

RESOLUTION NO. 2014- 1387

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF ATCHISON COUNTY, KANSAS, ORDERING THE CONDEMNATION
AND APPROPRIATION OF CERTAIN INTERESTS IN REAL
ESTATE IN ATCHISON COUNTY, KANSAS FOR USE IN THE
REPLACEMENT OF THE DALBEY BOTTOMS BRIDGE**

WHEREAS, the Board of County Commissioners of Atchison County, Kansas possesses the inherent power of eminent domain as a home rule county pursuant to K.S.A. 19-101 *et seq.*; and

WHEREAS, the Board of County Commissioners resolves to exercise its power of eminent domain when deemed necessary and in the public interest; and

WHEREAS, the Board of County Commissioners of Atchison County, Kansas (hereinafter the "Board") has found it necessary to appropriate for public use and purposes certain private property in Atchison County, Kansas necessary for the replacement of a certain bridge located on River Road south of 244th Road, designated as Bridge 27.5-F.3 in Atchison County Road Records, and commonly known as the Dalbey Bottoms Bridge (hereinafter the "Project"); and

WHEREAS, Atchison County has been unable to purchase certain right-of-way necessary for the Project and the Board has determined it necessary and in the public interest and appropriate to use its powers of eminent domain for purposes of acquiring such property interests.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Atchison County, Kansas, as follows:

Section 1. The Board hereby affirms, finds, and declares the necessity of appropriating interests in real estate for public use for the Project.

Section 2. The lands and interests required to be taken for such public purpose, for which the County has been unable to purchase through agreement, are described as follows: FEE SIMPLE title to the following tract of real estate situated in Atchison County, Kansas:

A tract of land in Fractional Section 28, Township 6 South, Range 21 East of the 6th P.M., Atchison County, Kansas, more particularly described as follows:

Beginning at a point 565.85 feet South and 2507.78 feet East of the West Quarter Corner of said Section 28, said point being in the center of Walnut Creek; thence S.43°21'27" E. 117.92 feet; thence S.63°15'13" E. 182.13 feet; thence

S.54°24'55" E. 157.31 feet to the West Right-of-Way of "River Road"; thence along the West Right-of-Way of said "River Road"
N.43°12'42" W. 448.51 feet to the center of Walnut Creek; thence along the center of Walnut Creek
Southwesterly to the point of beginning, containing 24295 square feet (0.56 acres). Bearings are based on the Plat of Survey DALBEY BOTTOMS recorded on Pages 298 through 303 in Book SLD at the Atchison County Register of Deeds.

Section 3. The County Counselor for Atchison County, Kansas is authorized to initiate eminent domain proceedings to take property that is necessary for the Project, including, without limitation, to file a verified petition in the District Court of Atchison County, Kansas, for condemnation and appropriation of real estate and interests pursuant to Article 1 of Chapter 8 of Kansas Statutes Annotated, as amended, and the Eminent Domain Procedure Act, Article 5 of Chapter 26 of Kansas Statutes Annotated, as amended, and to do all things necessary for the condemnation and acquisition of said real estate, and interest therein.

Section 4. This resolution shall be liberally construed to give the Board of County Commissioners the broadest authority allowed by law. Further, any word, phrase, sentence, or section found to be invalid or unconstitutional shall be severed from this resolution.

Section 5. This Resolution shall take effect and be in full force from and after its adoption by the Board of Atchison County Commissioners.

ADOPTED AND APPROVED by the Board of County Commissioners of Atchison County, Kansas this 21st day of January, 2014.

By: 
Jeffery D. Schuele, Chairman

By: 
Henry W. Pohl, Commissioner

By: 
Mike Bodenhausen, Commisisoner

ATTEST:



Pauline M. Lee
Pauline M. Lee, Atchison County Clerk