

# Information Network of Kansas Board Meeting Minutes

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## March 2020 INK Board – Special Teleconference Meeting March 13, 2020

### Opening

A special meeting of the INK Board was called to order via teleconference at 3:45 p.m. on Friday, March 13, 2020 by Chairman Aaron Kite with the following members present:

Mark Burghart, Secretary of Revenue

Lucas Goff, representing the Kansas Association of Counties

Jennifer Cook, representing the Secretary of State

Gregg Wamsley, representing the Kansas Library Association

Glen Yancey, representing the Executive Branch Chief Executive Technology Officer

### Others Present

John Yeary, Board Counsel; Duncan Friend, Information Network of Kansas; Nolan Jones and Ashley Gordon of the Kansas Information Consortium, LLC.

### Regular Agenda

**Note:** Copies of materials were distributed via email right before the meeting and are attached.

Kite opened by explaining that he had Friend call the special meeting as, while the contracts before the Board were of the type that would be up for consideration at a regular meeting, there was urgency associated with the desire to deploy this for KDHE in support of the COVID-19 effort. He explained that the first was pretty much a standard contract, but would have Friend explain any exceptions. The second was an amendment that would accommodate some cloud requirements for the KDHE contract. He asked Friend to continue by explaining the contract in the first agenda item and how it differed from a standard INK contract.

### 1. INK/KDHE Contract for COVID-19 Website and Messaging Services

Friend noted that Board Counsel John Yeary was also on the call and he invited him to add anything he felt was relevant that Friend might miss in the explanation. The contract was to deploy an easy-to-update website that would allow staff supporting the KDHE COVID-19 website to update it directly without having to go through technical staff. The main differences are that it allows people to sign up to be notified of updates by text or email and that it would be hosted in the cloud, essentially via KIC's parent company NIC, to ensure reliability, something that is not provided for in the current INK/KIC contract. The cost of the email notification feature will be borne by KIC, and the text updates feature is optional at the discretion of the Board and is not part of the go-live. Yancey clarified that the existing page KDHE had needed to be updated by a KHDE webmaster, which required someone to be made available, including on weekends. The advantage with this approach is that the communications staff can update that page directly. Friend confirmed in response to a question from Kite that this service would be at no cost to INK or KDHE and that the language in the Master Contract amendment was specific to this implementation.

**Action Taken:** Secretary Burghart moved to approve the contract between INK and KDHE for the COVID-19 website and messaging services. Cook seconded. There was no discussion. Friend called the roll and the motion was approved unanimously.

### 2. INK/KIC Master Contract Amendment (for Cloud Service for this application)

Friend explained briefly that this amendment would allow cloud hosting of the website addressed in the contract just approved with KDHE. Yearly, who was also on the call, had reviewed it.

**Action Taken:** Kite moved to approve the amendment to the INK / KIC Master Contract to allow cloud hosting of this specific COVID-19 Website for KDHE. Yancey seconded. Kite asked for further discussion, noting that it was specific to the KDHE contract. He asked Friend to reiterate why this exception was being made just for KDHE. Friend responded that this was due to the urgency of this request and the specifics of the solution offered that required this – it was already cloud-hosted by NIC. At some point in the future, as an unrelated initiative, it has been discussed that more comprehensive language could be used for a more detailed amendment to allow KIC to do cloud hosting generally, but this is not it. Friend called the roll and the motion was approved unanimously.

Kite asked Friend if there were any additional topics for discussion. While regular business had concluded, Friend deferred to Jones to provide some explanation around the text messaging feature in the contract that was not being used to start and would be deployed only at the Board's discretion. Jones explained that while KIC was absorbing the cost for emails, they were unable to estimate the potential cost – or volume – of text notifications and thus were reluctant to absorb that cost. The pricing was .0075 cents per text message through a service they were using called Twilio. Assuming two text messages a day that went to 50,000 users, over the course of a full month, that would be approximately \$23,000.

Friend noted that, in his estimation, once it had been turned on, it would be difficult to turn off, so the thinking was – he had talked with Kite and Goff – that there were enough questions about cost that they would start with the email notifications and try to get a handle on usage and costs to get a handle on what this might cost the Board before they would deploy it. But the option is included, at the Board's discretion, in the contract just approved. Yancey also recommended erring on the side of caution by starting with email to understand the costs, and this was the sentiment expressed in the Board's discussion as well. At Friend's request, Goff also talked about the system they used for mass notifications at Cowley County using software called Everbridge. The members discussed the matter briefly and various options.

Goff then discussed briefly his interest in INK pursuing options to make the credit card processing features that were currently available to walk-in customers online to reduce foot traffic during the pandemic. Gordon discussed how this would work and then talked about how it might be pursued under various scenarios.

### New Business

There was no new business.

Kite adjourned the meeting at 4:30 p.m.

**SECOND AMENDMENT TO THE INFORMATION NETWORK OF KANSAS CONTRACT  
FOR NETWORK FOR MANAGER**

This amendment (“Amendment”) amends the Information Network of Kansas Contract for Manager (“Contract”) dated July 18, 2014 and is made by and between Information Network of Kansas, Inc., (“INK”) and Kansas Information Consortium, LLC, (referred to herein as both “KIC” or “Contractor” and together with INK, the “Parties”) as of March 13, 2020.

**RECITALS**

WHEREAS, the Parties desire to amend the Contract to allow Contractor to host an application regarding information related to the Covid-19 virus with a third-party cloud service hosting company; and

NOW THEREFORE, in consideration of the mutual promises, terms and conditions of this Amendment, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Section 1.1 “Hardware” of the Contract, is hereby amended by adding the following after the first paragraph:

“Subject to written approval by INK, which may be the execution of the applicable SOW, Contractor (KIC) is permitted to utilize a public cloud hosting environment for the Covid-19 project being undertaken for the Kansas Department of Health and Environment; provided however, the Parties agree that Contractor’s compliance with applicable security and audit provisions set forth in this Contract shall be subject to access, confidentiality, terms and conditions or other limitations of the public cloud provider used to host the Covid-19 application. This approval for cloud hosting is limited to the Department of Health and Environment Covid-19 project and is subject to review and modification at a future date. INK and the Department of Health and Environment understand and agree that no sensitive information, personal information (as defined in Kan. Stat. § 50-7a01(g)) or other similar information shall be added to the Covid-19 application by the State.”

2. Capitalized terms in this Amendment and not defined herein shall have their respective meanings assigned to them in the Contract.
3. Except as explicitly amended by this Amendment, all other terms and conditions contained in the Contract remain in full force and effect.

IN WITNESS WHEREOF, the Parties, having read and understood the foregoing Amendment, expressly agree to these terms and conditions as evidenced by their respective duly authorized and dated signatures on the following page.

**INFORMATION NETWORK OF KANSAS, INC.**

By: \_\_\_\_\_  
Chairperson

Date: \_\_\_\_\_

STATE OF KANSAS            )  
  )        SS.  
  )  
County of \_\_\_\_\_ )

BE IT REMEMBERED, that on this \_\_\_\_ day of \_\_\_\_\_, 201, before me the undersigned a Notary Public in and for the County and State aforesaid, came \_\_\_\_\_ who is personally known to me to be the same person who executed the forgoing Amendment as Chairperson of the Board of Information Network of Kansas, Inc., and said Chairperson duly acknowledged the execution of the same as the act of said Board of the Information Network of Kansas, Inc.

IN WITNESS HEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

\_\_\_\_\_

My Appointment Expires: \_\_\_\_\_

**KANSAS INFORMATION CONSORTIUM, LLC**

By: \_\_\_\_\_  
Nolan Jones, President

Date: \_\_\_\_\_

STATE OF KANSAS            )  
  )        SS.  
  )  
County of \_\_\_\_\_ )

BE IT REMEMBERED, that on this \_\_\_\_ day of \_\_\_\_\_, 201, before me the undersigned a Notary Public in and for the County and State aforesaid, came \_\_\_\_\_ who is personally known to me to be the same person who executed the forgoing Amendment as President of Kansas Information Consortium, LLC, and said Person

duly acknowledged the execution of the same as the act of said Kansas Information Consortium, LLC.

IN WITNESS HEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

\_\_\_\_\_

My Appointment Expires: \_\_\_\_\_

# **INFORMATION NETWORK OF KANSAS**

## **Web Page Hosting Agreement with Kansas Department of Health and Environment 000-000-001**

This Agreement for Web page hosting is between Information Network of Kansas, hereinafter referred to as INK, by and through its agent for the purposes of this Agreement, the Kansas Information Consortium, LLC, the INK Network Manager (Manager), a Kansas corporation hereinafter referred to as KIC, and Kansas Department of Health and Environment, State of Kansas (Partner)

The Partner desires to obtain a Web page hosting service that will allow the public to access information related to Covid-19 via the internet. INK agrees to make available and maintain hosting services for Partner, through KIC, its Manager.

More specifically, INK agrees to perform the following actions:

1. **AGREEMENT**—INK will host the Partner Web page information service for the Partner.
2. **ACCESS**—INK will provide Partner with login/password ability to submit and modify only the Partner's data on the Partner's Web page. Access to the Internet is required and is the responsibility of the Partner.
3. **SUPPORT**—INK staff will provide technical support regarding the Web page hosting account to the Partner. Support will be provided, to the extent possible, based upon INK resource availability on a 24/7 basis.
4. **PROMOTION**—Once developed and operational, INK staff will take reasonable measures to promote the availability of the Partner Web page including placement of the Web page as a selection on the state of Kansas Web portal where appropriate.

Partner will take reasonable measures to promote the availability of the Partner Web page including placement of the Web page on Partner's Web site or educating the public on the availability of the Web page.

5. **TRAINING**—If applicable, INK staff will provide basic training designed to allow the Partner's staff to create and manage continued development and maintenance of the Partner Web page.
6. **MESSAGING SERVICES** – INK will provide messaging services as part of this Web Page hosting service that includes email. Short Message Service (SMS) for phone notifications may be provided as an additional service as determined by INK. These

messaging services will be provided to the Partner at no cost, however, these services may be reduced or terminated at the discretion of INK.

In consideration of the previous actions by INK, Partner agrees to perform the following specific actions:

1. SECURITY—Partner agrees that the login/password established for access to INK is only to be used for business related to this agreement.
2. MAINTENANCE—Partner agrees to manage maintenance and content of Web page.
3. LINKING—Partner will permit INK (with approval by appropriate persons of the Partner), to place reasonable and appropriate links on Partner’s Web site back to the state Web site.
4. MARKETING—Partner may provide reasonable marketing space in its publications (if and/or when such exist) at no charge, to allow promotion of INK and its services.
5. EVENTS—Partner may provide INK complimentary exhibit space and/or speaker time at any appropriate conventions and/or seminars, which it may host (if and/or when such exist).
6. SUPPORT—Partner will respond in a timely manner to any customer inquiries online, written or telephone received by INK staff regarding Web page when INK staff are not qualified or authorized to answer such inquiries.
7. DESIGN—Network Manager and Partner are jointly responsible for design of the Web page.
8. COMPLIANCE—Partner, to the extent within their control, will be responsible for ensuring that the Web page is in compliance with the Kansas accessibility guidelines as outlined by the Information Technology Executive Council Policy 1210:  
<http://www.da.ks.gov/itec/documents/ITECITPolicy1210.htm>.

AGREEMENT REPRESENTATIVES AND NOTICES—All matters relating to the agreement relationship shall be directed to the following persons:

Partner Mailing address: <<Insert Contact First/Last Name>>  
<<Insert Contact Street Address>>  
<<Insert Contact CSZ>>  
Phone: <<Insert Contact Phone>>  
Fax: <<Insert Contact Fax>>  
Email: <<Insert Contact E-mail>>

INK Mailing Address: Duncan Friend  
INK Executive Director

900 SW Jackson, Rm 114  
Topeka, KS 66612  
Phone: (785) 296-2408  
Email: Duncan.Friend@ks.gov

Manager Mailing Address: General Manager/Network Manager  
Kansas Information Consortium, LLC  
dba, Kansas.gov  
534 South Kansas Avenue, Suite 1210  
Topeka, KS 66603-3406  
Phone: (785) 296-5275  
Fax: (785) 296-5563  
Email: [njones@egov.com](mailto:njones@egov.com)

These designations may be changed following written notice from each party to the other party to this Agreement.

Notices by the parties to one another shall be given in writing to the persons identified in this section or to such other persons as may be subsequently identified in a written notice. Such notices shall be effective on the date of receipt if sent by U.S. first-class mail, prepaid, or by overnight delivery, prepaid.

**TERMINATION OF CONTRACT** - Any party will have the right to terminate this Contract with cause, subject to cure, by providing ninety (90) days prior written notice of termination, to the other party. Such notice will specify the “cause” including any specific provision of this Contract, which gives rise to the notice and will specify what actions, if any, can be taken by the other party to avoid termination of the Contract. The party which has received notice of termination may attempt to correct the cause which has given rise to the notice of termination during the ninety (90) day notice period. Substantial cessation of Network services by Manager shall be cause for immediate termination of this Contract.

- a. For the purposes of this agreement, the phrase “for cause” shall mean:
  - i. Any material breach or evasion by either party of the terms or conditions of this Agreement and its amendments if any.
  - ii. Fraud, misappropriation, embezzlement, malfeasance, significant misfeasance, illegal conduct by INK, or the Manager, its officers, directors or shareholders.
  - iii. Failure of Manager’s officers and employees to pay Kansas taxes.
  - iv. Violation by the Manager of any of the termination for cause statements specified in the INK Network Manager Agreement.







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State of Kansas

Department of Administration DA-146a  
(Rev. 07-19)

**CONTRACTUAL PROVISIONS ATTACHMENT**

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 07-19), which is attached hereto, are hereby incorporated in this contract and made a part thereof.

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the\_\_ day of \_\_\_\_\_, 20\_\_.

- 1) **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment nullified.
- 2) **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
- 3) **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least thirty (30) days prior to the end of its current fiscal year and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to ninety (90) days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
- 4) **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101, et seq.).
- 5) **Anti-Discrimination Clause:** The contractor agrees: (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 Kansas Executive Order No. 19-02, and to not discriminate against any person because of race, color, gender, sexual orientation, gender identity or expression, religion, national origin, ancestry, age, military or veteran status, disability status, marital or family status, genetic information, or political affiliation that is unrelated to the person's ability to reasonably perform the duties of a particular job or position; (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 contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) Contractor agrees to comply with all applicable state and federal anti-discrimination laws and regulations; (g) Contractor agrees all hiring must be on the basis of individual merit and qualifications, and discrimination or harassment of persons for the reasons stated above is prohibited; and (h) if it is determined that the contractor has violated the provisions of any portion of this paragraph, such violation shall constitute a breach of contract and the contract may be canceled, terminated, or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.
- 6) **Acceptance of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
- 7) **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to, the implied warranties of merchantability and fitness for a particular purpose.

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- 8) **Representative's Authority to Contract**: By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
- 9) **Responsibility for Taxes**: The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
- 10) **Insurance**: The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against are such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101, et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
- 11) **Information**: **No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101,et seq.**
- 12) **The Eleventh Amendment**: "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."
- 13) **Campaign Contributions / Lobbying**: Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.

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