

**MINUTES FOR AUGUST 15, 2011**  
**COLUMBUS, KANSAS, CHEROKEE COUNTY**  
**OFFICE OF THE COUNTY CLERK**  
**CRYSTAL L. GATEWOOD**

The Cherokee County Commissioners met August 15, 2011. Commissioners Collins, Garner, and Hilderbrand were present. The Pledge of Allegiance was said by all. Commissioner Hilderbrand made a motion to approve the minutes for August 8, 2011 as submitted by County Clerk Gatewood; his motion was seconded by Commissioner Collins with Commissioners Garner, Collins, and Hilderbrand voting in favor. Commissioners Collins, Hilderbrand and Garner, and County Clerk Crystal Gatewood signed off on the approved minutes.

**MOTIONS MADE BY COMMISSION**

Commissioner Garner made a motion to approve and pay August Mid- Month Accounts Payables; his motion was seconded by Commissioner Hilderbrand with Commissioners Garner, Hilderbrand, and Collins voting in favor.

Commissioner Collins made a motion to sign and finalize the Lease Agreement for the elevator, financed through The Exchange Bank of Columbus, Kansas; his motion was seconded by Commissioner Hilderbrand with Commissioners Garner, Hilderbrand, and Collins voting in favor.

Commissioner Collins made a motion to lift the burning ban for the county under the advice of Emergency Preparedness Director Jason Allison; his motion was seconded by Commissioner Hilderbrand with Commissioners Garner, Collins, and Hilderbrand voting in favor.

Commissioner Collins made a motion to recess for lunch; his motion was seconded by Commissioner Garner with Commissioners Garner, Collins, and Hilderbrand voting in favor.

**AGENDA BUSINESS**

County Counselor Kevin Cure brought the Lease Purchase Agreement with Exchange Bank for the commission to sign for the purchase of the elevator in the Cherokee County Courthouse. Commissioner Garner signed off on the documentation. (A copy of the document is attached to the minutes with the details of payments and rates.) The payment to the bank will come out of the County General Fund – Courthouse - line item- (Other Contractual) beginning with the first payment due on July 18, 2012 in the amount of \$22,500.63.

Auditor Gene Mense and the Commission held a budget workshop for the 2012 budget. Attached to the minutes is a copy of the comparison worksheet of all budgets submitted compared to 2011.

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Leonard Vanatta reported that the County Lot was doing general maintenance in the county and everything was going well. The commission discussed bridge project, Weaver Bridge, which should be starting work in the fall of this year.

### NOT ON AGENDA BUSINESS

The commission approved an early check to be issued to the Treece Trust - (Chestnutt Auction) for \$6,525.00, for the purchase of a generator, fence, and lift station equipment for the Cherokee County Sewer District, which Commissioner Collins purchased at the auction held August 13, 2011 in Treece, Kansas. The commission went out during the meeting and looked at the purchase and asked Gene Langerot to check out trailer prices to put the generator on to use as a backup for the sewer district, he said he would get back with the commission when he found anything out.

Commissioners Collins, Garner, and Hilderbrand signed off on hiring a new employee in the County Appraiser's Office, which was submitted by Nancy Herrenbruck. The new employee will replace an employee who retired this month.

Commissioner Collins signed off on the Public Health Awareness Grant for the Cherokee County Health Department.

Commissioners Garner, Collins, and Hilderbrand signed off on Red Light Emergency Application for Brad Knight of the Baxter Springs Fire Department.

Sean Kroskroskia of RWI Benefits was given the go ahead by the Cherokee County Commission to work up an estimate for the county employees' health insurance for next year. He will be back to submit his presentation as soon as he gets the information completed.

### EXECUTIVE SESSIONS

Commissioner Garner made a motion to go into **Executive Session for five minutes for Personnel/Non-Elected** with himself, Commissioners Hilderbrand, and Collins, and County Appraiser Nancy Herrenbruck; his motion was seconded by Commissioner Hilderbrand with Commissioners Hilderbrand, Collins, and Garner voting in favor. They went in at 10:42 AM and returned at 10:47 AM.

Commissioner Garner made a motion to go into **Executive Session till 11:00 AM for Personnel/Non-Elected** with himself, and Commissioners Hilderbrand and Collins; his motion was seconded by Commissioner Collins with Commissioners Collins, Garner, and Hilderbrand voting in favor. They went in at 10:50 AM returned at 11:04 AM.

Commissioner Collins made a motion to go into **Executive Session for five minutes for Attorney/Client privilege for litigation** with himself, Commissioners Garner and Hilderbrand, and County Counselor Kevin Cure; his motion was seconded by Commissioner Hilderbrand with Commissioners Garner, Collins, and Hilderbrand voting in favor. They went in at 11:54 AM and returned at 12:08 PM.

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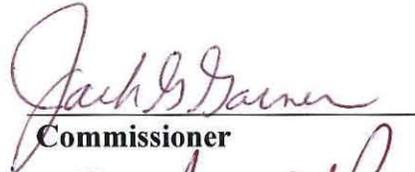
**ADJOURNMENT**

Commissioner Garner made a motion to adjourn for the day at 1:15 PM; his motion was seconded by Commissioner Collins with Commissioners Garner, Collins, and Hilderbrand voting in favor. The next Cherokee County Commission meeting will be held August 22, 2011 at 9:00 AM in the Cherokee County Courthouse in Columbus, Kansas.

**Resolved and ordered this day, August 22, 2011**



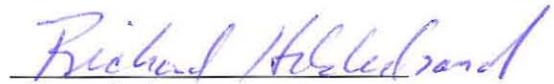
**Cherokee County Clerk**



**Commissioner**



**Commissioner**



**Commissioner**

## LEASE PURCHASE AGREEMENT

This Lease/Purchase Agreement (the "Lease") is made and entered into on this 15th day of August 2011, by and between Exchange State Bank, a Kansas corporation, (herein called the "Lessor"), and the Board of County Commissioners of Cherokee County, Kansas, with its principal address at 110 W. Maple, Columbus, Kansas 66725 (herein called the "Lessee"), wherein it is agreed as follows:

1. **Lease of Equipment:** Lessee hereby requests Lessor to acquire the equipment described in Exhibit A attached hereto and made a part hereof. Subject to the terms and conditions hereof. Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor the equipment described in Exhibit A, with all replacement parts, repairs, additions and accessories incorporated therein or affixed thereto (herein collectively called the "Equipment").

2. **Delivery and Acceptance:** Lessee agrees to order the Equipment from the supplier of such Equipment, but shall not be liable for specific performance of this Lease or for damages if for any reason the supplier delays or fails to fill the order. Lessee shall cause the Equipment to be delivered at the location specified in Exhibit A (the "Equipment Location"). Lessee shall pay all transportation and other costs, if any, incurred in connection with the delivery and installation of the Equipment. Any delay in such delivery shall not effect the validity of this Lease. Lessee shall accept the Equipment as soon as it has been delivered and is operational, or as soon as any manufacturer or vendor pre-acceptance test period has expired. Lessee shall have no more than thirty (30) days from the date of delivery of the Equipment to accept such Equipment in the event the Equipment is not accepted by Lessee within thirty (30) days from the date of its delivery, Lessor, at Lessor's sole option, shall have the right to terminate this Lease. Lessee hereby authorizes the Lessor to add to this lease and to any other description of the Equipment the serial number of each item of Equipment when available.

3. **Term:** This Lease shall become effective upon the execution hereof by Lessee and Lessor. The initial term of this Lease shall commence on July 18, 2011, through July 17, 2012, (the "Start Date") and, unless this lease earlier terminates as expressly provided for in this Lease, it shall be automatically renewed on a year-to-year basis for the number of annual periods necessary to comprise the lease period of 60 months ("Lease Term").

4. **Rent.** Lessee agrees to pay Lessor or any Assignee (as defined in Section 22 below) the annual rental payments of \$22,500.63 beginning July 18, 2012. A portion of each Rental Payment is paid as and represents the payment of interest. The Rental Payments shall be payable without notice or demand, at the office of Lessor (or such other place as Lessor or any Assignee may designate in writing from time to time) and shall commence on the Start Date and the remaining Rental Payments shall be payable on the same day of each consecutive year for the duration of the Lease Term. Any notice, invoicing, purchase orders, quotations or other forms of procedures requested by Lessee in connection with payment shall be fully explained and provided to Lessor or any Assignee sufficiently in advance of the payment due date for the completion thereof by Lessor or any Assignee prior to such payment date, but none of the foregoing

shall be a condition to Lessee's obligation to make any such payment Lessor and Lessee understand and intend that the obligation of Lessee to pay Rental Payments hereunder shall constitute a current expense of Lessee and shall not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by Lessee. Except as specifically provided in Section 8 hereof, the Rental Payments shall be absolute and unconditional in all events and will not be subject to any setoff, defense, defense, counterclaim, abatement or recoupment for any reason whatsoever.

5. Authority and Authorization: Lessee represents, warrants and covenants that (a) it shall do or cause to be done all things necessary to preserve and keep in full force and effect (i) its existence, and (ii) subject to Section 8 hereof, the Lease; (b) it has complied with all bidding and budgeting requirements where necessary and by due notification has presented this Lease for approval and adoption as a valid obligation on its part and that all requirements have been met and procedures have been followed to ensure that enforceability of the Lease; (c) it has sufficient appropriations or other funds available to pay all amounts due hereunder for the current fiscal year period; (d) no event has occurred and no condition exists which, upon the execution of this Lease or with notice or the passage of time or both, would constitute a default under any debt, revenue or purchase obligation which it has issued or to which it is a party (the "Obligation") nor has it been in default under any Obligation at any time during the past five (5) years; and (e) no lease, rental agreement or contract for purchase, to which Lessee has been a party, at any time during the past five (5) years, has been terminated by Lessee as a result of insufficient funds being appropriated in any fiscal period.

6. Lessee Certification: Lessee warrants and covenants that (i) it is a state, or a political subdivision thereof, within the meaning of Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), and the related regulations and rulings thereunder; (ii) subject to Section 8 hereof, Lessee's obligation under this Lease constitutes an enforceable obligation issued by or on behalf of a state or political subdivision thereof such that any interest income derived under this lease and due Lessor or its Assignee, including, but not limited to, those amounts designated as interest shall not be includable in the gross income of Lessor, its Assignee or any participants with such for those purposes of federal income taxation; (iii) this Lease represents a valid deferred payment obligation of Lessee for the amount herein set forth; (iv) Lessee has the legal capacity to enter into this Lease and is not in contravention of any state, county, district, or city statute, rule, regulation or other governmental provision; (v) during the Lease Term, the Equipment shall not be used in a trade or business of any other person or entity; (vi) Lessee shall complete and file on a timely basis, Internal Revenue Service form 8038G or 8038GC, as appropriate, in the manner set forth in Section 149(e) of the Code; and (vii) Lessee will not take any action or permit the omission of any action reasonably within its control which action or omission will cause the interest portion of any Rental Payment hereunder to be includable in gross income for federal income taxation purposes.

7. Appropriations and Essential Use: Lessee reasonably believes that sufficient funds can be obtained to make all Rental Payments during the Lease Term. The Lessee shall do all things lawfully within its power to obtain funds from which the Rental Payments, including any Rental Payments required by Section 18 hereof, may be made including making provisions for such payments, to the extent necessary, in each budget submitted for the purpose of obtaining funding, using its bona fide

best efforts to have such portion of the budget approved and exhausting all available administrative reviews and appeals in the event such portion of the budget is not approved. It is Lessee's current intent to make the Rental Payments for the full Lease Term if funds are legally available therefor and in that regard Lessee represents that:

(a) the use of the Equipment is essential to its proper, efficient, and economic functioning or to the services that it provides to its citizens;

(b) Lessee has an immediate need for an expects to make immediate use of substantially all the Equipment, which need is not temporary or expected to diminish in the foreseeable future; and,

(c) the Equipment shall be used by the Lessee only for the purpose of performing one or more of its governmental or proprietary functions consistent with the permissible scope of its authority.

8. Nonappropriation of Funds: In the event no funds or insufficient funds are appropriated and budgeted or otherwise made available for Rental Payments including any Rental Payments required by Section 18 hereof, for any fiscal period in which the Rental Payments for the Equipment are due under this Lease, then, without penalty, liability or expense to Lessee, this Lease shall thereafter terminate and be rendered null and void on the last day of the fiscal period for which appropriations were made, except as to (i) the portions of the Rental Payments herein agreed upon for which funds shall have been appropriated and budgeted or are otherwise available and (ii) Lessee's other obligations and liabilities under this Lease relating to, accruing or arising prior to such termination. Lessee shall not less than sixty (60) days prior to the end of such applicable fiscal period, in writing, notify Lessor and any Assignee of such occurrence, but failure to give such notice shall not prevent such termination. In the event of such termination, Lessee agrees to peaceably surrender possession of the Equipment to Lessor or its Assignee on the day of such termination packed for shipment in accordance with manufacturer's specifications and eligible for manufacturer's maintenance and freight prepaid and insured to any location in the continental United States designated by Lessor, all at Lessee's expense. Lessor or its Assignee may exercise all available legal and equitable rights and remedies in retaking possession of the Equipment.

Notwithstanding the foregoing, to the extent permitted by law, Lessee agrees (a) that if this Lease is terminated in accordance with the preceding paragraph, Lessee shall not purchase, lease or rent equipment which performs the same functions as, or functions taking the place of those performed by the Equipment for the balance of the fiscal period in which such termination occurs or the next succeeding fiscal period thereafter; and (b) that it shall not, during the Lease Term, give priority in the application of funds to any other functionally similar equipment.

Notwithstanding any other provision of the Lease, Lessee shall only be obligated under the Lease to pay Rental Payments and other payments under the Lease from funds budgeted and appropriated for that purpose during Lessee's then current budget year, or where appropriate, insurance proceeds (including self-insurance reserves if self-insurance is in effect).

The Lessee acknowledges as follows:

(a) The capital cost that would be required to purchase the Equipment if paid for by cash would be **\$100,000.00**.

(b) The average annual effective interest cost of the Lease is 4.060% per annum.

(c) No amount is include in Rental Payments (assuming continuation of the Lease through the maximum term of the Lease) for service, maintenance, insurance and other charges exclusive of capital cost and interest cost.

9. Limitation on Warranties; Lessee has selected both the equipment and vendor(s) from whom Lessor is to purchase the equipment in reliance hereon. Lessee acknowledges and agrees that the equipment is of a size, design and capacity selected by Lessee, that Lessor is not a manufacturer, vendor or distributor of such equipment, and that Lessor has not made, and does not hereby make, any representation, warranty or covenant, express or implied, with respect to the merchantability, condition, quality, durability, design, operation, fitness for use, or suitability of the equipment in any respect whatsoever or in connection with or for the purposes and uses of Lessee, or any other representation, warranty or covenant of any kind or character, express or implied, with respect thereto and Lessor shall not be obligated or liable for actual, incidental, consequential or other damages of or to Lessee or any other person or entity arising out of or in connection with the equipment, including but not limited to the use, performance or maintenance of the equipment.

Lessor hereby assigns to Lessee during the Lease Term, to the extent permitted by law, all manufacturer's warranties, if any, that it may have with respect to the Equipment, and Lessor authorizes Lessee to obtain the customary services furnished in connection with such warranties at Lessee's expense. Lessor authorizes Lessee, to the extent permitted by Law, to enforce in its own name any warranty, representation or other claim enforceable against the manufacturer.

Lessor assumes no responsibility for shipment, delivery, installation or maintenance, and all claims of Lessee with respect thereto, whether for delay, damage or otherwise, shall be made against the manufacturer. Lessor, at its option, may provide in its purchase order that the manufacturer agrees that any of such claims may be made by Lessee directly against the manufacturer. The obligation of Lessee to pay the Rental Payments as defined in Section 4 shall not be abated, impaired or reduced by reason of any claims of Lessee with respect to the Equipment, including but not limited to its condition, quality, workmanship, delivery, shipment, installation, defects or otherwise.

10. Title, Security Interest: Title to the Equipment is deemed to be in Lessee so long as no Event of Default pursuant to Section 19 below has occurred and/or this Lease has not been terminated pursuant to the provisions of Section 8 above. Upon the earlier of (i) termination of this Lease in accordance with Section 8 above or (ii) the occurrence of an Event of Default by Lessee pursuant to Section 19 below, title shall immediately revert to Lessor free of any right, title or interest of Lessee unless Lessor elects otherwise. In order to secure all of its obligations hereunder, Lessee hereby (a) grants to Lessor a first and prior security interest in any and all rights, titles and interest of Lessee in the Lease, the Equipment, and in all additions, attachments, accessions, accessories, replacements, improvements and substitutions thereto, now or hereafter acquired, together with all rents, issues, income, profits and proceeds thereof, including insurance proceeds; (b) agrees that this Lease may be filed as a financing statement evidencing such security interest; and (c) agrees to execute and deliver all financing statements, certificates of title and other instruments necessary or appropriate to

evidence and perfect such security interest. Lessee further agrees that the Uniform Commercial Code shall apply as between the parties hereto and Assignees of Lessor.

11. Personal Property. The Equipment is and shall remain personal property and shall not be deemed to be affixed or attached to real property or any building thereon. If requested by Lessor, Lessee shall at its expense, furnish to Lessor landlord or mortgagee waiver with respect to the Equipment.

12. Use Repairs: Lessee shall use the Equipment in a careful manner for the use contemplated by the manufacturer of the Equipment and shall comply with all laws, ordinances, insurance policies and regulations relating to, and shall pay all costs, claims, damages, fees and charges arising out of, its possession, use or maintenance. Lessee, at its sale costs and expense, shall maintain the Equipment according to the manufacturer's recommended guidelines or the equivalent and meet any and all recertification requirements and shall furnish proof of such maintenance. If requested by Lessor and shall furnish all needed servicing and parts which parts shall become part of the equipment. If the Equipment is such as is customarily covered by a maintenance agreement. Lessee shall furnish Lessor with a maintenance agreement with a party satisfactory to Lessor.

13. Alterations: Lessee shall not make any alterations, additions or improvements to the Equipment without Lessor's prior written consent, and any permitted alteration or attachment which cannot be readily removed without damaging the Equipment's originally intended function or value shall become part of the Equipment.

14. Location; Inspection. The Equipment shall not be removed from, its permanent affixation without Lessor's prior written consent, which consent shall not be unreasonably withheld. Lessor shall be entitled to enter upon the Equipment Location or elsewhere during reasonable business hours to inspect the Equipment or observe its use and operations.

15. Liens and Taxes: Lessee shall keep the Equipment free and clear of all levies, liens and encumbrances except those created under this Lease. Lessee shall pay, when due, all charges and taxes (federal, state and local) which may now or hereafter be imposed upon the ownership, leasing, rental, sale, purchase, possession or use of the Equipment, excluding however, all taxes on or measured by Lessor's income. If Lessee fails to pay said charges and taxes when due, Lessor shall have the right, but shall not be obligated, to pay said charges and taxes. If Lessor pays any charges or taxes for which Lessee is responsible or liable under this Lease, Lessee shall, upon demand, reimburse Lessor therefor.

16. Risk of Loss; Damage; Destruction: Lessee assumes all risk of loss of or damage to the Equipment from any cause whatsoever, and no such loss of or damage to the Equipment shall relieve Lessee of the obligation to make the Rental Payments or to perform any other obligation under this Lease. In the event of damage to any item of Equipment, Lessee shall immediately place the same in good repair (the proceeds of any insurance recovery shall be applied to the cost of such repair). If Lessor determines that any item of Equipment is lost, stolen, destroyed or damaged beyond repair, Lessee, at the option of Lessor, shall: (a) replace the same with like equipment in good repair; or (b) on the next Rental Payment date pay to Lessor (i) all amounts owed by Lessee under this Lease, including the Rental Payment due on such date, and (ii) an amount not less than the balance of the Rental Payments then remaining unpaid hereunder. In the event that Lessee is obligated to make such payment with respect to

less than all of the Equipment, Lessor shall provide Lessee with the pro rata amount of the Rental Payment and the balance of the Rental Payments then remaining unpaid hereunder, as applicable, to be made by Lessee with respect to the Equipment which has suffered the event of loss.

17. Insurance: Lessee shall, at its expense, maintain at all times during the Lease Term, (a) fire and extended coverage, public liability and property damage insurance with respect to the Equipment in such amounts covering such risks, and with such insurers as shall be satisfactory to Lessor. In no event shall the insurance limits be less than the greater of (i) an amount equal to the balance of the Rental Payments then remaining for the Lease Term or (ii) any minimum required by an co-insurance provisions of such insurance, (b) liability insurance that protects Lessor from liability in all events in form and amount satisfactory to Lessor and (c) workers' compensation coverage as required by the laws of the state in which Lessee is located. Such insurance policy required by clause (b) of the preceding sentence shall name Lessee as an insured and Lessor or its assigns as an additional insured and loss payee, as appropriate, and each insurance policy required by the preceding sentence shall contain a clause requiring the insurer to give Lessor or its Assignee at least thirty (30) days prior written notice of any alteration in the terms of such policy or the cancellation thereof. The proceeds of any such policies shall be payable to Lessee and Lessor or its assigns, as their interest may appear. Upon acceptance of the Equipment and upon each insurance renewal date, Lessee shall deliver to Lessor a certificate evidencing such insurance. In the event of any loss, damage, injury or accident involving the Equipment, Lessee shall promptly provide Lessor with written notice hereof and make available to Lessor all information and documentation relating thereto. Notwithstanding the foregoing, with Lessor's prior written consent, Lessee may self-insure against any and all risks for which insurance is required.

18. Indemnification: To the extent permitted by law, Lessee agrees to indemnify Lessor against, and hold Lessor, its Assignees, or any participants with such, harmless from, any and all claims, actions, proceedings, expenses, damages, liabilities or losses (including, but not limited to, attorneys' fees and court costs) arising in connection with the Equipment, including, but not limited to, its selection, purchase, delivery, possession, use, operation or return send the recovery of claims under insurance policies thereon.

19. Events of Default: The Term "Event of Default" as used in this Lease, means the occurrence of anyone or more of the following events: (a) Lessee fails to make any Rental Payments (or any other payment) as it becomes due in accordance with the terms of this Lease, and any such failure continues for thirty (30) days after the date thereof; (b) Lessee fails to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder and such failure is not cured within thirty (30) days after written notice thereof by Lessor; (c) the discovery by Lessor that any statement, representation or warranty made by Lessee in this Lease or in any document delivered by Lessee pursuant hereto or in connection herewith is false, misleading or erroneous in any material respect; (d) Lessee becomes insolvent, is unable to pay its debts as they become due, makes an assignment for the benefit of creditors, applies or consents to the appointment of a receiver, trustee, conservator or liquidator of Lessee or of all or substantial part of its assets, a petition for relief is filed by Lessee under federal bankruptcy, insolvency or similar laws, or a petition in a proceeding under any bankruptcy, insolvency or similar laws is filed against Lessee and is not dismissed within thirty (30) days thereafter; (e) Lessee suffers an adverse material

change in its financial condition or operations from the date hereof and, as a result, Lessor deems itself insecure; or (e) Lessee shall be in default under any other agreement executed at any time with Lessor, its affiliates or Lessor's Assignee or under any other agreement or instrument by which it is bound.

20. Remedies: Upon the occurrence of an Event of Default, Lessor may, at its option, exercise anyone or more of the following remedies; (a) by written notice to Lessee, declare an amount equal to all amounts then due under this Lease and all remaining Rental Payments which shall become due during the then current fiscal year of Lessee to be immediately due and payable, whereupon the same shall become immediately due and payable; (b) by written notice to Lessee, request Lessee to (and Lessee agrees that it shall), at Lessee's expense, promptly return the Equipment to Lessor in the manner set forth in Section 8 hereof, or Lessor, at its option, may enter upon the premises where the Equipment is located and take immediate possession of and remove the same without liability to Lessor or its agents for such entry or for damage to property or otherwise; (c) sell or lease the Equipment or sublease it for the account of Lessee, holding Lessee liable for (i) all Rental Payments and other payments due to the effective date of such selling, leasing or subleasing, and (ii) for the difference between the purchase price, rental and other amounts paid by the purchases, lessee or sub-lessee pursuant to such sale, lease or sublease and the remaining amounts payable by the Lessee through the end of the then current fiscal year of Lessee hereunder; and (d) exercise any other right, remedy or privilege which may be available to it under applicable law, including the right to (i) proceed by appropriate court action to enforce the terms of this Lease, (ii) recover damages for the breach of this Lease, and (iii) rescind this Lease to any or all of the Equipment.

In addition, Lessee shall remain liable for all covenants and indemnities under this Lease and for all legal fees and other costs and expenses, including court costs, incurred by Lessor with respect to the enforcement of any of the remedies listed above or any other remedy available to Lessor.

21. Early Purchase Option: Lessee may, upon thirty (30) days prior written notice to Lessor, and provided Lessee shall have fully paid and performed all other obligations hereunder and provided no Event of Default has occurred and is continuing, pay to Lessor the total balance due under the lease, whereupon title to the Equipment shall become unconditionally vested in Lessee and Lessor shall transfer any and all of its right, title and interest in the Equipment to Lessee as is, where is, without warranty, express or implied, except that Lessor shall warrant to Lessee that the Equipment is free and clear of any liens created by Lessor.

22. Assignment: Lessee shall not (a) assign, transfer, pledge, hypothecate or grant any security interest in, or otherwise dispose of, this Lease or the Equipment or any interest in this Lease or the Equipment or (b) sublet to lend the Equipment or permit the Equipment to be used by anyone other than Lessee or Lessee's employees unless Lessee obtains the prior written consent of Lessor and an opinion of nationally recognized counsel in the area of tax-exempt municipal obligations satisfactory to Lessor that such action will not adversely affect the exclusion of the interest portions of the Rental Payments from gross income tax purposes.

Lessor, without the consent of Lessee, may assign all or any portion or portions of its

right, title and interest in and to this Lease, the Equipment and any other documents executed with respect to this Lease, and/or grant or assign all or any portion or portions of its security interest in this Lease and the Equipment, in whole or in part to various assignees, their agents or trustees (each and anyone hereinafter referred to as an "Assignee"). Any such assignment to an Assignee may provide the Lessor or the Assignee shall act as a collection and paying agent for holders of certificates of participation in this Lease, or may provide that a third-party trustee or agent shall act as collection and paying agent for any Assignee, provided that any such trustee or agent shall maintain registration books as a register of all persons who are holders of certificates of participation or other interest in Rental Payments and Lessee receives written notification of the name and address of the trustee or agent and a copy of the pooling and fractionalization agency or trustee agreement, if any. Any such Assignee shall have all of the assigned rights of Lessor under this Lease. Subject to the foregoing, this Lease shall inure to the benefit of and shall be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto. Any assignment or reassignment of any of Lessor's right, title or interest in this Lease or the Equipment shall be effective upon receipt by Lessee of a duplicate original of the counterpart document by which the assignment or reassignment is made.

Lessee agrees that, upon notice of assignment, if so instructed it shall pay directly to the Assignee, or its Trustee or Agent without abatement, deduction or setoff all amounts which become due hereunder. Lessee further agrees that it shall not assert against any Assignee, Trustee or Agent any defense, claim, counterclaim or setoff on account of any reason whatsoever with respect to any Rental Payments or other amounts due hereunder or with respect to any action brought to obtain possession of the Equipment pursuant to this Lease.

23. Nature of Agreement: Lessor and Lessee agree that it is their intention that for federal income tax purposes, the interest of Lessor in the Equipment is as a secured party and the interest of Lessee is as a debtor, and that Lessor neither has nor shall have any equity in the Equipment. It is the agreement of Lessor and Lessee that the aggregate Rental Payments provided for hereunder constitute the purchase price of the Equipment together with interest on the unamortized amount thereof over the term of this Lease, that each annual installment of rent constitutes principal and interest, in accordance with the schedule of Rental Payments, which fully amortizes the purchase price of the Equipment, together with interest, over the term of this Lease, and that upon the due and punctual payment and performance of the installments of Rental Payments and other amounts and obligations under this Lease, title to the Equipment shall vest permanently in Lessee as provided in this Lease, free and clear of any lien or security of Lessor therein.

24. Amendments: This Lease may be amended or any of its terms modified for the purpose of adding Equipment, with the written consent of the parties hereto. In such event, additions to or additional exhibits attached hereto shall be executed by Lessee. All other amendments or modifications of the terms of this Lease (except for the addition or serial numbers for the Equipment as set forth in the Acceptance Certificate) must be accomplished by written consent of Lessee and Lessor, or its Assignee, if any; provided, however, that no amendment of this Lease shall operate to reduce or delay any Rental Payments to be made hereunder without the consent of Lessor, or its Assignee, at the time of such amendment.

25. **Notices:** All notices to be given under this Lease shall be made in writing and mailed by certified mail to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notice shall be deemed to have been received five (5) days subsequent to mailing.

26. **Section Headings:** All section headings contained herein are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

27. **Governing Law:** This lease shall be governed by the provisions hereof and by the laws of the State of Kansas.

28. **Further Assurances:** Lessee shall execute or provide, as requested by Lessor, any documents and information which are reasonably necessary with respect to the transaction contemplated by this Lease. Lessee hereby authorizes Lessee to execute and file on behalf of Lessee and as Lessee's attorney-in-fact such UCC financing and continuation statements as Lessor deems necessary to perfect its and/or its Assignee's security interest in the Equipment or this Lease.

29. **Entire Agreement:** This Lease, together with the exhibits attached hereto and made a part hereof and other attachments hereto, and other documents or instruments executed by Lessee and Lessor in connection herewith, constitute the entire agreement between the parties with respect to the lease of the Equipment, and this Lease shall not be modified, amended, altered or changed except with the written consent of Lessee or Lessor.

30. **Severability:** Any provision of this Lease found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of this Lease.

31. **Waiver:** The waiver by Lessor or any breach by Lessee of any term, covenant or condition, hereof shall not operate as a waiver of any subsequent breach hereof.

32. **Certification as to Arbitrage:** Lessee hereby represents as follows:

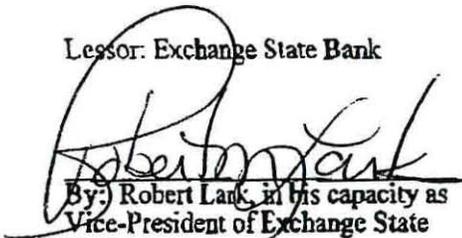
- (a) The estimated total costs of the Equipment will not be less than the total principal amount of the Rental Payments.
- (b) The Equipment has been ordered or is expected to be ordered, within six months of the effective date of this Lease, and the equipment is expected to be delivered and installed, and the Vendor fully paid, within one (1) year to the effective date of this Lease.
- (c) Lessee has note created or established, and does not expect to create or establish, any sinking fund or other similar fund (i) that is reasonably expected to be used to pay the Rental Payments, or (ii) that may be used solely to prevent a default in the payment of Rental Payments.

(d) The Equipment has not been and is not expected to be sold or otherwise disposed of by Lessee, either in whole or in major part, prior to the last maturity of the Rental Payments.

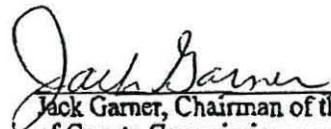
1. (e) To the best of Lessee's knowledge, information and belief, the above expectations are reasonable.

Lessor: Exchange State Bank

Lessee: Board of County Commissioners of Cherokee County, Kansas

  
By: Robert Lank, in his capacity as  
Vice-President of Exchange State  
Bank

Date: August 15, 2011

  
Jack Garner, Chairman of the Board  
of County Commissioners of Cherokee  
County, Kansas  
Date: August 15, 2011

**LEASE / PURCHASE AGREEMENT**  
**EXHIBIT A**

Includes only those items as stated in the Kone Modernization Proposal Specification prepared for Cherokee County, dated August 2, 2010. This referenced proposal is 13 pages as denoted in the bottom-right side of each page of it. Such proposal is incorporated by reference as though fully set forth herein.

NON LEVY PAGES		2012 BUDGET PROPOSAL	
NAME		2011	2012
SPECIAL PARKS		\$13,490.00	\$4,913.00
SPECIAL ALCOHOL		\$14,669.00	\$26,532.00
LANDFILL		\$35,859.00	\$50,152.00
TOURISM & PROMOTION		\$7,500.00	\$8,300.00
SPECIAL LAW ENFORCEMENT		\$1,570.00	\$6,472.00
EMERGENCY TELEPHONE TAX		\$120,000.00	\$143,838
EMERGENCY 911 WIRELESS		\$180,000.00	\$247,195.00
PA TRAINING FUND		\$2,400.00	\$3,463.00
CO ATTORNEY SPECIAL			
LAW ENFORCEMENT		\$1,000.00	\$2,384.00

GENERAL FUND BUDGET ITEMS		2012 BUDGET PROPOSAL			
NAME		2011	2012	INCREASE	DECREASE
COMMISSION		\$91,500	\$91,500.00	0	
CLERK		\$130,000.00	\$129,150.00	0	(\$850.00)
COUNTY COUNSELOR		\$32,000.00	\$32,000.00	0	
COUNTY TREASURER		\$140,000.00	\$140,000.00	0	
COUNTY ATTORNEY		\$240,000.00	\$252,888.00	\$12,888.00	
REGISTER OF DEEDS		\$112,000.00	\$116,480.00	\$4,480.00	
HUMAN RESOURCE		\$35,000.00	\$39,495.00	\$4,495.00	
EMERGENCY PREPAREDNESS		\$68,550.00	\$102,200.00	\$33,650.00	
ECONOMIC DEVELOPMENT		\$2,300.00	\$5,000.00	\$2,700.00	
JUVENILE DETENTION		\$74,208.00	\$76,281.00	\$2,073.00	
CAPITAL LEASE JAIL		\$613,728.00	\$615,060.00	\$1,332.00	
SHERIFF		\$1,014,033.00	\$1,014,033.00	0	
SHERIFF O/T		\$40,000.00	\$40,000.00	0	
JAIL		\$843,356.00	\$843,356.00	0	
COURTHOUSE		\$455,000.00	\$455,000.00	0	
PLANNING COMMISSION		\$6,300.00	\$6,300.00	0	
RECREATION		\$12,000.00	\$12,000.00	0	
COMPUTER PROGRAM		\$42,000.00	\$42,000.00	0	
GIS INFO HANDLING SERV		\$30,000.00	\$30,000.00	0	
COURTHOUSE		\$455,000.00	\$455,000.00	0	
DISTRICT COURT		\$266,800.00	\$266,800.00	0	
JURY COSTS		\$10,000.00	\$10,000.00	0	
911 MAPPING & ADDRESS		\$65,000.00	\$63,206.96	0	(\$1,793.04)
JAIL COP CASH RESERVE		\$158,041	\$135,459.00	0	(\$22,582.00)
COURTHOUSE CONTINGENCY	0	0	0	0	
EMPLOYEE COMPENSATION		\$76,200.00	\$76,200.00	0	
GENEALOGY SOCIETY		\$7,500.00	\$7,500.00	0	
		\$5,020,516	\$5,056,908.96	61618	0

LEVY PAGES		BUDGET 2012		PROPOSAL			
NAME		2011	2012	INCREASE	DECREASE		
ROAD & BRIDGE		\$3,360,000.00	\$3,360,000.00				
APPRAISER		\$331,400.00	\$335,196.00	\$3,796.00			
HEALTH		\$142,797.00	\$142,797.00			AD VALOREM NEEDED	
DIRECT ELECTION		\$189,000.00	\$188,800.00				(\$200.00)
NOXIOUS WEED		\$70,500.00	\$73,500.00	\$3,000.00			
EXTENSION COUNCIL		\$200,615.00	\$200,615.00				
CONSERVATION DISTRICT		\$25,000.00	\$25,000.00				
FAIR		\$3,005.00	\$0.00				
AMBULANCE		\$576,576.00	\$576,576.00				
MENTAL HEALTH		\$111,457.00	\$111,457.00				
MENTAL RETARDATION		\$111,457.00	\$133,988.00	\$22,531.00			
SPECIAL BRIDGE		\$131,681.00	\$133,988.00	\$2,307.00			
ELDERLY SERVICES		\$35,000.00	\$35,000.00				
EMPLOYEE BENEFITS		\$3,100,000.00	\$3,257,000.00	\$157,000.00			
NO FUND WARRANTS		\$226,889.00	\$24,015.00				
		\$8,615,377.00	\$8,597,932.00	\$188,634.00			0