

**MINUTES FOR OCTOBER 19, 2015**  
**BOARD OF CHEROKEE COUNTY COMMISSIONERS**  
**CHEROKEE COUNTY, KANSAS**

**CONVENE**

Chairman Napier called the regular session of the Cherokee County Board of Commissioners (The Board), to order and led all in attendance in the Pledge of Allegiance at 9:00 AM on Monday, October 19, 2015 in the Commission Room, #109 of the Cherokee County Courthouse located at 110 W Maple St., Columbus, Kansas. Commissioners Charles Napier, Pat Collins, Robert Myers, and County Clerk Rodney Edmondson were present.

Members of the press present: Larry Hiatt, Mabelle Smith, Sarah Okeson, and Jordan Zabel

A motion was made by Commissioner Collins to approve the Minutes of the BOCC Meeting for October 5, 2015. The motion was seconded by Commissioner Myers. The motion carried 3-0.

A motion was made by Commissioner Myers to approve the Minutes of the BOCC Special Meeting for October 14, 2015. The motion was seconded by Commissioner Collins. The motion carried 3-0.

A motion was made by Commissioner Collins to approve Payroll for the month of October, 2015. The motion was seconded by Commissioner Myers. The motion carried 3-0.

A motion was made by Commissioner Collins to approve the Mid-Month Accounts Payables for October, 2015 with the exception of the Water District No. 9 item on page 7. The motion was seconded by Commissioner Myers. The motion carried 3-0.

A motion was made by Commissioner Myers to approve the Accounts Payables for the month of October, 2015, excluding the payment to Robert Myers, item #88776 in the amount of \$4,651. The motion was seconded by Commissioner Collins. The motion carried 3-0.

A motion was made by Commissioner Collins to pay item #88776 to Robert Myers for Special Prosecutor services prior to becoming County Commissioner. The motion was seconded by Commissioner Napier. The motion carried 2-0 with Commissioner Myers abstaining.

A motion was made by Commissioner Collins to enter an Executive Session with the Board for a period of 20 minutes for the purpose of Non/Elected Personnel. The motion was seconded by Commissioner Myers. The motion carried 3-0 at 9:01 AM.

The meeting reconvened at 9:21 AM.

No action was taken during the Executive Session.

A motion was made by Commissioner Collins to enter an Executive Session with the Board for a period of 15 minutes for the purpose of Non/Elected Personnel. The motion was seconded by Commissioner Myers. The motion carried 3-0 at 9:24 AM.

The meeting reconvened at 9:39 AM.

No action was taken during the Executive Session.

A motion was made by Commissioner Collins to take a 20 minute recess. The motion was seconded by Commissioner Myers. The motion carried 3-0 at 10:19 AM.

The meeting reconvened at 10:39 AM.

**Janet Miller - Economic Development Director**

She appeared before the Board to update them on Economic Development in Cherokee County.

She explained that currently payroll and benefit expenses run through the county books. The remainder of her budgeted amount is divided into 12 monthly payments and given directly to the Economic Development Corporation and their Board of Directors approves expenditures. The Board asked her to provide them a monthly report of expenditures that the EDC Board of Directors approves.

She informed the Board that Network Kansas has awarded the County an additional \$30,000 in tax credits that can be purchased by individuals and corporations. She stated that over \$23,000 has already been spoken for.

**Nathan Coleman - County Counselor**

He appeared before the Board regarding legal matters concerning Cherokee County.

Juanita Hodgson, County Treasurer and Mark Hixon, County Appraiser appeared regarding the Galena Hospital.

They informed the Board that the 2013 and 2014 real estate taxes have been paid under protest. Mark stated that he has had a hearing, but no final decision has been made on the valuation of the hospital. Juanita stated that she has a call in to the state regarding the legalities of distributing the tax dollars to the appropriate entities. Commissioner Collins stated that he would like her to call the City of Galena and the Galena School District and let them know that they are going to receive a letter of explanation along with their check. Collins stated that he would like to know the statute number, if any, that backs the ability to hold the payment until a decision is made regarding the valuation of the hospital. Commissioner Myers stated that he'd like to get an answer by next Monday because he's inclined to distribute the 2014 taxes as well. Mr. Coleman stated that he would research, along with Hodgson, such a statute regarding the distribution of the taxes.

A motion was made by Commissioner Myers to enter an Executive Session with the Board and Mr. Coleman for a period of 15 minutes for the purpose of Attorney/Client Privilege. The motion was seconded by Commissioner Collins. The motion carried 3-0 at 11:53 AM.

The meeting reconvened at 12:08 PM.

A motion was made by Commissioner Myers to enter an Executive Session with the Board and Mr. Coleman for another 10 minutes for the purpose of Attorney/Client Privilege. The motion was seconded by Commissioner Collins. The motion carried 3-0 at 12:09 PM.

The meeting reconvened at 12:19 PM.

No action was taken during the Executive Sessions.

Mr. Coleman stated that he had reviewed the Schwab Eaton contract and has no concerns to be raised to the Board.

He stated that letters and contracts have been sent to all of the contract attorneys. Candace Gayoso has returned her contract signed, the other are still being reviewed.

A motion was made by Commissioner Myers to approve the Guardian Ad Litem contract with Candace Gayoso. The motion was seconded by Commissioner Collins. The motion carried 3-0.

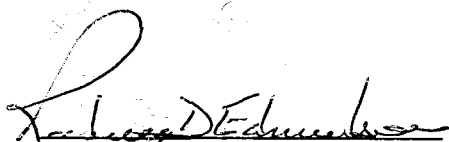
**Juanita Hodgson - County Treasurer**

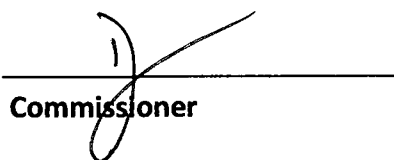
She provided year to date budget and fund balance reports for the Board to review.

She stated that she has an email request from DeAnn Hill for her to provide several years of documents, asking that they be boxed up for pickup by her staff. Juanita stated that she replied to the email and stated that they would not be available. Juanita stated that she feels uncomfortable having 11 years of documents leaving the courthouse. She stated that she has been speaking with the State Treasurer regarding the issues at hand. She said that there is action that the county can take to clear up the issues if it desires. She stated that DeAnn said that she would contact the commissioners regarding the issue.

Commissioner Collins made a motion to adjourn until the next regular meeting set for Monday, October 26, 2015 at 9:00 AM. The motion was seconded by Commissioner Myers. The motion carried 3-0 at 12:35 PM.

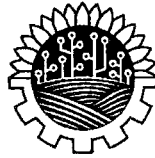
**ATTEST: Resolved and ordered this 26<sup>th</sup> day of October, 2015**

  
Cherokee County Clerk

  
Commissioner

  
Commissioner

  
Commissioner



# Cherokee County, Kansas

Economic Development

*"the corner of opportunity"*

October 19, 2015

Dear Potential Donor,

In the fall of 2014, Cherokee County was named an E-Community by NetWork Kansas and awarded \$50,000 in Entrepreneurship Tax Credits. The sale of these credits allowed us to create a locally-administered revolving loan fund that is now available to those wishing to start or expand a business in the county.

Currently, we have a balance of just over \$42,000 in the E-Community loan fund. While a great start, we know that these funds will not go far. As a result, we recently applied for additional credits, and we are pleased to announce that Network Kansas has awarded the County an additional \$30,000 in tax credits. If we are able to sell all of these credits, we will be able to increase the size of the loan fund to \$74,000.

We are off to a terrific start with \$23,250 of tax credits already spoken for. We invite you to consider supporting economic development in Cherokee County by purchasing some or all of our remaining \$6,750 in tax credits.

Details on the tax credits may be found on the enclosed flyer. I welcome the opportunity to answer questions or provide additional information. Contact me at 620-762-0717 or [ecodev@cherokeecounty-ks.gov](mailto:ecodev@cherokeecounty-ks.gov) to purchase credits or for more information.

Sincerely,

Janet Miller  
Director



## Entrepreneurship Tax Credits

*Economic Sense, Targeted Delivery*

**N**etWork Kansas was created as a key component of the Kansas Economic Growth Act of 2004 to lead collaborative efforts between education, research and outreach services—as well as public sector organizations—in order to serve potential and existing entrepreneurs statewide. An integral part of this effort is providing seed capital to entrepreneurs and small business owners in rural and distressed areas of Kansas. The *Kansas Center for Entrepreneurship Tax Credit* was created to stimulate this effort.

### 75% Tax Credit

Donors receive a 75% state income tax credit for their donation. A tax credit is a dollar-for-dollar credit against state income tax liability. This means that for every \$1,000 donated, donors will receive \$750 credit directly off of their state income tax liability.

Donors are also eligible to receive a federal and state tax deduction and should consult with their individual tax specialist to determine the amount of any deductions. A K-31 Form is required with the individual tax form and is available online through the Kansas Department of Revenue.

### What Are The Individual Minimum and Maximum Annual Tax Credits Allowed?

The minimum allowable tax credit per year is \$187.50, which translates into a donation of \$250. The maximum allowable credit per year is \$50,000, which translates into an approximate donation of \$66,667. If the amount of the tax credit exceeds the contributor's liability in the taxable year, the remaining portion of the credit may be carried forward until the total amount of credit is applied.

### Who Can Donate?

Individuals and corporations\* can donate to the Kansas Center for Entrepreneurship.

### Who Cannot Donate?

Banks are not eligible for the Entrepreneurship Tax Credit due to privilege tax limitations.

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\*If the donor is a corporation with an election in effect under Subchapter S of the Federal Internal Revenue Code or is a partnership, the credit provided by this section shall be claimed by the shareholders of these corporations or the partners must account for their proportionate shares of the income or loss of these corporations or partnerships.

<b>BUDGET BALANCES 2015</b>							
<b>COUNTY GENERAL</b>	<b>Beginning Budget</b>	<b>BUDGET AVAIL.</b>	<b>1st Half</b>	<b>Oct A/P</b>	<b>Oct P/R</b>	<b>AFTER Sept ISSUE</b>	<b>%</b>
Commissioners	\$ 85,000.00	\$ 25,749.85		\$ 36.00	\$ 3,796.94	\$ 21,916.91	25.78%
County Clerk	\$ 123,000.00	\$ 34,518.44		\$ -	\$ 9,190.53	\$ 25,327.91	20.59%
County Treasurer	\$ 94,000.00	\$ 12,959.36		\$ 80.00	\$ 17,789.19	\$ (4,909.83)	-5.22%
County Attorney	\$ 248,600.00	\$ 95,914.61		\$ 4,698.51	\$ 11,636.67	\$ 79,579.43	32.01%
Register of Deeds	\$ 93,260.00	\$ 29,112.05		\$ 9.90	\$ 6,410.73	\$ 22,691.42	24.33%
County Counselor	\$ 28,000.00	\$ 7,831.00		\$ -	\$ 2,232.00	\$ 5,599.00	20.00%
Sheriff Dept	\$ 1,225,000.00	\$ 445,396.62		\$ 9,840.71	\$ 77,231.72	\$ 358,324.19	29.25%
District Court	\$ 266,800.00	\$ 73,400.08		\$ 19,875.26	\$ 3,115.05	\$ 50,409.77	18.89%
Courthouse	\$ 450,000.00	\$ (74,718.28)		\$ 50,216.87	\$ 2,460.81	\$ (127,395.96)	-28.31%
Emergency Prep	\$ 82,300.00	\$ 26,098.99		\$ 1,697.11	\$ 7,380.86	\$ 17,021.02	20.68%
Human Resources	\$ 41,070.00	\$ 12,770.66		\$ 31.34	\$ 2,788.80	\$ 9,950.52	24.23%
Planning Comm	\$ -	\$ -		\$ -	\$ -	\$ -	0.00%
Recreation	\$ 11,000.00	\$ 8,175.00		\$ -	\$ -	\$ 8,175.00	74.32%
Jail	\$ 884,100.00	\$ 186,533.39		\$ 62,614.44	\$ 42,416.83	\$ 81,502.12	9.22%
Computer Prog	\$ 40,709.00	\$ 4,457.65		\$ 5,004.08	\$ -	\$ (546.43)	-1.34%
Jury Cost	\$ 9,693.00	\$ 3,933.84		\$ -	\$ -	\$ 3,933.84	40.58%
Juvenile Dentention	\$ 95,215.00	\$ 35,681.00		\$ 5,183.18	\$ -	\$ 30,497.82	32.03%
Geneology Society	\$ 8,000.00	\$ -		\$ -	\$ -	\$ -	0.00%
Emergency 911	\$ 62,502.00	\$ 23,461.94		\$ -	\$ 4,050.20	\$ 19,411.74	31.06%
Jail JOP Reserve	\$ 682,623.00	\$ 682,623.00		\$ -	\$ -	\$ 682,623.00	100.00%
Gis Info	\$ 29,078.00	\$ (10,863.60)		\$ -	\$ -	\$ (10,863.60)	-37.36%
USD 493	\$ 50,000.00	\$ 50,000.00		\$ -	\$ -	\$ 50,000.00	100.00%
ROZ	\$ 6,000.00	\$ 6,000.00		\$ 2,562.50	\$ -	\$ 3,437.50	57.29%
Employee Benefits	\$ -	\$ -		\$ -	\$ -	\$ -	0.00%
Economic Development	\$ 104,154.00	\$ 26,166.78		\$ 8,660.95	\$ 5,583.33	\$ 11,922.50	11.45%
Grand Jury	\$ 50,000.00	\$ 31,150.23		\$ -	\$ -	\$ 31,150.23	62.30%
Capital Lease	\$ 612,520.00	\$ 612,520.00		\$ -	\$ -	\$ 612,520.00	100.00%
Capital Lease File Server	\$ -	\$ -		\$ -	\$ -	\$ -	0.00%
Employee Compensation	\$ 100,000.00	\$ 36,870.35		\$ 6,923.95	\$ -	\$ 29,946.40	29.95%
<b>Total County General</b>	<b>\$ 5,482,624.00</b>	<b>\$ 2,385,742.96</b>	<b>\$ -</b>	<b>\$ 177,434.80</b>	<b>\$ 196,083.66</b>	<b>\$ 2,012,224.50</b>	<b>36.70%</b>

	<u>Beginning Budget</u>	<u>BUDGET AVAIL.</u>	1st Half	<u>Oct A/P</u>	<u>Oct P/R</u>	<u>AFTER Sept ISSUE</u>	<u>%</u>
Equipment Reserve	\$ -	\$ -		\$ 4,035.50			0.00%
County No-Fund Warrant	\$ -	\$ -		\$ -		\$ -	0.00%
Technology Fund	\$ -	\$ -		\$ 632.15	\$ -	\$ -	0.00%
Rd & Bridg	\$ 3,500,000.00	\$ 374,062.39		\$ 172,150.36	\$ 98,297.94	\$ 103,614.09	2.96%
Ex Counc	\$ 204,893.00	\$ -		\$ -	\$ -	\$ -	0.00%
Noxious Weed	\$ 66,333.00	\$ 32,463.44		\$ 38.01	\$ 2,232.50	\$ 30,192.93	45.52%
Health &Wic	\$ 843,313.00	\$ 500,021.79		\$ 24,800.02	\$ 32,562.09	\$ 442,659.68	52.49%
Fair	\$ 12,000.00	\$ 3,000.00		\$ -	\$ -	\$ 3,000.00	25.00%
Direct Elect	\$ 103,000.00	\$ 17,427.29		\$ 2,133.25	\$ 3,735.33	\$ 11,558.71	11.22%
Comm College	\$ -	\$ -		\$ -	\$ -	\$ -	0.00%
Soil Conservation	\$ 25,000.00	\$ -		\$ -	\$ -	\$ -	0.00%
Special Bridge	\$ -	\$ -		\$ 4,302.00	\$ 1,674.40	\$ -	0.00%
Mental Health	\$ 111,457.00	\$ -		\$ -	\$ -	\$ -	0.00%
Mental Retard.	\$ 111,457.00	\$ -		\$ -	\$ -	\$ -	0.00%
Ambulance	\$ 571,584.00	\$ 118,167.84		\$ 31,754.66	\$ -	\$ 86,413.18	15.12%
Cherokee County 911	\$ 459,433.00	\$ -		\$ 54,554.16	\$ -	\$ -	0.00%
Appraiser	\$ 325,000.00	\$ 27,909.76		\$ 1,684.28	\$ 18,495.00	\$ 7,730.48	2.38%
County Bldg.	\$ -	\$ -		\$ -	\$ -	\$ -	0.00%
Employee Bene	\$ 3,000,000.00	\$ 912,419.73		\$ 51,226.38	\$ -	\$ 861,193.35	28.71%
Elderly	\$ 20,000.00	\$ 4,963.69		\$ 752.91	\$ -	\$ 4,210.78	21.05%
08LEPC Plan/Train Grant	\$ -	\$ -		\$ -	\$ -	\$ -	0.00%
Landfill	\$ -	\$ -		\$ -	\$ -	\$ -	0.00%
Sewer Dist #1	\$ 200,593.00	\$ 105,026.02		\$ 1,346.32	\$ 1,980.24	\$ 101,699.46	50.70%
Concealed	\$ -	\$ -		\$ -	\$ -	\$ -	0.00%
Spider	\$ -	\$ -		\$ 300.00	\$ -	\$ -	0.00%
No Fund Warrants	\$ -	\$ -		\$ -	\$ -	\$ -	0.00%
Prosecuting Attoreney Training	\$ 4,624.00	\$ -		\$ -	\$ -	\$ -	0.00%
Co Attorney Spec Law Enforc	\$ 329.00	\$ -		\$ -	\$ -	\$ -	0.00%
NSP	\$ -	\$ -		\$ -	\$ -	\$ -	
Special Park	\$ 745.00	\$ -		\$ -	\$ -		
Special Alcohol	\$ 20,803.00	\$ 20,803.00		\$ -	\$ -	\$ 20,803.00	0.00%
Tourism	\$ 10,300.00	\$ 10,300.00		\$ -	\$ -	\$ 10,300.00	0.00%
Spec Law	\$ 55,057.00	\$ 55,557.00		\$ 875.85	\$ -	\$ -	0.00%
Drug Tax Stamp Fund	\$ -	\$ -				\$ -	0.00%
<b>Total</b>		\$ -	\$ -	\$ 528,020.65	\$ 355,061.16		

<b>FUND BALANCES 10/16/2015</b>						
<b>FUND</b>	<b>FUND #</b>	<b>Balance 2015</b>	<b>1st Half</b>	<b>Oct A/P</b>	<b>Oct P/R</b>	<b>BALANCE</b>
<u>County No-Fund Warrants</u>	<u>99</u>	\$ -		\$ -	\$ -	\$ -
<u>CO GEN</u>	<u>100</u>	\$ 628,313.45		\$ 177,434.80	\$ 196,083.66	\$ 254,794.99
<u>County Equipment Reserve</u>	<u>102</u>	\$ 641,405.79		\$ 4,035.50	\$ -	\$ 637,370.29
<u>TECHNOLOGY FUND</u>	<u>103</u>	\$ 25,352.55		\$ 632.15	\$ -	\$ 24,720.40
<u>STATE LINE ROAD PROJECT</u>	<u>105</u>	\$ 260.97		\$ -	\$ -	\$ 260.97
<u>Jail Salestax</u>	<u>107</u>	\$ 487,468.47		\$ -	\$ -	\$ 487,468.47
<u>Law Enforcement Center</u>	<u>108</u>	\$ -		\$ -	\$ -	\$ -
<u>RD BRIDGE</u>	<u>110</u>	\$ 1,284,122.00		\$ 172,150.36	\$ 98,297.94	\$ 1,013,673.70
<u>EX COUNCIL</u>	<u>120</u>	\$ 13,718.76		\$ -	\$ -	\$ 13,718.76
<u>NOXIOUS WEED</u>	<u>130</u>	\$ 17,049.31		\$ 38.01	\$ 2,232.50	\$ 14,778.80
<u>SEVERE WEATHER EQUIPMENT</u>	<u>135</u>	\$ 22.00		\$ -	\$ -	\$ 22.00
<u>HEALTH</u>	<u>140</u>	\$ 1,223,844.03		\$ 24,800.02	\$ 32,562.09	\$ 1,166,481.92
<u>Clean Up Illegal Dump</u>	<u>142</u>	\$ -		\$ -	\$ -	\$ -
<u>TRI CO WIC</u>	<u>145</u>	\$ 118.32		\$ -	\$ -	\$ 118.32
<u>FAIR</u>	<u>150</u>	\$ 3,067.82		\$ -	\$ -	\$ 3,067.82
<u>ELECTION</u>	<u>160</u>	\$ 24,627.95		\$ 2,133.25	\$ 3,735.33	\$ 18,759.37
<u>COMM COLLEGE</u>	<u>170</u>	\$ 1,975.52		\$ -	\$ -	\$ 1,975.52
<u>SOIL CONSERV</u>	<u>180</u>	\$ 1,737.46		\$ -	\$ -	\$ 1,737.46
<u>SPECIAL BRIDGE</u>	<u>190</u>	\$ 540,441.72		\$ 4,302.00	\$ 1,674.40	\$ 534,465.32
<u>MENTAL HEALTH</u>	<u>200</u>	\$ 7,554.15		\$ -	\$ -	\$ 7,554.15
<u>MENTAL RETARD</u>	<u>210</u>	\$ 7,682.60		\$ -	\$ -	\$ 7,682.60
<u>FAM LIFE CENTER BOND &amp; INT</u>	<u>216</u>	\$ -		\$ -	\$ -	\$ -
<u>AMBULANCE</u>	<u>220</u>	\$ 157,640.75		\$ 31,754.66	\$ -	\$ 125,886.09
<u>CHEROKEE COUNTY 911</u>	<u>224</u>	\$ 350,821.57		\$ 54,554.16	\$ -	\$ 296,267.41
<u>FEMA PUBLIC ASSISTANCE GRANT</u>	<u>227</u>	\$ -		\$ -	\$ -	\$ -
<u>APPRAISAL</u>	<u>230</u>	\$ 48,783.89		\$ 1,684.28	\$ 18,495.00	\$ 28,604.61
<u>COUNTY BLDG</u>	<u>250</u>	\$ 947.93		\$ -	\$ -	\$ 947.93
<u>EMPL. BENE</u>	<u>260</u>	\$ 259,054.58		\$ 51,226.38	\$ -	\$ 207,828.20
<u>PAYROLL W/HOLD</u>	<u>265</u>	\$ -		\$ -	\$ -	\$ -
<u>SPECIAL (TORT) LIABILITY</u>	<u>290</u>	\$ 16,932.20		\$ -	\$ -	\$ 16,932.20
<u>ELDERLY</u>	<u>300</u>	\$ 17,990.78		\$ 752.91	\$ -	\$ 17,237.87
<u>DESIGNATED DV &amp; SA PROSEC</u>	<u>301</u>	\$ -		\$ -	\$ -	\$ -
<u>CDBG-Grant Family Life</u>	<u>302</u>	\$ -		\$ -	\$ -	\$ -
<u>08LEPC PLAN/TRAIN GRANT</u>	<u>303</u>	\$ -		\$ -	\$ -	\$ -
<u>SPIDER PROGRAM</u>	<u>304</u>	\$ 10,216.80		\$ 300.00	\$ -	\$ 9,916.80
<u>E/P GRANT</u>	<u>306</u>	\$ 201.43		\$ -	\$ -	\$ 201.43
<u>COPS GRANT</u>	<u>307</u>	\$ 25,004.40		\$ -	\$ -	\$ 25,004.40



<u>FUND</u>	<u>FUND #</u>	<u>Balance 2015</u>	<u>1st Half</u>	<u>Oct A/P</u>	<u>Oct P/R</u>	<u>BALANCE</u>
<u>JUVENILE BLOCK GRANT</u>	<u>309</u>	\$ -				\$ -
<u>LANDFILL</u>	<u>310</u>	\$ 5,092.00		\$ -	\$ -	\$ 5,092.00
<u>REMODEL GRANT</u>	<u>313</u>	\$ -				\$ -
<u>INVESTIGATOR GRANT</u>	<u>314</u>	\$ -				\$ -
<u>GALENA MINE CLOSURE</u>	<u>317</u>	\$ -				\$ -
<u>EMERG SHELTR GRANT</u>	<u>338</u>	\$ 500.00				\$ 500.00
<u>SEWER DIST #1 BOND &amp; INT</u>	<u>320</u>	\$ 5,542.84				\$ 5,542.84
<u>SEWER DIST #1 OPER &amp; MAINT</u>	<u>330</u>	\$ 61,677.49		\$ 1,346.32	\$ 1,980.24	\$ 58,350.93
<u>SHELTERED WORKSHOP BD &amp; IN</u>	<u>340</u>	\$ 17.00				\$ 17.00
<u>SPECIAL HIGHWAY IMPROVEMT</u>	<u>360</u>	\$ 1,264.20				\$ 1,264.20
<u>SPECIAL ROAD MACHINERY</u>	<u>370</u>	\$ 100.00				\$ 100.00
<u>COUNTY BOND &amp; INTEREST</u>	<u>390</u>	\$ 1,340.54				\$ 1,340.54
<u>PROS ATTORN TRAIN</u>	<u>410</u>	\$ 3,211.95				\$ 3,211.95
<u>ELECTRONIC MONITORING</u>	<u>412</u>	\$ 910.00				\$ 910.00
<u>ATTORNEY APPLICATION FEE</u>	<u>413</u>	\$ 13,791.91				\$ 13,791.91
<u>DIVERSION SUPERVISION FEE</u>	<u>414</u>	\$ 5.00				\$ 5.00
<u>ADMINISTRATION FEE BAD CKS</u>	<u>415</u>	\$ 88.81				\$ 88.81
<u>SPECIAL PARKS &amp; RECREATION</u>	<u>430</u>	\$ (2,861.60)		\$ -		\$ (2,861.60)
<u>SPEC ALCOHOL</u>	<u>440</u>	\$ 7,734.91		\$ -		\$ 7,734.91
<u>TOURISM</u>	<u>450</u>	\$ (28.00)		\$ -		\$ (28.00)
<u>INFORMATION NETWORK OF KS</u>	<u>465</u>	\$ 22,699.04				\$ 22,699.04
<u>BANKRUPTCY FUND</u>	<u>470</u>	\$ 1,865.21				\$ 1,865.21
<u>CONCEALED WEAPON APPS</u>	<u>489</u>	\$ 15,314.52		\$ -		\$ 15,314.52
<u>SPECIAL LAW ENFORC TRUST</u>	<u>490</u>	\$ 34,890.04		\$ 875.85		\$ 34,014.19
<u>DRUG TAX STAMP FUND</u>	<u>491</u>	\$ 2,098.25				\$ 2,098.25
<u>CO ATTY SPEC LAW ENFORC</u>	<u>492</u>	\$ 628.56				\$ 628.56
<u>Drug Forfeiture Fund</u>	<u>493</u>	\$ 1,080.06				\$ 1,080.06
<u>Justice Assistance Grant</u>	<u>494</u>	\$ -				\$ -
<u>DRUG FREE GRANT 91-03</u>	<u>495</u>	\$ -				\$ -
<u>RURAL WATER #8 GRANT</u>	<u>505</u>	\$ 246.00				\$ 246.00
<u>FLOOD PURCHASE AGREEMENT</u>	<u>513</u>	\$ -				\$ -
<u>FLOOD BUYOUT PROG 1997</u>	<u>517</u>	\$ -				\$ -
<u>SIREN</u>						\$ -
<u>NSP</u>	<u>353</u>	\$ 183.03				\$ 183.03
						\$ -
			\$ -	\$ 528,020.65	\$ 355,061.16	



October 12, 2015

Board of County Commissioners  
Cherokee County Courthouse  
110 W. Maple St., PO Box 607  
Columbus KS 66725

RE: Proposal for Engineering Services  
Galena Viaduct Deck Reconstruction  
Cherokee County

Dear Commissioners:

We sincerely appreciate the opportunity to submit this proposal to complete the Galena Viaduct Deck Reconstruction plans and specifications for County bridge No. 18-Z.0.

Our tentative schedule will be to have preliminary construction plans within 6-months for your review. The preliminary/final design will be subject to a State Historical Preservation Office (SHPO) review. The SHPO review could potentially delay our tentative 6-month schedule.

We propose to complete the services as indicated herein on an hourly basis determined by actual payroll charged to the project plus an overhead and profit factor of 2.00 times payroll with a maximum fee of \$24,000.00 (refer. Agreement for Engineering Services- attached)

Please call me should you have any questions.

Sincerely,  
SCHWAB EATON

A handwritten signature in black ink, appearing to read 'David Beach', is written over the typed name.

David G. Beach, PE

dgb/ad  
Enclosures

Civil Engineers

Land Surveyors

Landscape Architects

**CONTRACT FOR  
ENGINEERING SERVICES  
BY CONSULTANT**

**PROJECT NO.** Phase II Galena Viaduct Deck Reconstruction  
**CLIENT** Cherokee County, KS

**THIS AGREEMENT** entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between, Cherokee County, KS hereinafter referred to as the "Client" as principal, and the consulting engineering firm of Schwab-Eaton, P.A., hereinafter called the "Consultant." The Consultant's address is 1125 Garden Way, Manhattan, KS 66502.

**WITNESSETH:**

**WHEREAS**, the Client has submitted a request to the Consultant stating that it desires engineering services for the Phase II Galena Viaduct Deck Reconstruction hereinafter referred to as the "Project." The Project is located on East Front Street (Old HWY 66) at the NE corner of Galena. The Viaduct is over the BNSF Railroad. County Bridge No. 18-Z.0.

**WHEREAS**, the engineering services performed by the Consultant will include, but not necessarily be limited to the services indicated in Attachment A.

**NOW THEREFORE**, in consideration of the premises and covenants herein contained, the parties hereto mutually agree as follows:

**ARTICLE I**

The Client agrees:

1. To employ the Consultant to perform the engineering services described in this Agreement for the fee, and in the manner stipulated in Article I, Paragraphs 3 and 4 below and in general accordance with the Consultant's proposal.
2. To review the Consultant's schedule, preliminary concepts and/or layouts and to monitor the Consultant's actual progress throughout the period of this Agreement.
3. To provide Right of Ways, building plats and residential property descriptions and references.
4. Compensation to the Consultant for engineering services described in Attachment A and Article II of this Agreement shall be on an hourly basis determined by actual payroll charged to the project plus an overhead and profit factor of 2.00 times payroll with an anticipated maximum fee of \$ 24,000.00.

5. That during the progress of work covered by this Agreement, partial payments may be made to the Consultant from the Client within thirty (30) days of receipt of proper billing, but at intervals of not less than one calendar month. Progress billing shall be supported by a progress schedule acceptable to the Client.

## **ARTICLE II**

The CONSULTANT Agrees:

1. To perform the following scope of engineering services and as indicated in Attachment A of this Agreement:
  - (a) Prepare the preliminary Construction Drawings for the Project within six months, exclusive of delays beyond the Consultant's control.
  - (b) Have available at the Consultant's office located at 1125 Garden Way, Manhattan, KS 66502 for review by the County all plans being prepared and supporting information.
  - (c) Provide all plans, drawings and documents pertaining to the Project to the Client. All such plans, drawings and documents shall become the property of the Client upon the completion thereof in accordance with the terms of this Agreement, without restrictions as to their future use.
2. In addition to the scope of engineering services the Consultant will assume the following obligations:
  - (a) Accept compensation for the performance of services herein described in such amounts and at such intervals as indicated in Article I, Paragraphs 3 and 4.
  - (b) The Consultant will not, without prior written approval from the Client, exceed the upper limit of the engineering fee described and agreed to by the parties herein. Failure to receive written approval will result in loss of compensation for this work by the Consultant.
  - (c) Be responsible for damages to property or persons arising out of negligent acts, errors or omissions in the Consultant's performance of services under this Agreement.
  - (d) To save the Client and their authorized representatives harmless from costs, liabilities, expenses, suits, judgments and damages to persons or property caused by the Consultant, its agents, employees or subcontractors which may result from negligent acts, errors, mistakes or omissions from the Consultant's services to be performed hereunder.
  - (e) The consultant shall assure that it is in compliance with and shall maintain sufficient records to document that, all aspects of this Agreement, it has acted in a manner which is in full compliance with all applicable sections of the Equal Employment Act as applicable: Title VI of the Civil Rights Act of 1964 (as amended); Title VII of the Civil Rights Act of 1964; Title VIII of the Civil

Rights Act of 1968; the Americans with Disabilities Act of 1990 (as amended); the County's Affirmative Action ordinances and policies, and amendments thereto. Such records shall at all times remain open to inspection by the County for such purpose.

### **ARTICLE III**

The parties hereto mutually agree:

1. The services to be performed by the Consultant under the terms of this Agreement are personal and cannot be assigned, sublet, or transferred without written consent of the Client.
2. The right is reserved by the Client to terminate all or part of this Agreement at any time upon written notice to the Consultant. Such notice shall be sent not less than ten (10) days in advance of the termination date stated in the notice.
3. The Consultant may terminate this Agreement, in the event of substantial failure of other parties to perform in accordance with the terms hereof, upon ten (10) days written notice in advance of the effective date of such termination received by all parties to this Agreement.
4. In the event the Agreement is terminated by the County, the Consultant shall be paid for the work performed or services rendered under the Basis of Payment determined for the Agreement.
5. In the event the services of the Consultant are terminated by the County for fault including, but not limited to: unreasonable delays in performance; failure to respond to County's requests; and/or unsatisfactory performance on the part of the Consultant, the Consultant shall be paid the reasonable value of the services performed or rendered and delivered up to the time of termination. The value of the services performed, rendered and delivered will be determined by the County. In the case of any dispute as to payment arising under this Agreement pertinent information will be submitted to a Review Committee for resolution. The Review Committee will be comprised of a maximum of two (2) representatives from each of the Agreement parties.
6. In the event of the death of any member or partner of the Consultant's firm, the surviving member(s) shall complete the services, unless otherwise mutually agreed upon by the County and the survivors, in which case the Consultant shall be paid as set forth in Paragraph 5 above.
7. The Consultant shall not sublet or assign all or any part of the services under this Agreement without the prior written approval of the County. Consent by the County to assign, sublet or otherwise dispose of any portion of the Agreement shall not be construed to relieve the Consultant of any responsibility for the fulfillment of the Agreement.

8. For Additional Work:

- (a) All authorized work performed by the Consultant following approval of location and design criteria which results in a loss to the Consultant by reason of basic changes in location or geometrics shall be paid for as additional work on the basis of actual costs incurred by the Consultant to revise the plans to an equal state of completion as obtained prior to receiving notice of required changes.
- (b) The introduction of new items of work beyond the stated or implied scope of the agreement including but not limited to the preparation of exhibits and presentation by the Consultant for public hearings shall be paid for as additional work.
- (c) Payment of such additional work shall be direct payroll costs plus 2.00 percent of direct payroll costs.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be signed by their duly authorized representatives on the day and year first above written.

RECOMMEND FOR APPROVAL:

APPROPRIATE LOCAL OFFICIAL

\_\_\_\_\_  
County Project Manager

\_\_\_\_\_  
Chairperson  
Board of County Commissioners

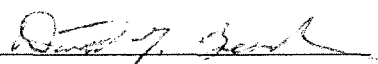
\_\_\_\_\_  
Member

ATTEST:

\_\_\_\_\_  
Member

\_\_\_\_\_  
County Clerk

\_\_\_\_\_  
Schwab-Eaton, PA  
Consultant

BY:   
Name

\_\_\_\_\_  
Project Manager  
Title

## ATTACHMENT A

The COUNTY desires to engage the CONSULTANT for services required for the above improvements including construction plans and cost estimate associated with the Phase II Galena Viaduct Deck Reconstruction project.

Services shall consist of plans and specifications for a partial/full depth deck repair and repairs to the bridge rails and posts on the deck. Work will include:

- Prepare preliminary plans and technical specifications for bridge deck repairs including the sides of the deck and bottom of the deck walkway overhang and bridge deck rail and posts. This scope of work does not include the approach roadway and guard fence modification, upgrade or replacement.
- Review meeting with County. The plans may need to be reviewed by the State Historical Preservation Office (SHPO).
- Prepare final plans and technical specifications for the bridge deck repairs based on County and/or SHPO review comments.
- Calculate quantities and cost estimate for the project.
- Prepare the plans for a 'Road Closed' condition.
- The scope of services does not include review of shop drawings, bridge forming or any false-work. These services are not required for deck patching and overlay.

## Terms and Conditions

The following Terms and Conditions are attached to this letter proposal (herein referred to as the Agreement) dated October 12, 2015 for the project Cherokee County, Phase II Galena Viaduct Deck Reconstruction Project between Schwab-Eaton, P.A. (herein referred to as SE) and Cherokee County (herein referred to as the Client).

### **Access to Site:**

Unless otherwise stated, the Client shall grant or secure the legal right for SE to access the site for activities necessary for the performance of the services. Although SE will take reasonable care in performing its services, the Client understands that use of testing or other equipment may unavoidably cause some damage, the correction of which is not part of this Agreement. The Client agrees, to the fullest extent permitted by law, to hold harmless SE, its officers, directors, employees and sub consultants against any damages, liabilities or costs arising or allegedly arising from procedures associated with surveying, testing or investigative activities or connected in any way with the discovery of hazardous materials or suspected hazardous materials on the property.

### **Dispute Resolution:**

Causes of action between the parties of this Agreement pertaining to acts, or failures to act, shall be deemed to have accrued and the applicable statutes of limitation shall begin to run not later than the date of Substantial Completion. Any claims or disputes made during design, construction or post-construction between the Client and SE shall be submitted to non-binding mediation. Client and SE agree to include a similar mediation agreement with all contractors, subcontractors, subconsultants, suppliers and fabricators, thereby providing for mediation as the primary method for dispute resolution between all parties.

### **Billings and Payments:**

Invoices for SE's services shall be submitted, at SE's option, either upon completion of such services or on a monthly basis. Invoices shall be payable within 30 days after the invoice date. If the invoice is not paid within 30 days, SE may, without waiving any claim or right against the Client, and without liability whatsoever to the Client, terminate the performance of the service. Retainers shall be credited on the final invoice.

### **Late Payments:**

Accounts unpaid 60 days after the invoice date may be subject to a monthly service charge of 1.5% (or the legal rate) on the unpaid balance. In the event any portion or all the account remains unpaid 90 days after billing, the Client shall pay all costs of collection, including reasonable attorney's fees.

### **Standard of Care:**

In providing services under this Agreement, SE will endeavor to perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Upon notice to SE and by mutual agreement between the parties, SE will without additional compensation correct those services not meeting such a standard.

### **Certifications:**

Guarantees and Warranties: SE shall not be required to execute any document that would result in certifying, guaranteeing or warranting the existence of conditions whose existence SE cannot ascertain.

### **Limitation of Liability:**

In recognition of the relative risks, rewards and benefits of the project to both the Client and SE, the risks have been allocated such that the Client agrees that, to the fullest extent permitted by law, SE's total liability to the Client for any and all injuries, claims, losses, expenses, damages or claim expenses arising

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out of this Agreement from any cause or causes, shall not exceed the Consultant's Fee. Such causes include, but are not limited to, SE's negligence, errors, omissions, strict liability, breach of contract or breach of warranty.

**Termination of Services:**

This Agreement may be terminated by the Client or SE should either fail to perform its obligations hereunder. In the event of termination, the Client shall pay SE for all services rendered to date of termination, all reimbursable expenses, and reimbursable termination expenses.

**Ownership of Documents:**

All documents produced by SE under this Agreement shall remain the property of SE and may not be used by the Client for any other endeavor without the written consent of SE.

**Fee Adjustments:**

If protracted delays occur in the project for reasons beyond SE's control, SE may, at its option, negotiate with the Client an equitable adjustment in compensation for services yet to be provided. The adjustment shall be derived from the impact of said delay(s) due to factors including, but not limited to, changes in price indices and pay scales applicable to the period when services are in fact to be rendered. This Agreement may be terminated by the Client or SE if failure to agree on an adjustment in compensation should occur.

**Project Budget:**

The Client shall agree that project estimates furnished by SE for items including, but not limited to, land acquisition, repairs or modifications to existing facilities, new construction or services provided by others, are not a guarantee of the actual cost(s) that will be incurred. SE agrees to exercise a standard measure of care in the preparation of cost estimates. The Client shall, in writing, advise SE immediately upon receipt of cost estimate information if budgetary limitations appear to preclude implementation of the project as proposed.

**Costs of Permits:** SE shall assist the Client in applying for those permits and approvals identified in the Agreement. Unless otherwise specifically indicated in the Agreement, assistance will be limited to completing and submitting forms to the appropriate regulatory agency having jurisdiction and does not include special studies, special research, special testing or special documentation not normally required for this type of project. Review fees and other direct expenses related to the cost of obtaining permits from governmental or regulatory entities shall be borne by the Client and are not included as a part of SE's fee unless stated otherwise within the Agreement.

**Hazardous Materials:**

If any hazardous materials are discovered by anyone on or about the project site, or it becomes known that such materials may be present at or adjacent to the project site, the existence of which may affect the performance of services under this Agreement, SE shall have the option, and without any liability, to suspend the performance of its services until the Client or the Client's contractors remove such hazardous material and certify that the project site is in complete compliance with all applicable laws and regulations.

**Information Provided by Client:**

The Client shall at his cost furnish SE copies of all available reports, data, surveys, records, information and instructions required by this Agreement. SE may use said items in performing its services and is entitled to rely upon the accuracy and completeness thereof.

**Change in Scope:**

Services not set forth in the Agreement are specifically excluded from the scope of SE's services and not part of this Agreement unless the Client should choose to add such as an Additional Service. If the Client

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should desire Additional Services, both contracting parties shall discuss and define the scope of said service(s) and respective fee. A supplementary agreement will be prepared and executed between both parties before SE commences said service(s).

If the scope of the requested Additional Service is not well defined, SE may commence said services upon the Client's written authorization. The Client thereby agrees to compensate SE for said Additional Service on an hourly basis at SE's prevailing hourly charge rates.

**Client's Review of SE's Progress Submittals:**

The Client agrees to review document submittals from SE in a thorough and timely manner as the design process progresses. The Client will provide SE feedback regarding the submittal and any necessary changes. SE will respond accordingly within the limits established by the scope of services and based on SE's professional judgment and standard of care. The Client acknowledges that his feedback impacts SE's execution of professional services and subsequent document submittals.

If the Client requests change(s) to work previously accepted on an earlier submittal and SE is unable to respond to said change(s) without loss in time and/or resources, SE will so advise the Client prior to commencing said change(s). If the Client determines that said change(s) remain necessary, he will provide written notification to SE and thereby agrees to compensate SE for the change(s) on an hourly basis at SE's prevailing hourly charge rates.

**Assignment:**

Neither the Client nor SE may delegate, assign, sublet or transfer other duties or interest in this Agreement without the written consent of the other party.

**Binding upon Successors:**

This Agreement shall be binding upon the undersigned parties, their successors, partners, assigns and legal representatives.

**Insurance:**

SE represents and warrants that it and its agents, staff and consultants employed by it are protected by workers compensation and insurance and that SE has such coverage under professional liability and property damage insurance policies which SE deems to be adequate. SE agrees to furnish certificates of insurance to the Client, if the Client so desires.

**Indemnification:**

SE agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Client against damages, liabilities or costs to the extent caused by SE's negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom SE is legally liable.

The Client agrees, to the fullest extent permitted by law, to hold harmless and indemnify SE against all damages, liabilities or costs to the extent caused by the Client's negligent acts in connection with the Project and the acts of its contractors, subcontractors or consultants or anyone for whom the Client is legally liable.

Neither the Client nor SE shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.

**Verification of Existing Utilities:**

Any topographic surveys performed by SE under the basic services under this Agreement that include surveying of buried utilities marked by others, require certain assumptions be made regarding the accuracy and completeness of the information provided by others that cannot be verified by SE without the Client expending potentially substantial sums of money. Therefore, the Client agrees to bear all costs.

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losses and expenses, including the cost of SE's Additional Services, arising from the discovery of unknown utility locations and/or conditions during construction.

If the Client desires a higher level of investigation, the Client shall request such service as an Additional Service in accordance with the terms of this Agreement. As part of this Additional Service, SE shall perform additional research and hiring the excavation and exposure of existing utilities at locations assumed by SE, with the ordinary standard of professional care, to be representative of what would be encountered during construction. The Client recognizes, however, that such research and investigation may not identify all underground utility locations and conditions and that the information upon which SE reasonably relies may contain errors or be incomplete.

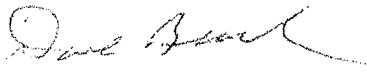
**Verification of Existing Structure Conditions:**

The remodeling, rehabilitation, and/or renovation of the existing structure(s) require(s) certain assumptions be made by SE regarding existing conditions that cannot be verified without the Client's expending substantial sums of money or destroying otherwise adequate or serviceable portions of the structure(s). Therefore, the Client agrees to bear all costs, losses and expenses, including the cost of SE's Additional Services, arising from the discovery of concealed or unknown conditions in the existing structure(s).

**Record Drawings:**

SE makes no warranty regarding the accuracy or completeness of any record drawings prepared by SE showing changes in the Work during construction when record drawings are based upon unverified information provided by others.

**Acceptance of Terms and Conditions:**

  
\_\_\_\_\_  
(SE)

  
\_\_\_\_\_  
(Client)



October 12, 2015

Board of County Commissioners  
Cherokee County Courthouse  
110 W. Maple St., PO Box 607  
Columbus KS 66725

RE: Proposal for Construction Engineering Services  
Galena Viaduct Deck Reconstruction  
Cherokee County

Dear Commissioners:

We sincerely appreciate the opportunity to submit this proposal to provide the Construction Engineering Services and Observation for the Galena Viaduct Deck Reconstruction Project (Co. bridge No. 18-Z.0).

We propose to complete the services as indicated herein on an hourly basis determined by actual payroll charged to the project plus an overhead and profit factor of 2.00 times payroll with a anticipated maximum fee of \$45,000.00 (refer. Agreement for Engineering Services- attached). Additional reimbursements include direct expenses i.e. lodging, pick-up mileage (\$0.56/mile), meals (\$8.00/meal), travel time and concrete cylinder breaks (by others).

Please call me should you have any questions.

Sincerely,  
SCHWAB EATON

A handwritten signature in cursive script, appearing to read 'David G. Beach'.

David G. Beach, PE

dgb/ad  
Enclosures

Civil Engineers

Land Surveyors

Landscape Architects

**AGREEMENT FOR PROFESSIONAL SERVICES  
Cherokee County Galena Viaduct Deck Reconstruction  
Construction Engineering Services (Co. Bridge No. 18.3-Z.0)**

THIS AGREEMENT is entered into between Cherokee County (County) and Schwab-Eaton, P.A. (S-E), for the following reasons:

1. The County desires the construction engineering services provided by S-E to perform or provide construction engineering services for the Galena Viaduct Bridge Deck Reconstruction Project, (the Project); and,
2. S-E is prepared to provide the Services.

In consideration of the promises contained in this Agreement, the County and S-E agree as follows:

**ARTICLE 1 – EFFECTIVE DATE**

The effective date of this Agreement is subject to the Communities Facilities Grant (CDBG) funding application being approved, and the completion of the Final Plans and Specifications for the Project, that is under separate contract.

**ARTICLE 2 – GOVERNING LAW**

This Agreement shall be governed by the laws of the State of Kansas applicable to the services to be performed.

**ARTICLE 3 – SCOPE OF SERVICES**

S-E shall provide the Services described in Attachment A, Scope of Services.

**ARTICLE 4 – COMPENSATION**

The County shall reimburse S-E for construction observation and related work shall be on an hourly basis determined by actual payroll charged to the project plus an overhead and profit factor of 2.00 times payroll charged to the project with an anticipated maximum fee of \$45,000.00. Additional reimbursements include direct expenses i.e. lodging, pick-up mileage (\$0.56/mile), meals (\$8.00/meal), travel time and concrete cylinder breaks (by others).

**ARTICLE 5 – INDEMNIFICATION**

S-E shall indemnify and hold harmless the County from and against all judgments, losses, damages, and expenses (including reasonable attorney fees and defense costs) to the extent such judgments, losses, damages, or expenses are caused by any negligent act, error, or omission of S-E or any person or organization for whom S-E is legally liable. In the event judgments, losses, damages, or expenses are caused by the joint or concurrent negligence of S-E and the County, they shall be borne by each party in proportion to its own negligence.

The terms and conditions of this Article shall survive completion of all Services, obligations, and duties provided for in this Agreement, or the termination of this Agreement for any reason.

**ARTICLE 6 – STANDARD OF CARE**

The same degree of care, skill and diligence shall be exercised in the performance of the Services as is ordinarily possessed and exercised by a member of the same profession, currently practicing, under similar circumstances. No other warranty, express or implied, is included in this Agreement or in any drawing, specification, report, opinion or other instrument of service, in any form or media, produced in connection with the Services.

**ARTICLE 7 – INDEPENDENT CONSULTANT**

S-E undertakes performance of the Services as an independent consultant and shall be wholly responsible for the methods of performance. S-E has complete and sole responsibility for its employees agents, subcontractors or any other persons or entity that S-E hires to perform or assist in performing the Services hereunder. S-E is solely responsible for (a) payment of wages, benefits, and other compensation to or for its employees, (b) payment of applicable payroll, unemployment, and other taxes and withholding of applicable social security (FICA) and income taxes with respect to its employees, and (c) compliance with applicable Worker’s Compensation laws with respect to maintenance of Worker’s Compensation and employer’s liability insurance coverages.

**ARTICLE 8 – THE COUNTY’S RESPONSIBILITIES**

The County shall provide prompt notice to S-E for developments that may arise which may affect the scope or timing of S-E’s services. Unless otherwise provided in the Agreement, the information and services to be provided by the County under this Article will be without cost to S-E.

**ARTICLE 9 – TERMINATION AND SUSPENSION**

The right is reserved by the County to terminate this Agreement at any time, upon written notice, in the event the improvement is to be abandoned or indefinitely postponed or because of the Consultant’s disability or death, or because the services of the Consultant are unsatisfactory, or failure by the Consultant to prosecute the work with due diligence; provided however, that in any case the Consultant shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the payment provisions of this Agreement

**ARTICLE 10 – DELAY IN PERFORMANCE**

Neither the County nor S-E shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restraint; and delay in or inability to procure permits, licenses, or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either the County or S-E under this Agreement.

Should such circumstances occur, the nonperforming party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance.

**ARTICLE 11 – RECORDS**

S-E's records pertaining to compensation and payments under this Agreement shall be kept in accordance with generally accepted accounting principles.

**ARTICLE 12 – WAIVER**

A waiver by either the County or S-E of any breach of this Agreement shall be in writing. Such a waiver shall not affect the waiving party's rights with respect to any other or further breach.

**ARTICLE 13 – SEVERABILITY**

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if it did not contain the particular portion or provision held to be void. The County and S-E further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

**ARTICLE 14 – INTEGRATION**

This Agreement, including Attachment A incorporated by this reference, represents the entire and integrated agreement between the County and S-E. It supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may be amended only by a written instrument signed by both the County and S-E.

**ARTICLE 15 – SUBCONTRACTING**

S-E shall not engage independent consultants, associates, or subcontractors to assist in the performance of S-E's Services without the prior written consent of the County.

**ARTICLE 16 – SUCCESSORS AND ASSIGNS**

The County and S-E each binds itself and its successors, executors, administrators, permitted assigns, legal representatives, and in the case of a partnership, its partners, to the other party to this Agreement and to the successors, executors, administrators, permitted assigns, legal representatives, and partners of such other party, in respect to all provisions of this Agreement.

**ARTICLE 17 – ASSIGNMENTS**

The services to be performed by S-E are personal and cannot be assigned, sublet, or transferred without the written consent of the County.

IN WITNESS WHEREOF, the County and S-E have executed this Agreement. The individuals signing this Agreement represent and warrant that they have the power and authority to enter into this Agreement and bind the parties for whom they sign.

SCHWAB-EATON, P.A.  
MANHATTAN, KANSAS


ATTEST

  
\_\_\_\_\_  
David Beach, Project Manager

\_\_\_\_\_


APPROVED:

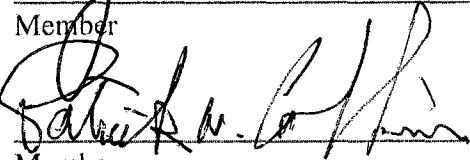
BOARD OF COUNTY COMMISSIONERS


  
\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

ATTEST:

  
\_\_\_\_\_  
Member

  
\_\_\_\_\_  
Member

  
\_\_\_\_\_  
County Clerk



## ATTACHMENT A

### SCOPE OF SERVICES Construction Engineering Services

Schwab-Eaton, P.A., (S-E), agrees to:

- (1) Have the Project Inspector attend the Preconstruction Conference designated by the County.
- (2) Designate a Project Inspector who shall serve as S-E's Field Supervisor. The Project Inspector and other Inspector(s) will inspect all work done and material furnished. Such inspection may extend to all or any part of the work and to the preparation of the materials to be used. The Project Inspector will not be authorized to alter or waive the provisions of the Specifications or the Construction Contract Proposal. The Project Inspector will not be authorized to issue instructions contrary to the Plans and Specifications, or to act as foreman for the Contractor, however, the Project Inspector shall have the authority to reject work or materials until any questions at issue can be referred to and be decided by the County.
- (3) Assign a sufficient number of Inspector(s) to the Project to perform the services required under the Agreement, in a timely manner to avoid delay to the Contractor.
- (4) Become familiar with the standard practices of the KDOT, the Contract Documents (Specifications, Contract Proposal, Special Provisions and Plans), and the Contractor's proposed schedule of operations prior to beginning field services to be performed under the Agreement.
- (5) Perform S-E's field operations in accordance with accepted safety practices.
- (6) Furnish all testing equipment required to accomplish S-E's services.
- (7) Provide for S-E personnel such transportation, supplies, materials and incidentals as are needed to accomplish the services required under the Agreement.
- (8) Undertake the following:

Inspect all phases of construction operations to determine the Contractor's compliance with Contract Documents and to reject such work and materials which do not comply with the Contract Documents until any questions at issue can be referred to and be decided by S-E and/or the County.

Take field samples and/or test materials to be incorporated in the work, and reject those not meeting the provisions of the Contract Documents until any question at issue can be referred to and be decided by S-E and/or the County. Testing frequency determined by County and/or Engineer.

Make certain that test report records or certificates of compliance for materials tested off the Project site and required prior to the incorporation in the work have been received.

Keep such daily diaries, logs and records as are needed for a complete record of the Contractor's progress, including Project Inspector's diaries.

Measure and compute all materials incorporated in the work and items of work completed, and maintain an item account record.

Provide measurement and computation of pay items.

Prepare and submit, or assist in preparing, such periodic, intermediate and final reports and records applicable to the Project, which may include:

- a. Progress Reports
- b. Notice of change in construction status
- c. Report of field inspection of material
- d. Test report record
- e. Contractor pay estimates
- f. Final certification of materials
- g. Explanation of quantity variation
- h. Statement of contract time
- i. Other records and reports as required by the Project

Review, or assist in reviewing, all Contractor submittals of records and reports required by the County, as applicable to the Project, which may include:

- a. Requests for partial and final payment
- b. Other reports and records as required by the individual Project

- (9) Collect, properly label or identify, and deliver to the County all original diaries, logs, notebooks, accounts, records, reports and other documents prepared by S-E in the performance of the Agreement, upon completion or termination of the Agreement.
- (10) Return, upon completion or termination of the Agreement, all manuals, contract documents, guides, written instructions, unused forms and record keeping books, and other documents and materials furnished by the County.
- (11) Prepare and submit a final payment voucher for services rendered by S-E.

