

Road District Settlements

Review



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I. Introduction and Scope

In 2012, Clay County settled legal claims of underpayment made by seven separate incorporated Special Road Districts and their respective cities—as well as the City of Kansas City. Altogether, the agreements therefore totaled to fifteen entities. The crux of the dispute centered on the County’s Road & Bridge property tax levy. Essentially, the claimants argued that the County Commission in 2008 voluntarily cut said levy from \$0.24 per \$100 assessed valuation to \$0.08, yet it provided no supplemental funding to Road Districts nor cities for Road & Bridge purposes in order to make up the difference. The County’s half cent sales tax approved in 1979, as established under Revised Statute of Missouri (RSMo) 67.548, specifically required it to do so at the time.

Consequently, the County issued substantial one-time payments to cover the arrearage accrued over 2008-2011. In addition, the settlements set up a prospective mechanism under several terms. First, the parties agreed for the County, in perpetuity, to pay the Road Districts and cities (for Road & Bridge purposes) an equivalent of \$0.14 per \$100 assessed valuation from its Road & Bridge Levy—regardless of the current rate set by the Commission. Bear in mind that, while the governing body of the County can always voluntarily reduce its levy, as it did in 2008, the Missouri Constitution’s Hancock Amendment in Article X already requires rollbacks of levies whenever property values rise. Ultimately local governments can only receive revenue growth at the rate of inflation and no more. Raising taxes further necessitates a vote of the people. No such stipulation for the Hancock Amendment, however, applied to these Road District settlements.

Next, the settlements outlined annual sales tax payments to these Road Districts and cities proportionally by assessed valuation. From 2013-2026, the County’s obligation comes to \$900,000 a year. This figure results from a convoluted calculation of fifty percent of sales taxes from \$7 million to \$9 million, meaning \$1 million. Yet the County also withholds ten percent of that \$1 million, or \$100,000, for Tax Increment Financing (TIF) abatement projects. Starting in “2027 and beyond,” this amount increases to \$1.35 million as the threshold becomes \$7 million to \$10 million and the TIF clause remains—then \$150,000.

Considering this ongoing financial impact to the County, these decade old settlements deserve some review. Moreover, the citizens of Clay County adopted a self-rule Constitution form of government with the general election on November 3rd, 2020. The pertinence of such style of government to Road Districts and settlements with the County involves the aforementioned Statute of 67.548 and sales tax remittance. Last amended in 2012, it applied explicitly to the non-charter counties of Clay and Platte. The law for creating incorporated Road Districts, RSMo 233.010, likewise only applies to non-charter counties. Nevertheless, the County Constitution in Section 10.06 certainly allows for all previous arrangements such as these settlements to continue. As such, this audit in no way questions the validity of the settlements. It only offers the taxpayers and the Commission consideration for renegotiated options.

Under Generally Accepted Government Auditing Standards (GAGAS), a review form of audit entails the auditor reaching conclusions based on adequate and sufficient evidence. This type of audit was selected over a different approach because it does not need auditee responses. Identifying one auditee in this instance proved impractical owning the number of entities associated with the County’s Road & Bridge levy (fifteen discussed above, along with the County and its Highway Department). The Auditor’s Office did cover some of this subject matter with the Highway Audit in 2020, but only as to the accurate paying of \$0.14 property tax.

II. Background and Audit Plan

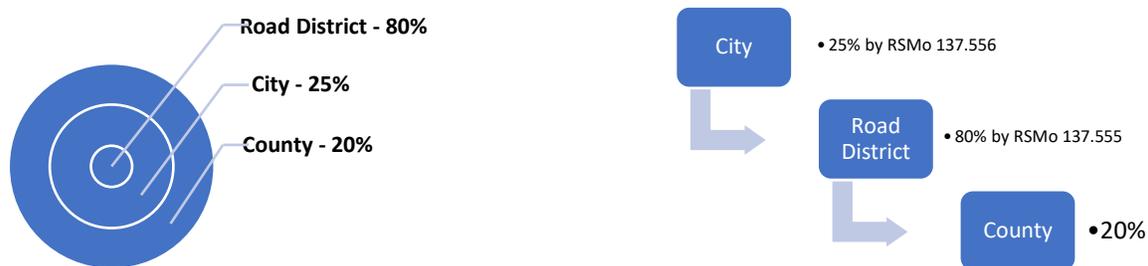
By way of extra background on this topic, the particular municipalities and incorporated Road Districts who settled with the County in 2012 included:

- City of Gladstone, Road District #3 Gladstone
- Village of Claycomo, Road District #4 Claycomo
- City of Liberty, Road District #5 Liberty
- City of Kearney, Road District #6 Kearney
- City of Pleasant Valley, Road District #8 Pleasant Valley
- City of North Kansas City, Road District #9 North Kansas City
- City of Excelsior Springs, Road District #10 Excelsior Springs
- City of Kansas City

The City of Kansas City wasn't allowed historically to have an incorporated Road District, per RSMo 233.010, because its population exceeds 100,000 residents.

Another facet worth describing with Road Districts is how their tax bills are both assessed and subsequently collected. According to RSMo 137.555, eighty percent or four-fifths of the County Road & Bridge tax revenue from property within Road Districts (and by extension often the relevant city) is owed to them. The immediately following statute, however, RSMo 137.556, indicated with its passage for Clay County as a non-charter county to first subtract out one-quarter or twenty five percent of the revenue for the appropriate city.

In other words, the Road District simply gets eighty percent of the remaining County Road & Bridge levy after twenty five percent is reduced from the city's assessed value tax revenue and sent to the city. The County, which collects property taxes for all these various jurisdictions, then deposits the leftover twenty percent or one-fifth to itself for its own Highway Department. The County maintains unincorporated roads in mostly rural areas. This breakout can be depicted as such, as similarly depicted by various County officials in 2012:



As to the audit plan for this Review, the Table of Contents shows three main components. First, the audit analyzes the financial impact of the County's obligations to Road Districts and cities from its Road & Bridge property tax levy. Included is a statistical trend analysis over six years from 2015-2021 and projections into the future. The second point relates to a statutorily required annual report Road Districts must make to the County on an annual basis. The audit delves into the compliance aspect of those reports. Lastly, third, the audit focuses on the City of Kansas City due to its absence of a Road District. The City's share of the County's Road & Bridge levy represents a material threshold for more attention. This reality exists mainly because of Kansas City's corresponding share of Clay County's population as well as assessed valuation.

III. Audit

- **Financial Analysis of County Road & Bridge Property Tax Levy**

The County’s Road & Bridge Levy rate remained relatively unchanged since the 2012 settlements at \$0.08 per \$100 assessed valuation. This likely occurred owing to how property values after the housing recession took some time to recover. Starting in 2019, however, the Hancock County compelled the County to rollback its Road & Bridge levy to \$0.0766. Of note, local taxing jurisdictions set their levies in the fall based on assessed valuations. Tax bills go out to taxpayers near the end of the year. As a result, the County Collector remits the majority of revenues to local governments in the new year.

The below chart highlights these trends from 2015-2021, wherein the levy set in the prior year determines the subsequent year’s revenues:

Year	City/Road District Revenue	Less Sales Tax	County Revenue	Difference	Levy	%
2015	\$ 3,044,230.12	\$ 2,144,230.12	\$ 2,897,517.46	\$ 753,287.34	\$ 0.0800	105.1%
2016	\$ 2,912,209.37	\$ 2,012,209.37	\$ 3,127,903.74	\$ 1,115,694.37	\$ 0.0800	93.1%
2017	\$ 3,168,514.94	\$ 2,268,514.94	\$ 3,371,107.30	\$ 1,102,592.36	\$ 0.0800	94.0%
2018	\$ 3,349,920.12	\$ 2,449,920.12	\$ 3,382,801.54	\$ 932,881.42	\$ 0.0800	99.0%
2019	\$ 3,102,785.33	\$ 2,202,785.33	\$ 3,197,728.52	\$ 994,943.19	\$ 0.0800	97.0%
2020	\$ 3,268,633.55	\$ 2,368,633.55	\$ 3,575,929.58	\$ 1,207,296.03	\$ 0.0766	91.4%
2021	\$ 3,527,661.16	\$ 2,627,661.16	\$ 3,730,311.07	\$ 1,102,649.91	\$ 0.0766	94.6%

For explanation, the “Less Sales Tax” column indicates the \$900,000 annual payment per the settlements. As can be seen, the County presently brings in slightly more revenue each year than it pays out through all sources to the cities and Road Districts—but not by much. Indeed, city and Road District revenue comprises about the same percentage of County Road & Bridge levy revenue.

In 2021, the Commission rolled back the levy even more to \$0.0697 per the Hancock Amendment. Thus, at present the County’s levy for the first time sits below the half point differential needed to pay settlement parties at \$0.14 because it is less than \$0.0700. The logical effect portends to a forthcoming scenario where city and Road District Road & Bridge levy revenue from the County exceeds the County’s own revenue. This will especially be the case in all likelihood when the sales tax requirement increases to \$1.35 million a year.

Conclusion: In the near future the County’s Road & Bridge revenue for County purposes stands to be entirely negated by settlement agreements with cities and Road Districts. The County will find itself in a situation where it pays out more to these entities than it receives for its own Highway Department. So long as the arrangements call for paying cities and Road Districts at \$0.14 with no Hancock Amendment adjustment, that status will worsen. The County’s Highway operations would have to be supplemented more and more by general revenue without its own funding sources.

- **Oversight Reporting Compliance**

Another section of the statutory chapter governing Incorporated Road Districts, RSMo 233, includes a provision requiring annual reports every August by each of them to the County Commission via its Clerk. RSMo 233.150 specifies this report to “contain a full and correct itemized statement of all moneys received and from what sources received and for what purpose the same has been expended, giving each particular item, and shall be subscribed and sworn to by at least two members of said board.”

As part of this audit, we checked into the status as well as timeliness of these reports. Our work determined these results:

Special Road District	RSMo 233.150 Report	Date	Sent to County	Signed
#3 Gladstone	x	9/27/2021	Y	Y
#4 Claycomo	x	9/7/2021	Y	Y
#5 Liberty	x	4/19/2021	Y	Y
#6 Kearney	x	12/29/2021	Y	Y
#8 Pleasant Valley	x	6/29/2021	N	N
#9 North Kansas City	x	10/5/2021	N	N
#10 Excelsior Springs	x	1/24/2022	Y	Y

When we launched the audit, no record existed for annual reports from two Road Districts in 2021—#6 Kearney and #10 Excelsior Springs. Upon inquiring, however, the reports were promptly provided.

Notably as well, two Road Districts did not provide true RSMo 233.150 reports—#8 Pleasant Valley and #9 North Kansas City. Rather, the County Auditor’s Office pulled similarly mandatory annual financial reports, pursuant to RSMo 105.145, for certain local political subdivisions as Road Districts from the State Auditor Office’s website. These reports contain the same information, but lack signature by at least two Road District Commissioners. In response to our questions, Road District #8 committed to completing this report going forward. Currently the City fills out the financial statement on behalf of the Road District. Road District #9, North Kansas City, provided no response. Yet it is important to state that the County Treasurer already performs fiscal agent duties for this Road District as custodian of its funds—unlike the others.

These reports carry some significance in that they theoretically offer opportunity for joint cooperation between the County, municipalities, and incorporated Road Districts with respect to utilizing the County’s Road & Bridge Levy together. Without this transparency, too, the purpose of the legal settlements comes into question. On a technical basis, the County actually lacks authority to make payments to these Road Districts after August in any given year in absence of receiving these reports (RSMo 233.150.2). As can be seen from the chart, however, only one Road District—#5 Liberty—satisfied that timeline with an annual report before or during August, irrespective of fiscal year.

What’s more, the majority of these reports lack full itemization. They’re largely grouped into large general expenditure categories such as “road maintenance & construction”, a rather vague description. Only two Road Districts, #4 Claycomo and #6 Kearney, offered greater detail as to locations of projects (which road, etc.) or a further breakout of expenditure type. Only #6

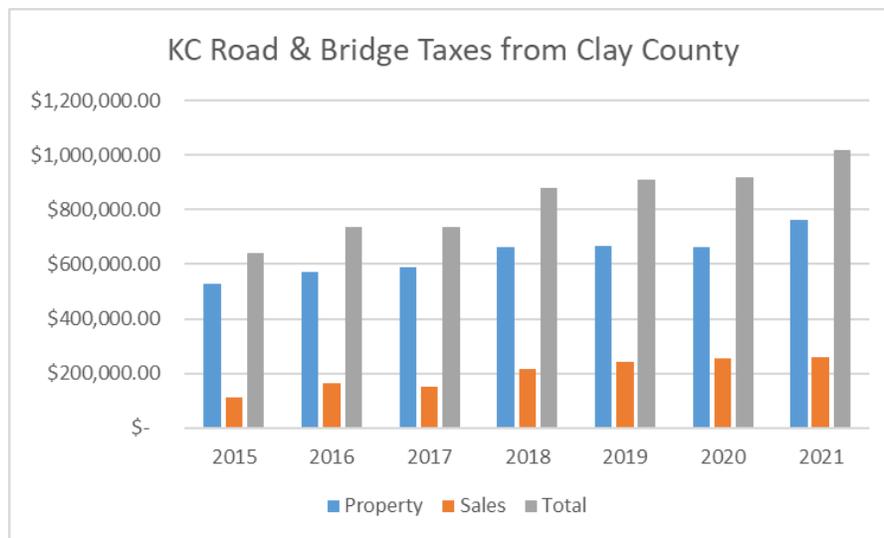
Kearney itemized each receipt for the revenues—which offers a clear audit trail to clarify any discrepancies.

Conclusion: Only one incorporated Road District of seven in Clay County complied with RSMo 233.150 for the year of 2021. The County hence lacks both authorization for paying all Road Districts and effective coordination oversight regarding Countywide road construction projects. The reports are insufficiently transparent as well, thereby weakening the whole point of RSMo 233.150 and the Road & Bridge Levy settlements.

- **Materiality Risk**

Even with the status of annual reports, these seven Road Districts and their related municipalities expend Road & Bridge funds within Clay County. They must because their jurisdictions fall entirely within County boundaries. For Kansas City, however, its surface area covers portions of some four distinct counties (Cass, Clay, Jackson, and Platte—mostly Jackson). The inability to form a Road District on account of population size and therefore lack of requirement for an annual report causes potential concern.

After all, KC’s allotment, on a cash basis, of the County’s Road & Bridge payments continues to grow year over year. It has risen from roughly one-fifth or twenty percent, then one-fourth or twenty five percent, to almost one-third or thirty three percent. These graphics display such developments:



Year	Property	Sales	Total	City/Road District Revenue	KC %
2015	\$ 527,293.84	\$ 113,054.08	\$ 640,347.92	\$ 3,044,230.12	21.0%
2016	\$ 571,126.74	\$ 163,356.93	\$ 734,483.67	\$ 2,912,209.37	25.2%
2017	\$ 587,354.10	\$ 150,509.00	\$ 737,863.10	\$ 3,168,514.94	23.3%
2018	\$ 662,929.99	\$ 216,284.85	\$ 879,214.84	\$ 3,349,920.12	26.2%
2019	\$ 667,400.49	\$ 240,734.70	\$ 908,135.19	\$ 3,102,785.33	29.3%
2020	\$ 664,375.80	\$ 254,838.02	\$ 919,213.82	\$ 3,268,633.55	28.1%
2021	\$ 760,521.71	\$ 258,379.24	\$ 1,018,900.95	\$ 3,527,661.16	28.9%

Expressed in dollars, KC's revenues from Clay County Road & Bridge monies jumped from \$640,347.92 in 2015 to the million mark at \$1,018,900.92 in 2021—a 59% move.

In light of these statistics and with KC as a party to the 2012 settlements, we asked the City if it tracked anything similar to an annual report in its financial system. The main reason being simply for accountability and transparency to the citizens of Clay County. The request included wanting itemized receipts as well as expenditures by location, akin to a RSMo 233.150 annual report, for the years 2019-2021.

Initially we received no response in January, but followed up in March to be sure. It is apparent and to be fair, however, that KC spends a lot of funds, even if from different sources, on its roads in Clay County. After the second request, we did get sufficient information for the purposes of this audit. The City appropriately records its Road & Bridge funds from Clay County in a separate revenue account. For the fiscal years of 2019-2020, too, KC spent most of its Clay County Road & Bridge funds on projects at two main locations—N. Brighton as well as N. Parvin Rd. and I-435. The majority of expenditures went to the Parvin project.

Conclusion: The County lacks regular awareness for how the largest recipient of its Road & Bridge tax dollars spends them and where. The City of Kansas City's portion amounts to nearly one-third of the County's property levy for Roads & Bridges—with the annual sales tax component included. This fact presents a material risk to the County's oversight of road maintenance in the County along with its ability to coordinate joint efforts with its correspondingly largest municipality.

IV. Overall Rating for this Audit



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