

RESOLUTION NO. 12-2019

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF CHEROKEE COUNTY, KANSAS, DETERMINING THE NECESSITY, AUTHORIZATION AND ACQUISITION OF PERMANENT EASEMENTS AND RIGHT-OF-WAYS FOR KANSAS DEPARTMENT OF TRANSPORTATION AND BURLINGTON NORTHERN SANTA FE RAILROAD PROJECT NO. 11 C-4907-01, FOR REALIGNMENT AND IMPROVEMENTS OF SE BRUSH CREEK ROAD AND SE 20TH STREET, EAST AND WEST INTERSECTION, TO AUTHORIZE CONSTRUCTION, RECONSTRUCTION, AND MAINTENANCE OF SAID INTERSECTION FOR PUBLIC USE AND RAILROAD CROSSING SAFETY PURSUANT TO CHEROKEE COUNTY'S POWER OF EMINENT DOMAIN AND IN ACCORDANCE WITH THE EMINENT DOMAIN PROCEDURE ACT.

SECTION 1. GENERAL AUTHORITY. K.S.A. 19-101, *et. seq.*, and the Kansas Constitution, Article 12, §5, authorize statutory and home rule authority to the Board of County Commissioners of Cherokee County, Kansas, (the Board) to transact all County business and perform all powers of local legislation deemed appropriate, authorize public improvement projects, and perform all other acts in relation to the property and concerns of the County necessary to the exercise of its corporate or administrative powers.

SECTION 2. Surveys and descriptions of the land easements and right-of-ways necessary to construct and maintain the Kansas Department of Transportation and Burlington Northern Santa Fe Railroad Project No. 11 C-4907-0, have been developed by competent licensed surveyors and professional engineers. The project purpose is to realign the east-west intersection at SE Brush Creek Road and 20th Street and improve the County roads and railroad crossing. Negotiations to purchase the real estate for the proposed easements and right-of-ways have been unsuccessful.

SECTION 3. The Board has determined that in order to carry out such project, according to its lawful powers and duties, it is necessary to hereby acquire by the exercise of its power of eminent domain and pursuant to the procedures set forth in the Kansas Eminent Domain Procedure Act, K.S.A. 26-501, *et seq.*, permanent easements and right-of-ways upon the following described lands located in Cherokee County, Kansas, for the accommodation of construction equipment, materials, and excavated earth, and the ongoing maintenance and improvements over and across the described tracts of real

estate, resulting in a realigned, permanent public roadway, and safe railroad utility crossing, situated in Cherokee County, Kansas, to wit:

TRACT 1

Right-of-Way Legal Description:

A tract of land located in the Southeast One-Quarter (SE 1/4) of Section 8, Township 34 South, Range 24 East of the Sixth Principal Meridian, Cherokee County, Kansas, more particularly described as follows:

Beginning at the Northeast Corner of said SE 1/4 of said Section 8; Thence South 2°43'03" East (assumed bearing), 222.41 feet along the East line of said SE 1/4; Thence South 87°16'57" West, 20.44 feet; Thence North 82°23'50" West, 125.25 feet; Thence North 57°18'54" West 292.31 feet; Thence North 89°17'52" West, 168.05 feet; Thence North 1°19'25" West 25.00 feet to a point on the North line of said SE 1/4; Thence North 87°44'24" East 549.09 feet along the North line of said SE 1/4 to the POINT AND PLACE OF BEGINNING. Said tract contains 1.46 acres, more or less, including approximately 0.32 acres of existing county road right-of-way and 0.12 acres of railroad right-of-way. Subject to all public roads, easements, reservations, restrictions, covenants and conditions, if any, now of record.

Encompassing 1.02 acres.

TRACT 2

Right-of-Way Legal Description:

A tract of land located in the Northwest One-Quarter (NW 1/4) of Section 9, Township 34 South, Range 24 East of the Sixth Principal Meridian, Cherokee County, Kansas, more particularly described as follows:

Beginning at the Southwest Corner of said NW 1/4 of said Section 9; Thence North 2°43'03" West (assumed bearing), 184.15 feet along the West line of said NW 1/4; Thence South 82°38'54" East, 189.99 feet; Thence South 59°37'54" East, 194.27 feet; Thence South 84°55'08" East, 187.58 feet; Thence South 2°07'16" East, 25.00 feet to a point on the South line of said NW 1/4; Thence South 87°52'44" West, 535.45 feet along the South line of said NW 1/4 to the POINT AND PLACE OF BEGINNING. Said tract contains 1.26 acres, more or less, including approximately 0.29 acres of existing county road right-of-way and 0.16 acres of railroad right-of-way. Subject to all public roads, easements, reservations, restrictions, covenants and conditions, if any, now of record.

Encompassing 0.81 acres.


SECTION 4: That be it hereby resolved by the Board of County Commissioners of Cherokee County, Kansas, that proceedings in eminent domain shall commence as soon as practicable.

SECTION 5: All resolutions and parts thereof in conflict herewith are hereby expressly repealed in so far as they conflict herewith.


SECTION 6: This Resolution shall be in full force and effect from the date of passage and shall be published in the official County newspaper.

PASSED AND ADOPTED by the Governing Body of Cherokee County,

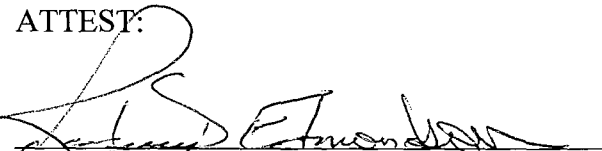
Kansas, on this 19th day of August, 2019.


Cory Moates, Chairman
Cherokee County Commissioner


Myra Carlisle Frazier
Cherokee County Commissioner


Neal Anderson
Cherokee County Commissioner

ATTEST:


Rodney D. Edmondson, County Clerk

