

**Memorandum of Understanding Between the
Kansas Department of Corrections
and
Lansing Historical Society**

Relating to:

The Historic Kansas State Penitentiary Site at Lansing, Kansas

THIS USE AGREEMENT (hereinafter called "Agreement"), made and entered into this 1st day of August, 2024, by and between the Kansas Department of Corrections for the State of Kansas (hereinafter called the KDOC) and the Lansing Historical Society (hereinafter referred to as LHS).

WHEREAS, the KDOC owns property historically utilized as the Kansas State Penitentiary (KSP) located in Lansing, Kansas, consisting of the buildings and walls that make up the prison.

WHEREAS, the State administers the property through the KDOC, and

WHEREAS, certain portions of the property have significant and sufficient historical character the public maintains an interest in them, and

WHEREAS, there has been increased interest by the public to open the gates to KSP for public tours and events inside KSP,

WHEREAS, Buildings within the historic area are in need of remediation and cleanup, specifically, Tower 3, Cellhouses A, C, and D, and the Support Services/Auditorium building, and

WHEREAS, the Parties believes local residents and others traveling to and through Lansing will benefit from the continued public access at KSP.

NOW, THEREFORE, in consideration of the mutual representations, covenants and agreements herein set forth in this Agreement, the Parties mutually agree as follows:

ARTICLE 1: FUNDING

1.1 Funding for Remediation and Repairs

1.1.1. In consideration for the rights and benefits herein, the Kansas Legislature has appropriated \$490,000 to KDOC for the purpose of making stabilization repairs to mitigate further deterioration of the structures the LHS intends to utilize.

1.1.2. Financing of any additional repairs and renovations beyond those made in section 1.1.1 are solely the responsibility of the LHS.

1.2 Funding for Content Development

1.2.1 In consideration for the rights and benefits herein, the Kansas Legislature has appropriated \$75,000 to KDOC for the purpose of content development, to include but not limited to, branding, website development, exhibit acquisition and development, brochure publication, and other such start-up expenses necessary to promote and develop the museum program.

1.2.2 KDOC shall reimburse LHS for content development expenditures upon receipt of an invoice documenting said expenditures.

ARTICLE II: TERM OF THIS AGREEMENT

2.1. The term of this Agreement shall be one year commencing on August 1, 2024, and shall expire at midnight on September 30, 2025. The Parties may extend this Agreement for up to five (5) additional one (1) year periods.

Article III: Use of Premises

3.1 Permitted Uses of the Premises

- 3.1.1 For and in consideration of the funding made available for repairs and remediation of the premises, and in consideration of other provisions in this Agreement, the LHS shall be able to use all areas marked in red on Exhibit 1. The LHS operation of tours, gift shop, and social gatherings and events shall hereinafter be collectively referred to as the "Services." The Parties agree to cooperate to establish permissible locations for public parking.
- 3.1.2 The public tours shall emphasize and focus on the historical nature of KSP. LHS may conduct 'themed' tours of the premises that focus on specific historical aspects of KSP, ghost tours, photography tours and overnight tours in accordance with the requirements and processes of this Agreement. No such 'themed' tour shall in any way diminish or detrimentally affect any of the historic nature of KSP.
- 3.1.3 The Parties recognize that conducting fundraising events can be an important part of promoting KSP for tourism. LHS shall provide at least 30 days' notice to KDOC of any proposed fundraising event.
- 3.1.4 The serving and consumption of alcohol on the premises is not permitted. If state law changes regarding the use of alcohol on the premises, then the Parties agree to consider revision its Agreement in accordance with applicable law.
- 3.1.5 LHS shall be allowed to use the premises for social gatherings and other similar events open to the public, at the LHS sole cost and expense, in accordance with all applicable laws and pursuant to the restrictions contained in this agreement. LHS shall provide at least 30 days' notice to KDOC of any proposed event.
- 3.1.6 Upon approval by KDOC, LHS shall have the right to allow film or video request of the premises if it does not diminish the historical significance of the site. LHS shall ensure, before any filming videotaping is conducted, that adequate insurance exists to cover any losses or liability arising from the filming or videotaping and all entries comply with all federal and state laws. LHS shall also require any person or entity desiring to film or videotape the premise's sign a Location Agreement that has been pre-approved by the Parties as to form. LHS shall provide at least 30 days' notice to KDOC of any proposed filming or videotaping.

3.2. Terms and Conditions of Use of the Premises

- 3.2.1 Tours may commence on or after March 1st of each year and shall conclude on or before November 30th of each year, provided that the tours may be conducted by LHS at other times during the term of this Agreement and with prior approval of KDOC.
- 3.2.2 LHS, at its own expense, shall provide all labor, materials, supplies, accessories, security and services for the performance of its rights and obligations under this Agreement. This includes, but is not limited to paper products, fluorescent and incandescent light bulbs. LHS shall not store or permit the storage of any materials other than general supplies and equipment that may be needed for routine social gatherings or public events. Alcohol, hazardous material, and/or firearms shall not be brought to, allowed in, or used on the premises. LHS shall take all actions as are reasonably necessary to prevent any

person or member of the public from bringing any liquor or alcohol, hazardous material, and/or firearms on the premises.

- 3.2.3 LHS recognizes, understands and agrees that inherent in its historical nature and character, the KSP property building, and grounds may contain hazardous conditions, potentially including, but not limited to, deteriorated sidewalks, walkways and flooring, broken glass and concrete; dust mold and other allergens; hazardous materials including lead paint or other substances; slopes and other impediments to walking and mobility; and other similar hazards. LHS will clearly warn all tourists and other invitees seeking to tour KSP that hazards may exist on the KSP property, and take all necessary steps in order to protect, to the greatest extent possible, all such tourists and other invitees from harm while participating in tours and other activities in connection with this agreement.
- 3.2.4 No acts shall be performed and no omissions shall be made by or on behalf of LHS which may cause or result in the existence of any conditions, in, on or about the premises which may constitute a public or private nuisance, or which may make void or voidable any insurance then in force with respect to the premises or which in any way materially increase the liabilities of any Party to this Agreement. LHS shall maintain adequate noise control.
- 3.2.5 LHS shall comply with all public health laws regarding the serving food and beverages and shall obtain all necessary licenses. LHS shall conduct food operation in a sanitary manner in order to prevent attracting additional insects, vermin, and rodents. LHS may utilize contracted pest control services as needed.
- 3.2.6 LHS enters into this Agreement subject to the "As-Is" condition of the premises. LHS acknowledges and understands that KDOC is making no assurance that the premises are in usable and operation condition or free of nuisance or danger conditions or accessible as defined by the Americans with Disabilities Act (ADA) Accessibility Guidelines. It is LHS's sole responsibility to ensure that the services comply with ADA.
- 3.2.7 At all times during the term of this Agreement, LHS shall have full access to the premises as identified in Exhibit 1. KDOC shall maintain access to the site to include key control and appropriate checkout. KDOC reserves the right to discontinue or modify LHS's use of the premises at any time when it becomes aware of a possible public health concern or safety issue at or around the premises. KDOC reserves the right to deny access to any person to the premises based on public safety conditions.

3.3 Record Keeping

- 3.3.1 LHS will keep accurate records and accounts relating to the Services conducted at KSP separate and distinct from its other records and accounts. The KSP Records will be available for inspection by KDOC at any reasonable time, and LHS shall provide a copy of any of such records upon the request of KDOC. LHS shall prepare and maintain the KSP Records in accordance with generally accepted accounting principles.
- 3.3.2 Prior to advertising or promoting the Services, annually LHS shall provide to KDOC its plan of advertising for all Services, samples of its proposed advertising and promotional materials, a description of the nature and scope of each Services, including each tour, a list of all tour guides with a general description of the nature and scope, including each tour, a list of all tour guides with a general description of each proposed tour guide's

qualification to lead such tours, a list of the names of all assistant/secondary tour guides, waivers of liability, a schedule of all charges and fees proposed to be charged for such tours, plans, policies and procedures that ensure that Services are conducted in a safe manner, and schedule listing dates and times for all such tours. LHS may amend this information from time to time as it updates such material.

3.3.3 With respect to any proposed “theme” tours of KSP, LHS shall also submit, in addition of materials identified in paragraph 3.3.2, a parenthetical description of all aspects of the tour, the portions of the ‘historic area’ of KSP that will be encompassed with the tour, and a statement detailing how the propose “theme’ tour will promote and not detrimentally affect the historic nature and value of KSP.

3.3.4 Annually, LHS shall consider the material submitted by LHS relating to such Services, and, should KDOC object to any aspect of the material submitted, it shall attempt to resolve such objection by discussion with LHS. However, should KDOC and LHS not be able to resolve any such issue after discussion, LHS shall defer to the decision of KDOC with respect to the issue. KDOC shall review and consider all of the material with respect to LHS in a timely manner and shall limit its objections to issues that: 1) detrimentally affect the historical nature and value of KSP site; 2) that affect the potential liability of the KDOC for any accident or injury upon KSP or other state property; 3) that in any way are inconsistent with the Master Plan for redevelopment of KSP property; 4) are a safety or security threat to the Lansing Correctional Facility, or 5) that in any way affect or hinder or increase the costs of other state operations or governmental functions.

3.4 Generation of Profit

3.4.1 In consideration of the privileges granted pursuant to this Agreement, LHS may retain from all charges and fees collected in connection with such Services, its reasonable expenses incurred in connection with such Services, with expenses appropriately classified as whether current or capital and credited appropriately as either current or capital expenses. The net income from such Services shall then be expended by LHS to make repairs and improvements on the KSP property and as may be recommended by LHS. LHS shall provide KDOC, within 30 days of the end of tour season an income and expense statement with respect to all Services described in this Agreement that is prepared in conformance with generally accepted accounting principles that reflects all income collected and accrued by LHS and all expenses either paid or accrued in connection with such Services. KDOC has a right to audit said records at any time. For purposes of this paragraph, the term “expenses” shall include indirect cost such as advertising, staffing and overhead attributable to the Services.

ARTICLE IV: MAINTENANCE, UTILITIES, AND INSURANCE

4.1 Maintenance and Repairs

4.1.1 The Parties understand and acknowledge the premises are old and are in continuing need of capital repairs. The KDOC is under no obligation to make such repairs, or any necessary and ongoing improvement throughout the term of this Agreement outside the stabilization repairs discussed in Section 1.11. LCF will not provide heat or water to the building encompassed by the Services, unless otherwise agreed to in writing.

- 4.1.2 KDOC shall arrange for a preliminary State Fire Marshal inspection to determine the minimum fire safety requirements to host tours within the Historical Area. A representative from LHS shall be present during the inspection.
- 4.1.3 KDOC shall continue to provide general lawn care around the Historic Area.
- 4.1.4 Notwithstanding other provisions of the Agreement, LHS, with written consent of KDOC, may use its own resources to supplement such basic maintenance.
- 4.1.5 Without the prior approval of KDOC, LHS may not make any permanent alterations, or erect or affix any signs to walls or on posts in the ground (other than temporary signs erected or affixed using non-permanent methods and removed within 12 hour of being erected or affixed). Such approved fixtures, additions or structures so placed upon or attached to the premises shall be and remain the property of the KDOC and may be removed and otherwise disposed of by the KDOC at the conclusion of this Agreement.
- 4.1.6 LHS shall provide the following to the premises at no cost to the KDOC.;
 - a) Janitorial, garbage and trash removal from and around the KSP Site.
 - b) Security of its equipment and of its personnel and invitees on KSP property.
 - c) Ensuring all windows and doors remain closed.
- 4.1.7 LHS agrees to pay for any damage to the premises and/or loss to the KDOC's equipment caused by its acts or the acts of its employees, agents or others permitted to enter the premises by LHS, ordinary wear and tear excepted.

4.2 Removal of State Property

- 4.2.1 LHS shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archaeological, architectural or other cultural artifacts, relics, remains, or objects of antiquity. In the event such items are newly discovered on the Premises, LHS shall immediately notify the KDOC and protect the site and the material from further disturbance until KDOC gives clearance to proceed. LHS shall abide by and comply with their obligation assumed within this Agreement in connection with any and all historical archaeological, architectural or other cultural artifacts, relics, remains or objects of antiquity. LHS shall not remove any KDOC property located or stored at the premises without KDOC's written consent.

4.3 Insurance and Indemnification

- 4.3.1 LHS assumes the entire risk of loss or injury to any person from all causes whatsoever in connection with any use of the premises. LHS shall indemnify and hold the KDOC harmless, including the agencies, employees, and indemnify them from and against any and all liability, causes of action, claims and expense for personal injury or property damage arising out of or in connection with any such Services, including all acts or omissions of any of its subcontractor(s) or other person(s) employed by or under the supervision of LHS, including its invitees and tourists.

- 4.3.2 During all times covered by this Agreement and in connection with any liability incurred with respect to any Services offered or conducted in connection with this Agreement, LHS shall maintain a policy of general liability insurance that provides coverage in event of a loss or injury in the amount of One Million Dollars (\$1,000,000) for all claims arising out of a single accident, loss or occurrence, and One Million Dollars (\$1,000,000) for any one person in a single accident , loss or occurrence. Such policy of insurance shall name the State of Kansas as an additional insured in event of any liability that is assumed by LHS pursuant to this Agreement. LHS shall provide to KDOC a copy of its entire general liability insurance policy consistent with the requirement of this Agreement.
- 4.3.3 Notwithstanding this Agreement, KDOC and the State of Kansas and LHS do not waive any defense or immunity that may be provided by law, whether common or statutory, with respect to any liability whatsoever.

4.5 Default

- 4.5.1 A Party shall be considered to be in breach of this Agreement should it fail to observe and perform any term under this Agreement, and in default of this Agreement should such failure continue for a period of thirty (30) days after written notice is given by the other Party as provided herein. A Party shall give the other Party telephonic notice of the occurrence of any breach of this Agreement, immediately followed by written notice of the breach. Notice of breach of this Agreement will specify the event or condition and request that the event or condition be remedied. Whenever a breach of this Agreement has occurred and is continuing, a Party shall have the right to take whatever action is allowed by law or in equity, and as otherwise provided by law.
- 4.5.2 No delay or omission to exercise any right, remedy or power accruing upon any breach or default of this Agreement will impair any right, remedy or power or will be construed as a waiver. Any right, remedy or power may be exercised from time to time and as often as may be deemed expedient. The KDOC, including LHS, is not required to give notice to LHS in advance of the exercise of any right, remedy or power reserved to it in this Agreement, except as otherwise expressly provided in this Agreement.

ARTICLE V: MISCELLANEOUS

5.1 Miscellaneous Provisions

- 5.1.1 Notice: All communication concerning this Agreement shall be deemed sufficient if sent to the following:

KDOC:
David McCabe, Operations Director
Division of Facilities Management
714 SW Jackson, Suite 300
Topeka, KS 66603
(785) 221-6655
David.mccabe@ks.gov

LHS:
Debra Bates-Lamborn
Lansing Historical Society and Museum
115 East Kansas
Lansing, Kansas 66043
(913) 683-1403
firstcityphoto@aol.com

- 5.1.2 Timing for required notices: For all required approvals including "Services" stated above, LHS shall be required to notify KDOC at least thirty (30) days prior to the Service. LHS shall respond within twenty (20) days accompanied by an explanation thereafter or LHS may consider the Service approved.
- 5.1.3 Successors: The covenants and agreements contained in said Agreement shall be binding upon and shall inure to the benefit of the Parties to this Agreement and each Party's respective successors, administrators, and executors.
- 5.1.4 Applicable Laws: The Parties shall comply with all laws, ordinances, orders, rules and regulations that may be applicable. This Agreement shall be construed in accordance with and governed by the laws of the State of Kansas.
- 5.1.5 Assignment: LHS shall not assign this Agreement, in whole or in part, or sublease the premises, in whole or in part, without obtaining written preapproval by the KDOC, unless otherwise state in this Agreement.
- 5.1.6 Complete Agreement: This Agreement and the exhibit attached hereto contain the entire Agreement of the Parties with respect to the subject matter of this Agreement, and supersede all prior negotiations, agreements and understandings with respect thereto. This Agreement may only be amended by a written document duly executed by the Parties.
- 5.1.7 No Partnership: The parties warrant that all work they perform pursuant to this Agreement shall be conducted as independent entities. The Parties shall be responsible for compliance with all laws, rules and regulations involving its respective employees, including, but not limited to, employment of labor, hours of labor, health and safety, working conditions, workers; compensation insurance, and payment of wages, as otherwise required by law. This Agreement shall not be construed to create a partnership or joint venture between the Parties or any of the agencies of the State of Kansas.
- 5.1.8 Force Majeure: No Party shall be liable to the other for any failure or delay of performance of any obligation hereunder when such failure or delay shall have been wholly or principally caused by acts or events beyond its reasonable control, including without limitation acts of God, acts of civil or military authority, fires, floods, earthquakes or other natural disasters, war, riots or strikes. Both Parties shall; however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. Any Party must give written notice of any Force Majeure event to the other Party within a reasonable time period after its occurrence in order to receive the liability protections of this paragraph.

5.1.9 Amendments to the Agreement: This Agreement may be amended or otherwise modified only in writing executed by an authorized representative of both Parties, clearly referring to this Agreement and stating that it constitutes an amendment to the Agreement.

5.1.10 Applicable Laws: The Parties shall comply with all applicable state and federal laws, rules and regulations in the performance of this Agreement. This Agreement shall be governed and construed in accordance with the laws of the State of Kansas without reference to its choice of law principles.

5.1.11 Venue: It is agreed by the Parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Leavenworth County, Kansas.

IN WITNESS WHEREOF, we have hereunto affixed our signatures:

Lansing Historical Society

By: Debra Bates-Lamborn

Title: President

Date: 7/25/2024

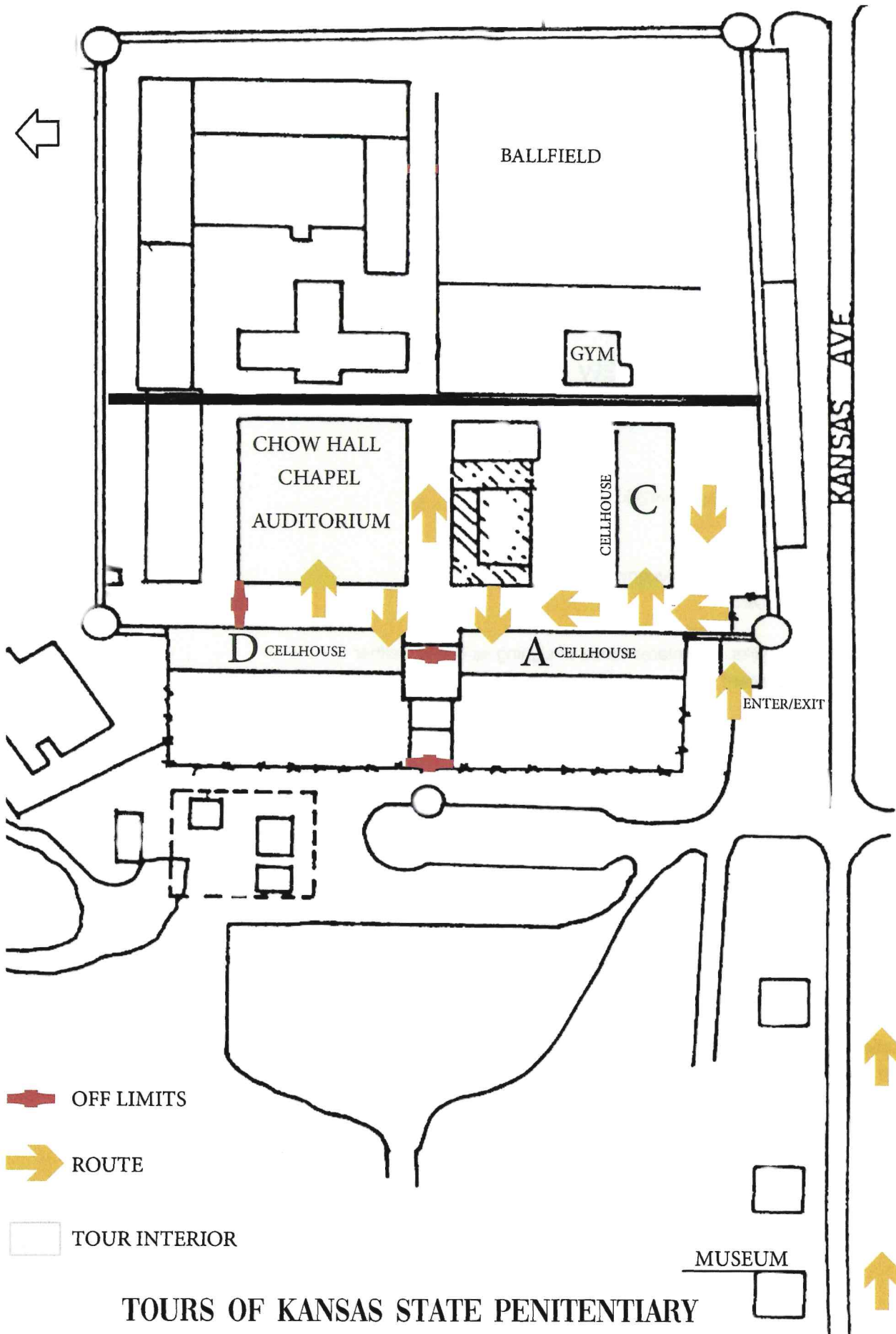
Attest: LHS Vice president 

Kansas Department of Corrections:

By: 
Jeff Zmuda (Jul 30, 2024 08:49 CDT)

Secretary of Corrections

Date: Jul 30, 2024



TOURS OF KANSAS STATE PENITENTIARY












Lansing Historical Society MOU


Final Audit Report


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