

RESOLUTION NO. 2017-[7]

A RESOLUTION AUTHORIZING CHEROKEE COUNTY, KANSAS, TO ENTER INTO A LEASE TRANSACTION, THE PROCEEDS OF WHICH WILL BE USED TO FINANCE THE ACQUISITION, CONSTRUCTION, INSTALLATION, IMPROVEMENT, AND EQUIPPING OF A SANITARY SEWER LIFT STATION AND APPROVING THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH.

WHEREAS, under the constitution and statutes of the State of Kansas, particularly K.S.A. 19-101 *et seq.*, Cherokee County, Kansas (the "County") is empowered to enter into leases, lease purchase agreements and installment purchase agreements for the lease and/or acquisition of property; and

WHEREAS, K.S.A. 10-1116b provides in pertinent part that nothing in the provisions of K.S.A. 10-1101 *et seq.* shall prohibit a municipality from entering into a lease agreement, with or without an option to buy, or an installment-purchase agreement, if any of such agreements specifically state that the municipality is obligated only to pay periodic payments or monthly installments under the agreement as may lawfully be made from (a) funds budgeted and appropriated for that purpose during such municipality's current budget year or (b) funds made available from any lawfully operated revenue producing source; and

WHEREAS, the Board of County Commissioners (the "Governing Body") of the County has considered the need of the County and its residents for the acquisition, construction, installation, improvement, and equipping of a sanitary sewer lift station (the "Improvements") to be located in the County at an estimated cost not to exceed \$600,000, but does not have sufficient moneys on hand legally available to purchase the Improvements; and

WHEREAS, the Governing Body adopted Resolution No. 2016-22 (the "Resolution of Intent") declaring its intent to finance the Improvements by the execution and delivery of a lease purchase agreement, and pursuant to K.S.A. 10-1116c, the Resolution of Intent was published in the *Columbus News Report* on August 3, 2016, and subsequently on August 10, 2016, and no sufficient protest was filed with the County election officer in opposition to the lease purchase agreement or the Improvements, and therefore the Governing Body desires to enter into a financing arrangement involving a lease purchase agreement and the issuance and delivery of not to exceed \$600,000 principal amount of Lease Purchase Agreement Certificates of Participation, Series 2017 (the "Certificates"); and

WHEREAS, in order to facilitate the foregoing and to pay the cost thereof, it is necessary and desirable for the County to take the following actions:

1. Enter into a Ground Lease (the "Ground Lease") between Empire District Electric Company ("Empire"), as lessor, and the County, as lessee, pursuant to which Empire will lease certain real property as defined therein (the "Land") to the County on the terms and conditions set forth therein, a form of which has been submitted to the Governing Body and its legal counsel for review;

2. Enter into a Site Lease (the "Site Lease") between the County, as lessor, and Security Bank of Kansas City, Kansas City, Kansas (the "Trustee"), as lessee, pursuant to which the County will

lease the Land to the Trustee on the terms and conditions set forth therein, a form of which has been submitted to the Governing Body and its legal counsel for review;

3. Enter into a Lease Agreement (the "Lease") with the Trustee, pursuant to which the County will lease the Land and the Improvements (collectively the "Project") from the Trustee, a form of which has been submitted to the Governing Body and its legal counsel for review;

4. Enter into a Certificate Purchase Agreement (the "Certificate Purchase Agreement") among the County and the Trustee providing for the sale of the Certificates to Security Bank of Kansas City, as Purchaser, a form of which has been submitted to the Governing Body and its legal counsel for review;

5. Approve a Declaration of Trust (the "Declaration of Trust"), by the Trustee, pursuant to which Certificates will be executed and delivered, a form of which has been submitted to the Governing Body and its legal counsel for review;

6. Approve a Tax and Securities Compliance Procedures (the "Compliance Procedures") of the County in order to comply with the requirements of the Internal Revenue Code of 1986, as amended and regulations promulgated thereunder (the "Code"), and directives of the Internal Revenue Service and Securities and Exchange Commission, as the same may relate to the Certificates.

The Ground Lease, the Site Lease, the Lease, and the Certificate Purchase Agreement are referred to together herein as the "County Documents."

THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CHEROKEE COUNTY, KANSAS, AS FOLLOWS:

Section 1. Authorization and Approval of County Documents and Declaration of Trust.

(a) The County Documents and the Declaration of Trust are hereby approved in substantially the forms submitted to and reviewed by the Governing Body on the date hereof, with such changes therein as shall be approved by the Chairman, the Chairman's execution of the County Documents to be conclusive evidence of such approval.

(b) The obligation of the County to pay Basic Rent Payments (as defined in the Lease) under the Lease is subject to annual appropriation and shall constitute a current expense of the County and shall not in any way be construed to be an indebtedness or liability of the County in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness or liability by the County, nor shall anything contained in the Lease constitute a pledge of the general tax revenues, funds or moneys of the County, and all provisions of the Lease shall be construed so as to give effect to such intent.

(c) The Chairman is hereby authorized and directed to execute and deliver the County Documents and to approve changes to the Declaration of Trust on behalf of and as the act and deed of the County. The County Clerk is hereby authorized to affix the County's seal to the County Documents and attest said seal.

Section 2. Authorization of Compliance Procedures. In order to comply with the requirements of the Code and directives of the Internal Revenue Service and Securities and Exchange Commission and to improve tax compliance and documentation, the Governing Body hereby adopts the Compliance Procedures, dated as March 13, 2017. A copy of the Compliance Procedures shall be placed

in the permanent records of the County and shall be available for public inspection during regular business hours of the County.

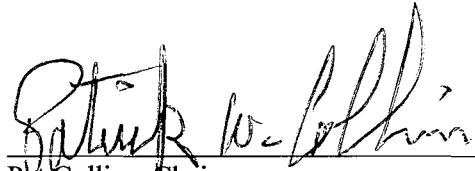
Section 3. Further Authority. The County shall, and the officials and agents of the County are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution and to carry out, comply with and perform the duties of the County with respect to the County Documents, the other documents authorized or approved hereby and the Project.

Section 4. Effective Date. This Resolution shall take effect and be in full force from and after its adoption by the Governing Body.

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]

ADOPTED by the Board of County Commissioners of Cherokee County, Kansas, on March 13, 2017.

(SEAL)



Pat Collins, Chairman
County Commissioner




Neal Anderson, County Commissioner



Cory Moates, County Commissioner

ATTEST:



Rodney Edmondson, County Clerk