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RESOLUTION NO. 09-2023

**A RESOLUTION BY THE CHEROKEE COUNTY, KANSAS BOARD OF COMMISSIONERS
ESTABLISHING RATES AND POLICY RELATED TO FEMA FLOOD PROPERTY LEASES**

WHEREAS K.S.A. 19-101 et. seq., and K.S.A. 19-212 authorize the Board of County Commissioners to transact all County business and perform all powers of local legislation deemed appropriate, and to make all contracts and do all other acts in relation to the property and concerns of the County necessary to exercise the County's corporate and/or administrative powers; and

WHEREAS Cherokee County, Kansas, has previously acquired and currently owns certain tracts of real estate granted to the County pursuant to a Federal Emergency Management Administration (FEMA) hazard mitigation assistance program, as provided by 44 CFR 80.

WHEREAS 44 CFR 80 establishes limits on the use of such real estate to serve the purpose of future disaster mitigation.

WHEREAS Cherokee County, Kansas has previously opted and continues to offer such real estate for lease to certain parties for use consistent with the limits of 44 CFR 80.

WHEREAS 44 CFR 80 imposes certain inspection and reporting requirements on the County to ensure lessees are complying with the aforementioned limitations of use.

WHEREAS the inspection and reporting responsibilities imposed by 44 CFR 80 incur certain costs to the County through the utilization of County resources and the County seeks to offset such costs through this Resolution.

NOW THEREFORE on this 6th day of November 2023, be it resolved by the Cherokee County Board of Commissioners:

SECTION 1. Definitions.

- (a) **Hazard Mitigation Property.** As used herein, "Hazard Mitigation Property" shall be defined as any property currently owned or hereafter acquired by the County pursuant to a FEMA hazard mitigation assistance program.
- (b) **Current Leases.** As used herein, "Current Leases" shall be defined as any lease for a Hazard Mitigation Property in effect as of the date of this Resolution.
- (c) **Future Leases.** As used herein, "Future Leases" shall be defined as any lease entered after the effective date of this Resolution.
- (d) **Lessee.** As used herein, "Lessee" shall be defined as the party leasing Hazard Mitigation Property from Cherokee County, Kansas.

- (e) **Lease Agreement.** As used herein, "Lease Agreement" shall be defined as a written document granting Lessee a right to possess and use Hazard Mitigation Property.
- (f) **Water Accessible Property.** As used herein, "Water Accessible Property" shall be defined as any Hazard Mitigation Property adjacent to any river, pond, lake, or other body of water.
- (g) **Lease Administrator.** As used herein, "Lease Administrator" shall be defined as the individual or department designated by the Cherokee County Commission to oversee the Hazard Mitigation Property lease program. Unless another individual or department is specified, the Lease Administrator shall be the Cherokee County Director of Emergency Management.

SECTION 2. Scope.

This Resolution shall apply to all Hazard Mitigation Property leases, current and future, between Cherokee County, Kansas and any party.

SECTION 3. Current Leases.

- (a) **Lease Agreement.** Current Leases shall continue pursuant to the terms of the applicable Lease Agreement until such Lease Agreement expires. Current Leases will not be extended beyond the expiration of such Lease Agreement.
- (b) **Renewal.** Upon expiration of a Current Lease, Lessee shall have an opportunity to renew such lease subject to any terms and conditions deemed appropriate by the County and specified in the Lease Agreement. Such renewal shall be at the applicable rate, as defined in Section 4.

SECTION 4. Renewal Rates.

- (a) Upon renewal of any Current Lease, such renewal shall be at the rate defined herein.
 1. Except for Water Accessible Properties, the renewal rate shall be based on the size of the applicable Hazard Mitigation Property, in acres, as determined by the Lease Administrator, to wit:

| <u>Size in Acres</u> | <u>Rate</u> |
|-----------------------|-------------------|
| Less than .51 | \$100/3-year term |
| .51 – 1.00 | \$200/3-year term |
| 1.01 – 1.50 | \$300/3-year term |
| 1.51 or greater | \$400/3-year term |

2. For Water Accessible Properties, the renewal rate shall be based on the length of water frontage of the applicable Hazard Mitigation Property, in feet, as determined by the Lease Administrator, to wit:

| <u>Length in Feet</u> | <u>Rate</u> |
|-----------------------|-------------------|
| Less than 50.01 | \$500/3-year term |
| 50.01 – 100.00 | \$600/3-year term |
| 100.01 – 150.00 | \$700/3-year term |
| 150.01 or greater .. | \$900/3-year term |

SECTION 5. Future Leases.

- (a) In the event a Lessee does not renew a Current Lease pursuant to Section 3 and the County desires to offer the applicable property for lease, the County shall:

1. solicit bids to lease the property pursuant to the bidding process described in Section 6.
2. publish notice the County is accepting bids to lease a Hazard Mitigation Property. Such notice shall be published once per week for two consecutive weeks in the official county newspaper and include:
 - i. a description of the property, to wit: a legal description, parcel number, and/or physical address;
 - ii. the process for submitting a bid;
 - iii. the last date bids will be accepted; and
 - iv. the term, in years, of the proposed lease.
3. make available for review a proposed Lease Agreement; and
4. accept bids, submitted in compliance with Section 6, for fourteen days, beginning on the date notice is first published.

SECTION 6. Bidding Process.

- (a) When the County solicits bids pursuant to Section 5, all bids submitted in response thereto shall:
 1. be received by the Lease Administrator on or before the last date bids are to be accepted;
 2. state the name, phone number, and physical address of the party submitting the bid;

3. specify the Hazard Mitigation Property for which the bid is being submitted; and
4. state the amount of the bid.

(b) Persons and entities eligible to bid on Hazard Mitigation Property shall be limited to:

1. Residents of Cherokee County, Kansas over the age 18 as of the date bids are due;
2. Government entities located within Cherokee County, Kansas; and
3. Not for profit corporation organized under Kansas Law with a principal place of business in Cherokee County, Kansas.

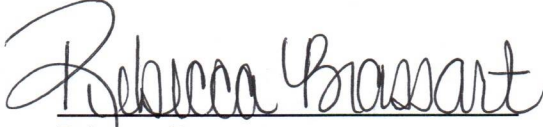
BE IT RESOLVED this 6th day of November 2023 by the Cherokee County Board of Commissioners.

Approved:

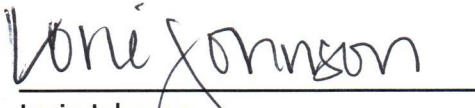
Attest



Myra Carlisle-Frazier
County Commissioner



Rebecca Brassart
County Clerk



Lorie Johnson
County Commissioner



Cory Moates
County Commissioner