

To: Board of County Commissioners
Penny Postoak Ferguson, County Manager

From: Peg Trent, Chief Counsel
Joe Connor, Assistant County Manager

Date: December 14, 2023

Re: Emergency Housing & Resource Center – Spending Authorization for the Coronavirus State and Local Fiscal Recovery Funding (SLFRF)

Issue: Consider approval of a real estate purchase contract with MAA Krupa Lenexa, LLC, to purchase the properties located at 9461 Lenexa Drive and 9471 Lenexa Drive, Lenexa, Kansas 66215 at a price not to exceed \$6,000,000, plus up to an additional \$500,000 for due diligence activities, to be funded through Coronavirus SLFRF received from the United States Department of the Treasury.

Suggested Motion: I move the Board to authorize the allocation of Coronavirus SLFRF in the amount of \$6,500,000 to conduct due diligence activities and purchase the properties located at 9461 Lenexa Drive and 9471 Lenexa Drive, Lenexa, Kansas 66215, to approve the purchase and sale agreement with MAA Krupa Lenexa, LLC, and to authorize the Chair to execute any amendments to the purchase agreement and agreements to effectuate the purchase and transfer to the owner/operator of the facility.

Background: On May 10, 2021, the United States Department of the Treasury announced the launch of the Coronavirus State and Local Fiscal Recovery Funds, established by the American Rescue Plan Act of 2021, to provide \$350 billion in emergency funding for eligible state, local, territorial, and tribal governments. The Treasury also released details on how these funds can be used to respond to acute pandemic response needs, fill revenue shortfalls among these governments, and support communities and populations most impacted by the COVID-19 crisis.

Concurrently, the BOCC's Housing Subcommittee spent 2021 to 2023 researching and identifying housing issues in Johnson County, ultimately developing the Johnson County Housing Continuum which was adopted by the BOCC. The report recommends three priority areas of housing, one of which is addressing homelessness. Additionally, the BOCC adopted the 2023-2024 Strategic Priorities, naming action on housing and homelessness as a major focus area. Approval of this project meets both the broad objectives of the Treasury's guidance and the Board's Strategic Priorities.

A single facility to serve as a homeless services center for people experiencing homelessness provides a critical missing element in the County's housing ecosystem and provides a stable foundation for the community's service providers to provide services such as case management, mental health care, and job training.

Previous Board actions related to homelessness include:

- On June 16, 2022, the State and Local Fiscal Recovery Fund Spending Plan was presented to the Board, as part of a budget Committee of the Whole. The plan included \$6 million for an “unhoused solutions” fund.
- In October 2022, the Board approved a \$60,000 contract with NCircle/Dignity Project to detail the approach and costs for property acquisition for a non-congregate shelter and to produce a feasibility study for the ongoing operations of this type of facility, in accordance with applicable city codes.
- In December 2022, the Board approved the HUD HOME-ARP Allocation Plan to be submitted to HUD as a substantial amendment. This action allocated a significant portion of the County’s \$3.9 million for renovation and other physical modifications necessary to comply with HUD’s non-congregate shelter building standards. The document’s Gap Analysis and Needs Assessment identified “acquisition and development of non-congregate shelter” as Johnson County’s priority and the focus of the one-time funding. The assessment identified a gap of about 40 year-round emergency shelter beds for adults.

Anticipated Next Steps: The County, through a contract with United Community Services of Johnson County (UCS), the lead agency for the Johnson County Continuum of Care on Homelessness, will facilitate an RFP process to determine an owner/operator that will take possession of the facility at closing, manage daily operations, and provide 24/7 services. The RFP process will run concurrent to the due diligence process on the property to ensure that the facility can open as a community asset as soon as possible.

Analysis: The County is in a unique position with these one-time funds to meet a long-standing community need for a dedicated facility to provide homeless services. A well-functioning, remodeled building with an operator will remove a major barrier for service providers whose mission is to serve the unhoused. The property search for such a unique space was extensive, and the facilities at 9461 Lenexa Drive and 9471 Lenexa Drive started and have remained the top choice.

The cost of land and new construction in Johnson County made building a new facility cost prohibitive. Right-sized office space, though available for purchase, also had drawbacks. These facilities tend to be closer to residential areas and/or in a strip mall or shared parking lot setting. Many office complexes reviewed were too big and renovation costs too high on properties that offer a mix of warehouse and office space.

Converting a hotel into a non-congregate shelter is the most economical and practical solution; however, not any hotel is ideal for conversion. The property at 9461 Lenexa Drive is currently operating as a 106-room hotel. It is “right-sized” for the identified need and allows for some capacity expansion in cases of emergency or population growth over time.

Hotels tend to be located near transportation corridors and economic centers; a location like this is also vital to a shelter, so that residents can access services and employment opportunities without the added barrier of transportation from a remote location. This property is centrally located and sits along major transportation routes, including several bus lines. It is close to jobs and other services, while also being nestled in a private nook off a frontage road, offering a bit of distance between the property and the nearest neighbors.

Below are the criteria used to identify potential properties:

Property Suitability for Conversion to Non-Congregant Shelter	
✓	Located within city of Lenexa or Shawnee. Both cities have favorable language written into their Unified Development Ordinance (UDO) that permit a homeless shelter to operate inside city limits
✓	Located over 250 feet from residential and even further from schools
✓	Located within short walk of public transportation
✓	Near employment/work sectors of Johnson County
✓	Property size provides space for minimum of 50 beds with room for overflow and/or outflow (transitional units)
✓	Ample space for private offices/service providers and common spaces
✓	Property has interior-facing doors for security and monitoring of guest safety
✓	Space for on-site food service

Given the extensive property search and the limited number of properties that fit the County’s budget and unique criteria for conversion to a non-congregate shelter, in addition to the looming deadline to program the SLFRF funds, this property is likely the best option for the County to significantly contribute to unhoused solutions.

Funding Overview: Federal Funds received in response to COVID-19 shall be used for reimbursement of all eligible COVID-19 expenditure supplies, services, and programs. These funds were included in the 2022 and 2023 budgets as approved by the Board.

The County’s consultant, Witt O’Brien’s, has reviewed this item and determined it is SLFRF eligible. They have also determined it is permissible to transfer ownership of the property as long as it continues to be used as its original intended purpose.

The purchase and sale agreement with MAA Krupa Lenexa LLC contains a lengthy 270-day review period, under which the county and/or its contractors will conduct all necessary due diligence activities, including negotiating a buyout of hotel franchise fees, obtaining a private appraisal, title review, evaluation of the environmental and property condition, exploring and

obtaining approval of governmental authorities for the necessary special use permits (SUP) for the intended use of the property and any changes in zoning, is necessary. The purchase agreement is contingent upon the successful completion of the necessary due diligence activities.

Earnest money in the amount of \$350,000 is being required given the lengthy review period. Portions of the earnest money will be expended according to the following timeline and will not be refundable to the County if the due diligence activities reveal unfavorable results, if we are unable to negotiate any liquidated damages, or if the property is unable to obtain the necessary SUP, requiring termination of the purchase agreement: \$100,000 at 90 days; an additional \$100,000 at 180 days; and another \$150,000 at 270 days, for a total of \$350,000. Upon the successful completion of all due diligence activities, the \$350,000 will be included in the overall purchase price of the property.

Alternatives: Not approve the allocation of the Coronavirus SLFRF for this project and (1) reallocate for other County projects; (2) Return the federal funds back to the United States Treasury; or (3) Not utilize one-time SLFRF funding for unhoused solutions and locate other funding sources to achieve Strategic Priority on housing.

Recommendation: Staff requests the Board approve the purchase and sale agreement with MAA Krupa Lenexa LLC, and authorize the allocation of Coronavirus SLFRF received from the United States Department of the Treasury in the amount of not to exceed \$6,500,000, which includes \$500,000 to conduct activities necessary to satisfy contingency clauses and \$6,000,000 to purchase the properties located at 9461 Lenexa Drive and 9471 Lenexa Drive Lenexa, Kansas 66215.

Purchasing Review: The purchasing procedures and process outlined in this briefing sheet is in conformance with county purchasing policies and procedures.

Budget Review: Budget and Financial Planning staff have reviewed and approved this item.

Legal Review: The Legal Department prepared the purchase contract for the property and has reviewed and approved this item.