for an additional year as stated within the Agreement.

NOW, THEREFORE, BE IT RESOLVED, by the Sarpy County Board of Commissioners that the attached acknowledgment is hereby approved and the Chairman of such Board is authorized to sign the same.

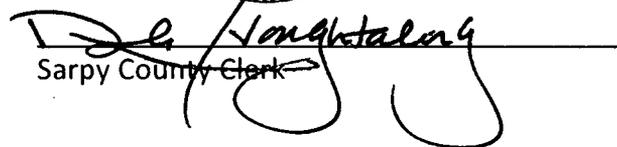
NOW, THEREFORE, BE IT RESOLVED, by the Sarpy County Board of Commissioners that this Board's Chairman, Clerk, and Fiscal Administrator are hereby authorized and directed to execute such ancillary documents as may be required to evidence the contract and take any and all steps necessary or required in order to carry out the terms of such contract after said documents have been reviewed by the Attorney, Fiscal Administrator, and County Administrator.

The above resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on the 13th day of December, 2011.



Sarpy County Board Chairman

ATTEST:

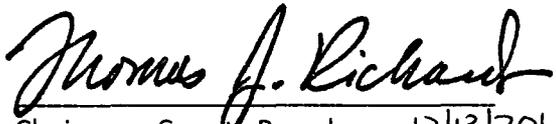


Sarpy County Clerk

**Board of County Commissioners
Sarpy County, Nebraska**

Acknowledgement

The parties listed below do hereby acknowledge and agree to exercise the first optionyear of the Land Maintenance Contract for the farming of land at the Sarpy County Sheriff's Office located at 8335 S. 84th St., Papillion, NE under all of the same terms and conditions including the same cash rent as the original contract. The total cash rent for the period effective from March 1, 2012 until March 1, 2013 will be \$4,244.00


Chairman, County Board 12/13/2011


LeRoy Keller

Sarpy County Purchasing Department

SARPY COUNTY COURTHOUSE
1210 GOLDEN GATE DRIVE
PAPILLION, NE 68046



Brian Hanson, Purchasing Agent
(402) 593-2349

Debby Peoples, Asst. Purchasing Agent
(402) 593-4164

Beth Cunard, Senior Buyer/Contract Administrator
(402) 593-4476

Lois Spethman, Supply Clerk/Purchaser
(402) 593-2102

Memo

To: Sarpy County Board of Commissioners

From: Beth Cunard

Re: Sheriff's Office Farm Lease

The County currently holds a contract with LeRoy Keller to farm the excess land surrounding the new Sheriff's Office located at 8335 Platteview Road. This agreement has five (5), one (1) year options. It is recommended that the attached acknowledgement be approved to utilize the first option year. Should you have any questions, you may contact me at bcunard@sarpy.com

December 7, 2011

Beth Cunard

Cc: Deb Houghtaling
Mark Wayne
Scott Bovick
Brian Hanson



Office of the Sarpy County Assessor

1210 Golden Gate Drive

Papillion, NE 68046

402-593-2122

www.sarpy.com

Memorandum

To: Mike Smith, Sarpy County Attorney
Brian Hansen, Sarpy County Fiscal Administrator
Tom Richards, Sarpy County Board Chairman

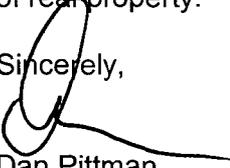
Regarding: Lease of county owned land and tax exemption

Gentlemen,

The December 13th agenda has two items listed as 2011-401 and 2011-402 involving the renewal of the contracts/leases for farming the excess land associated with the Sarpy County Sheriff's Office and the Sarpy County Juvenile Justice Center. The stated purpose of the lease contract is for weed control. However, I have some concern over whether the property can be considered as being used for a public purpose and whether the receiving of rental income by the county is a problem when granting a property tax exemption.

Therefore, I am requesting that the county board permit the county attorney to offer an opinion as to the taxable status of both parcels as both parcels are currently exempt from property taxes. I am forwarding to the county attorney a copy of the state regulations used by the assessor's office when reviewing taxable status of real property.

Sincerely,


Dan Pittman
Sarpy County Assessor



Office of the County Attorney

Hall of Justice · 1210 Golden Gate Drive · Suite 3147
Papillion, NE 68046-2889
(402) 593-2230 · FAX: (402) 593-4359

L. Kenneth Polikov
Sarpy County Attorney

MEMO

To: Dan Pittman, Assessor, and the Sarpy County Board of Commissioners

From: Kerry Schmid, Deputy County Attorney

Re: Taxability of County-owned Leased Land

Mr. Pittman asked the County Attorney's Office to provide an opinion concerning whether the leased agricultural land surrounding the Juvenile Justice Center (JJC) and Law Enforcement Center (LEC) should be added to the tax rolls or whether the parcels may remain exempt from taxation. The determinative issue in this situation is whether the use of the leased agricultural land is for a public purpose. If the use is not considered a public purpose under statute and Title 350, Chapter 15 of the Nebraska Administrative Code, the land must be taxed.

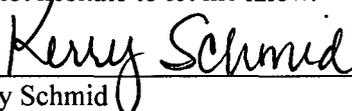
The Nebraska Supreme Court looked at a very similar issue in *City of York v. York Cty. Bd. of Equal.*, 266 Neb. 305, 664 N.W.2d 452 (2003). Much like the situation facing Sarpy County, in the *York* case, the City of York leased land to a private party for agricultural use. As part of this lease, the city received rental payments from the lessee. The leased land was connected to and part of land developed by the city for a community development project. The Tax Equalization and Review Commission determined that the Board of Equalization was proper in finding that the land was not exempt from taxation as its primary use was not that of a public purpose. The city appealed and the Supreme Court determined that the city's renting of the property for an agricultural use was incidental to its primary use as a community development project. The Court further stated that because the leased land has a future use that qualifies as a public purpose, the leased land was exempt, regardless of how distant in the future that public use occurs.

In the present case, the land to be leased to Mr. Keller for agricultural purposes is, first and foremost, land purchased for the JJC and LEC and ultimately to be used by both for either expansion purposes or parking. Thus, under the rationale in the *York* case cited above, the primary purpose of the leased land is that of a civil and criminal justice and not agriculture, regardless of whether money is received as rent under the lease.

It is my opinion based on the caselaw above that the land to be leased to Mr. Keller should be considered exempt and not placed on the tax rolls. In further support of that opinion, no notice of the intent to tax was given to the County for this particular parcel and as the time frame for that notice has passed (notice must be given to the affected political subdivision by March 1), the land cannot be taxed until such notice is given in 2012.

If you have questions or concerns, please do not hesitate to let me know.

December 13, 2011


Kerry Schmid

Deb Houghtaling

Fred Uhe
Chief Deputy

Sarpy County Clerk

Renee Lansman
Assistant Chief Deputy

1210 Golden Gate Drive • Papillion, Nebraska 68046-2895
Phone: 402-593-2105 • Fax: 402-593-4471 • Website www.Sarpy.com • Email: Clerk@sarpy.com

December 15, 2011

LeRoy Keller
6504 Platteview Road
Papillion, NE 68133

Dear Mr. Keller,

Enclosed original Land Maintenance Contract which has been approved by the Sarpy County Board and signed by the Chairman on December 13, 2011.

Sincerely,



Deb Houghtaling
Sarpy County Clerk

Enclosures
DJH/sm