

Memo

To: City Commission
From: Toby Dougherty, City Manager
Date: 1-8-15
Re: January 15, 2015 Work Session

Please find the attached agenda and supporting documentation for the January 15, 2015 Work Session.

Item 2 – Airport Multi-year Capital Improvement Program Update

Please refer to the attached memorandum from John Braun, Assistant Director of Public Works, regarding the Airport Capital Improvement Program update. To qualify for FAA matching funds, the projects must be part of an approved multi-year Capital Improvement Program. City staff updates the Capital Improvement Program each year. This item is informational only as City staff wants to make the Commission aware of the Capital Improvement plan and to give opportunity for input and discussion before submitting to FAA.

Item 3 – Phase II Municipal Separate Storm Sewer System (MS4) Permit

Please refer to the attached memorandum from Steven Walters, Stormwater Specialist, regarding the MS4 permit. At the work session on Thursday, Steven will give a much more in-depth explanation of the newly-updated permit requirements and what is expected of the City by way of policy action in the future.

Item 4 – Exposed Zoning Areas

Please refer to my attached memorandum regarding exposed zoning areas. A few weeks back, the Commission asked City staff to examine the current zoning districts to determine if there were districts zoned in a manner that may not be consistent with the way the area has developed around the properties. In short, there are properties and districts that should be rezoned to another designation. City staff is not recommending that the Commission take preemptive action at this time to rezone the properties but rather to acknowledge the discrepancies and the fact that City staff is planning to enact the changes as part of the overall zoning code rewrite.

Item 5 – CID Policy Review

Please refer to my attached memorandum regarding the CID Policy. After the submission of a CID petition by the Hays Mall owners, it was suggested that perhaps the CID Policy should be modified to limit the amount of a total project that can be funded with CID revenues. City staff awaits the Commission's discussion and direction on this matter.

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**CITY OF HAYS
CITY COMMISSION WORK SESSION
THURSDAY, JANUARY 15, 2015 – 6:30 P.M.
AGENDA**

1. **ITEM FOR REVIEW: [December 30, 2014 Work Session Notes \(PAGE 1\)](#)**
DEPARTMENT HEAD RESPONSIBLE: Kim Rupp, Director of Finance
2. **ITEM FOR REVIEW: [Airport Multi-year Capital Improvement Program Update \(PAGE 5\)](#)**
DEPARTMENT HEAD RESPONSIBLE: I.D. Creech, Director of Public Works
3. **ITEM FOR REVIEW: [Phase II Municipal Separate Storm Sewer System \(MS4\) Permit \(PAGE 9\)](#)**
STAFF MEMBER RESPONSIBLE: Steven Walters, Stormwater Specialist
4. **ITEM FOR REVIEW: [Exposed Zoning Areas \(PAGE 13\)](#)**
PERSONS RESPONSIBLE: Toby Dougherty, City Manager
I.D. Creech, Director of Public Works
5. **ITEM FOR REVIEW: [CID Policy Review \(PAGE 21\)](#)**
PERSON RESPONSIBLE: Toby Dougherty, City Manager
6. **OTHER ITEMS FOR DISCUSSION**
7. **EXECUTIVE SESSION (IF REQUIRED)**
8. **ADJOURNMENT**

ANY PERSON WITH A DISABILITY NEEDING SPECIAL ACCOMMODATIONS TO ATTEND THIS MEETING SHOULD CONTACT THE CITY MANAGER'S OFFICE 48 HOURS PRIOR TO THE SCHEDULED MEETING TIME. EVERY ATTEMPT WILL BE MADE TO ACCOMMODATE ANY REQUESTS FOR ASSISTANCE.

City of Hays
City Commission
Work Session Notes
Tuesday, December 30, 2014 – 6:30 p.m.

Present: Eber Phelps, Shaun Musil, Ron Mellick, Kent Steward, John Bird, Toby Dougherty

Absent: Henry Schwaller IV

December 18, 2014 Work Session Notes

There were no corrections or additions to the minutes of the work session held on December 18, 2014; the minutes stand approved as presented.

Air Compressor – Award of Bid

John Braun, Assistant Director of Public Works, informed the Commissioners that the portable air compressor used by the Service Division has reached the end of its service life and needs to be replaced. This compressor is an integral part of our operations and is used by several departments. City staff solicited bids from various equipment vendors, and the lowest responsible bid was from Logan Contractors, Overland Park, Kansas for a 185 CFM air compressor in the amount of \$22,000. This amount exceeds the \$15,000 listed on the 2015 Fleet Replacement Schedule for this piece of equipment. Price increases, due to new emission requirements for the type of engine used in the air compressor, is the reason bids were higher than the amount budgeted.

While over the budgeted amount, sufficient funds are available in the New Equipment Reserve Fund; therefore, City staff recommends accepting the \$22,000 bid from Logan Contractors.

At the January 8, 2015 Commission meeting, Commissioners will be requested to accept the bid from Logan Contractors for the Airman portable air

compressor at a cost of \$22,000 to be funded out of the New Equipment Reserve.

Vacate of Utility Easement in RAG Addition

The RAG Addition was platted in 2013. Within this plat, there was a utility easement identified for potential use at some point in the future. This particular utility easement was platted at the request of Midwest Energy for the possible placement of gas and/or electric utilities between lots 2 and 4. A request has been made by lot owner David Randa to vacate the platted 15 foot utility easement in the RAG Addition, specifically located between lots 2 and 4. The proposed layout of the site will not require any Midwest Energy utilities to occupy this space between the two lots and representatives of Midwest Energy support the vacation of the easement. Notice of Public Hearing as required by State Statute was published December 18, 2014. This request has been reviewed by City staff and has gone before the Utility Advisory Committee for review. All those involved have determined that the easement is not necessary for the proposed development and do agree with the vacate request.

A public hearing for the vacation of the utility easement in RAG Addition will be held at the January 8, 2015 Commission meeting.

Following the public hearing, the Commissioners will be requested to approve the ordinance authorizing the vacation of the 15' wide utility easement between lots 2 and 4 of the RAG Addition, at the January 8, 2015 Commission meeting.

46th Street 2nd Addition Phase II Resolution to Establish Benefit District (Coolidge Ct. and Adams Dr.)

Western Plains Service Corp. has petitioned the City for street, storm sewer, water, and sanitary sewer improvements to an area containing 18 lots adjacent to West 46th Street within the 46th Street 2nd Addition for the lots along Coolidge Ct. and Adams Dr. The engineer's estimate for total construction costs are \$550,000. This project is consistent with past residential developments

within the City of Hays. There are no over-sizing costs to the City in this project; therefore, no City capital will be expended for the construction of this project.

At the January 8, 2015 Commission meeting, Commissioners will be requested to approve the resolution authorizing the creation of a special benefit district for infrastructure improvements in the estimated amount of \$550,000 for the development of 18 lots along Coolidge Ct. and Adams Dr. within the 46th Street 2nd Addition.

46th Street 2nd Addition Phase II Engineering Services Agreement (Coolidge Ct. and Adams Dr.)

Western Plains Service Corp. has petitioned the City for street, storm sewer, water, and sanitary sewer improvements to an area containing 18 lots adjacent to West 46th Street within the 46th Street 2nd Addition. Ruder Engineering and Surveying, L.L.C. has now prepared a contract for engineering services to include engineering design, contractor solicitation, construction engineering, and warranty inspection. The contract is for a not-to-exceed amount of \$26,000.

At the January 8, 2015 Commission meeting, Commissioners will be requested to approve the Engineering Services Agreement with Ruder Engineering & Surveying, LLC for an amount not to exceed \$26,000 for professional services related to improvements to Phase II of the 46th Street 2nd Addition.

CID Policy Review

After the submission, discussion, and approval of a Community Improvement District (CID) request by the owners of the Hays Mall, the City Commission asked that discussion of the CID Policy be placed on a future work session to determine if further restrictions or requirements should be incorporated into the policy.

Currently, the Community Improvement District Policy is part of the City's overall Economic Development Policy. The CID Policy states that CIDs are to be

used for reimbursable expenses in the amount of \$250,000 or greater in order to promote economic development and tourism within the City. When discussing the CID Policy, it was assumed that any applicant wishing to utilize a CID would be incorporating CID funds into a much larger project. With the application by the Mall owners, this was not the case. The proposal for utilization of a CID at the Hays Mall did not include any capital input other than revenues created by the CID.

Commissioner Steward recommended that this item be tabled until Chairperson Schwaller is present. The review of the CID Policy will be placed on the January 15, 2015 Work Session agenda for discussion.

Other Items for Discussion

There were no other items for discussion.

Executive Session

Ron Mellick moved, Shaun Musil seconded, that the Governing Body recess to executive session at 6:45 p.m. for 30 minutes to discuss potential property acquisition. The executive session included the Commissioners, the City Manager, the Assistant City Manager, the City Attorney, representative of Liberty Group, and Aaron White, the Director of the Coalition for Economic Development. K.S.A. 75-4319 authorizes the use of executive session to discuss the topics stated in the motion.

Vote: Ayes: Eber Phelps
Shaun Musil
Ron Mellick
Kent Steward

No action was taken during executive session.

The work session was adjourned at 7:15 p.m.

Submitted by: _____

Brenda Kitchen – City Clerk

Commission Work Session Agenda

Memo

From: John Braun, Assistant Director of Public Works

Work Session: January 15, 2015

Subject: Airport Capital Improvement Program Update

Person(s) Responsible: Toby Dougherty, City Manager
I.D. Creech, Director of Public Works

Summary

The Airport Capital Improvement Program (ACIP), is created in conjunction with the FAA, to make federal entitlement money available to for eligible airport improvement projects. FAA has solicited the City's desired priority for the FFY 2016-2020 planning period. The proposed projects, which include a new aircraft fueling system, snow removal equipment, wildlife fence, and rehabilitation of the parking lot and apron, have been reviewed and supported by the Airport Advisory Committee. For informational purposes, staff is presenting the list of projects to be submitted to FAA by February 16, 2015. If approved, these projects will be included in the City's CIP as part of the 2016 budget.

Background

Each year City Staff, Airport Consulting Engineer, and Airport Advisory Board review the projects on the ACIP and submit updates to the FAA for potential funding. If approved by the FAA, projects are typically funded at 90%, leaving 10% to be funded by the City. Local funding usually comes from the Airport Improvement Fund. Recent projects have included, the Airport Terminal Remodel, Reconstruction of the Main Runway, Acquisition of a Snow Blower, Taxiway Lighting, the New Airport Fire Station (ARFF Building), and new ARFF Truck. The next update to the 5-year ACIP is due to the FAA for review and consideration by February 16, 2015.

During City budget preparation, staff will incorporate the proposed ACIP projects into the CIP as part of the proposed budget; however, FAA typically does not respond to the City's proposed ACIP until October or November, so the projects in the City's CIP may not necessarily be approved by FAA as submitted. Such is the case with the 2015 budget as will be discussed further in this memo.

Discussion

The proposed ACIP include the following projects:

All costs have been updated for inflation and changes in project scope.

1. FFY 2015 - Rehabilitate Crosswind Runway 4-22 (Design and Construction)
 - Estimated Cost \$763,400 Local share = \$76,340 (Airport Improvement Fund/PFC as shown in 2015 Budget CIP)
 - FAA has issued Go-Letter and City Commission approved Engineering Agreement with Burns and McDonnell on November 13, 2014. Project is scheduled to bid on March 25, 2015.
2. FFY 2016 - Improve Fuel Farm
 - Estimated Cost = \$525,000 Local share = \$215,000
 - Was listed in the Queue in the 2015 Budget CIP, since FAA had not yet programmed this project at time of 2015 budget approval.
 - This project is only eligible for FAA funding if the airport is Non-Primary (less than 10,000 boardings). Since we did not have 10,000 boardings in 2013 and 2014, we have an opportunity to use \$300,000 of Non-Primary funds in FFY 2015 and FFY 2016.
3. FFY 2016 – Snow Removal Equipment (Rotary Broom)
 - Estimated Cost \$170,000 Local share = \$17,000 (New Equipment Reserve Fund)
 - This replaces the “New Loader” that was listed in the 2015 CIP. FAA will not share in the cost of a loader, but will fund 90% of the cost of truck with a front mounted broom. A truck with broom has been identified as a primary piece of equipment that will provide efficiencies in current operations. Using a broom to remove snow will reduce wear and tear on the airfield pavement.
4. FFY 2017 - Wildlife Fencing Improvements
 - Estimated Cost \$1,269,567 Local share = \$126,957 (Airport Improvement Fund/PFC eligible)
 - A Wildlife Hazard Assessment was completed in 2013, which identified the need for an 8’ fence to be constructed around the airfield to keep wildlife (mostly deer) from entering the area. During the most recent FAA inspection, four deer were observed by the FAA inspector on the airfield causing this to be a priority for the FAA.
 - The 2015 Budget CIP showed this in 2016. Staff is asking FAA to delay this inevitable project until 2017.
5. FFY 2018 – Parking Lot Improvements
 - Estimated Cost \$115,500 Local share = \$11,550 (Airport Improvement Fund/PFC eligible)
 - Repair existing parking lot and add additional spaces as necessary.
 - The 2015 Budget CIP showed this in 2018, and it remains in 2018.
6. FFY 2019 - Apron Drainage Improvements
 - Estimated Cost \$472,993 Local share = \$47,299 (Airport Improvement Fund/PFC eligible)
 - This would involve installing a trench drain within the apron area and replacing isolated pavement panels to improve stormwater drainage from the apron.
 - The 2015 Budget CIP showed this in 2016, changes in priority warrant delaying this until 2019.

7. FFY 2020 – Reconstruct Taxiway I
 - Estimated Cost \$518,473 Local share = \$51,847 (Airport Improvement Fund/PFC eligible)
 - Replace failing asphalt taxiway with new concrete taxiway. This is currently the only asphalt taxiway on the airfield.
 - The 2015 Budget CIP showed this in 2017, changes in priority warrant delaying this until 2020.
8. FFY 2020 – Master Plan Update
 - Estimated Cost \$200,000 Local share = \$20,000 (Airport Improvement Fund/PFC)
 - The current Master Plan was completed in 2010. It is advisable to consider an update to the Airport Master Plan every 10 years.
 - Not previously identified on the CIP.

A tabulation of the estimated project costs is attached, which would be incorporated into the 2016 Budget CIP.

Legal Consideration

N/A – information only

Financial Consideration

The Airport Capital Improvement Plan (ACIP) is incorporated into the Capital Improvement Plan (CIP) submitted with the annual budget. This ACIP update will be used to develop the CIP within the 2016 Budget. Considering the projected transfers to the Airport Improvement Fund and reimbursements from the Passenger Facility Charge, the Airport Improvement Fund should have adequate funding to cover the local share of the projects proposed.

Options

N/A – information only as staff intends to submit proposed ACIP to FAA based on Commission Discussion.

Supporting Documentation

Tabulation of Proposed Projects (ACIP)

Airport Capital Improvement Plan

PROJECT	2015	2016	2017	2018	2019	2020	CITY SHARE	CITY SOURCE	OUTSIDE SHARE	OUTSIDE SOURCE	GRAND TOTAL
RNWX 4-22 Rehab	\$ 76,340						\$ 76,340	PFC/Airport Imp	\$ 687,060	FAA 90%	\$ 763,400
Improve Fuel Farm		\$ 215,000					\$ 215,000	Airport Imp	\$ 300,000	FAA (parital)	\$ 515,000
Snow Removal Equipment		\$ 17,000					\$ 17,000	New Equip Reserv	\$ 153,000	FAA 90%	\$ 170,000
Wildlife Fence			\$ 126,957				\$ 126,957	PFC/Airport Imp	\$ 1,142,610	FAA 90%	\$ 1,269,567
Parking Lot Improvements				\$ 11,550			\$ 11,550	PFC/Airport Imp	\$ 103,950	FAA 90%	\$ 115,500
Apron Drainage Improvements					\$ 47,299		\$ 47,299	PFC/Airport Imp	\$ 425,694	FAA 90%	\$ 472,993
Reconstruct Taxiway I						\$ 51,847	\$ 51,847	PFC/Airport Imp	\$ 466,626	FAA 90%	\$ 518,473
Master Plan Update						\$ 20,000	\$ 20,000	PFC/Airport Imp	\$ 180,000	FAA 90%	\$ 200,000
Dept. Yearly Subtotal:	\$ 76,340	\$ 232,000	\$ 126,957	\$ 11,550	\$ 47,299	\$ 71,847	\$ 565,993	\$	\$ 3,458,940	\$	\$ 4,024,933

Priority Airport Queue	City Share	Total	
Land Acquisition	\$ 50,000	\$ 500,000	FAA 90%
Reconstruct Taxiway M (2021)	\$ 402,632	\$ 4,026,316	FAA 90%
Apron Expansion (2023)	\$ 81,704	\$ 817,042	FAA 90%
	\$ 534,336	\$ 5,343,358	

Airport Project Queue	City Share	Total	
Parallel Taxiway 4-22 (2025)	\$ 430,672	\$ 4,306,722	FAA 90%
Extend Runway 16-34	\$ 126,000	\$ 1,260,000	FAA 90%
Large Commercial Hangar	\$ 350,000	\$ 350,000	not FAA eligible
	\$ 906,672	\$ 5,916,722	

Commission Work Session Agenda

Memo

From: Steven Walters, Stormwater Specialist

Work Session: January 15, 2015

Subject: Phase II MS4 Permit Information

Person(s) Responsible: Toby Dougherty, City Manager
I.D. Creech, Director of Public Works

Summary

This memorandum is meant to inform City Commissioners of the new National Pollutant Discharge Elimination System (NPDES) permit as issued under the Clean Water Act (CWA) and administered by the Kansas Department of Health and Environment (KDHE). The information is intended to provide a precursor to proposed changes to local regulations that will come before the City Commissioners in the coming months. The proposed changes to local regulations are intended to bring the City of Hays into compliance with the above referenced permit.

Background

This division was created in 2011 to address stormwater quantity issues, but with the ever changing regulatory environment water quality issues have also become primary concern. The City of Hays is regulated under the CWA, Section 402 which established the NPDES. The City of Hays is designated as a Phase II small Municipal Separate Storm Sewer System (MS4) operator. Peer cities are required to meet similar regulations. This designation requires the City of Hays to reduce the discharge of pollutants to the “maximum extent practicable”, protect water quality, and satisfy the appropriate water quality requirements of the CWA. The requirements are met through the implementation of a storm water management plan that addresses six minimum control measures, and total maximum daily load (TMDL) impairments (pollutants) within receiving water bodies (Big Creek). The updated stormwater management plan is required to be submitted by February 28th, 2015. From a local regulatory standpoint, The City of Hays will need to update some existing ordinances and adopt a new ordinance to come into compliance with the NPDES permit. The current permit replaced the previous permit in February 2014.

Discussion

The new MS4 permit extends many of the same requirements from the previous permit, but also places additional requirements on the City of Hays pertaining to TMDL pollutants. City Staff is continuing existing programs and non-structural best management practices already in place to meet permit requirements. However, the current local ordinances do not allow the City of Hays to be in complete compliance with

the new MS4 permit, and additional efforts and programs will be need to be put in place to meet the requirements for TMDL pollutants.

City Staff will be proposing the following significant changes and additions to City Code:

- 1) Revisions to the Zoning and Subdivision Regulations, which have been discussed with Kendig Keast Collaborative, the consultant rewriting the zoning and subdivision regulations. The revisions are needed to ensure consistency across multiple chapters of the Zoning and Subdivision regulations.
- 2) Revision to Chapter 53, Stormwater Management, which includes:
 - a. Adoption of a “Post Construction Stormwater Best Management Practices” manual authored by Wilson and Company and CDM Smith for the consortium of Phase II communities in Kansas. The adoption of the manual will bring the City of Hays into full compliance with the six minimum control measures of the MS4 permit. In general, the manual addresses water quality BMPs and requirements for development and redevelopment projects. The manual shifts stormwater infrastructure to “green methods” which promote infiltration and treatment of the “first flush” of stormwater runoff.
 - b. Updating the “Design Criteria, Storm Drainage Systems and Facilities” manual, which is already by reference part of Chapter 53 Stormwater Management.
- 3) Consideration of a Stream Buffer Ordinance. The ordinance will place restrictions on new development when natural watercourses traverse the property. The restrictions would include vegetative buffers of varying distances between the development and natural watercourse.

The changes listed above along with other minor edits to be brought before the City Commission will bring the City of Hays into compliance with the MS4 permit’s six minimum control measures. Broad details of these changes will be presented at this work session with specific changes presented at a later meeting in February.

The submission of this plan to meet the permit is due by February 28th. The City Commission can expect required updates every 5 years. (?)

Legal Consideration

Information provided is for information purposes only, thus there are no legal considerations at this time. The City Attorney has been, and will continue to be involved in any and all proposed changes to City Code.

Financial Consideration

Information provided is for information purposes only, thus there are no immediate financial considerations.

Options

Information provided is for information purposes only, thus there are no options for the City Commission to consider at this time.

Supporting Documentation

N/A

Commission Work Session Agenda

Memo

From: Toby Dougherty, City Manager

Work Session: January 15, 2015

Subject: Exposed Zoning Areas

Person(s) Responsible: Toby Dougherty, City Manager
ID Creech, Public Works Director

Summary

A recent request to locate a scrap facility on a property located at 13th and General Custer exposed the fact that the property is zoned in a manner that does not necessarily conform with the surrounding area. City staff was asked to investigate all zoning districts to determine if there were other areas where properties were zoned in a manner that did not conform to the surroundings. In addition to the aforementioned property, City staff has identified several areas where the zoning designation should be changed. However, City staff is not suggesting the Commission take formal action to rezone the properties at this time. Staff suggests rezoning the properties as part of the comprehensive rewrite of the zoning and subdivision regulations that is currently taking place.

Background

Last month the Board of Zoning Appeals denied a special use permit where the applicant wanted to locate a scrap facility on a property located at 13th and General Custer. The property is currently zoned I2 and a scrap facility may be allowed with a special use permit. The Board of Zoning Appeals denied the request for many reasons, mainly because the use did not fit in with the surrounding area. The property has been zoned I2 for many years as was most likely zoned that way in anticipation of it developing in a different manner. Commissioner Steward asked City staff to look at all the zoning districts and see if there were other areas where properties were zoned in a manner that would allow a use to be implemented that would not fit in with the surroundings.

Discussion

The main issue that prompted the Commission to revisit the zoning districts was not so much the intended use. A scrap facility is a generally legitimate use in an I2 zoned district. The problem with the recent request was that the property is zoned I2 in a location where many I2 uses would be considered undesirable. After a thorough review, City staff found 23 areas where the zoning did not necessarily match the surrounding area. These areas are identified in the first attachment to this memo.

There are several ways to rezone a property. First, the property owner can request to have the property rezoned. This request would go to the Planning Commission and then

the City Commission. Either the City Commission or Planning Commission can initiate the process to rezone a property. The process involves:

- I. Amendment proposal initiated by Planning Commission or Governing Body
- II. Notice of Public Hearing published 20 days prior to hearing
- III. Written notice of hearing mailed to all property owners within 200' of subject property (if in the City) or 1000' of subject property (if in the County)
- IV. Planning Commission to conduct a Public Hearing
- V. Planning Commission makes a recommendation(s) to the Governing Body
- VI. Governing Body may:
 - a. Approve such recommendation by adopting an ordinance
 - b. Override the Planning Commission's recommendation(s) by a 2/3 majority vote
 - c. Return the recommendation back to the Planning Commission for further consideration

--ALLOW 60-90 DAY TIME FRAME--

Whenever the City's zoning map and use regulations are being revised, changes to zoning designation map can be adopted en-masse. The City is currently in the process of rewriting the zoning and subdivision regulations. In addition to revising the district classifications, and what is allowed in those districts, City staff is working with Kendig Keast Collaborative to identify areas that need to be zoned, or rezoned. The result of the process will be a revised zoning map that can be adopted as a whole by the Planning and City Commissions, thereby making all the necessary changes at once. The process is as follows:

2 STEPS – (1) ZONING REGULATION CHANGE AND (2) ZONING MAP CHANGE – BOTH REQUIRE THE SAME STEPS AND CAN OCCUR SIMULTANEOUSLY

- I. Regulation review by staff, Planning Commission and public at large
- II. Notice of Public Hearing published 20 days prior to hearing
- III. Planning Commission to conduct a Public Hearing – may be adjourned from time to time
- IV. Planning Commission makes a recommendation(s) to the Governing Body
- V. Governing Body may:
 - a. Approve such recommendation by adopting an ordinance
 - b. Override the Planning Commission's recommendation(s) by a 2/3 majority vote
 - c. Return the recommendation back to the Planning Commission for further consideration
- VI. End Result
 - a. New set of zoning regulations
 - b. New "Official" zoning map

--ALLOW 90-120 DAY TIME FRAME--

While City staff agrees that there are several properties that should be rezoned, it is suggested that the Commission implement the changes as part of the zoning rewrite process which should be completed later this year, rather than do so on a piecemeal basis.

This way the changes are implemented en-masse as part of a comprehensive review process.

Legal Consideration

There are no known legal obstacles to proceeding as recommended by City Staff. As this situation proceeds, the City Attorney will monitor for compliance with the law.

Options

The City Commission has the following options:

- Follow staff's recommendation to implement to changes as part of the zoning rewrite process.
- Direct staff to begin the process to rezone specific areas individually.
- Provide alternate direction to staff.

Recommendation

Staff recommends that the Commission allow the suggested zoning changes to be incorporated into the zoning regulation rewrite that is currently being conducted.

Supporting Documentation

List of exposed areas

Map of exposed areas

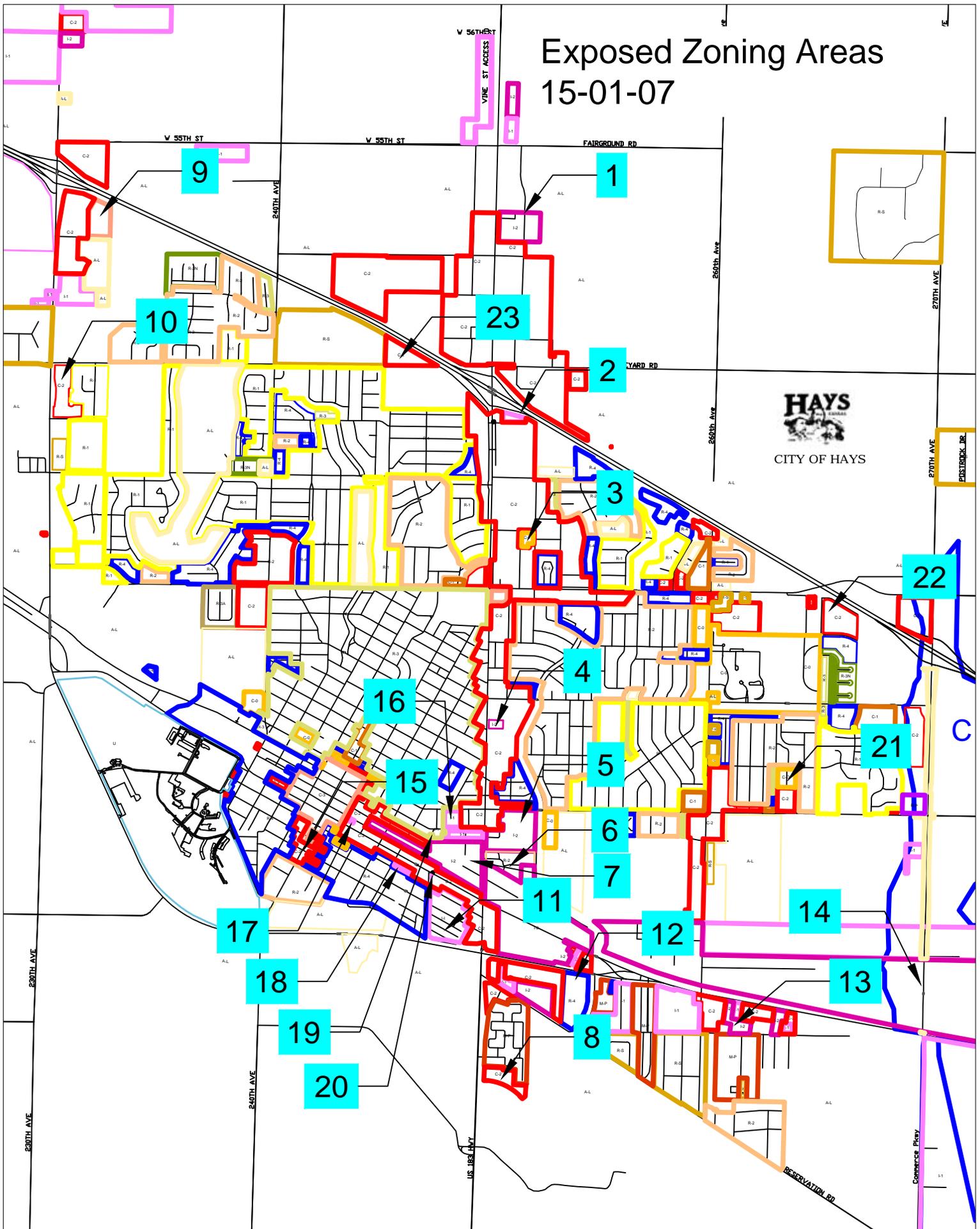
Procedure to change zoning designation and classification

Exposed Zoning Areas

Location				
Vine Street Corridor	Current Zoning	Comp Plan	Staff Opinion	Notes
1 4945 Vine HLMC Area	I-2	Mixed Use	Commercial	North end of Retail Corridor
2 1000 block E 37th	I-1	Commercial	Commercial	surrounded by commercial and visible from I-70
3 2800 block between Plaza and Broadway	C-0	Commercial	C-2	change to be consistent with surrounding zoning
4 2000 Vine Street Peerless Tire	I-2	Commercial	C-2	Not sure why it is this way, but should be changed.
5 1200 Block Vine Street East 13th	I-2	Commercial	Commercial	Shouldn't have Industrial in this core area of town
6 1000 Vine Street Public Works	R-2	Civic	Commercial/Light Industry	Should be rezoned to match the public Works/Utilities use that it is. Along UPRR corridor.
7 West side of Vine Street 1000 Block	I-1, I-2	Industrial	C-2	Eliminate Industrial and create a Commercial Corridor all along Vine
8 South of Countryside Estates	C-2	MH	MH or AL	Zone consistent with adjacent property
US-183 By-pass to Old 40	Current Zoning	Comp Plan	Staff Opinion	Notes
9 1811 Frontier Rd - E/2 of KDOT facility	C-3	Business Park	C-2	Central Business designation is out of place
10 SE corner of 41st & By-pass	C-2	LDR & Open Space	conform with By-pass zoning plan	Current Use is Residential (R-S)
11 700 block E 6th	I-1	MDR	N.C.5	Current use is mobile home park. Is in flood plain
12 WWTP	R-4	Public	Commercial/Light Industry	match existing use
13 East 8th Canterbury to Commerce Pkway (south)	C-2, I-1, I-2, A-L	Industrial	Commercial/Light Industry	Currently a patchwork of various zones. Should be consistent.

14 East 8th Canterbury to Commerce Pkwy (north)	I-1, I-2	IND and BP	Industrial	may not be a problem
Other Locations	Current Zoning	Comp Plan	Staff Opinion	Notes
15 400-600 block South Main	C-2	Downtown	C-3	Expand Downtown Area
16 600 block E 13th	I-1	Comm/Ind	C-2	Like F&F - may not want industrial along 13th in core of City.
17 9th and Oak Midland Marketing	I-1	Downtown	C-2	On the edge of downtown, otherwise surrounded by C-2
18 7th and Milner (residential houses)	I-1	MDR	R-4 or NC-4	C-2 to the North and R-4 to the South
19 603 E 11th	I-1	MDR	R-3 or NC-3	This is a business with with I-2 to the south but otherwise surrounded by R-3
20 8th and Riley (triangle lot)	I-1	Comm/Ind	C-2	Small island of I-1 surrounded by C-2
21 1300 Block Judith Lavern Schumacher	C-O	LDR	MDR	Developed as duplexes
22 North Wheatland	C-2	MDR	Residential	Infrastructure and location does not support Commercial Development
23 41st Street West of Vine (north side)	C-2	MDR	Residential	Infrastructure and location does not support Commercial Development

Exposed Zoning Areas 15-01-07



PROCESS TO CHANGE A ZONING CLASSIFICATION FOR A PROPERTY

- I. Amendment proposal initiated by Planning Commission or Governing Body
- II. Notice of Public Hearing published 20 days prior to hearing
- III. Written notice of hearing mailed to all property owners within 200' of subject property (if in the City) or 1000' of subject property (if in the County)
- IV. Planning Commission to conduct a Public Hearing
- V. Planning Commission makes a recommendation(s) to the Governing Body
- VI. Governing Body may:
 - a. Approve such recommendation by adopting an ordinance
 - b. Override the Planning Commission's recommendation(s) by a 2/3 majority vote
 - c. Return the recommendation back to the Planning Commission for further consideration

--ALLOW 60-90 DAY TIME FRAME--

PROCESS TO CHANGE A SPECIFIC USE IN A CLASSIFICATION

- I. Amendment proposal initiated by Planning Commission or Governing Body
- II. Notice of Public Hearing published 20 days prior to hearing
- III. Planning Commission to conduct a Public Hearing
- IV. Planning Commission makes a recommendation(s) to the Governing Body
- V. Governing Body may:
 - a. Approve such recommendation by adopting an ordinance
 - b. Override the Planning Commission's recommendation(s) by a 2/3 majority vote
 - c. Return the recommendation back to the Planning Commission for further consideration

--ALLOW 60-90 DAY TIME FRAME--

ZONING REGULATION REWRITE PROCESS – HOW CHANGE WILL BE MADE

2 STEPS – (1) ZONING REGULATION CHANGE AND (2) ZONING MAP CHANGE – BOTH REQUIRE THE SAME STEPS AND CAN OCCUR SIMULTANEOUSLY

- I. Regulation review by staff, Planning Commission and public at large
- II. Notice of Public Hearing published 20 days prior to hearing
- III. Planning Commission to conduct a Public Hearing – may be adjourned from time to time
- IV. Planning Commission makes a recommendation(s) to the Governing Body

- V. Governing Body may:
 - a. Approve such recommendation by adopting an ordinance
 - b. Override the Planning Commission's recommendation(s) by a 2/3 majority vote
 - c. Return the recommendation back to the Planning Commission for further consideration
- VI. End Result
 - a. New set of zoning regulations
 - b. New "Official" zoning map

--ALLOW 90-120 DAY TIME FRAME--

PROCESS TO OBTAIN A SPECIAL USE PERMIT

- I. Application for permit submitted by applicant
- II. Public Hearing set by BZA
- III. BZA to conduct a Public Hearing
- IV. BZA makes a determination to approve or not approve
- V. Decision may be appealed through District Court by anyone aggrieved of the outcome

--ALLOW 30-60 DAY TIME FRAME--

Commission Work Session Agenda

Memo

From: Toby Dougherty, City Manager

Work Session: December 30, 2014

Subject: CID Policy Discussion

Person(s) Responsible: Toby Dougherty, City Manager

Summary

After the submission, discussion, and approval of a CID request by the owners of the Hays Mall, the City Commission asked that discussion of the CID Policy be placed on a future work session to determine if further restrictions or requirements should be incorporated into the policy.

Background

Currently, the Community Improvement District (CID) Policy is part of the City's overall Economic Development Policy. The CID Policy states that CIDs are to be used for, "reimbursable expenses in the amount of \$250,000 or greater in order to promote economic development and tourism within the City." When discussing the CID Policy, it was assumed that any applicant wishing to utilize a Community Improvement District would be incorporating CID funds into a much larger project. With the application by the Mall owners, this was not the case.

Discussion

The proposal for utilization of a CID at the Hays Mall did not include any capital input other than revenues created by the Community Improvement District. According to one Commissioner, the applicant had "no skin in the game". This led to a brief discussion by the City Commission on the merits of placing requirements in the Community Improvement District Policy that would limit, by percentage, the amount of a project that could be funded with a Community Improvement District. For example, the language could be stated as follows. "Revenues anticipated from a Community Improvement District may not make up more than ___% of the total project cost."

Legal Consideration

As this is a discussion item only, there are no legal concerns at this time.

Financial Consideration

There are no financial considerations for the City at this time.

Action Requested

City staff is bringing this forward at the request of the Commission and awaits further direction on the subject.

Supporting Documentation

Economic Development Policy

SUBJECT	ISSUED BY	LAST REVISION DATE	CURRENT EFFECTIVE DATE
ECONOMIC DEVELOPMENT POLICY	City Commission	4-26-12	7-11-13

SECTION 1. INTRODUCTION

The City of Hays is interested in encouraging economic activity and the creation of jobs, thereby broadening its tax base and improving the quality of life for its citizens. Further, the use of public funds to stimulate business growth may be necessary or desirable in certain cases. The decision to provide incentives to a business is guided by the expectation that the financial benefits to the City will produce a sufficient return on the City’s investment and that the business will be a good fit for the community. All proposed incentives are subject to a public hearing. Governmental agencies are not eligible for financial incentives under this policy. No elected or appointed officer, employee or committee of the City, Hays Area Chamber of Commerce or Ellis County Coalition for Economic Development employee, board, or other public or private body or individual, shall be authorized to speak for and/or commit the City Commission to the granting of an incentive. This policy is meant to encourage the following:

- A. Research and development-based businesses
- B. High-tech businesses
- C. Environmentally friendly businesses
- D. Expansion of existing industry
- E. Business start-ups
- F. Recruitment of new companies from out-of-state
- G. The retention of businesses which are good corporate citizens that will add to the quality of life in Hays through their leadership and support of local civic and philanthropic organizations.
- H. Training and development of Hays area employees
- I. The establishment of businesses that will be good stewards of the City of Hays’ water sources.

The City Commission reserves the right to deviate from this policy when, in the opinion of the Commission, it is in the best interests of the City to do so.

SECTION 2. DEFINITIONS

“City” means the City of Hays, Kansas.

"Economic development purposes" shall mean the establishment of a new business or the expansion of an existing business, which:

- A. is or will be primarily engaged in any one or more of the Kansas basic industries; or
- B. is or will be primarily engaged in the development or production of goods or the provision of services for out-of-state sale; or
- C. is or will be primarily engaged in the production of raw materials, ingredients or components for other enterprises which export the majority of their products; or

- D. is a national or regional enterprise which is primarily engaged in interstate commerce; or
- E. is or will be primarily engaged in the production of goods or the provision of services which will supplant goods or services which would be imported into the city; or
- F. is the corporate or regional headquarters of an enterprise, which is primarily engaged in out-of-state business activities.

“Environmentally friendly businesses” shall mean:

- Firms with programs or activities that reduce the impact of activities on the environment.
- Businesses that are not damaging to the environment, or directed at preventing environmental damage.

“High-Tech Businesses” shall mean both manufacturing and non-manufacturing businesses that have a great dependence on science and technology innovation that leads to new or improved products or services. High-Tech Business involves intensive use of new scientific and technical knowledge. It is often characterized by reliance on significant inputs of knowledge, depending more on having access to the knowledge produced in universities and other educational institutions. It tends to hire and keep personnel who have advanced skills. High-Tech Businesses are more sensitive to the quality of local universities and other educational institutions as providers of knowledge and education of high-skilled workers and may be more sensitive to local quality of life, encouraging high-skilled workers from elsewhere to be hired. High-Tech Business often has special infrastructure needs, such as broadband communications. Goods and services produced by High-Tech Businesses frequently require a longer development time than ordinary goods and services, requiring some ability to generate equity capital or other “maturing” capital.

“Kansas basic industry” shall mean:

- Agriculture;
- Mining;
- Manufacturing;
- Interstate transportation;
- Wholesale trade which is primarily engaged in multi-state activity or which has a major import supplanting effect within the state;
- Financial services which are primarily engaged in providing such services for interstate or international transactions;
- Business services which are primarily engaged in providing such services to out-of-town markets;
- Research and development of new products, processes or technologies;
- Tourism activities, which are primarily engaged in for the purpose of attracting out-of-state tourists.

As used in these subsections, “primarily engaged” means engagement in an activity by an enterprise to the extent that not less than 51% of the gross income of the enterprise is derived from such engagement.

SECTION 3. INDUSTRIAL ECONOMIC DEVELOPMENT

The City will be selective as to the kinds of industrial businesses (i.e., businesses that are not retail businesses) that are recruited and assisted. In general, the primary objective of the City’s industrial Economic Development Policy is to target new and expanding businesses that are environmentally sound, strengthen our local economy, and demonstrate a need for public financial support in order to locate or expand in Hays. Additionally, the City favors industry that creates high-caliber

employment, such as high-skill, high-wage jobs with increased employee benefits and superior working conditions.

When considering proposals brought before the City, City staff and the City commission shall be cognizant of the investment being made by the business, the risk involved in doing business, and the reputation of the City which is created by decisions that are made.

Examples of available incentives that may be available to industrial businesses may include; Property Tax Abatement, Industrial Revenue Bonds, Job Bounty Program, Tax Increment Financing (TIF), Transportation Development Districts (TDD), Community Improvement District (CID), or other available programs as approved by the Kansas Legislature.

SECTION 4. RETAIL DEVELOPMENT

The purpose of this section is to establish the official policy and procedures of the City for the granting of incentives for new and expanding retail businesses not otherwise addressed within this policy.

The primary objectives of the City in granting incentives to retail businesses for development include the expansion of the sales tax base, general enhancement of quality of life, development as the regional hub for goods and services in northwestern Kansas, and the expansion of the property tax base.

Examples of available incentives that may be available to retail businesses may include; Job Bounty Program, Tax Increment Financing (TIF), Transportation Development Districts (TDD), Community Improvement District (CID), Sales Tax and Revenue Bonds (STAR Bonds), or other available programs as approved by the Kansas Legislature.

A single development requesting additional assistance must also meet all of the following criteria:

- A. The development must be at least 50,000 square feet
- B. Generate \$10,000,000/yr. in retail sales
- C. Employ twenty five (25) or more employees

SECTION 5. ECONOMIC DEVELOPMENT APPLICATION

New or existing businesses that seek financial incentives from the City must file an *Application for Economic Incentives* before their request can be considered. The application shall contain the following information:

- A. Specific information on incentives being requested
- B. Company profile including longevity of company, principal officers, stockholders and clients
- C. Audited financial statements – last five (5) years or since date of incorporation if company has not been in existence for five (5) years
- D. Completed (attached) *Application for Economic Incentives* and *Supplemental Questionnaire*
- E. Business Plan as it relates to the proposed business to be located in Hays
- F. Cost Benefit Analysis (See Section 14)

The City will not consider the granting of any incentive unless the business submits a full and complete application, and provides additional information as may be requested by the City

Commission. The accuracy of the information provided in the application shall be verifiable by the applicant. Any misstatement of or error in fact may render the application null and void and may be cause for the repeal of any resolution adopted in reliance on said information. Applications will not be considered after the issuance of building permits. Refer to Section 6 for application and renewal fee information.

SECTION 6. FEE SCHEDULE

Any individual business requesting any incentive shall pay to the City a nonrefundable application fee of \$1000 plus a deposit of \$5,000.00 to be retained by the City to pay for the City's out of pocket costs associated with the City's review of the application and other actions and agreements associated with the proposed incentive, including but not limited to the City's cost of legal counsel, financial advisors and consultants necessary to evaluate the application and administer the incentive. In the event that costs for third-party services incurred by the City exceed the fee collected, the applicant shall reimburse the City for such additional cost, immediately upon request, but no later than prior to final consideration of the incentive by the Governing Body. The application fee and deposit shall be submitted at the same time the *Application for Economic Incentives* is submitted. At its discretion, the City Commission may consider waiving a portion of the fee or deposit upon request, based upon need. In addition, any business which has been granted an incentive shall pay an annual nonrefundable renewal fee in the amount of \$100.00.

The City requires the use of its designated Bond Counsel and its designated Financial Advisor. The City reserves the right to approve the selection of other necessary participants in the administration of an incentive, including but not limited to, the underwriter and trustee/fiscal agent. The City, at its discretion, may retain additional independent advisors to assist the City in analyzing the merits of the application and in making a determination of its approval at the applicant's expense. Examples of additional advisors include economic or environmental specialists, or a certified public accountant.

SECTION 7. PROPERTY TAX ABATEMENT POLICY

A. Policy.

The grant of property tax abatement will be considered for real and personal property being added to the tax rolls by "Kansas basic industry," in accordance with the provisions set by Article 11, Section 13 of the Constitution of the State of Kansas and the provisions of K.S.A. 12-1740 *et seq.* and K.S.A. 79-201a.

The City may approve for economic development purposes a property tax abatement on real and personal property used exclusively in the following business activities:

- Conducting research and development;
- Manufacturing articles of commerce;
- Storing goods that are sold or traded in interstate commerce;
- Corporate or regional headquarters of a multi-state enterprise which is primarily engaged in activities that take place outside of Kansas;
- High-tech businesses.

B. Abatement Amount and Term.

While Kansas law permits an exemption up to 100 percent of the qualified investment for up to 10 years, it shall be the policy of the City to normally provide property tax abatement and require payments in lieu of taxes (PILOTs) as set forth in the following schedule for portions of a project that meet the economic development goals of the City set forth in Sections 1 and 3 and that qualify for abatement under Kansas law. The abatement level is based on the **higher of the capital investment AND job creation.**

<u>Abatement Level</u>	<u>Capital Investment¹</u>	<u>Job Creation²</u>
<u>Matrix for High-Tech Businesses and Research and Development-Based Businesses</u>		
50% abatement for 10 years	Minimum: \$500,000 Maximum: \$3,750,000	Minimum: 25 Eligible Net New Jobs Maximum: 50 Eligible Net New Jobs
100% abatement for 10 years	>\$3,750,000	>50 Eligible Net New Jobs
<u>Matrix for All Other Business Types</u>		
25% abatement for 10 years	Minimum: \$500,000 Maximum: \$2,500,000	Minimum: 25 Eligible Net New Jobs Maximum: 50 Eligible Net New Jobs
50% abatement for 10 years	Minimum: \$2,500,001 Maximum: \$10,000,000	Minimum: 51 Eligible Net New Jobs Maximum: 125 Eligible Net New Jobs
75% abatement for 10 years	Minimum: \$10,000,001 Maximum: \$30,000,000	Minimum: 126 Eligible Net New Jobs Maximum: 250 Eligible Net New Jobs
100% abatement for 10 years	>\$30,000,000	>250 Eligible Net New Jobs

¹ Capital Investment will be determined by increase in appraised value from the appraised value of the property on the date of the application compared to the appraised value on the January 1 after completion of improvements, all as determined by tax appraisal from the Ellis County Appraiser’s office.

² “Eligible Net New Jobs” means each full-time equivalent job created above the monthly average full-time equivalent employee count for the 12-month period preceding the date of application. In order for a job to qualify as a “Eligible Net New Job,” each job must pay wages greater than 100% of the Region 1 wage average based on the applicant’s 4-digit NAICS code. The number of Eligible Net New Jobs must be reported annually pursuant to Section 15, and if the actual number of Eligible Net New Jobs in any year during the abatement term is less than the Eligible Net New Jobs set forth in the application, the abatement level for the remaining abatement term will be reduced in accordance with the table above.

The abatement term for projects considered under the authority of Article 11, Section 13 of the Constitution of the State of Kansas shall begin in the calendar year after the calendar year in which the business commences its operations locally. The abatement term for projects considered under the authority of K.S.A. 12-1740 *et seq.* and K.S.A. 79-201a shall begin in the calendar year after the calendar year in which industrial revenue bonds are issued.

C. Procedure.

1. Action by the City. The City shall consider granting a tax exemption pursuant to this Policy after receipt of a complete application from the applicant in a form prescribed by the City together with the application fee and deposit. The application shall be submitted in sufficient time for staff to follow established procedures for publication of notice, to review the

project's preliminary site plans and building elevations, to prepare a cost benefit analysis, and to contact the county and the unified school district within which the property proposed for exemption is located. The project's site plans and building elevations are subject to final approval to ensure that they are similar to the preliminary plans and elevations submitted.

Based on each application and such additional information as may be requested by the City, the City shall prepare or cause to be prepared a cost benefit analysis of the proposed exemption on the city and state of Kansas, which analysis shall be used by the Governing Body in considering the request for abatement, and shall be sufficient to meet statutory requirements for obtaining property tax abatement. In making its decision, the Governing Body may also consider any fiscal and/or economic impact analyses performed by the county and the unified school district within which the property proposed for exemption is located.

Prior to formal action on each resolution of intent, the Governing Body shall conduct a public hearing thereon, to be scheduled at least seven days after publication of notice. Notice of the hearing shall also be sent to the Ellis County Clerk's Office and the unified school district within which the property proposed for exemption is located.

Any grant of property tax abatement shall be accompanied by Performance Agreement as set forth in Section 13 of this Policy, and continuing abatement shall be subject to annual review as set forth in Section 15 of this Policy.

All documents necessary to consider granting a tax exemption, including the cost benefit analysis, notice of hearing, and any resolutions or ordinances, shall be prepared or reviewed by the City's Bond Counsel.

2. Action by the State Court of Tax Appeals. If the abatement request is granted, the applicant shall prepare and submit to the City by each February 1, a copy of the abatement application required by K.S.A. 79-213 and 79-210, and the statement required by K.S.A. 79-214 for the cessation of an exempt use of property. The City Clerk shall submit such application and statement to the County Appraiser, who will forward to the Court of Tax Appeals. The City Clerk shall provide a copy of the ordinance, as published in the official city newspaper, granting an abatement from taxation to the applicant for use in filing an initial request for tax abatement as required by K.S.A. 79-213, and by K.S.A. 79-210 for subsequent years. The City expressly notes to applicants that no abatement can be provided without the approval of the State Court of Tax Appeals.

D. Payment of PILOTs.

Any payment in lieu of taxes, which shall be required of a business granted a property tax abatement of less than 100% for 10 years, shall be paid to the County Treasurer, with notice of the amount and date paid provided to the City. The County Treasurer is directed to apportion the payment, under the provisions of subsection (3) of K.S.A. 12-148, to the general fund of all taxing subdivisions, excluding the state, which levy taxes on property where the business is situated. The apportionment shall be based on the relative amount of taxes levied, for any and all purposes by each of the applicable taxing subdivisions. The specific provisions for payment of PILOTs shall be set forth in the Performance Agreement between the City and the applicant.

SECTION 8. INDUSTRIAL REVENUE BOND POLICY

A. Policy.

It shall be the policy of the City to consider the issuance of industrial revenue bonds pursuant to K.S.A. 12-1740 *et seq.* (the "IRB Act") for the purposes set out in Section 1 of this Policy, and the IRB Act. Industrial revenue bonds may also be issued for the purpose of property tax abatement, as set forth in Section 7 of this Policy.

B. Sales Tax Exemption for Construction Materials.

Labor and materials, as well as equipment purchased with IRB proceeds may be exempt from State and local sales tax. The City reserves the right to grant or deny such sales tax exemption in connection with the issuance of IRBs, to be determined on a case-by-case basis.

C. Cost Reimbursement/Issuance Fee.

The applicant shall reimburse the City for all costs associated with the issuance of bonds, including but not limited to, the cost-benefit analysis, all legal publication notices, application fees to the Court of Tax Appeals, the City's bond counsel fees and all other miscellaneous costs.

For projects requesting tax abatement in connection with the issuance of industrial revenue bonds, the City shall receive an issuance fee of (i) 25 basis points (.0025) of the first \$10 million par amount of bonds being issued or the amount of constitutional tax abatement being requested, plus (ii) 20 basis points (.002) of the par amount of the second \$10 million of bonds being issued or the amount of constitutional tax abatement being requested, plus (iii) 10 basis points (.001) of the par amount in excess of \$20 million of bonds being issued or the amount of constitutional tax abatement being requested. In no event shall the issuance fee be less than \$1,500 or more than \$100,000. The fee shall be due and payable at the time the bonds are issued.

SECTION 9. COMMUNITY IMPROVEMENT DISTRICT POLICY

A: POLICY STATEMENT

It is the policy of the City to consider the establishment of CIDs for reimbursable expenses in the amount of \$250,000 or greater in order to promote economic development and tourism within the City. An applicant may petition the City to utilize special assessments or a special sales tax to fund projects eligible under the CID statutes. In considering the establishment of a CID, the Governing Body shall consider whether the proposed CID will achieve the economic development purposes outlined in Section 1 of this Policy.

It is the further policy of the City that a CID shall only be established for projects where the applicant/developer pays for the cost of eligible CID improvements (at no cost to the City) and agrees to be reimbursed on a pay-as-you-go basis for such costs from the City's receipt of CID sales tax revenues or CID special assessment revenues.

The use of CIDs should not alter the requirements of the City's Economic Development Policy in regard to the development paying for public infrastructure or meeting building codes. When

establishing a CID, special consideration will be given to public benefits. These benefits may include, but are not limited to, strengthening economic development and employment opportunities, reducing blight, enhancing tourism and cultural amenities, upgrading older retail real estate and commercial neighborhoods, and promoting sustainability and energy efficiency.

B: CRITERIA

It shall be the policy of the City to create a CID, if, in the opinion of the Governing Body, it is in the best interest of the City to do so. The Governing Body shall consider the following factors when creating a CID:

1. The project meets the City's economic development goals by expanding existing businesses or develops new businesses described in Section 1 of this Policy, and/or strengthens economic development and employment opportunities, reduces blight, enhances tourism and cultural amenities, upgrades older retail real estate and commercial neighborhoods, and promotes sustainability and energy efficiency.
2. The project uses higher standards for the design of improvements and materials used in making improvements within the CID, compared to the minimum requirements set forth in the City's current design guidelines.
3. The project extends public infrastructure to parts of the City that are not currently served by such infrastructure.

C: PROJECT ELIGIBILITY

1. It is the intent of the City to allow only projects involving capital investment and improvements to qualify for reimbursement. Purchase of consumables, and items or property considered to be operating expenses shall not qualify for reimbursement.

The following projects within the district to acquire, improve, construct, demolish, remove, renovate, reconstruct, rehabilitate, maintain, restore, replace, renew, repair, install, relocate, equip or extend shall be eligible for reimbursement out of the proceeds of the community improvement district sales tax:

- a. Public buildings, structures and facilities, and private not-for-profit museums;
- b. Sidewalks, streets, roads, interchanges, highway access roads, intersections, alleys, parking lots, bridges, ramps, tunnels, overpasses and underpasses, traffic signs and signals, utilities, pedestrian amenities, abandoned cemeteries, drainage systems, water systems, storm systems, sewer systems, lift stations, underground gas, heating and electrical services and connections located within or without the public right-of-way, water mains and extensions and other site improvements;
- c. Parking garages;
- d. Streetscape, lighting, street light fixtures, street light connections, street light facilities, benches or other seating furniture, trash receptacles, marquees, awnings, canopies, walls and barriers;
- e. Parks, lawns, trees and other landscape;
- f. Communication and information booths, bus stops and other shelters, stations, terminals, hangers, rest rooms and kiosks;
- g. Outdoor cultural amenities, including but not limited to, sculptures and fountains;
- h. Private buildings, structures and facilities;

- i. To produce and promote any tourism, recreational or cultural activity or special event, including, but not limited to, decoration of any public place in the district, promotion of such activity and special events;
 - j. To support business activity and economic development, including, but not limited to, development, retention, and the recruitment of developers and businesses;
 - k. To provide or support training programs for employees of businesses.
2. Generally, projects not listed in the foregoing eligibility section shall not be eligible for reimbursement out of the proceeds of a Community Improvement District sales tax. Additionally, the following projects within the district to acquire, improve, construct, demolish, remove, renovate, reconstruct, rehabilitate, maintain, restore, replace, renew, repair, install, relocate, furnish, equip or extend shall be ineligible for reimbursement out of the proceeds of a community improvement district sales tax:
- a. Airports, railroads, light rail and other mass transit facilities;
 - b. Lakes, dams, docks, wharfs, lakes or river ports, channels and levies, waterways and drainage conduits.
 - c. To provide or contract for the provision of security personnel, equipment or facilities for the protection of property and persons for public property, buildings and outdoor spaces.
 - d. To provide or contract for cleaning, maintenance and other services to public property, buildings and outdoor spaces;
 - e. To contract for or conduct economic impact, planning, marketing or other studies related to the district.
 - f. Indoor cultural amenities, including but not limited to, paintings, murals and display cases, which are not located in a private not-for-profit museum;
 - g. To operate or to contract for the provision of music, news, child-care, or parking lots or garages, and buses, minibuses or other modes of transportation;
 - h. To provide or contract for the provision of security personnel, equipment or facilities for the protection of property and persons inside private buildings;
 - i. To provide or contract for cleaning, maintenance and other services to private property;
 - j. The purchase of inventory and/or supplies for use or resale.
 - k. To purchase interior furnishings.
 - l. To purchase advertising or participation and any promotional expenses.
 - m. Any other projects not permitted by state statute, as amended from time to time.

D: METHOD OF FINANCING

The governing body will consider creation of a CID where (1) the costs of CID improvements will be financed on a pay-as-you-go basis from CID sales tax revenues or (2) the costs of CID improvements consisting only of public infrastructure improvements will be financed from CID special assessments. In the instance where public infrastructure CID improvements will be financed from CID special assessments, the City will consider the issuance of special obligation CID special assessment bonds. The City will not issue special obligation or general obligation bonds for CID improvements, other than the limited circumstances set forth in this section. The proposed method of financing will be clearly shown in the petition.

E: PROCESS

The process for creation of a CID shall be as follows:

1. *Petition and Supplemental Information.* An applicant requesting that the City create a CID shall first submit a petition to the City. Such petition shall contain all of the information

required by K.S.A. 12-6a26 *et seq.* and shall contain all of the required signatures of property owners as set forth in the Community Improvement District Act. Such petition shall also contain an agreement by the applicant to pay all out of pocket costs incurred by the City related to the City's review of the petition, including but not limited to the City's cost of legal counsel and financial advisors necessary to evaluate the petition. In addition to the information required by K.S.A. 12-6a26 *et seq.*, applicants must file (a) an Application for Economic Incentives and Supplemental Questionnaire, as provided by the City's Economic Development Policy, (b) a site plan for all public and private improvements to be located within the proposed CID, and (c) a business plan evidencing that the applicant has the financial ability to complete the proposed project in a timely manner and operate the project for the term of the proposed CID. The applicant shall furnish such additional information as requested by the City in order to clarify the petition or to assist staff or the Governing Body with the evaluation of the petition.

2. *Application Fee and Deposit.* The application fee and deposit, as well as any costs and expenses required to be paid by the applicant pursuant to Section 6 may be deemed costs of the improvements, and may be reimbursable to the extent permitted by the Community Improvement District Act and as authorized by the Governing Body.
3. *Timing of Submissions.* The petition and all additional information required by this Policy must be submitted in sufficient time for staff to follow established procedures for publication of notice, to review the project's site plans, and to analyze the merits of the proposed CID in the context of existing economic development and infrastructure projects.
4. *Public Hearing.* Upon receipt of the petition and all additional information required by this Policy, the Governing Body may order a public hearing on the creation of a CID and the imposition of a CID sales tax. The Governing Body shall give public notice and hold such hearing in the manner required by the Community Improvement District Act.
5. *Governing Body Findings; Development Agreement Required.* After the public hearing is conducted, the Governing Body shall determine the advisability of creating a CID pursuant to the Community Improvement District Act. If advisable, the Governing Body may create a CID by adopting an ordinance. Contemporaneously with the adoption of an ordinance creating a CID, the Governing Body shall consider a Development Agreement between the City and the applicant setting forth the specific terms and conditions under which the City will reimburse the applicant on a pay-as-you-go basis for the costs of certain CID Improvements.

F: APPLICANT REQUIREMENTS

1. The applicant shall provide a tax clearance letter from the State of Kansas Department of Revenue to determine and ensure the applicant is compliant with all primary Kansas Tax Laws. An annual submission of the tax clearance from the State of Kansas Department of Revenue is required.
2. If a CID is created, the applicant must complete an annual report by March 1 of each year covering the previous calendar year.
3. If a CID is created, the applicant must agree in the Development Agreement to pay to the City an annual administrative fee equal to 0.5% of the annual CID revenue generated within the CID, to cover the administration and other City costs related to the CID. This fee is in

lieu of the annual renewal fee of \$100.00 set forth in the City's Economic Development Policy for other economic development incentives.

G: PAYMENT OF CERTAIN COSTS

The City shall require the applicant to enter into a funding agreement or other evidence of the applicant's agreement to pay costs incurred by the City for additional legal, financial and/or planning consultants, or for direct out-of-pocket expenses and other costs relating from services rendered to the City to review, evaluate, process and consider the petition for a CID, as well as the continued maintenance of the escrow account for CID revenues and for the processing of payments of CID eligible costs. Such costs and expenses may be deemed costs of the project, to the extent permitted by the Community Improvement District Act.

H: AUTHORITY OF GOVERNING BODY

The Governing Body reserves the right to deviate from any policy when it considers such action to be of exceptional benefit to the City or extraordinary circumstances prevail that is in the best interests of the City. Additionally, the Governing Body, by its inherent authority, reserves the right to reject any proposal or petition for creation of a CID at any time in the review process when it considers such action to be in the best interests of the City.

SECTION 10. RURAL HOUSING IMPROVEMENT DISTRICT POLICY

A: POLICY STATEMENT

It is the policy of the City to consider the establishment of a RHID for a development containing a minimum of ten renter occupied low-income or income-qualified units. It is the further policy of the City that a RHID shall only be established for projects where the applicant/developer pays for the cost of eligible RHID improvements (at no cost to the City) and agrees to be reimbursed on a pay-as-you-go basis for such costs from the City's receipt of RHID revenues.

B. CRITERIA

It shall be the policy of the City to create a RHID, if, in the opinion of the Governing Body, it is in the best interest of the City to do so. The Governing Body shall consider the following factors when creating a RHID:

1. Assure taxpayers that the City is not financing an already viable project.
2. Assure taxpayers that the City is not financing an unreasonably high profit margin for developers. Each developer will be required to submit a detail of development costs and net operating income including an Internal Rate of Return to be compared to the market for reasonableness.
3. Assure taxpayers that the development provides the City safeguards committing the developer to complete the project.

The Development Plan required by statute for each project must determine that the incremental ad valorem property tax revenues generated by the RHID, together with other funds committed by the Developer, will cover the estimated eligible costs of the project. All Development Plans must assume that the initial estimated incremental property tax revenues will remain flat over

the term of the RHID (i.e., no plan may assume increasing incremental property tax revenues will be available to cover project costs).

All development requests must utilize drought tolerant landscaping and water efficient fixtures in order to minimize impact on water resources. City staff will provide the necessary guidance.

C: ELIGIBLE COSTS

It is the intent of the City to allow only the following development expenditures within a RHID to qualify for reimbursement out of RHID revenues:

1. Acquisition of property within the RHID
2. Payment of relocation assistance
3. Site Preparation
4. Sanitary and storm sewers and lift stations
5. Drainage conduits, channels and levees
6. Street grading, paving, curbs and gutters
7. Street lighting
8. Underground public and limited private utilities, all located within the public right-of-way
9. Sidewalks
10. Water mains and extensions

D: METHOD OF FINANCING

The governing body will consider creation of a RHID where eligible costs will be financed on a pay-as-you-go basis from incremental ad valorem tax revenues generated within the RHID. The City will not issue special obligation bonds for RHID improvements.

E: PROCESS

The process for the creation of an RHID District shall be as follows:

1. *Application and Supplemental Information.* An applicant requesting that the City create a RHID must file:
 - a. an Application for Economic Incentives and Supplemental Questionnaire, as provided by the City's Economic Development Policy,
 - b. a Housing Needs Analysis meeting the requirements of K.S.A. 12-5244(a) and the guidelines of the Kansas Department of Commerce, and incorporating the findings contained in the Current Hays Housing Assessment.
 - c. a Development Plan meeting the requirements of K.S.A. 12-5245, and
 - d. a business plan evidencing that the applicant has the financial ability to complete the proposed project in a timely manner and that the project meets the criteria for establishment of a RHID, as set forth in this Policy.

The applicant shall furnish such additional information as requested by the City in order to clarify the application or to assist staff or the Governing Body with the evaluation of the application.

2. *Application Fee and Deposit.* The application fee and deposit as well as any costs and expenses required to be paid by the applicant pursuant to Section 6 of the Economic Development Policy are not reimbursable pursuant to the Rural Housing Incentive District Act. The applicant will pay all out of pocket costs incurred by the City related to the City's review of the application, all documents related to consideration of a RHID and the development agreement, including but not limited to the City's cost of legal counsel and financial advisors necessary to evaluate and create the proposed RHID.
3. *Timing of Submissions.* The application and other information required by this Policy must be submitted in sufficient time for staff to follow established procedures for publication of notice, to review the submitted documents and analyze the merits of the proposed RHID in the context of existing economic development policy.
4. *Secretary of Commerce Approval.* If the Governing Body determines that it is in the best interest of the City to approve the the Housing Needs Analysis and move forward with the proposed Development Plan, the Governing Body shall adopt a resolution approving the Housing Needs Analysis and submit such analysis to the Kansas Secretary of Commerce for approval. If the Secretary of Commerce agrees within the findings of the Governing Body set forth in such resolution, the Governing Body may proceed with the establishment of an RHID.
5. *Development Agreement.* Upon receipt of approval from the Secretary of Commerce, but before the Governing Body takes further action with respect to the creation of the RHID, the City and the Developer shall negotiate a development/performance agreement to implement the proposed Development Plan and including the requirements of this Policy, including particularly the requirements of Section 14 of this Policy related to Performance Agreements.
6. *Public Hearing.* When the Development Plan, a draft Development Agreement, and all additional information required by the RHID Act and this Policy are ready to be presented to the Governing Body the Governing Body will consider adopting a resolution ordering a public hearing on creation of the RHID and adoption of the plan. The Governing Body shall give such notice and hold such hearing in the manner required by the RHID Act.
7. *Governing Body Findings.* After the public hearing is conducted, if advisable, the Governing body may create an RHID district by adopting an ordinance creating the district, adopting the Development Plan, and approving the Development Agreement.

F: PAYMENT OF CERTAIN COSTS

The City shall require the applicant to enter into a funding agreement or other evidence of the applicant's agreement to pay costs incurred by the City for additional legal, financial and/or planning consultants, or for direct out-of pocket expenses and other costs relating from services rendered to the City to review, evaluate, process and consider the request for RHID. Such costs and expenses are the applicant's sole responsibility, and are not generally reimbursable pursuant to the RHID Act.

G: AUTHORITY OF THE GOVERNING BODY

The Governing Body reserves the right to deviate from any policy when it considers such action to be of exceptional benefit to the City or extraordinary circumstances prevail that is in the best interests of the City. Additionally, the Governing Body, by its inherent authority, reserves the right to reject any proposal or request for the creation of an RHID at any time in the review process when it considers such action to be in the best interest of the City or whenever, in the opinion of the City Commission sufficient properties are already available for the type of development being considered.

I: REVIEW

The RHID policy will be in place as long as there is a need for low-income and income-qualified housing. The City expects the Housing Needs Assessment will be updated every three to five years.

SECTION 11. JOB BOUNTY PROGRAM

The Job Bounty Program of the City is to encourage new and/or existing businesses to hire employees. To participate in the Job Bounty Program, a prospective employer must agree to hire at least ten (10) full-time employees at an hourly wage of no less than \$10.00/hr. For the purpose of this program, a full-time employee is one that works forty (40) hours per week or two thousand eighty (2080) hours per year. Anything below these levels will be considered part-time and will not be eligible for benefits under this program.

For those employers creating ten (10) or more full-time jobs paying no less than \$10.00/hr., the Job Bounty Program, subject to the City's budgetary limitations, shall receive the following:

1. For each full-time position created paying no less than \$10.00/hr. base salary, not including employee benefits, tips, commissions, bonuses, or other incentives, the City will pay to the employer \$1,000 per job provided that funds shall be paid in 20% increments over a five (5) year period. The employer will be required to provide, at the end of each year, in order to receive Job Bounty funds for that year, an audited payroll showing those ten (10) or more jobs were filled throughout the one year period.
2. For full-time jobs exceeding \$15.00/hr base salary, not including employee benefits, tips, commissions, or other incentives, the City will pay \$1500 per job on the same basis as noted previously including creation of a minimum of ten (10) jobs per company per agreement.

No Job Bounty proceeds will be paid for the creation of jobs that do not meet established hour and wage requirements as outlined above. It is specifically noted that an employer will apply for a specified number of jobs with the initial application. If the employer creates less than the number of jobs included in the application, no Job Bounty funds will be distributed. Job Bounty funding is allocated on a one-time occurrence per company. Retroactive funding activities, as stated in Section 17 of this policy, are not allowed under this policy.

No jobs may be created, or employees hired, under Job Bounty application until formal review by the City Manager's Office and formal approval has been given by the City Commission subject to all of the activities contained in this policy.

SECTION 12. MEMORANDUM OF UNDERSTANDING

Authority to issue memorandums of understanding to consider requests for economic development incentives shall lie only with the City Commission. Such memorandums of understanding shall only be issued by the City Commission, and as an expression of good faith intent, but shall not in any way bind the City to the granting of an incentive. Such memorandums of understanding shall expire six months after issuance, but may be renewed. A public hearing shall not be required prior to the issuance of memorandums of understanding.

SECTION 13. NOTICE AND HEARING

No incentive shall be granted by the City prior to a public hearing thereon. Notice of the public hearing shall be published at least seven days prior to the hearing in the official city newspaper, giving the time and place, and the hearing may be held at a regular or special meeting of the City Commission. The City Manager shall thereupon notify the Ellis County Commissioners, the superintendent of the appropriate school district, and the clerk of any taxing jurisdiction, excluding the state, which derives or could derive property taxes from the affected business advising them of the scheduled public hearing and inviting their review and comment. Upon request, the City Manager shall provide any such public agency with a copy of the application, which shall remain confidential unless released by the City Commission. The applicant business shall be invited, but not required, to attend the public hearings.

SECTION 14. PERFORMANCE AGREEMENT

Any incentive granted pursuant to this policy shall be accompanied by a Performance Agreement between the applicant and the City, which shall include provisions governing the situation if an applicant fails to meet the wage, number of jobs, and/or capital investment projections set forth in the original application. Each incentive shall be reviewed annually. The City Commission shall receive the annual review report, and if the City Commission determines that a business or project is not in compliance with the provisions of the Performance Agreement, then the incentive may be modified pursuant to the Performance Agreement as the City Commission deems appropriate. Modifications to the incentive may include, but are not limited to, termination of the incentive, reduction of any incentive (including but not limited to reductions in tax abatement due to failure to meet requirements as set forth in Section 7) and claw-back of any existing incentive. To the extent necessary, the County Appraiser and the State Court of Tax Appeals shall be notified of appropriate actions to modify any incentive.

SECTION 15. COST BENEFIT ANALYSIS

The Cost Benefit Analysis will offer a wide spectrum of information as it pertains to development, the adequacy, or inadequacy of, financial incentives, and finally, the net gain, current and future, of entering into these types of endeavors on behalf of the citizens of the City. The Cost Benefit Analysis should address the following items:

1. **DIRECT COSTS TO THE CITY.** Any identified direct cost should be included in the analysis. Examples of these types of costs include municipal infrastructure to the business site, and costs of providing city emergency services such as fire and police protection.
2. **BENEFIT TO THE CITY.** Direct benefits include wages/salaries/benefits paid to employees, any taxes collected (property, sales, franchise fees), purchases of products/services from local vendors.
3. **COST VERSUS BENEFIT.** From a community perspective, incentives are used because a net benefit is expected. A desired benefit to cost ratio must be at least in the 1.25:1 ratio. Proposed economic development projects that achieve this benchmark traditionally employ a higher proportion of local labor, including managers, at an above-average hourly wage.

This analysis should identify the particulars involving the developer's proposal. This should include confirmation of the size of the store, financial information, number of employees, pay scale, tax collections, and other areas involving development. The developer is responsible for the development of this analysis including any cost incurred.

SECTION 16. ANNUAL REVIEW FOR COMPLIANCE

All incentives granted shall be subject to an annual review to ensure that the ownership, use of property, and the economic performance of the business, including the capital investment, employment, and wages, are pursuant to requirements and criteria of this policy, the application, and the conditions of the granting of incentives. The review shall also include a comprehensive review of the entire incentive period for the business (if applicable), including milestones and project phases for the business. The annual review shall provide an opportunity for the company receiving the incentive to describe their achievements, especially in the areas of environmentally sound practice, community engagement and services, and job training. If the business:

- A. no longer qualifies for the incentive pursuant to law or this policy;
- B. substantially fails to meet the expectations set forth in the application for an incentive, including failure to meet employment, wage, or capital investment plans in the application; or
- C. substantially fails to meet the criteria or objectives of this policy;

the City Commission, after notice and a public hearing, may modify any incentive by ordinance or resolution.

The City reserves the right to issue any level of penalties that it deems necessary. These may include; 1) rescissions, which is a complete cancellation of the incentive, 2) penalties, which are fines charged when the business does not meet a certain level of performance or relocates, and finally, 3) recalibrations, which are the provisions for changing the incentive in some manner in order to accommodate an evolving economic climate. The use of these tools will provide a safety net to the community, ensuring that its investment in the business will result in the positive benefits it expects.

Each business receiving an incentive shall be required to complete an annual report by March 1. The information in the report will cover the time period of January 1 through December 31 of the previous year. The annual report will be reviewed by May 1.

By May 1 of each year, an annual report listing all financial incentives that remain in effect will be presented to the City Commission. The annual report shall include information regarding when the incentive was granted, when the incentive expires, current property taxes paid for the property, in lieu of tax payments, amount of any industrial revenue bonds issued, the assessed value of the property, number of employees, salary and payroll of employees, and any additional information concerning the operation of the business receiving the incentive, and other information as requested by the City Commission.

The failure of a business (a) to provide accurate and timely information to the City in the preparation of the annual report or (b) to comply with the performance standards set forth in the Performance Agreement, shall be grounds for the modification or revocation of the incentive granted.

The City may require an annual renewal application to be filed or other information necessary to assure the continued qualification of the exempt business. Any material omission or misstatement of fact in information provided to the City in any such statement or renewal application may be cause for repeal of any incentive ordinance adopted, renewed or extended in reliance thereon.

SECTION 17. TRANSFER OF OWNERSHIP OR USE

Incentives granted by the City may be transferred as a result of a change in the majority ownership of the business. Any new owner shall file a new application, along with the renewal fee, for an incentive. The City shall be notified by the business of any change in ownership and any substantive change in the use of a tax exempt property.

SECTION 18. RETROACTIVE GRANTING OF INCENTIVES; “BUT FOR” PRINCIPLE

No incentives, including the granting of Job Bounty funding, will be distributed on a retroactive funding basis. Incentives will be granted pursuant to the guidelines of this policy and effective on the date indicated and approved by the City Commission.

Each application for incentive shall demonstrate that the incentive will make such a difference in determining the decision of the business to locate, expand or remain in the City that the business would not otherwise be established, expanded or retained without the availability of the abatement.

SECTION 19. WAIVER OF STATEMENT REQUIREMENTS

The City Commission reserves the right to grant or not to grant an incentive under circumstances beyond the scope of this Statement, or to waive any procedural requirement. However, no such action or waiver shall be taken or made except upon a finding by the City Commission that a compelling or imperative reason or emergency exists, and that such action or waiver is found and declared to be in the public interest.

SECTION 20. AMENDMENTS

The City Commission of the City retains the right to amend any portion of this policy as needed.

SECTION 21. TAX CLEARANCE CERTIFICATION

Any person, company, or entity receiving economic incentives under this policy must provide a Tax Clearance Certificate from the State of Kansas Department of Revenue on an annual basis prior to December 31. The Tax Clearance Certificate requirement will be in effect until such time that incentives are no longer being utilized.

SECTION 22. MANDATORY REVIEW

This policy will be subject to a mandatory review by the City Commission every three years.