

**AGREEMENT FOR ACTING COUNTY APPRAISER SERVICES**

**by and between:**

**SEDGWICK COUNTY, KANSAS**

**and**

**KANSAS DEPARTMENT OF REVENUE**

This Agreement made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between Sedgwick County, Kansas (hereinafter referred to as "County"), and Kansas Department of Revenue (hereinafter referred to as "State").

WITNESSETH:

**WHEREAS**, K.S.A. 19-430 requires the Board of County Commissioners of each county in the state of Kansas to fill vacancies in the office of the county appraiser; and

**WHEREAS**, the vacancy will exist in the office of county appraiser of the County with the expiration of the interim appointment term; and

**WHEREAS**, the County needs time to recruit, interview and appoint a county appraiser to fill the vacancy that will exist effective March 1, 2019 in the office of county appraiser; and

**WHEREAS**, Raelane Schnacker is a registered mass appraiser, with more than three years mass appraisal experience and is considered qualified by the director of property valuation to act as county appraiser for the county; and

**WHEREAS**, Raelane Schnacker is an employee of the State and subject to the supervisory authority and direction of the director of property valuation; and

**WHEREAS**, the County desires to utilize the services of Raelane Schnacker to assist the County in compliance with the laws and directives pertaining to property taxation and to manage the office of county appraiser of the County; and

**WHEREAS**, the State is willing and able to assign Raelane Schnacker to provide the foregoing assistance; and

**WHEREAS**, the State has other employees whose services may be needed to perform appraisal duties in the County,

**WHEREAS**, the County desires to utilize the services of other employees of the State to perform appraisal duties in the County,

**NOW, THEREFORE**, in consideration of mutual covenants contained herein, contract and agree as follows commencing March 1, 2019:

- 1. Purpose and Scope of Work.** The State will provide the Acting County Appraiser to perform the services stated hereinabove. Raelane Schnacker shall assist the County in compliance with the laws and directives pertaining to property taxation and to manage the office of county appraiser of

the County. Mark Clark, an appraiser at the Sedgwick County Appraisers Office, shall continue to perform all functions he currently performs except those that will be performed by the Acting County Appraiser.

2. **Term.** The term of this Agreement commences March 1, 2019 and terminates upon the County filling the vacancy or on September 1, 2019, whichever comes first. The County understands that this Agreement is intended to provide assistance for a temporary period only and the County must continue to actively search for a county appraiser. It is imperative that the County fulfill its obligations pursuant to K.S.A. 19-430.
3. **County Indemnification.** To the extent allowable under the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*), County agrees to defend and indemnify and save harmless the State, its officers, agents and employees against all claims, demands, payments, suits, actions, recovery and judgments of every kind and description arising out of any valuation disputes, brought or recovered against it, whether based in contract, negligence or otherwise.
4. **Incidental Damages.** Neither party shall be liable to the other for consequential, indirect or incidental damages, including but not limited to, loss of tax revenue or claims relating to the valuation of property, even due to the negligence or other fault of the party released.
5. **Legislative Post Audit.** No party to this Agreement shall prohibit or prevent the Legislative Division of Post Audit from having access pursuant to K.S.A. 46-1101 *et seq.* to any records, documents, or other information confidential or otherwise regarding or relating to the execution and/or performance of this contract.

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## General Terms and Conditions

**6. Contractual Relationship.** It is agreed that the legal relationship between State and County is of a contractual nature. Both parties assert and believe that State is acting as an independent contractor in providing the goods and services and performing the duties required by County hereunder. State is at all times acting as an independent contractor and not as an officer, agent, or employee of County. As an independent contractor, State, or employees of State, will not be within the protection or coverage of County's worker's compensation insurance, nor shall State, or employees of State, be entitled to any current or future benefits provided to employees of County. Further, County shall not be responsible for the withholding of social security, federal, and/or state income tax, or unemployment compensation from payments made by County to State.

**7. Compensation.** County agrees to pay and State agrees to accept as compensation for goods and services provided pursuant to this Agreement an amount equal to the actual costs to the State for the salary and benefits of \$39.68 per hour while performing the duties as Acting County Appraiser, including costs of travel including food and lodging, if any, and mileage at the prevailing private vehicle reimbursement rate published by the Kansas Department of Administration that is incurred by the Acting County Appraiser and such other employees of the State as may have been assigned by the State to perform appraisal duties in the County. Invoices shall be submitted approximately monthly to the County, commencing the first month work commences in the County.

**8. Invoicing and Billing.** State shall submit all invoices to Sedgwick County Finance, Accounts Payable. Invoices may be submitted electronically (AP\_Invoices@sedgwick.gov), via fax (316.941.5127), or by mail to the following address: Sedgwick County Finance, Attention: Accounts Payable, 525 N. Main, Ste. 823, Wichita, Kansas 67203.

Invoices must include the following information:

- a. Invoice number
- b. Invoice date
- c. Supplier's name and address
- d. Customer's name and address
- e. Sedgwick County PO number (for PO purchases only)
- f. Sedgwick County contact name and department (for non-purchase order purchases)
- g. Details of the goods and/or services provided
  1. Include location address (if applicable)
- h. Goods quantity
- i. Prices of goods and/or services
- j. Total amount due
- k. Additional charges (*e.g.*, freight) (must be listed as a separate invoice item)

Properly submitted invoices and/or billing statements will be paid within thirty (30) calendar days of receipt by County.

**9. Warranties and Representation.** Goods or equipment delivered and/or services rendered hereunder must be made according to the terms of this Agreement both as to time and quantities, with County reserving the right to cancel, reject or refuse any delivery made and/or service rendered prior to or subsequent to the times specified. In the event no quality is specified on the face hereof, the goods or equipment delivered and/or services rendered hereunder must be of the best quality. If delivery of goods or equipment and/or

rendering of services cannot be maintained, State must notify County immediately. Upon State's failure to maintain delivery or otherwise perform hereunder, County reserves the right to procure such goods or equipment and/or services elsewhere, in whole or in part.

**10. Notification.** Notifications required pursuant to this Agreement shall be made in writing and mailed to the addresses shown below. Such notification shall be deemed complete upon mailing.

**County:** Sedgwick County Purchasing Office  
Attn: Contract Notification  
Sedgwick County Courthouse  
525 N. Main, Suite 823  
Wichita, Kansas 67203

*and*

Sedgwick County Counselor's Office  
Attn: Contract Notification  
Sedgwick County Courthouse  
525 N. Main, Suite 359  
Wichita, Kansas 67203-3790

**State:** Kansas Department of Revenue  
Division of Property Valuation  
Attn: David Harper  
300 SW 29<sup>th</sup> Street  
P.O. Box 3506  
Topeka, Kansas 66601-3506  
Phone: (785) 296-2365  
Fax: (785) 296-2320

**11. Termination.**

A. Termination for Cause. In the event of any breach of the terms or conditions of this Agreement by State, or in the event of any proceedings by or against State in bankruptcy or insolvency or for appointment of receiver or trustee or any general assignment for the benefit of creditors, County may, without any liability to State on account thereof, by written notice, terminate immediately all or any part of this Agreement, procure the goods, equipment and/or services provided for herein elsewhere, on such terms and under such conditions as are reasonable in the sole discretion of County.

B. Termination for Convenience. Either party shall have the right to terminate this Agreement upon thirty (30) days' written notice. Upon receipt of such termination notice from County, State shall not incur any new obligations and shall cancel as many outstanding obligations as reasonably possible. In such event, County's maximum liability shall be limited to payment for goods or equipment delivered and accepted and/or services rendered.

C. **Reduction in Funds.** It is understood that funding may cease or be reduced at any time. In the event that adequate funds are not available to meet the obligations hereunder, either party reserves the right to terminate this Agreement upon thirty (30) days' written notice.

**12. Entire Agreement.** This Agreement and the documents incorporated herein contain all the terms and conditions agreed upon by both parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto. Any agreement not contained herein shall not be binding on either party, nor shall it be of any force or effect.

**13. Assignment.** Neither this Agreement nor any rights or obligations created by it shall be assigned or otherwise transferred by either party without the prior written consent of the other. Any attempted assignment without such consent shall be null and void.

**14. Amendments.** Neither this Agreement nor any rights or obligations created by it shall be amended by either party without the prior written consent of the other. Any attempted amendment without such consent shall be null and void.

**15. Subcontracting.** None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of County. In the event subcontracting is approved by County, State shall remain totally responsible for all actions and work performed by its subcontractors. All approved subcontracts must conform to applicable requirements set forth in this Agreement and in its appendices, exhibits and amendments, if any.

**16. Severability Clause.** In the event that any provision of this Agreement is held to be unenforceable, the remaining provisions shall continue in full force and effect.

**17. Waiver.** Waiver of any breach of any provision in this Agreement shall not be a waiver of any prior or subsequent breach. Any waiver shall be in writing and any forbearance or indulgence in any other form or manner by County shall not constitute a waiver.

**18. Force Majeure.** State shall not be held liable if the failure to perform under this Agreement arises out of causes beyond the control of State. Causes may include, but are not limited to, acts of nature, fires, tornadoes, quarantine, strikes other than by State's employees, and freight embargoes.

**19. Order of Preference.** Any conflict to the provisions of this Agreement and the documents incorporated by reference shall be determined by the following priority order:

- a. Written modifications and addenda to the executed Agreement
- b. This Agreement document

**20. Environmental Protection.** State shall abide by all federal, state and local laws, rules and regulations regarding the protection of the environment. State shall report any violations to the applicable governmental agency. A violation of applicable laws, rules or regulations may result in termination of this Agreement for cause.

**21. Nondiscrimination and Workplace Safety.** State agrees to abide by all federal, state and local laws, rules and regulations prohibiting discrimination in employment and controlling workplace safety. Any violation of applicable laws, rules or regulations may result in termination of this Agreement for cause.

**22. Retention of Records.** Unless otherwise specified in this Agreement, State agrees to preserve and make available to County at reasonable times all of its books, documents, papers, records and other evidence involving transactions related to this Agreement for a period of five (5) years from the date of expiration or termination of this Agreement.

Matters involving litigation shall be kept for one (1) year following termination of litigation, including all appeals, if the litigation exceeds five (5) years.

**23. Ownership of Data.** All data, forms, procedures, software, manuals, system descriptions and work flows developed or accumulated by State in relation to this Agreement shall be owned by County and shall be handed over and/or returned to County upon the expiration or termination of this Agreement. State shall not release any such materials without written approval of the County.

**24. Intellectual Property Rights.** As applicable, all original software, software code, and/or intellectual property developed or created by County in relation to this Agreement shall remain the sole property of the County. State shall surrender all original written materials, including, but not limited to any reports, studies, designs, drawings, specifications, notes, documents, software and documentation, computer-based training modules, electronically or magnetically recorded material, and any and all intellectual property to County upon the expiration or termination of this Agreement.

**25. Choice of Law.** This Agreement shall be interpreted under and governed by the laws of the State of Kansas. The parties agree that any dispute or cause of action that arises in connection with this Agreement will be brought before a court of competent jurisdiction in Sedgwick County, Kansas.

**26. Termination Due To Lack of Funding Appropriation.** If, in the judgment of the County's Chief Financial Officer, sufficient funds are not appropriated to continue the function performed in this Agreement and for the payment of the charges hereunder, County may terminate this Agreement at the end of its current fiscal year. County agrees to give written notice of termination to State at least thirty (30) days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided for in the Agreement, except that such notice shall not be required prior to ninety (90) days before the end of such fiscal year. State shall have the right, at the end of such fiscal year, to take possession of any equipment provided to County under the Agreement. County will pay to State all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any related equipment. Upon termination of the Agreement by County, title to any such equipment shall revert to State at the end of County's current fiscal year. The termination of the Agreement pursuant to this paragraph shall not cause any penalty to be charged to the County or the State.

**27. Confidentiality.** State may have access to private or confidential data maintained by County to the extent necessary to carry out its responsibilities under this Agreement. State must comply with all the requirements of the Kansas Open Records Act (K.S.A. 42-215 et seq.) in providing services and/or goods under this Agreement. State shall accept full responsibility for providing adequate supervision and training to its agents and employees to ensure compliance with the Act. No private or confidential data collected, maintained or used in the course of performance of this Agreement shall be disseminated by either party except as authorized by statute, either during the period of the Agreement or thereafter. State must agree to return any or all data furnished by the County promptly at the request of County in whatever form it is maintained by State. Upon the termination or expiration of this Agreement, State shall not use any of such data or any material derived from

the data for any purpose and, where so instructed by County, shall destroy or render such data or material unreadable.

**28. Cash Basis and Budget Laws.** The right of the County to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and all other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the County shall at all times stay in conformity with such laws, and as a condition of this Agreement the County reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws.

**29. Anti-Discrimination Clause.** State agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs and activities; (b) to include in all solicitations or advertisements for employees the phrase "equal opportunity employer;" (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the State is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the Agreement may be cancelled, terminated or suspended, in whole or in part by County, without penalty thereto; and (f) if it is determined that the State has violated applicable provisions of the ADA, such violation shall constitute a breach of the Agreement and the Agreement may be cancelled, terminated or suspended, in whole or in part by County, without penalty thereto.

**30. Compliance with Law.** State shall comply with all applicable local, state and federal laws and regulations in carrying out this Agreement, regardless of whether said local, state and federal laws are specifically referenced in the Agreement to which this attached is incorporated.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

SEDGWICK COUNTY, KANSAS

KANSAS DEPARTMENT OF REVENUE

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David T. Dennis, Chairman  
Commissioner, Third District

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Mark Beshears  
Secretary of Revenue

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David Harper  
Director of Property Valuation

APPROVED AS TO FORM ONLY:

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Patricia J. Parker  
Assistant County Counselor

ATTESTED TO:

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Kelly B. Arnold  
County Clerk