

ADAIR COUNTY COMMISSION MINUTES

TUESDAY, AUGUST 5, 2014

Continued from page 414

Conservation Easement
Page 2 of 10

CONSERVATION EASEMENT

INTRODUCTION. This conservation easement (hereinafter referred to as "Easement") is made this 19th day of June, 2014, between Grantor, Adair County (hereinafter referred to as "Grantor") and Grantee, the State of Missouri acting through the State Historic Preservation Office of the Missouri Department of Natural Resources (hereinafter referred to as "Holder") pursuant to Section 253.040, RSMo, Sections 253.404-405, RSMo and the Private Landowner Protection Act, Section 442.014, RSMo.

I. **The Subject Property.** Grantor is the owner in fee simple of certain property, comprised essentially of grounds, collateral, appurtenances, and improvements, commonly known and numbered as the Adair County Courthouse, 106 West Washington Street, Kirksville, Adair County, Missouri, and legally described as:
Adair County Courthouse rests on Courthouse Square, a tract of land 240 feet on each side and bounded by Harrison Street on the north, Franklin Street on the east, Washington Street on the south, and Elton Street on the west in the City of Kirksville, Missouri. A Quarter Section of land of the United States for a seat of justice of Adair County where Kirksville is situated the present seat of justice, numbers as follows to wit the North West quarter of Section Number 9; Township no. 62, of Range 13 West.

(hereinafter referred to as "Property")

said Property being listed in (or "eligible for listing in") the National Register of Historic Places as the Adair County Courthouse on August 11, 1978.

II. **Grant of Conservation Easement.** In consideration of the sum of \$47,560.00 from the Missouri Heritage Properties Program (MHPP), a state grant-in-aid program administered by the Holder, the Grantor hereby grants to the Holder this Easement in the Property for the purpose of assuring preservation of the Property.

III. **Easement Required for State Grant.** This Easement is granted as a condition of the eligibility of the Grantor for the financial assistance offered by the Holder as part of the MHPP.

IV. **Conditions of Easement:**

a. **Duration.** This Easement is granted for a period of 10 years commencing on the date filed with the Adair County Recorder. Upon expiration of this period, this Easement and any rights, duties and obligations created hereunder shall be null and void without any further action by the Grantor or Holder, unless Grantor and Holder agree in writing to extend its duration.

b. **Documentation of condition of the Property at time of grant of this Easement.** In order to make more certain the full extent of Grantor's obligations and the restrictions on the Property, and in order to document the nature and condition of the Property, including significant interior elements in Spatial context, a list of character-defining materials, features, and spaces, including archaeological features (if known) is incorporated as Exhibit "A" at the end of this Easement.

Conservation Easement
Page 3 of 10

The Grantor has provided to the Holder architectural drawings of the floor plans. Holder personnel have compiled a photographic record of the building as it exists, both prior and subsequent to the work performed using the MHPP grant. The Grantor agrees that the nature and condition of the Property on the date of filing this Easement is accurately documented by the architectural drawings and photographic record, which shall be maintained for the life of this Easement in Holder's file for the Property.

c. **Restrictions on activities that would affect historically significant components of the Property.** The Grantor agrees that no demolition, construction, alteration, or remodeling or any other activity shall be undertaken or permitted to be undertaken on the Property which would affect historically significant, interior or exterior spaces and features identified in Exhibit "A", either construction materials, architectural details, form, fenestration, height of Property, or adversely affect its structural soundness without prior written permission of the Holder affirming that such written reconstruction, repair, repainting, refinishing, rehabilitation, preservation, or restoration will meet with the Secretary of the Interior's Standards for the Treatment of Historic Properties

d. **Exemption of routine maintenance activities.** Certain routine maintenance activities are exempted from the notification requirements outlined in Item c. above. A listing of the maintenance are attached to this agreement and labeled "Exhibit B".

e. **Duty to maintain the Property.** The Grantor agrees to assume the cost of the continued maintenance and repair of the Property so as to preserve the architectural, historical, or archeological integrity of the same in order to protect and enhance those qualities that made the Property eligible for listing in the National Register of Historic Places.

f. **Restrictions on activities that would affect archaeological resources.** The Grantor agrees that no ground disturbing activity shall be undertaken or permitted to be undertaken on the Property which would affect historically significant archaeological resources without prior written permission of the Holder affirming that such work will meet the Secretary of the Interior's Standards for Archeology and Historic Preservation (hereinafter referred to as the "Standards").

g. **Maintenance of recovered materials.** The Grantor agrees to ensure that any data and material recovered will be placed in a repository that will care for the data in the manner prescribed in the Standards or will comply with the requirements of the Native American Graves Protection and Repatriation Act, and with 36 CFR 79 and 43 CFR 10.

h. **Public access.** The Grantor agrees to provide public access to view the grant-assisted work on the Property no less than 12 days a year on an equitably spaced basis. At the Grantor's option, the Property may also be open at other times by appointment, in addition to the scheduled 12 days a year. Nothing in this Easement prohibits a reasonable nondiscriminatory admission fee, comparable to fees charges at similar facilities in the area.

i. **Right to inspect.** The Grantor agrees that the Holder, its agents and designees shall have the right to inspect the Property at all reasonable times in order to ascertain whether or not the conditions of this Easement are being observed.

j. **Anti-discrimination.** The Grantor agrees to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d)), the Americans with Disabilities Act (42 U.S.C. 12204), and with Section 504 of the Rehabilitation Act of 1973 (20 U.S.C. 794). These laws prohibit discrimination on the basis of race, religion, national origin, or disability. In implementing public access, reasonable

Conservation Easement
Page 4 of 10

accommodation to qualified disabled persons shall be made in consultation with the State of Missouri, State Historic Preservation Office.

To comply with the Americans with Disabilities Act, and with Section 504 of the Rehabilitation Act when interior public access is required at least 12 days per year and at other times by appointment, it is not required that every part of the Property be made accessible to and usable by disabled persons by means of physical alterations. That is, for public access periods, videos, slide presentations, and/or other audio-visual material and devices should be used to depict otherwise inaccessible areas or features.

k. **Easement shall run with the land; conditions on conveyance.** This Easement shall run with the land and be binding on the Grantor, its successors, and assigns. The Grantor agrees to insert an appropriate reference to this Easement in any deed or other legal instrument by which Grantor divests itself of either the fee simple title or other lesser estate in the Property, or any part thereof. Such reference shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO A CONSERVATION EASEMENT, DATED 6-16-14, 2014, RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS OF ADAIR COUNTY, MISSOURI, OF 8-14-14, 2014, AS DOCUMENT 2014-128 BOOK 1005, PAGE 150.

l. **Casualty, Damage, or Destruction.** In the event that the Property or any part of it shall be damaged or destroyed by fire, flood, windstorm, earth movement, or other casualty, the Grantor shall notify the Holder in writing within fourteen (14) days of the damage or destruction, such notification including what, if any, emergency work has already been completed. No repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the Property and to protect public safety, shall be undertaken by the Grantor without the Holder's prior written approval. The Holder shall give its written approval, if any, of any proposed work within sixty (60) days of receiving the request from the Grantor. If after reviewing the condition of the Property, the Holder determines that the features, materials, appearance, workmanship, and environment which made the Property eligible for listing in the National Register of Historic Places have been lost or so damaged that the Property's continued National Register listing is in question, the Holder will notify the Keeper of the National Register in writing of the potential loss. The Keeper of the National Register will evaluate the findings and notify the Holder in writing of any decision to remove the Property from the National Register. If the Property is removed, the Holder will then notify the Grantor that this agreement is null and void. If the damage or destruction that warrants the Property's removal from the National Register is caused by gross negligence, then the Holder may initiate legal action to recover, at a minimum, the state grant funds applied to the Property. Any funds so recovered shall first be used to reimburse the State of Missouri for the costs incurred in recovering the funds, with the remainder to the Missouri Historic Preservation Revolving Fund.

m. **Enforcement.** The Holder shall have the right to enforce this Easement as provided in Section 442.014.4, RSMo. If the Holder, upon inspection of the Property, finds what appears to be a violation, Holder shall notify Grantor in writing of the violation. Grantor shall have thirty (30) days after receipt of the written notification to respond. Except when an ongoing or imminent violation will irreversibly diminish or impair the cultural, historical, and architectural importance

Conservation Easement
Page 5 of 10

of the Property, the Grantor shall have at least sixty (60) days from receipt of the notice of violation to correct the violation. If a court having jurisdiction determines that a violation exists or has occurred, the Holder may obtain an injunction to stop the violation, temporarily or permanently. Holder may also ask a court to issue a mandatory injunction requiring the Grantor to restore the Property to a condition that would be consistent with preservation purposes of the grant from the State. In any case where a court finds that a violation has occurred, the Holder may ask the court to require the Grantor to reimburse the Holder and the Missouri Attorney General for all the State's expenses in stopping, preventing, and correcting the violation. The failure of the Holder to discover a violation or to take immediate action to correct a violation shall not bar it from doing so at a later time.

n. **Representations and warranties.** Grantor hereby represents and warrants to Holder:

1. that Grantor has the power and authority to enter into this Easement, to grant the rights and interests herein provided and to carry out all of Grantor's obligations hereunder;
2. that this Easement will not materially violate or contravene or constitute a material default under any other agreement, document or instrument to which Grantor is a party or by which Grantor may be bound or affected; and
3. that Grantor is the sole owner of the Property and holds fee simple title, which is free, clear and unencumbered.

o. **Amendments.** Grantor and Holder may by mutual written agreement jointly amend this Easement, provided the amendment shall be consistent with the preservation purpose of this Easement and shall not reduce its term of duration. Any such amendment shall not be effective unless it is executed by Grantor and Holder, and refers expressly to this Easement, and is filed with the Adair County Recorder.


p. **Effective date; severability.** This Easement shall become effective when the Grantor files it in the Office of the Recorder of Adair County, Missouri. Within thirty (30) days following recording this Easement, Grantor shall provide a copy of the recorded instrument to the Holder. If any part of this Easement is held to be illegal by a court, the validity of the remaining parts shall not be affected, and the rights and obligations of the parties shall be construed and enforced by the Grantor and Holder, and, if the Keeper of the National Register is affected, by that Keeper as if the Easement were not to contain the particular part held to be invalid.

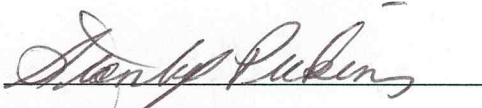
q. **Conflict of information.** Any document or other item required by this Easement to be given to the other party shall be:

If to Grantor:
106 West Washington Street
Kirksville, MO 63501

If to Holder:
Missouri Department of Natural Resources
State Historic Office of Preservation
P.O. Box 176
1101 Riverside Drive
Jefferson City, MO 65102

Continued on page 416

ATTEST: 
County Clerk


Presiding Commissioner