

## September 25, 2006

The Mahaska County Board of Supervisors met in regular session on the above date at 9:00 a.m. in the third floor conference room of the Mahaska County courthouse. Present were the following board members: Chairman – Greg Gordy; Vice chairman – Lawrence Rouw; Member – Henry W. VanWeelden. Also present were the following: Scott Dailey, KBOE Radio; Scott Manthe, Oskaloosa Herald; Hugh Faulkner, attorney; Ken DeWitt; Miranda Hanselman, MCARD Director; Michael Gipple, Conservation Director; Joleen Arnold, Mahaska County CPC; Scott Feldt, Oskaloosa Chamber; Don Sandor, Oskaloosa City Manager; David Dixon, Oskaloosa City Mayor; Myron Gordin, Cornie Boender; Angela Shaw; Jerome Nusbaum, Mahaska County Engineer and Kay Swanson, Mahaska County Auditor.

Chairman Gordy called the meeting to order with a moment of silence.

It was moved by Rouw seconded by VanWeelden to approve the agenda for today's meeting with the addition of a contract for the CPC office. All present voted aye. Motion carried.

It was moved by VanWeelden seconded by Gordy to approve the minutes for September 5<sup>th</sup> and 15<sup>th</sup>. All present voted aye. Motion carried.

It was moved by VanWeelden seconded by Rouw to approve the payroll for August in the amount of \$599,984.87. All present voted aye. Motion carried.

It was moved by Rouw seconded by VanWeelden to approve the request of the Sheriff to place Christy Brown on the payroll in the jail as a part-time jailer. She will start on September 1, 2006 and her beginning rate will be \$8.00 per hour. All present voted aye. Motion carried.

It was moved by VanWeelden seconded by Rouw to approve the August monthly report for the Veteran Affairs Commission. All present voted aye. Motion carried.

It was moved by Rouw seconded by VanWeelden to grant permission for the walk for the Red Cross on October 21, 2006 to be held on North Park. All present voted aye. Motion carried.

It was moved by VanWeelden seconded by Rouw to deny the request from Hugh V. Faulkner, Attorney for Marie D. Caldwell Estate to cancel the taxes on the property of the estate since the County will receive it. All present voted aye. Motion carried.

Miranda Hanselman, MCARD Director gave the board her monthly report of activities.

It was moved by Rouw seconded by VanWeelden to approve the following agreement with Ottumwa Regional for Substance abuse services. All present voted aye. Motion carried.

## AGREEMENT TO PROVIDE SUBSTANCE ABUSE (CHAPTER 125) SERVICES

Between

Ottumwa Regional Health Center, Inc.

and

Mahaska County Board of Supervisors

This Agreement is made, executed and entered into this FIRST day of July , 2006 for and in consideration of the covenants contained hereinafter.

This Agreement shall commence by and between Ottumwa Regional Health Center, Inc., an Iowa non-profit corporation hereinafter referred to as "Hospital", located at 1001 Pennsylvania Ave., Ottumwa, IA 52501, and Mahaska County Board of Supervisors, hereinafter referred to as "County".

WHEREAS, Hospital is a "Private Hospital" as defined in subsection 125.2(9), 1999 Code of Iowa, as amended, and provides detoxification services and the care, maintenance and treatment of substance abusers as defined by subsection 125.2( 17), and "Chronic Substance Abusers" as defined by subsection 125.2(4); and

WHEREAS, County experiences from time to time circumstances and situations where individuals suffering from substance abuse are subject to involuntary commitment or treatment procedures as set out in Division V of Chapter 125, hereinafter "statute"; and

WHEREAS, at times said individuals are taken into immediate custody and as a result of a court finding of probable cause the court believes that said individual is a chronic substance abuser and an order is entered pursuant to Section 125.81 directing individuals to be taken by the Sheriff to the hospital to be detained at a hospital for evaluation and report until commitment hearing; and

WHEREAS, County is desirous of using Hospital as the facility to hold and detain its said individuals for the purpose of making evaluations and reports and until the time of the commitment hearing; and

WHEREAS, Hospital is desirous of providing these services to County; and

WHEREAS, the parties intend by this Agreement, and all provisions contained herein should be so interpreted, to comply with all applicable provisions of state and federal laws, rules and regulations relating to such arrangements including, but not limited to, Stark I & 11, the Anti-Kickback Statutes, the Intermediate Sanctions Statutes and the Fraud and Abuse Statutes to the best of their ability.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises set forth herein, the parties agree as follows:

ARTICLE 1  
RESPONSIBILITIES OF HOSPITAL

1.1 Upon delivery to Hospital by the County Sheriff, or other appropriate law enforcement agency or official, of a individual as directed by written court order, or verbal order from judge or judge's representative, as provided in Iowa Code Chapter 125, Hospital agrees to detain and hold said individual for the period of time set out in said order, said time of detention being no greater than the periods of time as set out in Section 125.81 or 125.88, whichever is greater.

1.2 Upon admission, Hospital agrees to do those pre-screenings or pre-authorizations required for Hospital reimbursement from the consumer's public or private health insurance provider.

1.3 Hospital agrees that during the period of its holding of said individual to provide such treatment as is necessary to preserve the individual's life or to appropriately control the individual's behavior which is likely to result in physical injury to the individual or others if allowed to continue and such other treatment as is deemed appropriate by the Hospital medical staff (physician in charge or designee).

1.4 Hospital will perform such pre-commitment hearing evaluations and complete the Physician Report of Examination as may be required by statute. Said evaluations and reports will be provided to the Court and the individual County Central Point of Coordination (CPC) Administrator.

1.5 Hospital will notify County CPC offices, either via telephone, facsimile or email, within twenty-four (24) hours of the court ordered admission of any individual. It is mutually agreed that Hospital will provide the individual's name, address, social security number and date of birth. The parties agree that County cannot process requests for payment of Hospital services unless, and until, Hospital provides this information.

1.6 Hospital will assist with completion of a CPC application on each individual admitted and submit it to the CPC offices before the individual's discharge from Hospital. The parties agree that County cannot process requests for payment of Hospital services unless, and until, Hospital provides completed CPC applications. Hospital agrees to use its best efforts to provide to the CPC the completed CPC application within 48 hours after the patient is admitted.

1.7 Hospital will conduct pre-screenings for "potentially" eligible individuals as needed and assist them in completing and submitting applications that may be required by Department of Human Services, hereinafter DHS. Hospital shall not be

responsible for delivery of other applications for financial assistance or for patient's failure to pursue such applications. It is mutually agreed, however, that Hospital will inform patient prior to discharge from Hospital that patient must contact DHS as soon as possible after discharge to complete and submit applications to verify eligibility for Title XIX or other applicable government programs as described in Section 2.8. below. Hospital further agrees to inform patient that patient's failure to complete and submit eligibility applications to DHS may result in patient being personally liable for all Hospital expenses.

1.8 Hospital agrees to notify County when applications to the following programs have been submitted to DHS:

- 1.8.1 individuals less than 21 years of age;
- 1.8.2 individuals eligible for the Family Investment Program (FIP); and
- 1.8.3 individuals eligible for the Medically Needed Program.

**1.9** Hospital agrees to bill any health insurance company or other third party payer, including Medicare or Medicaid, before billing County. If Hospital receives payment from any third party payer, County will be billed only for the difference between the amount paid by the third party payer and amount agreed to under the terms of this Agreement. In instances where law prohibits the billing of the responsible County or Consumer for any balance, Hospital agrees not to bill County or Consumer. Hospital agrees to submit bills to County no later than sixty (60) days subsequent to the commitment hearing or no later than sixty (60) days of receiving final insurance payment, or denial.

1.10 Hospital agrees to submit a single bill to County for individuals who are court ordered for assessment under a dual committal (i.e. Chapter 229.13 and 125.83). When a dual committal is filed, County agrees that for those individuals offered services primarily on the Family Recovery Unit, billing will be in accordance with the contract established under Chapter 125. County agrees that for individuals provided services primarily on the Mental Health Unit, billing will be in accordance with the contract established under Chapter 229.

1.11 Hospital reserves the right to refuse the taking and holding of any individual when Hospital, in its sole discretion, determines that it cannot provide the services or due to the individual's behavior or mental or physical condition. In the instance where said individual is accepted by Hospital, Hospital reserves the right to transfer said individual to another facility, subject to the provisions of EMTALA. Hospital agrees to notify the CPC, either via telephone, facsimile, or email, of the transfer as soon as reasonably practical.

1.12 Hospital assumes no responsibility for individual following the return of said individual to

County for the commitment hearing and thereafter or after transfer as set out herein above; unless readmitted as provided in section 4.4.

1.13 Hospital agrees to notify County when an individual is admitted for a 48-hour hold.

## ARTICLE 2 RESPONSIBILITIES OF COUNTY

2.1 County agrees to cooperate with Hospital in transferring individuals to another facility if Hospital cannot provide services or is not able to do so due to the individual's behavior, mental or physical condition. Sheriff or his designee will coordinate the transfer of the individual to another facility. County will be responsible for all costs associated with said transfer.

2.2 Upon receipt of a completed CPC application from Hospital, County CPC Administrator will use all means at its disposal to determine legal settlement. It is mutually agreed that determination of legal settlement will be completed in a reasonable time but no longer than ninety (90) days.

## ARTICLE 3 TERM AND TERMINATION

3.1 The term of this Agreement shall be from 1 July 2006 through 1 July ,2007, unless extended in writing by the parties.

3.2 Either party may terminate this Agreement at any time, without cause, upon not less than sixty (60) days prior written notice to the other party specifying the date on which termination will be effective.

## ARTICLE 4 FEES AND BILLING

4.1 Standard Services. County will pay Hospital the sum of TWO THOUSAND SIX HUNDRED SIXTEEN dollars (\$2616.00) per individual for services performed by Hospital. Fees paid hereunder shall include all patient treatment services related only to substance abuse treatment until the hearing is held, all emergency room fees, all laboratory fees, all pharmacy fees, appropriate discharge information and all physician services including evaluation, report, and testimony relevant to said commitment and an itemized billing statement for each hospital admission made pursuant to this Agreement. Hospital and County understand that the above fees do not cover any services performed by Hospital from the time of the commitment hearing and thereafter.

4.2 Transfer to Another Facility. If the individual is accepted by Hospital and later transferred to another facility, County agrees to pay Hospital the sum of ONE THOUSAND FIVE HUNDRED dollars (\$1500.00).

4.3 Evaluation Period. Hospital and County agree that these fees do not cover any services performed by Hospital following the evaluation period of up to five (5) days.

4.4 Daily Fee for Court Ordered Re-Admission After Evaluation Period. If, at the completion of the committal hearing, the patient is court ordered to be readmitted to Hospital, County agrees to pay Hospital a daily fee of \$390.00 until the patient is discharged or transferred to another facility. It is mutually agreed that when a patient is readmitted to Hospital pursuant to this Section, Hospital must notify CPC as soon as reasonably practical for payment authorization. Thereafter, CPC must provide Hospital daily authorization for reimbursement for continued hospitalization pursuant to this Section.

4.5 Court Report. County agrees to pay Hospital Twenty-Five dollars (\$25.00) per Court Report required after the individual is discharged if:

4.6.1 the individual has legal settlement in the County; and

4.6.2 the individual is financially eligible for plan services; and

4.6.3 the individual's public or private insurance does not cover the cost of the Court Report.

4.6 Hospital reserves the right to renegotiate prices hereunder by giving sixty (60) days prior written notice.

## ARTICLE 5 CONFIDENTIALITY

5.1 Disclosure. The parties mutually agree to hold in confidence and otherwise not disclose to anyone, other than authorized employees and representatives of Hospital and County and others as may be required by law, all documents, records, data and information obtained pursuant to the terms of this Agreement as well as information which either party has access to and which constitutes confidential information. The parties agree to take reasonable precautions to prevent the disclosure of all confidential information without written consent during or after the term of the Agreement. In the event that a change of law requires additional confidentiality provisions be put in place for this arrangement, the parties agree to execute such a revised Agreement in order to comply with the new rules and regulations.

5.2 Patient Information. Neither County nor any County Staff shall disclose to any third party, except where permitted or required by law or where such disclosure is expressly approved by Hospital in writing, any patient or medical record information regarding Hospital patient. County and County Staff shall comply with all federal and state laws and regulations and all bylaws, rules, regulations, and policies of Hospital

regarding the confidentiality of such information. County acknowledges that in receiving or otherwise dealing with any records or information of the identity, diagnosis, prognosis, or treatment of persons which are maintained in connection with the provision of substance abuse treatment services are confidential, consistent with the requirements of section 125.37, Iowa Code, and with federal confidentiality regulations authorized by the Drug Abuse Office and Treatment Act, 21 U.S.C. *sec.* 1175 (1976), the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act, 42, U.S.C. *sec.* 4582 (1976) and the federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records (42 C.F.R. Part 2, as amended from time to time).

## ARTICLE 6 HOSPITAL COMPLIANCE PROGRAM

6.1 County agrees to conduct all business transactions, which occur pursuant to this Agreement, in accordance with Hospital's Compliance Program. County agrees to cooperate to the fullest extent possible in the event that any federal or state governmental entity or regulatory agency, other healthcare provider accrediting bodies, or any other third party payer investigation, review or audit related to the terms of this Agreement. Whenever either party becomes aware of a potential violation(s) of Hospital's Compliance Program, said party will notify the other party as soon as practical to remedy said non-compliance.

## ARTICLE 7 RESOLUTION OF DISPUTES

7.1 Any dispute or controversy arising under, out of or in connection with, or in relation to this Agreement, or any amendment hereof, or the breach hereof shall be determined and settled by arbitration in Ottumwa, Iowa, in accordance with the American Health Lawyers Association Alternative Dispute Resolution Service Rules of Procedure for Arbitration and applying the laws of the State. Any award rendered by the arbitrator shall be final and binding upon each of the parties, and judgment thereon may be entered in any court having jurisdiction thereof. The costs shall be borne equally by both parties. During the pendency of any such arbitration and until final judgment thereon has been entered, this Agreement shall remain in full force and effect unless otherwise terminated as provided hereunder. The Arbitration obligation contained herein shall survive expiration or other termination of this Agreement regardless of the cause of such termination.

## ARTICLE 8 DEFENSE COOPERATION

8.1 The parties may, from time to time, be faced with certain legal issues, actions, or claims arising from or relating to its services under this Agreement. Each party recognizes the value of cooperating with the other in good faith when such issues, actions or claims arise, to the extent that such cooperation does not violate any

applicable laws, result in a breach of any insurance policy or breach any confidentiality or privilege. Each party agrees to notify the other within ten (10) business days of receipt of any lawsuits, claims, regulatory actions or notices of intent to file a lawsuit based in any part on the services provided under this Agreement. Each party agrees to provide the other party with any and all information it possesses which is necessary to the other party's defense in litigation arising under this Agreement and which is not reasonably available from another source, or subject to laws of confidentiality, attorney-client privilege and work product. The parties mutually agree to cooperate in good faith, using their best efforts, to address risk management and claims-handling issues in a manner that strongly encourages full cooperation between the parties.

#### ARTICLE 9 BUSINESS RECORDS RETENTION AND AVAILABILITY

9.1 The parties agree that for a period of four (4) years after furnishing services pursuant to this Agreement, both parties shall, upon written request, make available to the Secretary of Health and Human Services or the Comptroller General or their duly authorized representative, this Agreement, and its books, documents, and records necessary to certify the nature and extent of any costs relative to this Agreement. This provision shall be null and void should it be determined that section 1861(v)(1) of the Social Security Act (41 U.S.C. Sec. 1320a-7(b)(10)) is not applicable to this Agreement.

#### ARTICLE 10 EFFECT OF NEW STATUTES AND REGULATIONS AND CHANGE OF CONDITIONS

10.1 The parties agree to re-negotiate the Agreement if either party would be materially adversely affected by continued performance as a result of a change in laws or regulations, or a requirement that one party comply with an existing law or regulation contrary to the other party's prior reasonable understanding. The party affected must promptly notify the other party of the change or required compliance and its desire to re-negotiate the Agreement. If a new Agreement is not executed within thirty (30) days of receipt of the re-negotiation notice, the party adversely affected shall have the right to immediately terminate the Agreement.

#### ARTICLE 11 NON-ASSIGNMENT

11.1 County shall not assign or transfer, in whole or in part, this Agreement or any of County's rights, duties or obligations under this Agreement without the prior written consent of Hospital, and any assignment or transfer by County without such consent shall be null and void. This Agreement is assignable by Hospital without consent or notice.

ARTICLE 12  
FORCE MAJEURE

12.1 Neither party shall be liable for its failure to perform hereunder due to contingencies beyond its reasonable control including, but not limited to, storms, strikes, riots, fires, or acts of God.

ARTICLE 13  
NOTICES

13.1 Notices given pursuant to this Agreement shall be in writing and shall be deemed given when individually delivered or when deposited in the U.S. mail, sent by registered or certified mail, or by overnight mail services, to the parties.

13.1.1 Notices to Hospital shall be directed to Ottumwa Regional Health Center, Attn: Peter Badami, Director BHS, 3 12 E. Alta Vista Ave., Ottumwa, IA 52501.

13.1.2 Notices to County shall be directed to: Mahaska County CPC, 117 High Ave. E, Oskaloosa, Iowa 52577.

ARTICLE 14  
MISCELLANEOUS PROVISIONS

14.1 The parties agree that this is the complete and exclusive Agreement between the parties, which supersedes all proposals, oral or written, and all other communication between the parties relating to the subject matter of this Agreement.

14.2 The individuals signing this Agreement warrant they have full authority to do so and that their signatures shall bind the parties for which they sign.

14.3 This Agreement shall be governed in all respects, whether as to validity, construction, capacity, performance or otherwise, by the laws of the State of Iowa. Words and phrases herein shall be given their appropriate meaning as to gender and number as required by the contract. The paragraph headings used in this Agreement are included solely for convenience and shall not affect, or be used in connection with, the interpretation of this Agreement.

14.4 The failure of either party to enforce at any time any provision of this Agreement shall not be construed as a waiver of such provision or of any other provision.

IN WITNESS THEREOF the parties have executed this Agreement as of the dates set out herein.

OTTUMWA REGIONAL HEALTH CENTER, INC    MAHASKA COUNTY  
BOARD OF SUPERVISORS

S/ Chad Wolbers

s/ Greg Gordy

Kenny DeWitt discussed the property he wishes to sell as a building lot in Adams Township which is .8 of an acre. The residential building ordinance requires a building lot to be 2 acres. The board told him to apply for a building permit and to show the location of the house and size.

The matter of the employee flu shots was tabled until next meeting.

It was moved by Rouw seconded by VanWeelden to approve the following Minimum Separation Waiver Agreement. All present voted aye. Motion carried.

#### MINIMUM SEPARATION WAIVER AGREEMENT

On this 25<sup>th</sup> day of September ,2006, Mahaska County Board of Supervisors, hereinafter referred to as GRANTOR, and Joel A. Groenenboom and Laura M. Groenenboom, husband and wife, hereinafter referred to as GRANTEE, entered into the following AGREEMENT:

1. Grantees are the owners of the following described Mahaska County real estate, to-wit: The W1/2 of the NE1/4 of Section 4, Township 75, Range 15.

2. Grantees have contracted to construct a 20 stall farrowing building for sows by adding on to an existing farrowing building located on the above described real estate, which, under current Iowa Department of Natural Resources guidelines, per Iowa Administrative Code 567, Chapter 65, Section 1 1, Table 6, is situated too close to the road right-of-way of Grantor; the limitation being within 100 feet of the road right-of-way.

3. That the Grantor is willing to provide a waiver from the minimum set back requirements of IDNR for the reason the Grantees currently own and operate a farrowing house less than 100 feet from the road right-of-way line, and the proposed construction would add to this present farrowing house, but would not extend any closer to the road right-of-way line than the present structure.

4. This waiver shall run with the land, and allow Grantees to repair and maintain the farrowing building with the addition thereto, but shall not allow Grantees to further expand or rebuild the building, without Grantor's additional written consent or waiver.

GRANTORS :  
Mahaska County Board of Supervisors

By s/ Greg Gordy  
Notary Public

GRANTEES:

Joel A. Groenenboom  
Laura M. Groenenboom

10:00 a.m. It was moved by VanWeelden seconded by Rouw to open the public hearing for Amendment #3 to the Rural Residential Building Ordinance. All present voted aye. Motion carried. There were no written or oral comments. It was moved by VanWeelden seconded by Rouw to close the public hearing. All present voted aye. Motion carried.

It was moved by VanWeelden seconded by Rouw to approve the following change to the ordinance. All present voted aye. Motion carried.

### **Rural Residential Building Ordinance**

Subject: LOT SIZE CLARIFICATION:

Suggested Addition: Include a sentence, "This area shall not include R.O. W., easements, ponds or other permanent water ways." To the next sentence add "of the road" following the word centerline.

Proposed Clarification would read as follows:

#### **C. LOTS**

1. The area of all lots with on-site individual sewage systems shall be not less than two (2) acres. This area shall not include R. O. K, easements, ponds or other permanent water ways. Lots along existing public roads shall have a minimum setback of one hundred (100) feet from the centerline of the road or thirty (30) feet from right-of-way whichever is greater. Lots along streets within the subdivision shall have a minimum of 30' setback from lot line. Setback applies to both street sides of the lot in order to permit adequate building setbacks on both front and side streets.

Myron Gordin, Cornie Boender, Angela Shaw, Don Sandor, Mayor David Dixon discussed the SE connector road with the board. The engineer had prepared some cost estimates to be considered. It was moved by Rouw seconded by VanWeelden that the county approves the concept of this route if the city pays 50% of total cost and then if they annex additional road that they pay for the additional road footage acquired. Time frame for the project will depend on funds available. All present voted aye. Motion carried.

It was moved by VanWeelden seconded by Rouw to adjourn. All present voted aye. Motion carried.

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Greg Gordy, Chairman  
Mahaska County Board of Supervisors

ATTEST: \_\_\_\_\_  
Kay Swanson, Mahaska County Auditor