

~~INTERGOVERNMENTAL AGREEMENT PURSUANT TO K.S.A. 68-572~~MEMORANDUM OF UNDERSTANDING
FOR ROAD MAINTENANCE, CONSTRUCTION, AND RECONSTRUCTION SERVICES

by and between:

SEDGWICK COUNTY, KANSAS
and
ROCKFORD TOWNSHIP in SEDGWICK COUNTY, KANSAS

This ~~Agreement~~Memorandum of Understanding ("MOU") made and entered into this ____ day of _____, 2017, by and between Sedgwick County, Kansas ("County") and the Rockford Township, located within Sedgwick County, Kansas ("Township").

WITNESSETH:

WHEREAS, Rockford Township is a township located within Sedgwick County, Kansas; and

WHEREAS, Sedgwick County does not operate under the county road unit system; and

WHEREAS, pursuant to K.S.A. 68-526, Township is responsible for the construction and repair of Township roads; and

WHEREAS, pursuant to K.S.A. 68-572, the Board of County Commissioners of Sedgwick County and the Township Board of Highway Commissioners may enter into agreements for the construction, reconstruction or maintenance of any roads or streets; and

WHEREAS, K.S.A. 68-572 permits County and Township to reach agreements with methods of mutual assistance and cooperation whereby machinery, equipment and employees may be used for grading or bringing to grade township roads; and

WHEREAS, ~~County and Township understand that this MOU is not legally binding upon the parties, but merely sets forth a framework under which the parties may reach future agreements for road maintenance, construction, and reconstruction services; agreed to provide road maintenance services to Township; and~~

~~**WHEREAS**, County and Township desire to state the terms and conditions under which County will provide said road maintenance services, as well as a framework for projects that will be completed under this Agreement.~~

NOW, THEREFORE, ~~in consideration of the mutual covenants, conditions and promises contained herein,~~ the parties hereto ~~agree~~state as follows:

1. **Purpose.** The purpose of this ~~Agreement-MOU~~ is to ~~set forth the responsibilities of both~~establish a framework for potential future agreements parties for the for County's provision of road maintenance, construction, and reconstruction services to Township.

2. **Procedures.** The following procedures shall govern how specific projects may be identified and agreed to within this ~~Agreement~~ MOU.

- a. Township, through a vote of its governing body, will be responsible for identifying in writing specific Township roads for which it would request County to provide ~~one-time maintenance~~, construction, and/or reconstruction services ("Request for Quote"). A copy of the Request for Quote would be mailed to the attention of the County Engineer. These ~~one-time maintenance~~ requested services ("~~Maintenance Services~~ Requested Services") would generally include the following: (1) materials needed for the surfacing of the road (sand or other surface materials); (2) materials needed for any culverts (if necessary and identified in Township's Request for Quote) or other infrastructure; (3) the labor involved in the actual surfacing of the road, installation or replacement of culverts, and other labor included in the scope of the project; and (4) bringing the roads to grade. Furthermore, at the discretion of Township, the Request for Quote could contain additional Requested Maintenance Services. ~~Maintenance Services would not include the construction, reconstruction, or widening of a road. Furthermore, Maintenance Requested Services would~~ be limited to the scope of the project, but would not include the continued maintenance of the road.
- b. Within twenty (20) days after County Engineer's receipt of Township's Request for Quote, County would attempt to mail a quote ("Quote") to Township's Trustee that would estimate the cost of completion of the ~~Maintenance Requested~~ Services identified within the Request for Quote. The Quote would be for County to perform the services. The cost identified within the Quote would include all services and materials. Furthermore, the Quote would identify a proposed timeframe for completion. However, in the discretion of the County Manager or the County Manager's designee, County could elect not to submit a Quote for the Requested Services and can provide notice of that decision to Township within a reasonable period of time. If County would suggest potential alternative or additional ~~Maintenance Services~~ services, those could also be identified within the Quote, with specified costs for any such potential additional ~~Maintenance Services~~ services. Enclosed with the Quote would be a draft version of an agreement for the project ("Project Agreement", a draft agreement pursuant to K.S.A. 68-572) for the Township's review and consideration. Nothing contained within the Quote or the unsigned draft version of the Project Agreement would bind the Board of County Commissioners to enter into the Project Agreement.
- c. After Township Trustee's receipt of the Quote, Township's governing body would determine whether or not to enter into the Project Agreement. If Township would agree to enter into the Project Agreement, a requirement within the Project Agreement, consistent with Kansas law, would be that Township would have adequate funds on hand to: (1) meet its payment obligations under the Project Agreement; and (2) remain in compliance with Kansas cash basis and budget laws (K.S.A. 10-1112, 10-1113, and 79-2935).
- d. After approval by Township's governing body, the Board of County Commissioners would determine whether or not to enter into the Project Agreement.
- e. Upon final approval of the Project Agreement by both parties, County would complete the Maintenance Services. Upon County's completion of the Maintenance Services, County would mail Township Trustee an invoice. Township would be responsible for paying the invoice within ninety (90) days of the date it was mailed by County.

3. **Term.** The term of this ~~Agreement~~MOU shall be for one (1) year, beginning on the date when this has been approved by both parties' governing bodies, with four (4) additional one-year options to renew. The options to renew shall automatically renew unless either party provides notice of termination to the other party at least thirty (30) days prior to the end of the current one-year term.

4. **Termination.** Either party may terminate this ~~Agreement~~MOU, with or without cause, with a thirty (30) day written notice delivered to the other party as indicated within Section 65 of this ~~Agreement~~MOU. Any termination of this ~~Agreement~~MOU does not terminate any rights and responsibilities that may exist between the parties within a Project Agreement separately entered into between the parties.

~~5. **Authority to Contract.** Each party assures it possesses legal authority to contract these services; that resolution, motion or similar action has been duly adopted or passed as an official act of each party's governing body, authorizing the signing of this Agreement, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of each party to act in connection with the application and to provide such additional information as may be required.~~

65. **Notification.** Notifications required pursuant to this ~~Agreement~~MOU shall be made in writing and mailed to the addresses shown below. In recognition that Township's Trustee is an elected position and that no centralized Township office exists, the parties agree that if the Township Trustee changes or moves, the notification address for the Township under this ~~Agreement~~MOU shall change accordingly. Notifications shall be deemed complete upon mailing.

County: Sedgwick County Public Works
Attn: County Engineer
1144 S. Seneca St.
Wichita, Kansas 67213

and

Sedgwick County Counselor's Office
Attn: Contract Notification
Sedgwick County Courthouse
525 N. Main, Suite 359
Wichita, Kansas 67203-3790

Township: Rockford Township Trustee
c/o Dwight Williams
11900 E. 79th St. South
Derby, KS 67037

~~7. **Entire Agreement.** This Agreement contains all the terms and conditions agreed upon by both parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto. Any agreement not contained herein shall not be binding on either party, nor shall it be of any force or effect. This Agreement is not intended to confer upon any person or entity other than the Parties any rights or redress hereunder.~~

~~8. — Assignment. Neither this Agreement nor any rights or obligations created by it shall be assigned or otherwise transferred by either party without the prior written consent of the other. Any attempted assignment without such consent shall be null and void.~~

~~9. — Amendments. Neither this Agreement nor any rights or obligations created by it shall be amended by either party without the prior written consent of the other. Any attempted amendment without such consent shall be null and void.~~ This MOU may only be amended if both parties agree in writing to such amendment.

~~10. — Waiver. Waiver of any breach of any provision in this Agreement shall not be a waiver of any prior or subsequent breach. Any waiver shall be in writing and any forbearance or indulgence in any other form or manner by County shall not constitute a waiver.~~

~~11. — Anti-Discrimination Clause. Both parties, and any contractors hired thereby, agree: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs and activities; (b) to include in all solicitations or advertisements for employees the phrase “equal opportunity employer;” (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the Contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the Agreement may be cancelled, terminated or suspended, in whole or in part by County, without penalty thereto; and (f) if it is determined that the Contractor has violated applicable provisions of the ADA, such violation shall constitute a breach of the Agreement and the Agreement may be cancelled, terminated or suspended, in whole or in part by County, without penalty thereto.~~

~~Parties to this Agreement understand that the provisions of this Section (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of this Agreement or whose contracts with the County or Township cumulatively total \$5,000 or less during the County’s or Township’s fiscal year.~~

~~12. — Choice of Law. This Agreement shall be interpreted under and governed by the laws of the State of Kansas. The parties agree that any dispute or cause of action that arises in connection with this Agreement will be brought before a court of competent jurisdiction in Sedgwick County, Kansas.~~

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~~13. — Cash Basis and Budget Laws. The right of the parties to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and all other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the parties shall at all times stay in conformity with such laws, and as a condition of this Agreement the parties reserve the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws.~~

~~14. — Counterparts. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single agreement.~~

~~[(Remainder of page intentionally left blank)]~~

IN WITNESS WHEREOF, the parties hereto have executed this ~~Agreement-Memorandum of Understanding~~ as of the day and year first above written.

SEDGWICK COUNTY, KANSAS

ROCKFORD TOWNSHIP

~~David M. Unruh, Chairman~~
~~Commissioner, First District~~
Mike Scholes
County Manager

Dwight Williams
Trustee

APPROVED AS TO FORM ONLY:

Justin M. Waggoner
Assistant County Counselor

Tara Loveless
Treasurer

ATTESTED TO:

Kelly B. Arnold
County Clerk

Glena A. McCormac
Clerk