

# Memo

To: City Commission  
From: Paul Briseno, Assistant City Manager  
Date: 12-2-13  
Re: December 5, 2013 Work Session

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Please find the attached agenda and supporting documentation for the December 5, 2013 Work Session.

## Item 2 – Joint Meeting – City of Hays/Hays Recreation Commission

This is an annual meeting to be held per our agreements with the HRC and generally covers operation, utilization as well as financials. The pools ended with a deficit, and the City is contractually obligated to pay half of the loss. These funds are budgeted in the pool fund and reasons for the decreased revenue are outlined in the memo. HRC and City staff also recommend an increase to the daily pass from \$3 to \$4 with no changes to the annual pass. Justification is noted in the memo and will be presented. Finally a review of the Bickle-Schmidt Sports Complex utilization and financials is given. The City is not contractually obligated to share in the Bickle-Schmidt loss incurred by the HRC.

## Item 3 – Canceled Carry in Municipal Building Update

In June, the Commission asked for the six-month extension of the new Concealed Carry mandated legislation. Staff is recommending, of the three options, a four-year extension. The various options are noted within the memo and will be further explained at the work session. The recommendation continues current practices and requires a safety plan which the Chief has developed. Staff considered costs, safety, comparable communities, legislation and communication from state organizations.

## Item 4 – 41st Street Construction

KDOT opened construction bids for the 41st Street project from Hall to the Bypass. The City's share of this project is \$798,000. As you recall, the City is utilizing future years' KDOT funding for

a portion of the project, and a local match of \$1.8 million was expected. City Commission Financial Policy Projects was the primary source of the local match. Favorable bids and minimized preconstruction costs have reduced the City's overall cost. Staff is requesting the authorization to award the contract with APAC-Kansas. This project is expected to take 180 working days and will provide three-lanes of 8" concrete with curb and gutter, new storm pipe, 10' wide concrete multi-use path, and Stormwater Best Management Practices.

#### Item 5 – 2014 Street Maintenance Program

This is an annual presentation of the upcoming year's street maintenance plan prior to solicitation of bids. The maintenance includes chip seal, polypatch, curb and brick repair with a budgeted \$578,000. The plan considers information from the automated pavement condition survey, previous year's accomplished work, and available funding. Staff will present the plan and identified streets for maintenance.

#### Item 6 – 2014 Statement of Legislative Priorities

Annually, the Commission solidifies its priorities for legislators. Noted changes this year include an emphasis on conservation and long-term source preservation as well as Fair Fares funding.

**CITY OF HAYS  
CITY COMMISSION WORK SESSION  
THURSDAY, DECEMBER 5, 2013 – 6:30 P.M.  
AGENDA**

1. **ITEM FOR REVIEW: [November 21, 2013 Work Session Notes \(PAGE 1\)](#)**  
DEPARTMENT HEAD RESPONSIBLE: Kim Rupp, Director of Finance
2. **ITEM FOR REVIEW: [Joint Meeting – City of Hays/Hays Recreation Commission \(PAGE 5\)](#)**  
PERSONS RESPONSIBLE: Jeff Boyle, Director of Parks  
Roger Bixenman, HRC Superintendent
3. **ITEM FOR REVIEW: [Concealed Carry in Municipal Buildings Update \(PAGE 25\)](#)**  
DEPARTMENT HEAD RESPONSIBLE: Don Scheibler, Chief of Police
4. **ITEM FOR REVIEW: [41<sup>st</sup> Street Construction – Award of Bid \(PAGE 67\)](#)**  
DEPARTMENT HEAD RESPONSIBLE: I.D. Creech, Director of Public Works
5. **ITEM FOR REVIEW: [2014 Street Maintenance Program \(PAGE 77\)](#)**  
DEPARTMENT HEAD RESPONSIBLE: I.D. Creech, Director of Public Works
6. **ITEM FOR REVIEW: [2014 Statement of Legislative Priorities \(PAGE 105\)](#)**  
PERSON RESPONSIBLE: Paul Briseno, Assistant City Manager
7. **OTHER ITEMS FOR DISCUSSION**
8. **EXECUTIVE SESSION (IF REQUIRED)**
9. **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  
November 21, 2013

Present: Kent Steward, Henry Schwaller IV, Eber Phelps. Shaun Musil, Ron Mellick, John Bird, Toby Dougherty

**November 7, 2013 Work Session Notes**

There were no corrections or additions to the minutes of the work session held on November 7, 2013; the minutes stand approved as presented.

**Sister Cities Advisory Board Proposal**

The City Commission previously asked the Sister Cities Advisory Board to determine what its core mission will be. Sister Cities Advisory Board members Greg Sund and Anne Leiker presented ideas for the future of Sister Cities. The committee proposes to expand and extend its original mission in order to meet the needs of the original Sister Cities Program in Hays and the United States. They hope to improve Hays' performance in welcoming to and integrating into our community; visitors, new residents, immigrants, and international students, and work with the International component of economic development.

City Manager Toby Dougherty suggested after the committee has completed their strategic planning process to come back to the Commission with a progress report and continue with regular updates.

**City Employee Health Insurance for 2014**

Paul Briseno Assistant City Manager presented the 2014 Health Insurance bids.

The City of Hays received Blue Cross Blue Shield (BCBS) of Kansas' renewal rates for 2014. The renewal includes an increase of 23%. The increased premiums are the result of higher claims in 2012 and 2013. The City went out for

bids and Coventry Health Care came back with a fully-insured plan comparable to our current Traditional Plan at a .77% decrease from 2013 rates. Staff recommends Coventry Health Care as the 2014 provider offering a single option fully-insured plan comparable to our current Traditional plan.

At the November 26, 2013 Commission meeting the Commissioners will be requested to authorize the City Manager to sign the 2014 Coventry Health Care Plan application in the estimated premium amount of \$1,567,000 to provide health insurance to our employees.

#### **Short-term Disability insurance for 2014**

The City has provided Short-Term Disability insurance to all full-time City employees since 2006. This is paid in full by the City of Hays. Each year the City, through Freedom Claims, goes out for bids to find the most competitive rate possible. This year the City received four bids. The lowest bid is Aetna at \$0.333/\$10, an estimated annual cost of \$43,655. This price is only valid if the City approves Coventry Health Care as the City's health insurance provider for 2014 as this is a packaged price. The rate is guaranteed for two years.

The Commissioners will be requested to authorize the City Manager to complete an application applying for Short-Term Disability insurance with Aetna with the estimated premium amount of \$43,655 at the November 26, 2013 Commission meeting.

#### **Golden Belt Estates 5<sup>th</sup> Addition Engineering Services Agreement (Danby Lane and Jagger Court)**

Western Plains Service Corporation has petitioned the City for street, storm sewer, water, and sanitary sewer improvements to an area containing 34 lots within Blocks 1 and 2 of the Golden Belt Estates 5th Addition. The resolutions accepting the petitions have previously been approved by the City Commission. 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 \$49,400.

The Commissioners will be requested to approve the Engineering Services Agreement with Ruder Engineering & Surveying, LLC for an amount not to exceed \$49,400 for the development of Blocks 1 and 2, Golden Belt Estates 5th Addition at the November 26, 2013 Commission meeting.

### **Public Works Building Remodel – Award of Bids**

Bids have been received for the remodel of the Public Works building. The low bid is from Paul-Wertenberger Construction, Inc. in the amount of \$58,800. The Phase II remodel will complete the remodel of Public Works. It will provide space for Stormwater and Water Conservation as well as a break room and conference room. Completion of the Phase II remodel is key to meeting the long term operational goals and space needs of both the Public Works and Utilities Departments. Phase I was completed in-house earlier this year.

At the November 26, 2013 Commission meeting, Commissioners will be requested to accept the bid from Paul-Wertenberger Construction, Inc. in the amount of \$58,800 to be funded in equal proportions from Public Works General Administration, Stormwater, and Water Conservation Funds.

### **RFP for Hays Regional Airport Environmental Assessment**

The Hays Regional Airport's commercial service is subsidized under the US Department of Transportation Essential Air Service (EAS) Program and currently provided by Great Lakes Airlines consisting of 32 flights per week to and from Denver utilizing 19 passenger Beach 1900 Turboprop aircraft. EAS contracts are for a two year period and the next round of EAS bids for Hays are due December 2, 2013. The City of Hays anticipates bids that may involve turbojet aircraft (regional jet service), which would trigger the need for an environmental assessment for first time jet service. Therefore, staff solicited proposals from firms specializing in environmental assessments of this type and

four proposals were received. The low bid came from Jviation, Denver, Colorado and Overland Park, Kansas with a bid of \$29,000.

Commissioners will be requested to authorize the City Manager to enter an agreement with Jviation to perform an Environment Assessment for First Time Scheduled Jet Service in an amount not to exceed \$29,000 at the November 26, 2013 Commission meeting.

**Local Bidder Preference**

Commissioner Musil suggested a few weeks ago that a discussion be held regarding a preference for local bidders. He would like to see a change in the policy; if the price difference is small we should be flexible enough to consider the local bidder.

Commissioner Steward stated if we don't have a level playing field eventually the outside vendors will quit bidding, potentially resulting in less competitive bids.

This item will not be moved forward unless Commissioner Musil wishes to further develop the plan.

**Other Items for Discussion**

Commissioner Schwaller commented on the drop in local sales tax collections and the changing economy. He also commented on the 50<sup>th</sup> anniversary of the assassination of President John F. Kennedy.

The work session was adjourned at 7:58 p.m.

Submitted by: \_\_\_\_\_

Brenda Kitchen – City Clerk

# Commission Work Session Agenda

## Memo

**From:** Jeff Boyle, Director of Parks

**Work Session:** December 5, 2013

**Subject:** City of Hays/Hays Recreation Commission Joint Meeting

**Person(s) Responsible:** Roger Bixenman, HRC Superintendent  
Jeff Boyle, Director of Parks

### Summary

A joint meeting between the City of Hays and the Hays Recreation Commission (HRC) is scheduled for December 5, 2013. Items for discussion include:

- 1) Review the 2013 Pool Season Financial Report from the Hays Recreation Commission. City Staff recommends approval to proceed with the pool reimbursement request for an amount of **\$20,421.15** with funding from the 2013 Pool Budget line item 1152400-53300.
- 2) Review current fees from other Aquatic Parks in Kansas. HRC Staff and City Staff recommend approval to increase the daily admission fees at the Hays Aquatic Park from \$3.00 to \$4.00 for 3-year olds and above for the 2014 swim season.
- 3) Review the 2013 Bickle-Schmidt Sports Complex Financial report from the Hays Recreation Commission.

### Background

The City of Hays contracts with the Hays Recreation Commission (HRC) to manage area pools and for all scheduling needs of the various recreational areas in Hays such as ball fields, soccer fields and the new Bickle-Schmidt Sports Complex. Each year the HRC and the City of Hays conduct a joint meeting to discuss general operations and/or any other facility needs or expectations that may need to be addressed.

### Discussion

There are several items for discussion for the December 5, 2013, HRC/City of Hays Joint meeting.

- 1) Review the 2013 Pool Season Financial Report from the Hays Recreation Commission. Consider approving the reimbursement request from the Hays

Recreation Commission for an amount of **\$20,421.15** which is one-half of the total loss for pool operations (\$40,842.30) for the 2013 season. The current contract states that “After financial reports are compiled as described in the agreement, any operating loss or surplus incurred by the contractor will be shared on a 50% City-50% Contractor basis as long as the Contractors portion of the loss does not exceed \$26,000”. The attendance at the Hays Aquatic Park was down significantly do to weather conditions in 2013 with 46,270 patrons visiting the pool when compared to 58,999 in 2012. Likewise, the attendance at Wilson Pool dropped from 5,085 patrons in 2012 to 3,740 in 2013.

- 2) Review current fees from other Aquatic Parks in Kansas and consider approving HRC Staff and City Staff’s recommendation to increase the daily admission fees at the Hays Aquatic Park from \$3.00 to \$4.00 for 3-year olds and above.
- 3) Review the 2013 Bickle-Schmidt Sports Complex Financial Report. The Bickle-Schmidt Sports Complex report from the HRC shows a total loss of \$21,884.47. The City’s YTD expenditures (November13, 2013) from the Bickle-Schmidt Sports Complex total \$168,896.14. Staff expects to end the year with total expenditures from the maintenance budget in the \$181,000-\$185,000 range. The current contract states that “The Hays Recreation Commission and the Hays City Commission agree to conduct a joint meeting to discuss the financial profit/loss of the facility for the year including disbursement of funds as needed or as agreed upon by both parties”. There is no reimbursement being requested by the Hays Recreation Commission.

### **Legal Consideration**

There are no known legal obstacles to proceeding as recommended by City Staff.

### **Financial Consideration**

The HRC is requesting a 50% reimbursement, as outlined in the Pool Services Agreement, for the operational losses (\$40,842.30) at Wilson Pool and the Hays Aquatic Park. The total reimbursement request from the City of Hays is one-half or 50% of this amount or **\$20,421.15**.

### **Options**

**Option 1:** Approve the request to pay the Hays Recreation Commission for 50% of the pool losses in the amount of \$20,421.15 and deny or alter the requested Hays Aquatic Park fee increase amount.

**Option 2:** Do nothing. It should be noted that there is a legal agreement in place for the pools that states “After financial reports are compiled as described in the agreement, any operating loss or surplus incurred by the contractor will be shared on a 50% City-50% Contractor basis as long as the Contractors portion of the loss does not exceed \$26,000”.

**Option 3:** Provide further guidance on how staff should proceed.

### **Recommendation**

Staff recommends conducting a joint meeting with the Hays Recreation Commission and the Hays City Commission on December 5, 2013 with specific discussions relating to the agenda items mentioned in the memorandum. City Staff recommends approval to proceed with the pool reimbursement request from the Hays Recreation Commission for one-half of the total contractual revenue loss for an amount of **\$20,421.15** with funding from the 2013 Pool Budget line item 1152400-53300.

Staff will present a rate change at a work session or regular meeting based on the December 5<sup>th</sup> Commission discussion/desire.

### **Action Requested**

Conduct a joint meeting with the Hays Recreation Commission and the Hays City Commission on December 5, 2013 including formal action to proceed with the pool reimbursement request from the Hays Recreation Commission for one-half of the total contractual revenue loss for an amount of **\$20,421.15** with funding from the 2013 Pool Budget line item 1152400-53300.

### **Supporting Documentation**

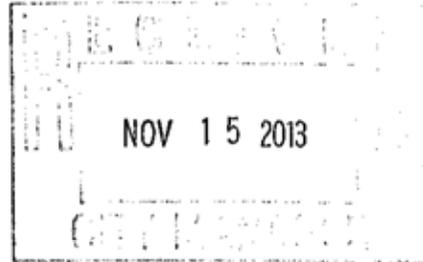
- 1) Copy of the November 15, 2013 letter to Toby Dougherty, City Manager, from Roger Bixenman, HRC Superintendent discussing the 2013 Pool Season.
- 2) Summary of Pool Operations – 2013 Pool Season
- 3) Summary of statewide pool admission fees
- 4) Summary of past admission rates
- 5) Summary of Attendance/Season Pass/Pool Rentals
- 6) Summary of Pool Subsidy (2000-2013)
- 7) Copy of the Pool Services Agreement.
- 8) Copy of a the November 18, 2013 letter to Toby Dougherty, City Manager, from Roger Bixenman, HRC Superintendent discussing the 2013 Bickle-Schmidt Sports Complex season.
- 9) Summary of Bickle-Schmidt Sports Complex – 2013 Season
- 10) Summary of Bickle-Schmidt Sports Complex participation
- 11) Copy of the Bickle-Schmidt Sports Complex Facilities Agreement



HAYS RECREATION COMMISSION  
November 15, 2013

Home Page: [www.haysrec.org](http://www.haysrec.org) • E-Mail: [hrc@haysrec.org](mailto:hrc@haysrec.org)

Mr. Toby Dougherty  
Hays City Manager  
1507 Main  
Hays, Kansas 67601



Dear Toby:

Enclosed you will find a Year to Date financial statement with regard to the Hays Aquatic Park and Wilson Pool. For pool operation in 2013, the City of Hays will need to reimburse the HRC a total of \$ 20,451.72. Last year the City's portion was \$6,344.95.

In 2013, at the Hays Aquatic Park the average attendance for the 73 actual days open was 616 compared to 80 days in 2012 for an average daily attendance of 728. We had a total of 46,270 visitors to the HAP in 2013. Aquatic park admission was down from 2012 by \$20,331.10. June was the most attended month of the pool season. Our average noon time temperature this year was 81 degrees compared to 89 degrees in 2012. We did not open 7 days in 2013 compared to one day in 2012. Many days we opened late or closed early due to the weather and we also had many overcast days where the temperature was around 75 degrees which really hurt our attendance.

Weather affected Wilson pool in 2013 as well. Wilson pool had an average of 59 patrons per day compared to 70 patrons per day in 2012. We had a total of 3,740 visitors to Wilson pool compared to 5,085 in 2012.

In the attached report, I have included the financial picture as it relates to HRC only. Also attached is an admission summary for 2013.

Other than the weather which is out of our control we felt the patrons that took advantage of the pool enjoyed a great experience. Strictly from a financial stand point it wasn't a very good year, but weather played a tremendous role in this. The low attendance due to the weather also affected concession sales which were down considerably from 2012. However, our pool staff under the leadership of Grant Lacy is outstanding. His staff at the pool under his guidance continues to be strong, the park is beautiful and we once again have a wonderful facility in Hays. These parks have a profound impact on our community. It is our pleasure to be a part of it.

If I can be of any service to you after your review of the enclosed information, please do not hesitate to contact me.

Sincerely,

Roger Bixenman CPRP

**Hays Recreation Commission  
Summary of Pool Operation  
For the 2013 Pool Season**

<b>HRC Revenue</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Aquatic Park Admission	98,858.98	95,982.10	75,651.00
HAP Fitness Classes	1,633.75	1,922.00	1,602.25
Season Passes	57,525.00	55,053.00	52,051.00
Concessions Revenue	5,324.45	62,260.72	50,546.34
Scholarship Season Passes	8,880.00	15,562.00	13,130.00
Scholarship Revenue	-	755.00	-
Wilson Pool Admission	2,923.40	3,387.25	2,215.00
Wilson Pool Concessions	-	1,251.50	1,283.00
Pool Rental Revenue	7,207.50	5,867.75	5,253.00
Swim Lesson Revenue	10,647.50	10,152.00	8,287.50
Miscellaneous Income	3,159.00	2,553.00	1,980.00
<b>Total Actual Revenue YTD</b>	<b>196,159.58</b>	<b>254,746.32</b>	<b>211,999.09</b>
<b>HRC Direct Expenses</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Concession Expenses	-	26,041.66	23,992.07
Concession Salaries	-	25,618.60	17,105.15
HAP Salaries	126,715.87	128,825.33	126,775.00
HAP Promotions	3,866.00	2,760.00	2,869.73
HAP Maintenance	817.26	1,295.33	1,407.78
HAP Supplies	4,599.04	5,162.63	4,765.91
Guard Incentive Expense	34.93	16.00	-
Scholarship Pass Expense	-	11,235.00	9,230.00
Wilson Salaries	6,915.75	8,167.81	7,140.00
Wilson Supplies	200.00	-	-
HAP Fitness Salary	1,551.63	1,254.00	1,542.00
Guard Uniform Expense	5,159.81	4,015.13	4,943.18
Swim Lesson Salary	4,816.61	3,706.84	4,153.15
Swim Lesson Expense	585.00	610.00	300.00
<b>Total Direct Expenses YTD</b>	<b>155,261.90</b>	<b>218,708.33</b>	<b>204,223.97</b>
<b>HRC Administrative Expenses</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Administrative Salary	26,475.00	27,560.00	28,175.00
Workers Compensation	1,781.28	1,834.25	2,033.12
FICA	12,652.09	14,927.64	14,139.43
Benefits	3,960.00	3,960.00	3,960.00
Insurance Liability Charge	2,553.00	446.00	371.00
<b>Total Administrative Expenses YTD</b>	<b>47,421.37</b>	<b>48,727.89</b>	<b>48,678.55</b>
<b>Total Expenses Year to Date</b>	<b>202,683.27</b>	<b>267,436.22</b>	<b>252,902.52</b>
<b>Revenue Over/(Under) Expenses as of 09-24-2013</b>	<b>(6,523.69)</b>	<b>(12,689.90)</b>	<b>(40,903.43)</b>
<b>City of Hays Portion</b>	<b>(3,261.85)</b>	<b>(6,344.95)</b>	<b>(20,451.72)</b>
<b>HRC Portion</b>	<b>(3,261.85)</b>	<b>(6,344.95)</b>	<b>(20,451.72)</b>

<b>Facility</b>	<b>Daily Admission Rate</b>	<b>Individual Season Pass Rate</b>	<b>Group Season Pass Rate</b>
<b>Derby "Rock City Rapids"</b>	0-2 yrs = Free	\$65	NA
	3-17 yrs = \$8.00		
	18 yrs and up = \$9.00		
<b>McPherson Water Park</b>	0-3 yrs = Free	\$75	\$210
	4-7 yrs = \$2.00		
	8-17 yrs = \$3.00		
	18-61 yrs = \$4.00		
	62 yrs and up = \$3.00		
<b>Salina "Kenwood Cove"</b>	0-2 yrs = Free	3-17 yrs = \$60	\$180
	3-17 yrs = \$3.50	18 yrs and up = \$100	
	18-61 yrs = \$5.50		
	62 yrs and up = \$2.50		
<b>Great Bend "The Wetlands"</b>	0-3 yrs = Free	\$40.00 for 15 admissions	NA
	3-17 yrs = \$3.00		
	18 yrs and up = \$4.00		
<b>Colby Aquatic Park</b>	0-3 yrs = Free	\$65	\$160
	4 yrs and up = \$5.00		
<b>Hutchinson "Salt City Splash"</b>	0-2 yrs = Free	3-7 yrs = \$25 with paying adult	NA
	3-7 yrs = \$1.75 with paying adult	8-17 yrs = \$50	
	8-17 yrs = \$3.50	18 yrs and up = \$60	
	18 yrs and up = \$4.75		
<b>Hays Aquatic Park</b>	0-2 yrs = Free	\$40	NA
	3 yrs and up = \$3.00		

## Admission Rates of the Hays Aquatic Park and Wilson Pool

*In 2005 the admission rates at the Hays Aquatic Park and Wilson Pool were changed. The following are the rates from 2005-2007.*

- **Hays Aquatic Park (2005-2007)**
  - Ages 2 and under = Free
  - Ages 3 and up (Monday – Friday) = \$2.50
  - Ages 3 and up (Saturday & Sunday) = \$3.00
- **Wilson Pool (2005-2007)**
  - Ages 2 and under = Free
  - Ages 3 and up = \$1.75

*In 2008 these rates were changed again to the following:*

- **Hays Aquatic Park (2008-Present)**
  - Ages 2 and under = Free
  - Ages 3 and up = \$3.00
- **Wilson Pool (2008-Present)**
  - Ages 2 and under = Free
  - Ages 3 and up = \$2.00

# HRC Aquatics

## Attendance Numbers

- **2013**
  - 50,010 swimmers
    - 46,270 swimmers at the Hays Aquatic Park
    - 3,740 swimmers at Wilson Pool
- **2012**
  - 64,084 swimmers
    - 58,999 people at the Hays Aquatic Park
    - 5,085 people at Wilson Pool
- **2011**
  - 64,559 swimmers
    - 60,971 people at the Hays Aquatic Park
    - 3,588 people at Wilson Pool
- **2010**
  - 65,731 swimmers
    - 62,290 people at the Hays Aquatic Park
    - 3,441 people at Wilson Pool

## Season Pass Numbers

- **2013**
  - 1,734 passes sold for \$55,629
    - 1413 regular passes
    - 321 scholarship passes
- **2012**
  - 1,951 passes sold for \$61,037
    - 1,565 regular passes
    - 386 scholarship passes
- **2011** (*we started to sell passes for \$40 instead of \$35*)
  - 1,924 passes sold for \$61,514
    - 1,593 regular passes
    - 330 scholarship passes
- **2010**
  - 2,002 passes sold for \$58,205
    - 1,695 regular passes
    - 291 scholarship passes

## Pool Rental Numbers

- **2013**
  - 6 Full Aquatic Park Rentals
  - 6 Aquatic Park Party Rentals
  - 12 Wilson Pool Rentals
- **2012**
  - 4 Full Aquatic Park Rentals (\$500 each)
  - 13 Aquatic Park Party Rentals (\$50 each)

- 13 Small Wilson Pool Party Rentals (\$75 each)
  - 7 Big Wilson Pool Party Rentals (\$100 each)
- **2011**
  - 5 Full Aquatic Park Rentals
  - 3 Aquatic Park Party Rentals
  - 13 Small Wilson Pool Party Rentals
  - 1 Big Wilson Pool Party Rental
- **2010**
  - 6 Full Aquatic Park Rentals
  - 13 Aquatic Park Party Rentals
  - 9 Small Wilson Pool Party Rentals
  - 0 Big Wilson Pool Party Rentals

<i>Facility</i>	<i>year</i>	<i>total attendance</i>	<i>average attendance per day</i>	<i>dollar amount subsidized by City of Hays</i>
Hays Aquatic Park	2000	83,162	934	\$26,000
Hays Aquatic Park	2001	84,767	874	\$26,000
Hays Aquatic Park	2002	76,294	820	\$26,000
Hays Aquatic Park	2003	62,622	732	\$20,274.20
Hays Aquatic Park	2004	50,377	655	\$15,701.97
Hays Aquatic Park	2005	56,090	728	\$4,306.39
Hays Aquatic Park	2006	56,857	701	\$3,486.37
Hays Aquatic Park	2007	54,088	643	\$15,661.16
Hays Aquatic Park	2008	56,116	728	\$5,820.13
Hays Aquatic Park	2009	54,513	736	\$14,424.36
Hays Aquatic Park	2010	62,290	716	\$5,380.89
Hays Aquatic Park	2011	60,971	753	\$3,261.85
Hays Aquatic Park	2012	58,999	728	\$6,344.95
Hays Aquatic Park	2013	46,270	617	\$20,421.15

Wilson Pool	2003	2,951	38
Wilson Pool	2007	1,518	37
Wilson Pool	2008	2,332	38
Wilson Pool	2009	2,018	32
Wilson Pool	2010	3,441	45
Wilson Pool	2011	3,588	53
Wilson Pool	2012	5,085	71
Wilson Pool	2013	3,740	59

File ✓  
Calendar ✓

**POOL SERVICES AGREEMENT**

THIS AGREEMENT is made and entered into this 14<sup>th</sup> day of September, 2006, by and between the City of Hays, a municipal corporation, hereinafter referred to as the "City" and the Hays Recreation Commission hereinafter referred to as the "Contractor".

WHEREAS, the City owns and maintains Wilson Pool and the Hays Aquatic Park for the benefit of its citizens; and

WHEREAS, the City desires to engage the Contractor to maintain said swimming pools and perform other service, as more fully set out within this document.

NOW, THEREFORE, it is agreed by and between the City and the Contractor as follows:

I. Contractor agrees to:

- a) Keep and maintain all equipment owned by the City in good working condition and perform all such repairs that may properly be accomplished on the premises with Contractor's personnel using City equipment, if needed, provided all repairs or maintenance beyond the Contractor's expertise should be performed under the Contractor's supervision at the City's expense only after receiving approval from the City Parks Director.
- b) Have the sole responsibility of hiring, training, and supervising all personnel needed to provide the services herein described. The Contractor shall be responsible for all employee benefits including Workman's Compensation, Social Security withholding, unemployment compensation, or any other payroll requirements as set forth by the United States or Kansas Statutes. A certificate of Workman's Compensation Insurance, which shows the Contractor has valid and adequate coverage, must be filed with the City annually.
- c) Furnish all labor and work necessary to maintain Wilson Pool and the Hays Aquatic Park and related grounds in a workmanlike manner consistent with generally accepted operation standards (Red Cross, Ellis and Associates, or other nationally recognized programs).
- d) Operate said pools for an admission by the general public during the swimming season. Swimming season is generally defined as the time between Memorial Day through Labor Day.

General use by the public of these facilities may be suspended, for weather related incidents (including lightning, thunderstorms or excessive wind) or labor shortages. Priority for pool operations during labor shortages shall be (1) Hays Aquatic Park and (2) Wilson Pool. A decision to close any of the above mentioned pools will be at the discretion of the Aquatic Director according to the policies established within this Agreement. The Contractor shall notify the City of any closures as soon as possible.

- e) Coordinate a comprehensive aquatics program, outside of the general public swim times, including, but not limited to, swim lessons, aquasize sessions, swim meets, swim team practices, special events, and facility rentals.

- f) Maintain the grounds immediately surrounding all swimming pools including but not limited to litter pick-up. For Hays Aquatic Park, grounds maintenance shall also include turf maintenance.
- g) Maintain the swimming pool water in a safe and sanitary condition and prepare the pools for operation prior to the pool season and secure the pools after the end of the season.
- h) Keep in a clean and sanitary condition the pool premises to include, but not limited to, the pool deck, shower rooms, locker facilities, parking lot area, tube storage area, sundeck, loose equipment (deck chairs, inner tubes, roping, etc.), and other related items.
- i) Establish, collect, and account for admission charges, by pools, for all pools, provided that any admission charges to said pools shall be approved by the City Commission of the City of Hays.

Other Fees:

The Contractor has the right to charge fees for other activities not listed. All revenues received from any such charges will be added to the total revenue received by the Contractor as required in Section V of this agreement.

- j) Keep records of all receipts from admissions, rentals, and concessions along with all expenses for pool operation (both direct and indirect) and provide the City adequate, full, complete, and itemized accounting of said receipts and expenses, by pool, by November 1<sup>st</sup> of each year. Indirect expenses include:
  - 10% of the HRC Office Manager's annual salary.
  - 5% of the HRC Superintendent's annual salary
  - 66% of the HRC Aquatic Director's annual salary and benefits.
- k) Maintain an admission policy, which does not discriminate against any person because of race, national origin, age, sex, or physical handicap.
- l) Assist the City in developing an annual budget in accordance with the City's budget schedule, for approval by the City Commission. Make requests and estimates for materials and repairs to all pool facilities to the Park Director prior to April 1 of each year, for possible inclusion in the next year's City budget.
- m) Provide for the purchase of all other materials not specifically mentioned in this agreement, and provide for the necessary manpower for minor structural building and pool repairs. "Minor" structural building and pool repairs shall mean any repair less than \$500.00.
- n) Provide and pay for any telephone service for all public swimming pools.
- o) Provide concessions at all pools to a level deemed appropriate by the Superintendent of the Hays Recreation.
- p) Create and maintain management practices that create a friendly and cordial atmosphere for the mutual enjoyment of all citizens.

II. City agrees to:

- a) Furnish such equipment it deems necessary for use by the Contractor in providing the services herein described.
- b) Provide and pay for major structural repairs to all pools dealing with plumbing, filtering, electrical, or mechanical equipment. "Major" structural repairs shall include any repair in excess of \$500.00. Such "Major" repairs must be authorized by the Park Director of the City and follow City Purchasing Policy.
- c) Provide and pay for needed materials and equipment such as swimming pool ladders, paint, paint supplies, guard stands, diving boards, etc.
- d) Pay all electric and gas utility costs for all pools.
- e) Provide for water and sewage services at all pools as well as all water sanitation chemicals for all pools.
- f) Provide sanitation during the off-season months.
- g) Provide that all pools are in good sound mechanical condition and are in compliance with the Americans with Disabilities Act (ADA) prior to the opening of each pool season.

III. Both parties agree:

- a) The City shall have at all times control of all pool premises and access to the same.
- b) The City Park Director and the City Manager or designee shall be the principal contacts for overseeing this agreement. The Superintendent of the Hays Recreation Commission shall be the principal contact for the Contractor in administering this agreement.

IV. Contract term:

- a) This agreement shall be in force for a five (5) year period beginning January 1, 2007, through December 31, 2011, unless terminated by either party by giving notice to the other at least 60 days prior to February 1 for the ensuing summer season. It is understood that an evaluation of the previous year's services shall be conducted by both parties. This evaluation shall be reviewed by both parties and may be used as a basis for modification of the following year. All modifications of this agreement must be done by mutual consent. Unless otherwise stipulated in other sections, this agreement shall be automatically renewed for five (5) years, unless either party notifies the other of its intention to renegotiate the lease at least one hundred twenty (120) days prior to the termination of the primary term of this lease or any extension thereof.

V. Compensation:

In consideration for operating and maintaining pools in the manner described in this agreement, the City and Contractor agree to the following financial terms:

After financial reports are compiled as described in the agreement, any operating loss or surplus incurred by the Contractor will be shared on a 50% City – 50% Contractor basis as long as the Contractor's portion of the loss does not exceed \$26,000.

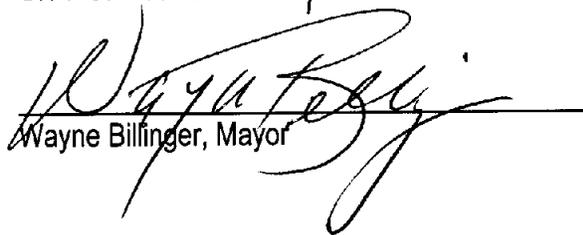
Contractor shall have the option to request early partial payment if expenses over revenue for the pools cause a cash flow shortage.

VI. Annual Appropriation:

- a) This agreement is subject to annual appropriations of the City and/or Contractor.

IN WITNESS WHEREOF, both parties have executed this contract this 14<sup>th</sup> day of September, 2006.

CITY OF HAYS



Wayne Billinger, Mayor

ATTEST:



Mark Loughry, Director of Finance/City Clerk

CONTRACTOR  
HAYS RECREATION COMMISSION



Mark Junk, Chairman

November 18, 2013

Mr. Toby Dougherty  
Hays City Manager  
1507 Main  
Hays, Kansas 67601

Dear Toby:

Enclosed you will find a Year to Date financial statement with regard to the Bickle/Schmidt Sports Complex. For 2013, in the second full year of operation at the complex the Hays Recreation Commission had a deficit of \$20,561.

You will notice on the expenses in particular the line item for new equipment which includes the cost of the maintenance building to be constructed in December. The cost of this building is right around \$34,000. This building will help with dry storage materials such as chalk, fencing, mounds and utility vehicles. The HRC ran concessions and will continue to do so in 2014 and beyond.

Included are the youth and adult recreational participation numbers for games played, teams and participants for 2013 as well as our tournament participants. Our goal every year will be to increase the number of teams coming to the complex. We were consistent with participation numbers from 2012 to 2013. Recreational participants were up slightly from 2012 and tournament participation was down just a little bit. Some of this was attributed to several tournaments getting cancelled due to the weather.

For 2014, we will have 3 youth ASA softball tournaments scheduled and 5 youth baseball tournaments. We will have 6 adult softball tournaments for 2014 and a 3 on 3 youth soccer tournament. We will also be hosting a competitive soccer tournament on September 6<sup>th</sup>-7<sup>th</sup> 2014. We are working in conjunction with the Hays Soccer Club and our goal is to get 70 teams for this tournament. We will be hosting a 14&Under Hap Dumont State tournament July 10<sup>th</sup>-13<sup>th</sup> 2014. This tournament 2 years ago had 26 teams. We will continue to host most of our youth baseball/softball, all youth soccer and flag football games at the complex in addition to hosting all adult softball.

We feel it was an outstanding year at the complex and feel like tournament participation numbers will continue to grow each year as our contact list grows. We continue to receive great comments from out of town teams and hear how impressed they are with the facility. Ben Moeckel and his staff did an outstanding job of recruiting teams and making the experience a positive one for all teams involved. Also, the job Jake Helget and his crew do on making the complex look outstanding each and every day.

If I can be of any service to you after your review of the enclosed information, please do not hesitate to contact me.

Sincerely,

Roger Bixenman CPRP

**Hays Recreation Commission  
Summary of Bickle/Schmidt Sports  
Complex for 2013**

Report to the City of Hays for the 2013 Bickle/Schmidt Sports Complex!

<b>HRC Revenue</b>	<b>2012</b>	<b>2013</b>
Adult Softball Tournaments	6,740.00	3,730.00
Adult Softball Leagues	18,825.00	19,950.00
Coed Softball Leagues	8,275.00	8,277.00
Concessions	64,441.84	58,932.50
Corporate Sponsorships	60.00	600.00
Facility Rental	1,170.00	16,545.75
Instructional T-ball		4,500.00
Miscellaneous Income	-	-
Scholarship Revenue	1,200.00	1,110.00
Youth Baseball League Revenue	10,000.00	10,764.50
Youth Baseball Tournaments	13,255.00	12,653.49
Youth Fall Soccer League Revenue	12,882.50	13,650.00
Youth Flag Football League Revenue	7,727.50	9,232.50
Youth Football Tournaments	-	-
Youth Soccer Tournaments	-	-
Youth Softball League Revenue	7,000.00	7,457.50
Youth Softball Tournaments	13,170.00	7,840.50
Youth Sports Camps	500.00	500.00
Youth Spring Soccer League Revenue	17,385.00	17,692.00
<b>Total Actual Revenue YTD</b>	<b>182,631.84</b>	<b>193,435.74</b>
<b>HRC Direct &amp; Indirect Expenses</b>	<b>2012</b>	<b>2013</b>
Adult Softball Expense	3,794.02	5,900.00
Adult Softball Salaries	10,345.85	10,823.53
Adult Sports New Equipment	4,641.82	838.58
Adult Tournaments Expense	3,478.75	1,010.40
Adult Tournaments Salary	1,476.64	1,988.06
Advertising	-	1,970.60
Brochures and Printing	-	500.00
Coed Softball Expense	1,088.81	300.00
Coed Softball Salary	5,687.50	4,156.75
Concessions Expense	38,557.93	34,976.40
Concessions License	800.00	400.00
Concessions Salary	17,819.84	10,356.19
Equipment and Repairs	2,725.78	928.75
Gas and Oil	869.93	524.74
Instructional T-Ball Expense	-	500.00
Instructional T-Ball Salary	-	305.63
Maintenance Cleaning	-	165.66
Maintenance Salaries	34,109.09	28,373.92
Maintenance Supplies	2,490.32	3,276.43
Marking Chalk	6,571.50	3,447.27
Misc. Maintenance Expense	3,374.12	91.56
New Equipment	17,674.16	44,790.00
NYSICA Expense	200.00	150.00
Sponsor Sign Expense	288.00	889.79
Uniforms	-	383.70
Youth Baseball Expense	1,900.00	833.92
Youth Baseball Salaries	4,500.00	4,727.00
Youth Fall Soccer Expense	827.86	2,478.15
Youth Fall Soccer Salaries	3,864.81	4,025.00
Youth Flag Football Expense	2,302.30	4,349.41
Youth Flag Football Salaries	4,262.69	3,282.89
Youth Softball Expense	200.00	375.93
Youth Softball Salary	4,000.00	4,293.60
Youth Spring Soccer Expense	4,271.26	3,000.45
Youth Spring Soccer Salaries	4,846.00	5,612.50
Youth Scholarship Sports Expense	2,500.00	2,500.00
Youth Sports Camp Expense	300.00	250.00
Youth Sports New Equipment	4,747.29	4,000.00
Youth Tournaments Expense	6,463.06	4,479.70
Youth Tournaments Salary	2,437.00	5,428.85
<b>Total Direct Expenses YTD</b>	<b>203,416.33</b>	<b>206,685.36</b>
<b>HRC Administrative Expenses</b>	<b>2012</b>	<b>2013</b>
Workers Compensation	877.50	933.79
FICA	7,141.23	6,378.10
<b>Total Administrative Expenses YTD</b>	<b>8,018.73</b>	<b>7,311.89</b>
<b>Total Expenses Year to Date</b>	<b>211,435.06</b>	<b>213,997.25</b>
<b>Revenue Over/(Under) Expenses as of 11-15-2013</b>	<b>(28,803.22)</b>	<b>(20,561.51)</b>

**HRC League Play 2013**

<b>Sport</b>	<b>Games Played</b>	<b>Teams</b>	<b>Participants</b>
Youth Spring Soccer 2013	249	83	656
Youth Fall Soccer 2013	207	69	474
Pee Wee Soccer Fall and Spring	-	-	115
Soccer Camps	-	-	50
TMP vs. Liberal High School Soccer ?	1	2	45
<b>Total</b>	<b>457</b>	<b>154</b>	<b>1,340</b>
Youth Spring Flag Football 2013	24	8	64
Youth Fall Flag Football 2013	77	25	200
Federated Football (2 Dates)	9	18	396
Punt Pass & Kick Competition	-	-	26
<b>Total</b>	<b>110</b>	<b>51</b>	<b>686</b>
Youth Baseball/Softball	300	59	708
Instructional T-ball	63	21	252
Baseball/Softball Traveling Teams	32	16	240
MIAA Softball Game	2	2	40
<b>Total 2013</b>	<b>397</b>	<b>98</b>	<b>1,240</b>

Adult Softball 2013Summer	481	44	660
Coed Softball 2013 Summer	196	28	420
Men's Fall 2013	68	10	150
<b>Total</b>	<b>745</b>	<b>82</b>	<b>1,230</b>

<b>Recreation League Totals</b>	<b>1,709</b>	<b>385</b>	<b>4,496</b>
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<b>Tournaments 2013</b>	<b>Games Played</b>	<b>Teams</b>	<b>Participants</b>
<b>Youth Softball</b>			
ASA HRC 16th Annual Fastpitch Tournament (June 1st-2nd)	28	15	225
ASA Summer Swing (June 15th-16th)	28	16	240
ASA Summer Sizzler (June 29th-30th)	51	23	345
<b>Total</b>	<b>107</b>	<b>54</b>	<b>810</b>
<b>Youth Baseball</b>			
Hays Baseball Association (April 20th-21st)	49	23	345
NBC (May 4th-5th)	Cancelled		
NBC (May 18th-19th)	15	9	135
NBC (June 8th-9th)	37	18	270
NBC Featured Points (June 22nd-23rd)	52	22	330
HBA Wild West Fest Tourney (July 5th-7th)	8	6	90
<b>Total</b>	<b>161</b>	<b>78</b>	<b>1,170</b>
<b>Youth Soccer</b>			
3 v 3 Soccer Tournament (July)	100	45	225
Kohl's Cup Soccer Tournament (September)	Cancelled		
<b>Total</b>	<b>100</b>	<b>45</b>	<b>225</b>
<b>Adult Softball</b>			
Snowball Coed (March 9)	15	7	105
USSSA D&E (March 23rd)	14	8	120
USSSA D&E (April 13th)	Rained Out		
Pre-Season Softball Tournament (HRC April 27th-28th)	47	23	345
Coors Light D & E Mens (May 11th)	Cancelled		
Women Behind Badge Coed Softball Tourney	12	5	100
USSSA D&E Last Chance (July 20th)	21	11	165
USSSA Women's C&D State (July 27th)	Cancelled		
USSSA NW Regional (August 3rd)	11	6	90
Mid-Season Coed Softball Tourney (HRC September)	25	13	195
<b>Total</b>	<b>145</b>	<b>73</b>	<b>1,120</b>

<b>Tournament Totals</b>	<b>513</b>	<b>250</b>	<b>3,325</b>
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	<b>Games Played</b>	<b>Teams</b>	<b>Participants</b>
<b>Grand Totals Leagues and Tournaments</b>	<b>2,222</b>	<b>635</b>	<b>7,821</b>

**HRC/CITY OF HAYS BICKLE-SCHMIDT SPORTS COMPLEX  
FACILITIES AGREEMENT**

This Agreement made and entered into on this 9<sup>th</sup> day of November, 2010, by and between the City of Hays, Kansas, a municipal corporation hereinafter referred to as "City" and the Hays Recreation Commission, a public agency hereinafter referred to as "HRC".

WHEREAS; the City of Hays Parks Department is solely responsible for maintaining the Bickle-Schmidt Sports Complex; and

WHEREAS; the City does not have all the resources necessary to groom and maintain infields at the Bickle-Schmidt Sports Complex adequately to accommodate the needs of the HRC; and

WHEREAS; the HRC, in exchange for scheduling privileges and other considerations, desires to provide additional services to make the Bickle-Schmidt Sports Complex more usable on a routine basis.

NOW WITNESS THE FOLLOWING:

I. **SCHEDULING AND USE OF THE BICKLE-SCHMIDT SPORTS COMPLEX.**

The HRC shall have exclusive rights to schedule and use the Bickle-Schmidt Sports Complex for soccer, baseball, softball, football, etc. Such scheduling shall include all practices and games for HRC/Non-HRC activities.

**The City further agrees to:**

1. Provide and pay for all routine facility repairs excluding repairs caused by negligence of/by Hays Recreation Commission staff or their contractors.
2. Provide and pay for all utilities for the Bickle-Schmidt Sports Complex, including but not limited to, sewer, water, electricity/natural gas and phone services for the maintenance building only.
3. Provide daily trash pickup of all facilities excluding weekends and holidays.
4. Provide for all maintenance activities at the Bickle-Schmidt Sports Complex excluding routine dragging, striping and base setting on the infields.
5. Consider other capital improvements as part of the regular City budget.

**The Recreation Commission agrees to:**

1. Keep all areas used by the Recreation Commission free from trash and debris during weekends and city holiday events. Such areas shall include, but not be limited to, the following: bleachers, restrooms, dugouts, infields, outfields and soccer fields.
2. Provide for dragging and packing of infield areas and maintenance and replacement of base pads.
3. Line, stripe, and otherwise mark all fields as needed for play.
4. Schedule all recreational activities at the Bickle-Schmidt Sports Complex as requested/necessary for HRC programs or by individuals and organizations.
5. Provide and pay for telephone services at necessary locations excluding the maintenance building.
5. Operate concession stands at the Bickle-Schmidt Sports Complex. The HRC shall have the authority to negotiate a lease agreement with any organization to operate the concession stands. All such agreements shall be in compliance with City of Hays and HRC ethics codes.
6. HRC shall have the authority to negotiate advertising with businesses for the facility as long as the advertising is not that of a direct competitor of the businesses that have paid for the naming rights within the named areas.
7. Submit in writing a list of all capital improvements, including description and costs, for consideration in the regular City budget by April 1<sup>st</sup> of each year.
8. Provide the City adequate records of all receipts from admissions, rentals, and concessions along with all expenses for baseball, softball, soccer, and football programs (both direct and indirect) and provide the City a full, complete, and itemized accounting of said receipts and expenses by December 1<sup>st</sup> of each year.

**II. IMPROVEMENTS AND ADDITIONS TO THE BICKLE-SCHMIDT SPORTS COMPLEX:**

All desired improvements/additions to the Bickle-Schmidt Sports Complex must be approved by City staff and may require City Commission approval.

III. **EQUIPMENT**

Maintenance building at the Bickle-Schmidt Sports Complex shall be available for joint use by both parties. Use of equipment shall be available with prior approval of party to which the equipment belongs.

IV. **COMPENSATION**

The Hays Recreation Commission and the Hays City Commission agree to conduct a joint meeting to discuss the financial profit/loss of the facility for the year including the disbursement of funds as needed or as agreed upon by both parties.

V. **CONTRACT TERMS**

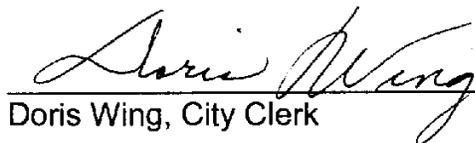
This agreement will remain in effect for a three (3) year period beginning January 1, 2011 through December 31, 2013 unless either party gives 60 days written notice to the other party of the intention to terminate or renegotiate the agreement. All terms of this agreement are subject to annual appropriation of funds by the Hays City Commission and the Hays Recreation Commission. Unless otherwise stipulated in other sections, this agreement shall be automatically renewed for five (5) years, unless either party notifies the other of its intention to renegotiate the lease at least one hundred twenty (120) days prior to the termination of the primary term of this lease or any extension thereof.

IN WITNESS WHEREOF, the parties have caused this agreement to be duly and properly executed as of the day and date first written above.

THE CITY OF HAYS

  
Barbara K. Wasinger, Mayor of Hays

ATTEST:

  
Doris Wing, City Clerk

HAYS RECREATION COMMISSION

  
Lynn Maska, Chairman

# Commission Work Session Agenda

## Memo

**From:** Don Scheibler, Chief of Police

**Work Session:** December 5<sup>th</sup>, 2013

**Subject:** Concealed Carry in Municipal Buildings Update

**Person(s) Responsible:** Toby Dougherty, City Manager  
Don Scheibler, Chief of Police

### Summary

The Kansas Legislature passed House Bill (HB) 2052 and made it legal to carry concealed weapons within public buildings. The general rule of HB 2052 says that any state or municipal building must have “adequate security measures” in place to prevent any weapon from entering the building and properly post Attorney General-approved signage if that state or municipal building desires to restrict the licensed concealed carry of handguns within its walls. HB 2052 does allow for a 4-year exemption from these requirements. This exemption would require the City of Hays to have a security plan for each building and provide “adequate security” for the occupants. City staff is recommending the 4-year exemption for 12 City owned buildings.

### Background

In 2006, the Kansas Legislature passed the Personal and Family Protection Act, which provided the opportunity for citizens of Kansas to apply for a license to carry concealed firearms. The first licenses were issued on January 3, 2007, and since that time over 80,000 Kansans have applied for a concealed carry permit. As of October 1, 2013, over 72,000 concealed carry licenses have been issued in Kansas. Beginning July 1, 2013, the State of Kansas also began recognizing all valid concealed carry licenses issued by another State or the District of Columbia.

The Personal and Family Protection Act initially did not allow for concealed carry in municipal buildings so long as the building was properly marked with the appropriate signage. In 2013, the Kansas Legislature passed HB 2052, which authorizes the carrying of concealed firearms in municipal buildings. HB 2052 states that after July 1, 2013, a municipal building must have “adequate security measures” in place and properly approved signage if that municipality desires to restrict the licensed concealed carry of handguns within the building.

A provision in HB 2052 allowed for a 6-month exemption from the required changes. On June 27, 2013, the City of Hays requested and received this exemption in order to allow City staff to review and make recommendations to the Commission on how to proceed. This exemption ends January 1, 2014.

### **Discussion**

A review of HB 2052 shows that the City of Hays must take some action prior to January 1, 2014 in reference to the issue of allowing concealed carry in City owned buildings. HB 2052 provides the City with three possible options for each building:

- 1) Allow the concealed carry of firearms in the building,
- 2) Provide “adequate security measures” and not allow concealed carry in the building, or
- 3) Request a four-year exemption that will enable exempted buildings to refrain from installing “adequate security measures,” while still prohibiting concealed carry licensees from carrying handguns into the building.

City staff has reviewed and prepared an analysis for each of these options.

#### **Allow the Concealed Carry of Firearms**

The City has the option of removing the prohibited concealed carry sign from the entrance and allowing the concealed carry of firearms within the building. This will allow those people with a concealed carry license to enter into the City owned building with a gun to conduct their business. There are no initial costs for this option, and it will not require any further action by the City to be in compliance with HB 2052.

It should be noted that the City has a policy that prohibits City employees, with the exception of law enforcement, from carrying a firearm while at work. While HB 2052 is conflicted in this area, the League of Kansas Municipalities (LKM) and the City Attorney both agree that the City may restrict or prohibit the carrying of concealed firearms by their employees while on City property or while engaged in their official duties if the city does so through the policy manual.

While allowing the concealed carry of firearms is the least expensive of the three options, it is not known if it will improve the security of the building or make it safer. It is the opinion of City staff that allowing more guns in the building will increase the likelihood of an incident or an accident occurring, causing the occupants of the building to be endangered.

#### **Prohibit the Concealed Carry of Firearms**

HB 2052 provides the City with the option to prohibit the carrying of concealed firearms in a city building. To do this, the City must provide “adequate security measures” to ensure that no weapons are permitted to be carried into such building and mark the entrances with the appropriate signage. A building that contains both public access

entrances and restricted access entrances is required to provide adequate security measures at the public access entrances only.

HB 2052 defines “adequate security measures” as “the use of electronic equipment and personnel at public entrances to detect and restrict the carrying of any weapons into the state or municipal building, including, but not limited to, metal detectors, metal detector wands or any other equipment used for similar purposes to ensure that weapons are not permitted to be carried into such building by members of the public.” This means the City would be required to staff all public access points with security personnel and electronic equipment. This option would help to restrict weapons into City buildings through public access points but not at employee entrances.

City staff investigated and determined that it would cost an estimated \$5,000 to install a permanent security station with a metal detector. Currently, the City has ten buildings (not counting the Aquatic Park and Wilson pool buildings) that are accessible to the public. To install a security station at each building entrance would cost \$50,000.00. This could be done for significantly less money by using hand-held metal detector wands, but it would increase the danger to the security staff. To staff the entrances to those facilities would require a minimum of 13 employees. These employees would cost an estimated \$585,000.00 annually with benefits. This cost may be reduced by using a security service vendor or by using personnel with less training. Additional annual costs would include equipment and training for the security personnel.

While this option provides the best security and does improve the safety of the buildings’ occupants, the mere cost alone makes it hard to justify. Citizens have become frustrated with City staff in the past, and Commission meetings can become contentious; however, City staff is unable to recall an incident where a violent act has occurred in a City building that would have justified the use of deadly force (firearm). City staff believes that the members of our community are not prepared, nor is it necessary, for them to be searched every time they attend a Commission meeting, pay a water bill, or visit the Welcome Center. City staff does not recommend this option.

#### **Four-Year Exemption to HB 2052**

HB 2052 provides for a 4-year exemption that will enable exempted buildings to refrain from installing “adequate security measures,” while still prohibiting concealed carry licensees from carrying handguns into the building. This exemption requires the City to establish a security plan and adopt a resolution to exempt the buildings from the requirements of the act. The only requirement of the security plan is that it provides “adequate security” to the occupants of the building.

HB 2052 does not define “adequate security,” and it is the opinion of the Attorney General (AG) that it does not mean the same as “adequate security measures.” According to the AG’s Opinion 2013-14, “adequate security” must be construed according to its ordinary meaning. The ordinary meaning of “adequate” is “satisfactory or acceptable in quality or quantity.” Thus, whether security is “adequate” must be

determined on a case-by-case basis for each building, and the City makes this determination.

City staff has completed a risk assessment and security plan for the following 12 City owned buildings:

- |                                     |                                     |
|-------------------------------------|-------------------------------------|
| 1) Public Works Facility            | - 1002 Vine Street                  |
| 2) Water Plant Facility             | - 1000 Vine Street                  |
| 3) Hays Regional Airport Terminal   | - 3950 East 8 <sup>th</sup> Street  |
| 4) Airport Fire Department          | - 3950 East 8 <sup>th</sup> Street  |
| 5) Waste Water Treatment Plant      | - 1498 Hwy 40 Bypass                |
| 6) Parks Department Office Facility | - 1546 Hwy 183 Alt.                 |
| 7) City Hall / Hays Fire Department | - 1507 Main Street                  |
| 8) Hays Welcome Center              | - 2700 Vine Street                  |
| 9) Golf Course Club House           | - 1450 Golf Course Road             |
| 10) Hays Aquatic Park Building      | - 300 Main Street                   |
| 11) Wilson Pool Building            | - 101 East 28 <sup>th</sup> Street  |
| 12) Recycling Facility              | - 1780 West 55 <sup>th</sup> Street |

The risk assessment for each building shows that potential for violence at these building is minimal. The City has always made it a priority to provide a safe and secure environment for our employees to work in and for our citizens to live in. It is the opinion of City staff that there is adequate security at each of these buildings to merit the prohibition of the carrying of concealed firearms as authorized by the Personal and Family Protection Act.

While adequate security is currently in place, the risk assessments for each building did help identify several areas where improvement could be made to increase the safety for the occupants of each of the buildings. These improvements include, but are not limited to, installing “panic buttons” and electronic door locks, limiting access to buildings, and continuing employee training on safety and security. City staff recommends these improvements in the future no matter what option is chosen.

If the City should choose to take the 4-year exemption, the City must prepare a notice of exemption and adopt a resolution exempting each building. The exemption notice and resolution for each building must then be sent to the AG’s office and the Hays Police Department. The City must keep the security plan for each building on file. The security plan is not reviewed by the State of Kansas and is not subject to the Kansas Open Records Act; however, it must be made available to the AG and local law enforcement if requested.

City staff contacted 8 comparable communities and found that the common theme is that HB 2052 is very confusing and open to interpretation in many areas. As a result most communities are still in the process of determining what action to take reference HB 2052. Junction City has taken the 4-year exemption for all City owned buildings and Ellis County is pursuing the 4-year exemption for all county owned buildings, with the exception of the Ellis County Court House which will not allow concealed carry.

McPherson, Salina, Emporia, and Manhattan all said that they had, were in the process, or were considering exempting their city government buildings. Colby plans on removing the signs and allowing concealed carry in all buildings with the exception of their community building. Only Newton and Garden City indicated that it was their intention to take down all the signs on January 1<sup>st</sup>, 2014. Fort Hays State University has taken the 4-year exemption for their campus.

<b>Municipalities</b>	<b>4-Year Exemption</b>	<b>Allow Concealed Carry</b>	<b>Notes</b>
Newton		X	All Buildings
Garden City		X	All Buildings
Junction City	X		All Buildings
McPherson	X		City Hall & Municipal Court
Emporia	X		Municipal Building
Colby	X		Community Building
Manhattan	X		Municipal Building
Salina	X		City Government Building
<b>Other</b>			
Fort Hays State	X		4-Year Exemption for Entire Campus
Ellis County	X		4-Year Exemption for All Buildings

### **Legal Consideration**

There are no known legal obstacles to proceeding as recommended by City Staff.

### **Financial Consideration**

Providing adequate security measures as defined in HB 2052 and not allowing concealed carry in the 12 City owned buildings will require an estimated \$50,000.00 in electronic equipment. There will also be an annual cost of \$585,000.00 to staff the security access points. Any costs incurred are the result of an unfunded mandate by the State of Kansas and will be the responsibility of the City.

### **Options**

There are three options for each of the 12 City owned buildings.

Option #1: Remove the signs and allow the concealed carry of firearms.

Option #2: Provide adequate security measures as define in HB 2052 and not allow concealed carry in the building, or

Option #3: Pursue the 4-year exemption from the requirements of HB 2052. This exemption would require the City to have a security plan for each building and provide adequate security for the occupants.

### **Recommendation**

It is the recommendation of City staff that the City pursue a 4-year exemption from the requirements of HB 2052 for the 12 City owned buildings.

### **Action Requested**

Request the Commission discuss and provide direction for staff.

### **Supporting Documentation**

Kansas House Bill 2052

Attorney General Review of HB 2052

Attorney General Opinion on “Adequate Security Measures” and “Adequate Security”

LKM Legal Forum article “Concealed Carry Four Year Exemption

LKM Concealed Carry Briefing

Senate Substitute for HOUSE BILL No. 2052

AN ACT concerning firearms; dealing with the personal and family protection act; amending K.S.A. 2012 Supp. 21-6302, 21-6309, 45-221, 75-7c05, 75-7c06, 75-7c10 and 75-7c17 and repealing the existing sections; also repealing K.S.A. 2012 Supp. 45-221j and 45-221k.

*Be it enacted by the Legislature of the State of Kansas:*

New Section 1. (a) Unlawful discharge of a firearm is the reckless discharge of a firearm within or into the corporate limits of any city.

(b) This section shall not apply to the discharge of any firearm within or into the corporate limits of any city if:

(1) The firearm is discharged in the lawful defense of one's person, another person or one's property;

(2) the firearm is discharged at a private or public shooting range;

(3) the firearm is discharged to lawfully take wildlife unless prohibited by the department of wildlife, parks and tourism or the governing body of the city;

(4) the firearm is discharged by authorized law enforcement officers, animal control officers or a person who has a wildlife control permit issued by the Kansas department of wildlife, parks and tourism;

(5) the firearm is discharged by special permit of the chief of police or by the sheriff when the city has no police department;

(6) the firearm is discharged using blanks; or

(7) the firearm is discharged in lawful self-defense or defense of another person against an animal attack.

(c) A violation of subsection (a) shall be a class B nonperson misdemeanor.

New Sec. 2. (a) The carrying of a concealed handgun as authorized by the personal and family protection act shall not be prohibited in any state or municipal building unless such building has adequate security measures to ensure that no weapons are permitted to be carried into such building and the building is conspicuously posted in accordance with K.S.A. 2012 Supp. 75-7c10, and amendments thereto.

(b) Any state or municipal building which contains both public access entrances and restricted access entrances shall provide adequate security measures at the public access entrances in order to prohibit the carrying of any weapons into such building.

(c) No state agency or municipality shall prohibit an employee who is licensed to carry a concealed handgun under the provisions of the personal and family protection act from carrying such concealed handgun at the employee's work place unless the building has adequate security measures and the building is conspicuously posted in accordance with K.S.A. 2012 Supp. 75-7c10, and amendments thereto.

(d) It shall not be a violation of the personal and family protection act for a person to carry a concealed handgun into a state or municipal building so long as that person is licensed to carry a concealed handgun under the provisions of the personal and family protection act and has authority to enter through a restricted access entrance into such building which provides adequate security measures and the building is conspicuously posted in accordance with K.S.A. 2012 Supp. 75-7c10, and amendments thereto.

(e) A state agency or municipality which provides adequate security measures in a state or municipal building and which conspicuously posts signage in accordance with K.S.A. 2012 Supp. 75-7c10, and amendments thereto, prohibiting the carrying of a concealed handgun in such building, as authorized by the personal and family protection act, such state agency or municipality shall not be liable for any wrongful act or omission relating to actions of persons licensed to carry a concealed handgun concerning acts or omissions regarding such handguns.

(f) A state agency or municipality which does not provide adequate security measures in a state or municipal building and which allows the carrying of a concealed handgun as authorized by the personal and family protection act shall not be liable for any wrongful act or omission relating to actions of persons licensed to carry a concealed handgun concerning acts or omissions regarding such handguns.

(g) Nothing in this act shall limit the ability of a corrections facility, a jail facility or a law enforcement agency to prohibit the carrying of a handgun or other firearm concealed or unconcealed by any person into any secure area of a building located on such premises, except those areas

of such building outside of a secure area and readily accessible to the public shall be subject to the provisions of subsection (b).

(h) Nothing in this section shall limit the ability of the chief judge of each judicial district to prohibit the carrying of a concealed handgun by any person into courtrooms or ancillary courtrooms within the district provided that other means of security are employed such as armed law enforcement or armed security officers.

(i) The governing body or the chief administrative officer, if no governing body exists, of a state or municipal building, may exempt the building from this section until January 1, 2014, by notifying the Kansas attorney general and the law enforcement agency of the local jurisdiction by letter of such exemption. Thereafter, such governing body or chief administrative officer may exempt a state or municipal building for a period of only four years by adopting a resolution, or drafting a letter, listing the legal description of such building, listing the reasons for such exemption, and including the following statement: "A security plan has been developed for the building being exempted which supplies adequate security to the occupants of the building and merits the prohibition of the carrying of a concealed handgun as authorized by the personal and family protection act." A copy of the security plan for the building shall be maintained on file and shall be made available, upon request, to the Kansas attorney general and the law enforcement agency of local jurisdiction. Notice of this exemption, together with the resolution adopted or the letter drafted, shall be sent to the Kansas attorney general and to the law enforcement agency of local jurisdiction. The security plan shall not be subject to disclosure under the Kansas open records act.

(j) The governing body or the chief administrative officer, if no governing body exists, of any of the following institutions may exempt any building of such institution from this section for a period of four years only by stating the reasons for such exemption and sending notice of such exemption to the Kansas attorney general:

(1) A state or municipal-owned medical care facility, as defined in K.S.A. 65-425, and amendments thereto;

(2) a state or municipal-owned adult care home, as defined in K.S.A. 39-923, and amendments thereto;

(3) a community mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto;

(4) an indigent health care clinic, as defined by K.S.A. 2012 Supp. 65-7402, and amendments thereto; or

(5) a postsecondary educational institution, as defined in K.S.A. 74-3201b, and amendments thereto, including any buildings located on the grounds of such institution and any buildings leased by such institution.

(k) The provisions of this section shall not apply to any building located on the grounds of the Kansas state school for the deaf or the Kansas state school for the blind.

(l) For purposes of this section:

(1) "Adequate security measures" means the use of electronic equipment and personnel at public entrances to detect and restrict the carrying of any weapons into the state or municipal building, including, but not limited to, metal detectors, metal detector wands or any other equipment used for similar purposes to ensure that weapons are not permitted to be carried into such building by members of the public. Adequate security measures for storing and securing lawfully carried weapons, including, but not limited to, the use of gun lockers or other similar storage options may be provided at public entrances.

(2) The terms "municipality" and "municipal" are interchangeable and have the same meaning as the term "municipality" is defined in K.S.A. 75-6102, and amendments thereto, but does not include school districts.

(3) "Restricted access entrance" means an entrance that is restricted to the public and requires a key, keycard, code, or similar device to allow entry to authorized personnel.

(4) "State" means the same as the term is defined in K.S.A. 75-6102, and amendments thereto.

(5) (A) "State or municipal building" means a building owned or leased by such public entity. It does not include a building owned by the state or a municipality which is leased by a private entity whether for

profit or not-for-profit or a building held in title by the state or a municipality solely for reasons of revenue bond financing.

(B) On and after July 1, 2014, provided that the provisions of section 3, and amendments thereto, are in full force and effect, the term “state and municipal building” shall not include the state capitol.

(6) “Weapon” means a weapon described in K.S.A. 2012 Supp. 21-6301, and amendments thereto.

(m) This section shall be a part of and supplemental to the personal and family protection act.

New Sec. 3. (a) A license issued under K.S.A. 75-7c01 et seq., and amendments thereto, shall authorize the licensee to carry a concealed handgun in the state capitol in accordance with the provisions of K.S.A. 75-7c01 et seq., and amendments thereto.

(b) The provisions of this section shall take effect and be in force from and after July 1, 2014, unless the legislative coordinating council determines that on July 1, 2014, the state capitol does have adequate security measures, as that term is defined in section 2, and amendments thereto, to ensure that no weapons are permitted to be carried into the state capitol. Such determination shall be made on or after June 1, 2014, but no later than July 1, 2014.

(c) This section shall be a part of and supplemental to the personal and family protection act.

Sec. 4. K.S.A. 2012 Supp. 21-6302 is hereby amended to read as follows: 21-6302. (a) Criminal carrying of a weapon is knowingly carrying:

(1) Any bludgeon, sandclub, metal knuckles or throwing star, or any knife, commonly referred to as a switch-blade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement;

(2) concealed on one’s person, a dagger, dirk, billy, blackjack, slung-shot, dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly weapon or instrument of like character, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife, or a dangerous or deadly weapon or instrument;

(3) on one’s person or in any land, water or air vehicle, with intent to use the same unlawfully, a tear gas or smoke bomb or projector or any object containing a noxious liquid, gas or substance;

(4) any pistol, revolver or other firearm concealed on one’s person except when on the person’s land or in the person’s abode or fixed place of business; or

(5) a shotgun with a barrel less than 18 inches in length or any other firearm designed to discharge or capable of discharging automatically more than once by a single function of the trigger whether the person knows or has reason to know the length of the barrel or that the firearm is designed or capable of discharging automatically.

(b) Criminal carrying of a weapon as defined in:

(1) Subsections (a)(1), (a)(2), (a)(3) or (a)(4) is a class A nonperson misdemeanor; and

(2) subsection (a)(5) is a severity level 9, nonperson felony.

(c) Subsection (a) shall not apply to:

(1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;

(3) members of the armed services or reserve forces of the United States or the Kansas national guard while in the performance of their official duty; or

(4) the manufacture of, transportation to, or sale of weapons to a person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess such weapons.

(d) Subsection (a)(4) shall not apply to:

(1) Watchmen, while actually engaged in the performance of the duties of their employment;

(2) licensed hunters or fishermen, while engaged in hunting or fishing;

(3) private detectives licensed by the state to carry the firearm involved, while actually engaged in the duties of their employment;

(4) detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment;

(5) the state fire marshal, the state fire marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto;

(6) special deputy sheriffs described in K.S.A. 19-827, and amendments thereto, who have satisfactorily completed the basic course of instruction required for permanent appointment as a part-time law enforcement officer under K.S.A. 74-5607a, and amendments thereto;

(7) the United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed. The provisions of this paragraph shall not apply to any person not in compliance with K.S.A. 75-7c19, and amendments thereto; ~~or~~

(8) *law enforcement officers from another state or a retired law enforcement officer meeting the requirements of the federal law enforcement officers safety act, 18 U.S.C. §§ 926B and 926C; or*

~~(8)~~(9) any person carrying a concealed handgun as authorized by K.S.A. 2012 Supp. 75-7c01 through 75-7c17, and amendments thereto.

(e) Subsection (a)(5) shall not apply to:

(1) Any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. § 5841 et seq. in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor;

(2) any person employed by a laboratory which is certified by the United States department of justice, national institute of justice, while actually engaged in the duties of their employment and on the premises of such certified laboratory. Subsection (a)(5) shall not affect the manufacture of, transportation to or sale of weapons to such certified laboratory; or

(3) any person or entity in compliance with the national firearms act, 26 U.S.C. § 5801 et seq.

(f) Subsection (a)(1) shall not apply to any ordinary pocket knife which has a spring, detent or other device which creates a bias towards closure of the blade and which requires hand pressure applied to such spring, detent or device through the blade of the knife to overcome the bias towards closure to assist in the opening of the knife.

(g) It shall not be a violation of this section if a person violates the provisions of K.S.A. 2012 Supp. 75-7c03, and amendments thereto, but has an otherwise valid license to carry a concealed handgun which is issued or recognized by this state.

(h) As used in this section, "throwing star" means the same as prescribed by K.S.A. 2012 Supp. 21-6301, and amendments thereto.

Sec. 5. K.S.A. 2012 Supp. 21-6309 is hereby amended to read as follows: 21-6309. (a) It shall be unlawful to possess, with no requirement of a culpable mental state, a firearm ~~on the grounds in any of the following places:~~

- (1) Within any building located within the capitol complex;
- (2) within the governor's residence;

(3) on the grounds of or in any building on the grounds of the governor's residence;

(4) within any other state-owned or leased building if the secretary of administration has so designated by rules and regulations and conspicuously placed signs clearly stating that firearms are prohibited within such building; or

(5) within any county courthouse, unless, by county resolution, the board of county commissioners authorize the possession of a firearm within such courthouse.

(b) Violation of this section is a class A misdemeanor.

(c) This section shall not apply to:

(1) A commissioned law enforcement officer;

(2) a full-time salaried law enforcement officer of another state or the federal government who is carrying out official duties while in this state;

(3) any person summoned by any such officer to assist in making arrests or preserving the peace while actually engaged in assisting such officer; or

(4) a member of the military of this state or the United States engaged in the performance of duties; or

~~(5) a person with a license issued pursuant to or recognized under K.S.A. 2012 Supp. 75-7c01 et seq., and amendments thereto, except in buildings posted in accordance with K.S.A. 2012 Supp. 75-7c10, and amendments thereto, and in the areas specified in subsections (a)(2) and (a)(3).~~

(d) It is not a violation of this section for the:

(1) Governor, the governor's immediate family, or specifically authorized guest of the governor to possess a firearm within the governor's residence or on the grounds of or in any building on the grounds of the governor's residence; or

(2) United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed, to possess a firearm within any county courthouse and court-related facility, subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district. The provisions of this paragraph shall not apply to any person not in compliance with K.S.A. 2012 Supp. 75-7c19, and amendments thereto; or

(3) *law enforcement officers from another state or a retired law enforcement officer meeting the requirements of the federal law enforcement officers safety act, 18 U.S.C. §§ 926B and 926C, to possess a firearm.*

(e) *It is not a violation of this section for a person to possess a handgun as authorized under the personal and family protection act.*

(f) Notwithstanding the provisions of this section, any county may elect by passage of a resolution that the provisions of subsection (d)(2) shall not apply to such county's courthouse or court-related facilities if such:

(1) ~~Facilities~~ *Buildings* have adequate security measures to ensure that no weapons are permitted to be carried into such ~~facilities~~ *buildings*;

~~(2) facilities have adequate measures for storing and securing lawfully carried weapons, including, but not limited to, the use of gun lockers or other similar storage options;~~

~~(3)~~(2) county also has a policy or regulation requiring all law enforcement officers to secure and store such officer's firearm upon entering the courthouse or court-related facility. Such policy or regulation may provide that it does not apply to court security or sheriff's office personnel for such county; and

~~(4)~~(3) ~~facilities~~ *buildings* have a sign conspicuously posted at each entryway into such ~~facility~~ *building* stating that the provisions of subsection (d)(2) do not apply to such ~~facility~~ *building*.

~~(f)~~(g) As used in this section:

(1) "Adequate security measures" ~~means the use of electronic equipment and personnel to detect and restrict the carrying of any weapons into the facility, including, but not limited to, metal detectors, metal detector wands or any other equipment used for similar purposes~~ *shall have*

*the same meaning as the term is defined in section 2, and amendments thereto;*

(2) “possession” means having joint or exclusive control over a firearm or having a firearm in a place where the person has some measure of access and right of control; and

(3) “capitol complex” means the same as in K.S.A. 75-4514, and amendments thereto.

~~(g)~~<sup>(h)</sup> For the purposes of ~~subsection~~ *subsections* (a)(1), (a)(4) and (a)(5), “building” and “courthouse” shall not include any structure, or any area of any structure, designated for the parking of motor vehicles.

Sec. 6. K.S.A. 2012 Supp. 45-221 is hereby amended to read as follows: 45-221. (a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:

(1) Records the disclosure of which is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or rule of the senate committee on confirmation oversight relating to information submitted to the committee pursuant to K.S.A. 2012 Supp. 75-4315d, and amendments thereto, or the disclosure of which is prohibited or restricted pursuant to specific authorization of federal law, state statute or rule of the Kansas supreme court or rule of the senate committee on confirmation oversight relating to information submitted to the committee pursuant to K.S.A. 2012 Supp. 75-4315d, and amendments thereto, to restrict or prohibit disclosure.

(2) Records which are privileged under the rules of evidence, unless the holder of the privilege consents to the disclosure.

(3) Medical, psychiatric, psychological or alcoholism or drug dependency treatment records which pertain to identifiable patients.

(4) Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries or actual compensation employment contracts or employment-related contracts or agreements and lengths of service of officers and employees of public agencies once they are employed as such.

(5) Information which would reveal the identity of any undercover agent or any informant reporting a specific violation of law.

(6) Letters of reference or recommendation pertaining to the character or qualifications of an identifiable individual, except documents relating to the appointment of persons to fill a vacancy in an elected office.

(7) Library, archive and museum materials contributed by private persons, to the extent of any limitations imposed as conditions of the contribution.

(8) Information which would reveal the identity of an individual who lawfully makes a donation to a public agency, if anonymity of the donor is a condition of the donation, except if the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public officer or employee.

(9) Testing and examination materials, before the test or examination is given or if it is to be given again, or records of individual test or examination scores, other than records which show only passage or failure and not specific scores.

(10) Criminal investigation records, except as provided herein. The district court, in an action brought pursuant to K.S.A. 45-222, and amendments thereto, may order disclosure of such records, subject to such conditions as the court may impose, if the court finds that disclosure:

(A) Is in the public interest;

(B) would not interfere with any prospective law enforcement action, criminal investigation or prosecution;

(C) would not reveal the identity of any confidential source or undercover agent;

(D) would not reveal confidential investigative techniques or procedures not known to the general public;

(E) would not endanger the life or physical safety of any person; and

(F) would not reveal the name, address, phone number or any other information which specifically and individually identifies the victim of any sexual offense in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

If a public record is discretionarily closed by a public agency pursuant to this subsection, the record custodian, upon request, shall provide a written citation to the specific provisions of paragraphs (A) through (F) that necessitate closure of that public record.

(11) Records of agencies involved in administrative adjudication or civil litigation, compiled in the process of detecting or investigating violations of civil law or administrative rules and regulations, if disclosure would interfere with a prospective administrative adjudication or civil litigation or reveal the identity of a confidential source or undercover agent.

(12) Records of emergency or security information or procedures of a public agency, or plans, drawings, specifications or related information for any building or facility which is used for purposes requiring security measures in or around the building or facility or which is used for the generation or transmission of power, water, fuels or communications, if disclosure would jeopardize security of the public agency, building or facility.

(13) The contents of appraisals or engineering or feasibility estimates or evaluations made by or for a public agency relative to the acquisition or disposal of property, prior to the award of formal contracts therefor.

(14) Correspondence between a public agency and a private individual, other than correspondence which is intended to give notice of an action, policy or determination relating to any regulatory, supervisory or enforcement responsibility of the public agency or which is widely distributed to the public by a public agency and is not specifically in response to communications from such a private individual.

(15) Records pertaining to employer-employee negotiations, if disclosure would reveal information discussed in a lawful executive session under K.S.A. 75-4319, and amendments thereto.

(16) Software programs for electronic data processing and documentation thereof, but each public agency shall maintain a register, open to the public, that describes:

(A) The information which the agency maintains on computer facilities; and

(B) the form in which the information can be made available using existing computer programs.

(17) Applications, financial statements and other information submitted in connection with applications for student financial assistance where financial need is a consideration for the award.

(18) Plans, designs, drawings or specifications which are prepared by a person other than an employee of a public agency or records which are the property of a private person.

(19) Well samples, logs or surveys which the state corporation commission requires to be filed by persons who have drilled or caused to be drilled, or are drilling or causing to be drilled, holes for the purpose of discovery or production of oil or gas, to the extent that disclosure is limited by rules and regulations of the state corporation commission.

(20) Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed or policies or actions are proposed, except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.

(21) Records of a public agency having legislative powers, which records pertain to proposed legislation or amendments to proposed legislation, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(22) Records of a public agency having legislative powers, which records pertain to research prepared for one or more members of such agency, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body which has au-

thority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(23) Library patron and circulation records which pertain to identifiable individuals.

(24) Records which are compiled for census or research purposes and which pertain to identifiable individuals.

(25) Records which represent and constitute the work product of an attorney.

(26) Records of a utility or other public service pertaining to individually identifiable residential customers of the utility or service, except that information concerning billings for specific individual customers named by the requester shall be subject to disclosure as provided by this act.

(27) Specifications for competitive bidding, until the specifications are officially approved by the public agency.

(28) Sealed bids and related documents, until a bid is accepted or all bids rejected.

(29) Correctional records pertaining to an identifiable inmate or releasee, except that:

(A) The name; photograph and other identifying information; sentence data; parole eligibility date; custody or supervision level; disciplinary record; supervision violations; conditions of supervision, excluding requirements pertaining to mental health or substance abuse counseling; location of facility where incarcerated or location of parole office maintaining supervision and address of a releasee whose crime was committed after the effective date of this act shall be subject to disclosure to any person other than another inmate or releasee, except that the disclosure of the location of an inmate transferred to another state pursuant to the interstate corrections compact shall be at the discretion of the secretary of corrections;

(B) ~~the ombudsman of corrections,~~ the attorney general, law enforcement agencies, counsel for the inmate to whom the record pertains and any county or district attorney shall have access to correctional records to the extent otherwise permitted by law;

(C) the information provided to the law enforcement agency pursuant to the sex offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, shall be subject to disclosure to any person, except that the name, address, telephone number or any other information which specifically and individually identifies the victim of any offender required to register as provided by the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, shall not be disclosed; and

(D) records of the department of corrections regarding the financial assets of an offender in the custody of the secretary of corrections shall be subject to disclosure to the victim, or such victim's family, of the crime for which the inmate is in custody as set forth in an order of restitution by the sentencing court.

(30) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

(31) Public records pertaining to prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the state. This exception shall not include those records pertaining to application of agencies for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.

(32) Engineering and architectural estimates made by or for any public agency relative to public improvements.

(33) Financial information submitted by contractors in qualification statements to any public agency.

(34) Records involved in the obtaining and processing of intellectual property rights that are expected to be, wholly or partially vested in or owned by a state educational institution, as defined in K.S.A. 76-711, and amendments thereto, or an assignee of the institution organized and existing for the benefit of the institution.

(35) Any report or record which is made pursuant to K.S.A. 65-4922, 65-4923 or 65-4924, and amendments thereto, and which is privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

(36) Information which would reveal the precise location of an archeological site.

(37) Any financial data or traffic information from a railroad company, to a public agency, concerning the sale, lease or rehabilitation of the railroad's property in Kansas.

(38) Risk-based capital reports, risk-based capital plans and corrective orders including the working papers and the results of any analysis filed with the commissioner of insurance in accordance with K.S.A. 40-2c20 and 40-2d20, and amendments thereto.

(39) Memoranda and related materials required to be used to support the annual actuarial opinions submitted pursuant to subsection (b) of K.S.A. 40-409, and amendments thereto.

(40) Disclosure reports filed with the commissioner of insurance under subsection (a) of K.S.A. 40-2,156, and amendments thereto.

(41) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the commissioner by the national association of insurance commissioners' insurance regulatory information system.

(42) Any records the disclosure of which is restricted or prohibited by a tribal-state gaming compact.

(43) Market research, market plans, business plans and the terms and conditions of managed care or other third-party contracts, developed or entered into by the university of Kansas medical center in the operation and management of the university hospital which the chancellor of the university of Kansas or the chancellor's designee determines would give an unfair advantage to competitors of the university of Kansas medical center.

(44) The amount of franchise tax paid to the secretary of revenue or the secretary of state by domestic corporations, foreign corporations, domestic limited liability companies, foreign limited liability companies, domestic limited partnership, foreign limited partnership, domestic limited liability partnerships and foreign limited liability partnerships.

(45) Records, other than criminal investigation records, the disclosure of which would pose a substantial likelihood of revealing security measures that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; or (C) private property or persons, if the records are submitted to the agency. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments.

(46) Any information or material received by the register of deeds of a county from military discharge papers, DD Form 214. Such papers shall be disclosed: To the military dischargee; to such dischargee's immediate family members and lineal descendants; to such dischargee's heirs, agents or assigns; to the licensed funeral director who has custody of the body of the deceased dischargee; when required by a department or agency of the federal or state government or a political subdivision thereof; when the form is required to perfect the claim of military service or honorable discharge or a claim of a dependent of the dischargee; and upon the written approval of the commissioner of veterans affairs, to a person conducting research.

(47) Information that would reveal the location of a shelter or a safe-house or similar place where persons are provided protection from abuse or the name, address, location or other contact information of alleged victims of stalking, domestic violence or sexual assault.

(48) Policy information provided by an insurance carrier in accordance with subsection (h)(1) of K.S.A. 44-532, and amendments thereto. This exemption shall not be construed to preclude access to an individual employer's record for the purpose of verification of insurance coverage or to the department of labor for their business purposes.

(49) An individual's e-mail address, cell phone number and other contact information which has been given to the public agency for the pur-

pose of public agency notifications or communications which are widely distributed to the public.

(50) Information provided by providers to the local collection point administrator or to the 911 coordinating council pursuant to the Kansas 911 act, and amendments thereto, upon request of the party submitting such records.

(51) Records of a public agency which identify the home address or home ownership of a law enforcement officer as defined in K.S.A. 2012 Supp. 21-5111, and amendments thereto, parole officer, probation officer, court services officer or community correctional services officer. The agency head of such law enforcement office, parole office, probation office, court services office or community correctional services office or such individual officer shall file with the custodian of such record a request to have such officer's identifying information removed from public access. Within seven days of receipt of such requests, the public agency shall remove such officer's identifying information from such public access.

(52) Records of a public agency which identify the home address or home ownership of a federal judge, a justice of the supreme court, a judge of the court of appeals, a district judge, a district magistrate judge, the United States attorney for the district of Kansas, an assistant United States attorney, the attorney general, an assistant attorney general, a district attorney or county attorney or an assistant district attorney or assistant county attorney. Such person or such person's employer shall file with the custodian of such record a request to have such person's identifying information removed from public access. Within seven days of receipt of such requests, the public agency shall remove such person's identifying information from such public access.

(53) *Records of a public agency that would disclose the name, home address, zip code, e-mail address, phone number or cell phone number or other contact information for any person licensed to carry concealed handguns or of any person who enrolled in or completed any weapons training in order to be licensed or has made application for such license under the personal and family protection act, K.S.A. 2012 Supp. 75-7c01 et seq., and amendments thereto.*

(b) Except to the extent disclosure is otherwise required by law or as appropriate during the course of an administrative proceeding or on appeal from agency action, a public agency or officer shall not disclose financial information of a taxpayer which may be required or requested by a county appraiser or the director of property valuation to assist in the determination of the value of the taxpayer's property for ad valorem taxation purposes; or any financial information of a personal nature required or requested by a public agency or officer, including a name, job description or title revealing the salary or other compensation of officers, employees or applicants for employment with a firm, corporation or agency, except a public agency. Nothing contained herein shall be construed to prohibit the publication of statistics, so classified as to prevent identification of particular reports or returns and the items thereof.

(c) As used in this section, the term "cited or identified" shall not include a request to an employee of a public agency that a document be prepared.

(d) If a public record contains material which is not subject to disclosure pursuant to this act, the public agency shall separate or delete such material and make available to the requester that material in the public record which is subject to disclosure pursuant to this act. If a public record is not subject to disclosure because it pertains to an identifiable individual, the public agency shall delete the identifying portions of the record and make available to the requester any remaining portions which are subject to disclosure pursuant to this act, unless the request is for a record pertaining to a specific individual or to such a limited group of individuals that the individuals' identities are reasonably ascertainable, the public agency shall not be required to disclose those portions of the record which pertain to such individual or individuals.

(e) The provisions of this section shall not be construed to exempt from public disclosure statistical information not descriptive of any identifiable person.

(f) Notwithstanding the provisions of subsection (a), any public record which has been in existence more than 70 years shall be open for

inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and amendments thereto.

(g) Any confidential records or information relating to security measures provided or received under the provisions of subsection (a)(45) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

Sec. 7. K.S.A. 2012 Supp. 75-7c05 is hereby amended to read as follows: 75-7c05. (a) The application for a license pursuant to this act shall be completed, under oath, on a form prescribed by the attorney general and shall only include:

(1) (A) Subject to the provisions of subsection (a)(1)(B), the name, address, social security number, Kansas driver's license number or Kansas nondriver's license identification number, place and date of birth, a photocopy of the applicant's driver's license or nondriver's identification card and a photocopy of the applicant's certificate of training course completion; (B) in the case of an applicant who presents proof that such person is on active duty with any branch of the armed forces of the United States, or is the dependent of such a person, and who does not possess a Kansas driver's license or Kansas nondriver's license identification, the number of such license or identification shall not be required;

(2) a statement that the applicant is in compliance with criteria contained within K.S.A. 2012 Supp. 75-7c04, and amendments thereto;

(3) a statement that the applicant has been furnished a copy of this act and is knowledgeable of its provisions;

(4) a conspicuous warning that the application is executed under oath and that a false answer to any question, or the submission of any false document by the applicant, subjects the applicant to criminal prosecution under K.S.A. 2012 Supp. 21-5903, and amendments thereto; and

(5) a statement that the applicant desires a concealed handgun license as a means of lawful self-defense.

(b) The applicant shall submit to the sheriff of the county where the applicant resides, during any normal business hours:

(1) A completed application described in subsection (a);

(2) ~~except as provided by subsection (g),~~ a nonrefundable license fee of \$132.50, if the applicant has not previously been issued a statewide license or if the applicant's license has permanently expired, which fee shall be in the form of two cashier's checks, personal checks or money orders of \$32.50 payable to the sheriff of the county where the applicant resides and \$100 payable to the attorney general;

(3) a photocopy of a certificate or an affidavit or document as described in subsection (b) of K.S.A. 2012 Supp. 75-7c04, and amendments thereto, or if applicable, of a license to carry a firearm as described in subsection (d) of K.S.A. 2012 Supp. 75-7c03, and amendments thereto; and

(4) a full frontal view photograph of the applicant taken within the preceding 30 days.

(c) (1) The sheriff, upon receipt of the items listed in subsection (b) of this section, shall provide for the full set of fingerprints of the applicant to be taken and forwarded to the attorney general for purposes of a criminal history records check as provided by subsection (d). In addition, the sheriff shall forward to the attorney general a copy of the application and the portion of the original license fee which is payable to the attorney general. The cost of taking such fingerprints shall be included in the portion of the fee retained by the sheriff. Notwithstanding anything in this section to the contrary, an applicant shall not be required to submit fingerprints for a renewal application under K.S.A. 2012 Supp. 75-7c08, and amendments thereto.

(2) The sheriff of the applicant's county of residence or the chief law enforcement officer of any law enforcement agency, at the sheriff's or chief law enforcement officer's discretion, may participate in the process by submitting a voluntary report to the attorney general containing readily discoverable information, corroborated through public records, which, when combined with another enumerated factor, establishes that the applicant poses a significantly greater threat to law enforcement or the public at large than the average citizen. Any such voluntary reporting shall

be made within 45 days after the date the sheriff receives the application. Any sheriff or chief law enforcement officer submitting a voluntary report shall not incur any civil or criminal liability as the result of the good faith submission of such report.

(3) All funds retained by the sheriff pursuant to the provisions of this section shall be credited to a special fund of the sheriff's office which shall be used solely for the purpose of administering this act.

(d) Each applicant shall be subject to a state and national criminal history records check which conforms to applicable federal standards, including an inquiry of the national instant criminal background check system for the purpose of verifying the identity of the applicant and whether the applicant has been convicted of any crime or has been the subject of any restraining order or any mental health related finding that would disqualify the applicant from holding a license under this act. The attorney general is authorized to use the information obtained from the state or national criminal history record check to determine the applicant's eligibility for such license.

(e) Within 90 days after the date of receipt of the items listed in subsection (b), the attorney general shall:

(1) Issue the license and certify the issuance to the department of revenue; or

(2) deny the application based solely on: (A) The report submitted by the sheriff or other chief law enforcement officer under subsection (c)(2) for good cause shown therein; or (B) the ground that the applicant is disqualified under the criteria listed in K.S.A. 2012 Supp. 75-7c04, and amendments thereto. If the attorney general denies the application, the attorney general shall notify the applicant in writing, stating the ground for denial and informing the applicant the opportunity for a hearing pursuant to the Kansas administrative procedure act.

(f) Each person issued a license shall pay to the department of revenue a fee for the cost of the license which shall be in amounts equal to the fee required pursuant to K.S.A. 8-243 and 8-246, and amendments thereto, for replacement of a driver's license.

(g) (1) A person who is a retired law enforcement officer, as defined in K.S.A. 2012 Supp. 21-5111, and amendments thereto, shall be: (A) Required to pay an original license fee of \$75, which fee shall be in the form of two cashier checks or money orders, \$25 payable to the sheriff of the county where the applicant resides and \$50 payable to the attorney general, as provided in subsection (b)(2), to be forwarded by the sheriff to the attorney general; (B) exempt from the required completion of a ~~weapons~~ handgun safety and training course if such person was certified by the Kansas commission on peace officer's standards and training, or similar body from another jurisdiction, not more than eight years prior to submission of the application; (C) required to pay the license renewal fee; (D) required to pay to the department of revenue the fees required by subsection (f); and (E) required to comply with the criminal history records check requirement of this section.

(2) Proof of retirement as a law enforcement officer shall be required and provided to the attorney general in the form of a letter from the agency head, or their designee, of the officer's retiring agency that attests to the officer having retired in good standing from that agency as a law enforcement officer for reasons other than mental instability and that the officer has a nonforfeitable right to benefits under a retirement plan of the agency.

(h) *A person who is a corrections officer, a parole officer or a corrections officer employed by the federal bureau of prisons, as defined by K.S.A. 75-5202, and amendments thereto, shall be: (1) Required to pay an original license fee as provided in subsection (b)(2); (2) exempt from the required completion of a handgun safety and training course if such person was issued a certificate of firearms training by the department of corrections or the federal bureau of prisons or similar body not more than one year prior to submission of the application; (3) required to pay the license renewal fee; (4) required to pay to the department of revenue the fees required by subsection (f); and (5) required to comply with the criminal history records check requirement of this section.*

Sec. 8. K.S.A. 2012 Supp. 75-7c06 is hereby amended to read as follows: 75-7c06. (a) The attorney general shall be the official custodian of

all records relating to licenses issued pursuant to the personal and family protection act.

(b) Except as provided by subsections (c) and (d), records relating to persons issued licenses pursuant to this act, persons applying for licenses pursuant to this act or persons who have had a license denied pursuant to this act shall be confidential and shall not be disclosed ~~in a manner which enables identification of any such person pursuant to the Kansas open records act~~. Any disclosure of a record in violation of this subsection is a class A misdemeanor.

(c) Records of a person whose license has been suspended or revoked pursuant to this act shall be subject to public inspection in accordance with the open records act.

(d) The attorney general shall maintain an automated listing of license holders and pertinent information, and such information shall be available at all times to all law enforcement agencies in this state, other states and the District of Columbia when requested for a legitimate law enforcement purpose.

(e) Within 30 days after the changing of a permanent address, or within 30 days after the discovery that a license has been lost or destroyed, the licensee shall notify the attorney general of such change, loss or destruction. The attorney general, upon notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, may order a licensee to pay a fine of not more than \$100, or may suspend the licensee's license for not more than 180 days, for failure to notify the attorney general pursuant to the provisions of this subsection.

(f) In the event that a concealed handgun license is lost or destroyed, the license shall be automatically invalid, and the person to whom the license was issued, upon payment of \$15 to the attorney general, may obtain a duplicate, or substitute thereof, upon furnishing a notarized statement to the attorney general that such license has been lost or destroyed.

Sec. 9. K.S.A. 2012 Supp. 75-7c10 is hereby amended to read as follows: 75-7c10. *Subject to the provisions of section 2, and amendments thereto:*

(a) Provided that the ~~premises are~~ *building is* conspicuously posted in accordance with rules and regulations adopted by the attorney general as ~~premises a building~~ where carrying a concealed handgun is prohibited, no license issued pursuant to or recognized by this act shall authorize the licensee to carry a concealed handgun into ~~the building of:~~

~~(1) Any place where an activity declared a common nuisance by K.S.A. 22-3901, and amendments thereto, is maintained;~~

~~(2) any police, sheriff or highway patrol station;~~

~~(3) any detention facility, prison or jail;~~

~~(4) any courthouse, except that nothing in this section would preclude a judge from carrying a concealed handgun or determining who may carry a concealed handgun in the judge's courtroom;~~

~~(5) any polling place on the day an election is held;~~

~~(6) any state office;~~

~~(7) any facility hosting an athletic event not related to or involving firearms which is sponsored by a private or public elementary or secondary school or any private or public institution of postsecondary education;~~

~~(8) any facility hosting a professional athletic event not related to or involving firearms;~~

~~(9) any drinking establishment as defined by K.S.A. 41-2601, and amendments thereto;~~

~~(10) any elementary or secondary school, attendance center, administrative office, services center or other facility;~~

~~(11) any community college, college or university;~~

~~(12) any child exchange and visitation center provided for in K.S.A. 75-720, and amendments thereto;~~

~~(13) any community mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto; any mental health clinic organized pursuant to K.S.A. 65-211 et seq., and amendments thereto; any psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto, or a state psychiatric hospital, as follows: Larned state hospital, Osawatimic state hospital or Rainbow mental health facility;~~

~~(14) any public library operated by the state;~~

~~(15) any day care home or group day care home, as defined in Kansas administrative regulation 28-4-113, or any preschool or childcare center, as defined in Kansas administrative regulation 28-4-420, or~~

~~(16) any place of worship~~ any building.

(b) Nothing in this act shall be construed to prevent:

(1) Any public or private employer from restricting or prohibiting by personnel policies persons licensed under this act from carrying a concealed handgun while on the premises of the employer's business or while engaged in the duties of the person's employment by the employer, except that no employer may prohibit possession of a handgun in a private means of conveyance, even if parked on the employer's premises; or

(2) any private business or city, county or political subdivision from restricting or prohibiting persons licensed or recognized under this act from carrying a concealed handgun within a building or buildings of such entity, provided that the ~~premises are~~ building is posted in accordance with rules and regulations adopted by the attorney general pursuant to subsection ~~(f)~~ (h), as ~~premises a building~~ where carrying a concealed handgun is prohibited.

~~(c) (1) It shall be a violation of this section to carry a concealed handgun in violation of any restriction or prohibition allowed by subsection (a) or (b) if the premises are posted in accordance with rules and regulations adopted by the attorney general pursuant to subsection (f). Any person who violates this section shall be guilty of a misdemeanor punishable by a fine of: (A) Not more than \$50 for the first offense; or (B) not more than \$100 for the second offense. Any third or subsequent offense is a class B misdemeanor.~~

*Any private entity which provides adequate security measures in a private building and which conspicuously posts signage in accordance with this section prohibiting the carrying of a concealed handgun in such building as authorized by the personal and family protection act shall not be liable for any wrongful act or omission relating to actions of persons licensed to carry a concealed handgun concerning acts or omissions regarding such handguns.*

*(2) Any private entity which does not provide adequate security measures in a private building and which allows the carrying of a concealed handgun as authorized by the personal and family protection act shall not be liable for any wrongful act or omission relating to actions of persons licensed to carry a concealed handgun concerning acts or omissions regarding such handguns.*

*(3) Nothing in this act shall be deemed to increase the liability of any private entity where liability would have existed under the personal and family protection act prior to the effective date of this act.*

*(d) The governing body or the chief administrative officer, if no governing body exists, of any of the following institutions may permit any employee, who is licensed to carry a concealed handgun as authorized by the provisions of K.S.A. 75-7c01 et seq., and amendments thereto, to carry a concealed handgun in any building of such institution, if the employee meets such institution's own policy requirements regardless of whether such building is conspicuously posted in accordance with the provisions of this section:*

*(1) A unified school district;*

*(2) a postsecondary educational institution, as defined in K.S.A. 74-3201b, and amendments thereto;*

*(3) a state or municipal-owned medical care facility, as defined in K.S.A. 65-425, and amendments thereto;*

*(4) a state or municipal-owned adult care home, as defined in K.S.A. 39-923, and amendments thereto;*

*(5) a community mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto; or*

*(6) an indigent health care clinic, as defined by K.S.A. 2012 Supp. 65-7402, and amendments thereto.*

*(e) (1) It shall be a violation of this section to carry a concealed handgun in violation of any restriction or prohibition allowed by subsection (a) or (b) if the building is posted in accordance with rules and regulations adopted by the attorney general pursuant to subsection (h). Any person who violates this section shall not be subject to a criminal penalty but may be subject to denial to such premises or removal from such premises.*

*(2) Notwithstanding the provisions of subsection (a) or (b), it is not*

a violation of this section for the United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed, to possess a handgun within any of the buildings described in subsection (a) or (b), subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district. The provisions of this paragraph shall not apply to any person who is not in compliance with K.S.A. 2012 Supp. 75-7c19, and amendments thereto.

(3) *Notwithstanding the provisions of subsection (a) or (b), it is not a violation of this section for a law enforcement officer from another state or a retired law enforcement officer meeting the requirements of the federal law enforcement officers safety act, 18 U.S.C. §§ 926B and 926C, to possess a handgun within any of the buildings described in subsection (a) or (b), subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district.*

(f) *On and after July 1, 2014, provided that the provisions of section 3, and amendments thereto, are in full force and effect, the provisions of this section shall not apply to the carrying of a concealed handgun in the state capitol.*

~~(d)~~(g) For the purposes of this section—

(1) “Adequate security measures” shall have the same meaning as the term is defined in section 2, and amendments thereto;

(2) “building” shall not include any structure, or any area of any structure, designated for the parking of motor vehicles.

~~(e)~~(h) Nothing in this act shall be construed to authorize the carrying or possession of a handgun where prohibited by federal law.

~~(f)~~(i) The attorney general shall adopt rules and regulations prescribing the location, content, size and other characteristics of signs to be posted on ~~premises~~ a building where carrying a concealed handgun is prohibited pursuant to subsections (a) and (b). Such regulations shall prescribe, at a minimum, that:

(1) The signs be posted at all exterior entrances to the prohibited buildings;

(2) ~~they~~ the signs be posted at eye level of adults using the entrance and not more than 12 inches to the right or left of such entrance;

(3) the signs not be obstructed or altered in any way; and

(4) signs which become illegible for any reason be immediately replaced.

Sec. 10. K.S.A. 2012 Supp. 75-7c17 is hereby amended to read as follows: 75-7c17. (a) The legislature finds as a matter of public policy and fact that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed handguns for self-defense and finds it necessary to occupy the field of regulation of the bearing of concealed handguns for self-defense to ensure that no honest, law-abiding person who qualifies under the provisions of this act is subjectively or arbitrarily denied the person’s rights. No city, county or other political subdivision of this state shall regulate, restrict or prohibit the carrying of concealed handguns by persons licensed under this act except as provided in *section 2, and amendments thereto, and in* subsection (b) of K.S.A. 2012 Supp. 75-7c10, and amendments thereto, and subsection (f) of K.S.A. 21-4218, prior to its repeal, or subsection (e) of K.S.A. 2012 Supp. 21-6309, and amendments thereto. Any existing or future law, ordinance, rule, regulation or resolution enacted by any city, county or other political subdivision of this state that regulates, restricts or prohibits the carrying of concealed handguns by persons licensed under this act except as provided in *section 2, and amendments thereto, and in* subsection (b) of K.S.A. 2012 Supp. 75-7c10, and amendments thereto, and subsection (f) of K.S.A. 21-4218, prior to its repeal, or subsection (e) of K.S.A. 2012 Supp. 21-6309, and amendments thereto, shall be null and void.

(b) Prosecution of any person licensed under the personal and family protection act, and amendments thereto, for violating any restrictions on licensees will be done through the district court.

(c) The legislature does not delegate to the attorney general the au-

thority to regulate or restrict the issuing of licenses provided for in this act, beyond those provisions of this act pertaining to licensing and training. Subjective or arbitrary actions or rules and regulations which encumber the issuing process by placing burdens on the applicant beyond those sworn statements and specified documents detailed in this act or which create restrictions beyond those specified in this act are in conflict with the intent of this act and are prohibited.

(d) This act shall be liberally construed. This act is supplemental and additional to existing constitutional rights to bear arms and nothing in this act shall impair or diminish such rights.

Sec. 11. K.S.A. 2012 Supp. 21-6302, 21-6309, 45-221, 45-221j, 45-221k, 75-7c05, 75-7c06, 75-7c10 and 75-7c17 are hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

\_\_\_\_\_  
HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*

# **Kansas Personal and Family Protection Act**

## **2013 Legislative Changes**

The 2013 Kansas Legislature enacted two bills that make significant changes to the Personal and Family Protection Act (“the Act”) and that affect the rights and responsibilities of concealed carry license (“CCL”) holders.

Senate Bill 21, which was proposed by the Attorney General’s Office, makes numerous technical and conforming changes to the Act. One significant substantive change is the manner in which Kansas will recognize CCLs issued by other states and jurisdictions.

**House Bill 2052 makes numerous changes to the Act. One significant change is the law governing when state or municipal buildings may exclude CCL holders from carrying concealed handguns into the building.**

## **FREQUENTLY ASKED QUESTIONS**

### **SB 21 (L. 2013, ch. 36)**

SB 21 amends K.S.A. §§ 12-16,124 (local regulation of firearms), 21-6304 (criminal possession of a firearm by a felon), 21-6614 (expungement of arrests, charges and convictions), 75-7c03 (CCL recognition), 75-7c04 (licensing standards), 75-7c05 (CCL application process), 75-7c07 (administration of licenses) and 75-7c25 (records of involuntary mental health commitments).

#### **Q: What does the amendment in Section 1 do?**

A: This amendment addresses K.S.A. 12-16,124(a) and 12-16,124(d) by cleaning up a reference in each to an old KPFPA statute (75-7c11) that was repealed in 2010. It also amends 12-16,124(b)(2) and (b)(4) so that those protections are afforded to CCLs from other jurisdictions which are recognized by Kansas.<sup>1</sup>

#### **Q: I have an expunged felony conviction. Do the changes in Sections 2 and 3 of SB 21 mean that that expunged conviction cannot be used when reviewing my application?**

A: Generally, no. Prior felony convictions that occur in Kansas’ state court system result in four (4) categories of firearm prohibition periods in Kansas: lifetime (under subsection (a)(1)); a 10 year prohibition for more serious person and drug felonies (under (a)(3)(A)) or for certain

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<sup>1</sup> See discussion of amendments to K.S.A. 75-7c03 below for updates to recognition in Kansas.

nonperson felonies (under (a)(3)(B)); and a catch-all 5 year prohibition period under (a)(2) for any felony that does not fit subsections (a)(1) or (a)(3).<sup>2</sup>

Under Kansas law, the general rule is that the expungement of a felony conviction **will not** sever any state or federal firearms prohibition. The amendment in Section 2 to K.S.A. 21-6304 and the amendments to K.S.A. 21-6614 in Section 3 reiterate this point. They make it clear that the **only** time a firearms prohibition is severed by expungement (or pardon) of a prior felony is when that prior felony conviction falls into 21-6304(a)(3)(A). **NOTE:** The expungement of that felony will only sever any firearm's restrictions for that felony; if the individual has other criminal history that resulted in a loss of firearm rights then that loss is not affected by the expungement. Some felony offenses listed in (a)(3)(A) are not expungeable, however. If you have felony criminal history, you need to consult with private legal counsel about your specific situation and discuss whether Kansas law allows you to possess firearms.

Felony convictions that occurred in another state or in any federal court will have to survive the firearms expungement, set-aside, pardon or restoration procedures of that other jurisdiction and the restoration procedures of Kansas law under 21-6304 before the individual will be considered eligible to possess firearms in Kansas (and, therefore, be eligible for a CCL).

**Q: I live in another state and have a non-expired CCL from that State. Am I lawful to carry concealed handguns in Kansas?**

A: On and after July 1, 2013, Kansas will honor any "valid" concealed carry license that is issued by another state or the District of Columbia so long as the holder of that CCL is not a resident of Kansas. Section 4 of SB 21 amends K.S.A. 75-7c03 to allow this broader recognition.

So long as the non-Kansas CCL is "valid" (defined as non-expired and not revoked or suspended) and so long as the holder is not a resident of Kansas, that non-Kansas CCL will be honored by Kansas.

**Q: I am moving to Kansas from another state and have a non-Kansas CCL. Can I continue to carry concealed using my non-Kansas CCL?**

A: By law, a resident of Kansas whose only authority to carry concealed comes through CCL must either have a Kansas CCL or fit the active duty military exception. For new residents to Kansas between July 1, 2010, and June 30, 2013, the Attorney General will issue a 90-day temporary receipt to that resident once they have submitted a Kansas CCL application which includes a copy of their valid non-Kansas CCL license which is currently honored by Kansas.

On and after July 1, 2013, for new residents to Kansas (new as of July 1, 2010, and later), upon receiving a Kansas CCL application from that resident, which includes a copy of **any** valid non-Kansas CCL, the Attorney General will issue a 180-day receipt to continue carrying while that application is pending. The Attorney General's office will determine whether that applicant's

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<sup>2</sup> Felony convictions that occur in another state must satisfy the restoration procedures from that state and Kansas; prior Federal felony convictions must satisfy any Federal restoration procedures as well as those time limits of Kansas law.

non-Kansas CCL was issued after receiving training which was equal to or greater than the training imposed by Kansas law in order to receive a Kansas CCL.

- If the non-Kansas CCL was issued after receiving equal to or greater training compared to Kansas law, then the applicant will not have to complete the Kansas training course in order to become approved;
- If the non-Kansas CCL was issued after receiving no training or training that was not equal to or greater than that of Kansas, then the individual will have until the expiration of their 180-day receipt to complete the Kansas training course. If the applicant fails to complete the Kansas training before the expiration of their 180-day receipt, their application will be denied.

**Q: If my current non-Kansas CCL did not require any training or my training was not equal to or greater than Kansas' CCL training, do I have to take the Kansas training course before applying?**

A: No. Simply follow the directions for supplying a completed application (minus the Kansas training certificate) through the sheriff of your county of residence and the Attorney General's office will send you a 180-day receipt that will enable you to continue carrying while you locate a Kansas training course to take during that 180 days. Be sure you attach a copy of your valid non-Kansas CCL to the application. If, however, you fail to submit that Kansas training certificate before the expiration of your 180-day receipt, your application will be denied.

**Q: I have a non-Kansas CCL that did not require any training, but I keep up with my marksmanship regularly at the range and I've taken some other trainings since then. Can those trainings be used to bypass the Kansas training?**

A: The training used to bypass the Kansas training must have been used to obtain the non-Kansas CCL for which the applicant is relying upon. If the training occurred after that license's issuance, it will not be considered for the Kansas license.

**Q: I believe my prior non-Kansas CCL training will meet the equal to or greater than standard. What do I need to do when applying for the Kansas CCL?**

A: Attach copies of the training certificate and all documentation you have which will show the nature of the training you completed (i.e., the topics covered and the live-fire demonstration). Providing the Attorney General's office more information to review ahead of time should help reduce the review time for the application. **NOTE:** Some of the more popular training courses, such as the NRA Basic Pistol course, will not need extra documents submitted with that training certificate as the course requirements for those courses are readily known or locatable. However, a course which is less widely known may require more documents to show the course's framework.

**Q: Because Kansas now recognizes all CCL licenses and permits for non-residents, if I move to Kansas will my non-Kansas CCL be proof of training?**

A: Not necessarily. On and after July 1, 2013, the training used to obtain the non-Kansas CCL will be reviewed to determine whether that previous training was “equal to or greater than” that required by Kansas concealed carry law. Some states require no training at all and some states have training standards that may or may not meet those of Kansas.

The Attorney General was given the discretion to compile a list of states whose training would meet this equal to or greater than standard or review each application on a case by case basis. Irrespective of what a state requires by law, the Attorney General’s office will review the training that the applicant actually received to determine that qualification. The Attorney General’s office understands that a state’s concealed carry law may not require an applicant to demonstrate handgun proficiency during training – but the applicant may have done such a demonstration during their training and the Attorney General’s office does not want to discount that.

**Q: If it takes me almost the entire 180 days to get a Kansas training certificate to the Attorney General’s office, will my 180-day receipt be extended while application finishes the review process?**

A: No. Once the 180-day receipt expires, there is no extension. This is why it is important to get the Kansas training done as soon as possible in order to avoid any periods where you will not be able to lawfully carry.

**Q: In my prior state of residence, my position as a certified law enforcement officer enabled me to bypass the Kansas training course. Is there a similar allowance for a Kansas CCL?**

A: There are several points to cover here, but the short answer is “no.”

“Law enforcement officers” in Kansas do not need a Kansas CCL in order to carry a concealed firearm. However, if they desire a CCL, then the law currently requires them to complete the concealed carry training course as well. There are a couple of exceptions to this general rule.

If you can produce proof, by letter from your former agency, that you retired from your law enforcement agency for reasons other than mental instability and are otherwise in compliance with K.S.A. 75-7c05(g), and amendments thereto, then you qualify for a training course bypass; or

If you are a “corrections officer, a parole officer or a corrections officer employed by the federal bureau of prisons” and you can produce proof that you last completed a Department of Corrections or Bureau of Prisons firearms qualification from the past year – then you are exempt from the Kansas training course. If your DOC or BOP firearms qualification was more than one year ago, and you do not qualify for the exception above, you will need to take the Kansas training course.

If you have further questions after reading the above, send the Concealed Carry Licensing Unit an email to [ksagcc@ksag.org](mailto:ksagcc@ksag.org) and staff will respond as quickly as possible to your questions.

### **S. Sub for HB 2052 (L. 2013, ch. 105)<sup>3</sup>**

#### **Q: What does the language of HB 2052, section 2, set out to do?**

A: The general rule of Section 2 is that on and after July 1, 2013, any “state or municipal building” must have “adequate security measures” in place to prevent any weapon from entering the building and properly post Attorney General-approved signage if that state or municipal building desires to restrict the licensed concealed carry of handguns within its walls.

NOTE: There are exceptions and exemptions to this general rule.

#### **Q: Who does this general rule affect?**

A: In a broad sense, this section affects any “state or municipal building;” and it affects those who are authorized to carry a concealed handgun under the Kansas Personal and Family Protection Act.

#### **Q: Who does this general rule not affect?**

A: The general rule will have no effect on the buildings of private businesses – even if the building is one that is state-owned or municipally-owned and leased by a private business. Any building that is held by the state or a municipality for revenue bond financing is likewise exempt from coverage as a “state or municipal building.”

Also not affected by this section are: Kansas schools for the deaf and blind; the secure areas of any buildings for a correctional facility, jail facility or a law enforcement agency; and courtrooms where the chief judge of the judicial district has prohibited firearms (provided there are other means of security available – such as armed security or law enforcement).

The last group of unaffected state or municipal buildings will be those that would ordinarily qualify under the act but which exercise one of three allowed exemptions. Those exemptions are found under subsections (i) and (j) of Section 2.

#### **Q: If we are not an automatically exempted building, where can we find the exemptions available to us in the law?**

A: The Legislature has offered three exemptions but not all three are available to all “state or municipal buildings.” These exemptions within Section 2 will enable exempted buildings to refrain from installing “adequate security measures,” if they choose, for a maximum of four and one-half years in some instances while still prohibiting concealed carry licensees from carrying handguns into the building.

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<sup>3</sup> Session law reference to ch 105 is subject to change as directed by the Kansas Secretary of State’s office.

There is a general six-month exemption available to any Section 2-covered state or municipal building. This exemption is found under Section 2(i) and it will run from July 1, 2013, through December 31, 2013.

There is a four-year exemption for specifically enumerated buildings found under Section 2(j).

And there is a catch-all four year exemption for any other qualified state or municipal building also found under Section 2(i).

**Q: We are the governing body (or I am the chief administrative officer) of a state or municipal building that is not automatically exempted from this Section. How do we (I) seek an exemption from this law until we've had a better opportunity to review it and the effects it might have?**

A: This answer will depend on what date the question is being asked and which exemption your building's management is entitled to ask for.

If you are wanting to exercise the 2013 six-month exemption (good through December 31, 2013) from Section 2(i), then your building's governing body or, if no governing body exists, chief administrative officer can submit a letter exercising the exemption to the Attorney General's Concealed Carry Unit and a letter exercising the exemption to the law enforcement agency of local jurisdiction. No further information (security plans, reasons etc.) are required for this exemption.

If you are a building that falls under those specified in Section 2(j) and you are seeking to institute the four year exemption at any point, then the governing body (or chief administrative officer if no governing body exists) is required to submit a letter exercising that exemption to the Attorney General (no letter to the law enforcement agency of local jurisdiction is required by statute – but may be beneficial regardless in the sense of Notice to that agency). Included within that letter must be stated the reasons why the exemption is being exercised.

NOTE: The buildings specified in 2(j) are:

- state or municipal-owned medical care facilities, defined under K.S.A. 65-425;
- state or municipal-owned adult care homes, defined by K.S.A. 39-923;
- community mental health center organized under 19-4001 et seq;
- indigent health care clinics defined by 65-7402; and
- postsecondary educational institutions as defined by 74-3201b (including buildings that are leased by the institution).

On and after January 1, 2014, if you oversee a state or municipal building (again, as a governing body or, where no governing body exists, the chief administrative officer) other than those specified under Section 2(j) and it is determined that the four year exemption under 2(i) will be exercised, then you must:

- provide a letter of the exemption (via resolution or letter) to the Attorney General and law enforcement agency of local jurisdiction;

- include a legal description of the building(s) being exempted;
- include the reasons for seeking the exemption; and
- include the following statement: “A security plan has been developed for the building being exempted which supplies adequate security to the occupants of the building and merits the prohibition of the carrying of a concealed handgun as authorized by the personal and family protection act.”
- Make a copy of the security plan(s) available to local law enforcement or the Attorney General’s office upon request. **DO NOT** mail a copy of the security plan to the Attorney General’s office with your four-year exemption letter.

**Q: Once the four-year exemption is coming to an end, how can we renew the exemption?**

A: Under the current language of the law, the four year exemptions were only allowed for a one-time use. After the four years has run, the buildings will either need to allow licensed concealed carry or have adequate security measures and proper signage in place.

**Q: Who can submit an exemption notice?**

A: By statute, the exemption request must come from the governing body of the state or municipal building. If no governing body exists for that building, then the chief administrative officer for the building must submit the exemption notice.

**Q: How long does the exemption review process take?**

A: There is no review process. Exemptions are not “granted” or “denied” as no authority to do so was provided in the statute. The Attorney General will return a file stamped copy of the exemption letter to acknowledge its receipt. If the exemption appears to be missing any information (particularly with regard to the 2(i) four-year exemptions where more information is required), the Attorney General may include a letter of response which explains that the Attorney General’s office believes the exemption to be deficient. Ultimately, however, it will be up to the exercising body or administrative officer to make sure that the exemption exercised was done so in accordance with the statutory guidelines of Section 2.

**Q: Within the four-year exemption of Section 2(i), the required statement mandates that a security plan be “developed” – are there any guidelines for what the security plan should entail?**

A: No. The term “security plan” was not a defined term within the act. The only guidance given by the Legislature is that the security plan must supply “adequate security to the occupants of the building.”

**Q: Does the fact that the security plan has to have been developed mean that the security plan must be active at the point of requesting an exemption?**

A: Yes. The four-year exemption in Section 2(i) cannot be sought to further develop a security plan for the building. It must provide “adequate security to the occupants of the building” at the time the exemption is requested.

**Q: Within Section 2(i)’s statement for the security plan, what is meant by “adequate security” for the building’s occupants – does “adequate security” equal the definition of “adequate security measures?”**

A: The Legislature did not provide a separate definition for what constitutes “adequate security” and it was not defined under Section 2(i) to mean the same as “adequate security measures.” If exercising a security plan that has “adequate security” for the building’s occupants is equal to having “adequate security measures” then there would be no need for the exemption; the Legislature would essentially be requiring the building to have “adequate security measures” in place before the building could exempt itself from having to install “adequate security measures.”

**Q: Does a copy of the “security plan” need to be attached to the 2(i) four-year exemption request?**

A: **No**. The security plan needs to be maintained on file in case the Attorney General or law enforcement agency of local jurisdiction should request it for review.

**Q: If a member of the public wishes to examine the security plan that was declared in the 2(i) exemption request, do they have a right to see it?**

A: No. Per Section 2(i), the security plan itself is not a record subject to the Kansas Open Records Act.

**Q: If a building(s) has elected to exercise one of the allowed exemptions, what effect does that have for licensees carrying concealed into that building?**

A: Licensed concealed carry could be restricted through the proper posting of Attorney General-approved signage at all entrances to the building(s) and the building would not be required to have adequate security measures in place. Essentially, most concealed carry law would remain as it was pre-July 1, 2013.

NOTE: K.S.A. 75-7c10 was amended in other ways during the 2013 session, including a revision to the penalty section. That new penalty section would still be effective even if the building has exempted itself. The penalty for violating 75-7c10 would not revert back to its misdemeanor position of pre-July 1, 2013.

**Q: Will the Attorney General be maintaining a complete list of the buildings that have given Notice of exemption?**

A: No. There is no statutory directive to compile or publish this information.

**Q: If the Attorney General is not maintaining a list of the exempt buildings, how do licensees know whether or not a state or municipal building has sought exemption?**

A: On and after July 1, 2013, the original Attorney General-approved signage for buildings to restrict licensed concealed carry will be insufficient postings for state and municipal buildings who have exempted themselves from having “adequate security measures.” The Attorney General’s Office has designed a new sign by temporary regulation for state or municipal buildings that exempt themselves from the provisions of Section 2. The new signage includes specific text and will need to be displayed at all of the buildings’ entrances.

**Q: If we choose to allow concealed carry within our buildings without the “adequate security measures” in place, and later determine that we would like to exempt the buildings, will that be allowed?**

A: As the law stands, the language would not prevent such a procedure. Again, the four-year exemption is currently a one-time use.

**Q: I am a CCL holder who works in a qualifying state or municipal building. If my building does not put adequate security measures in place and the building does not exercise an exemption from Section 2, can I carry while I’m at work?**

A: Yes. Section 2(c) states that adequate security measures and signage are necessary in order to “prohibit” an employee from carrying on and after July 1, 2013.

NOTE: Again, if the building has exempted itself, then the law largely reverts back to its pre-July 1, 2013 position and K.S.A. 75-7c10(b) language relating to employer/employee relations would still be in effect.

**Q: I am a CCL holder who works in a qualifying state or municipal building. My building has put in place “adequate security measures” and posted the public entrances with Attorney General-approved signage. But I am able to access my building through private access entry – am I still allowed to carry concealed while at work?**

A: Maybe. The answer will depend upon whether your employer has authorized you, as an employee, to carry concealed or whether the employer has a policy against employees carrying concealed in the building.

If the latter is the employer’s position, then the answer to this question is that, under Section 2(d), it is not a violation of the Act for you to carry concealed into such a building. However, other laws or actions may be applicable to you. An employee-licensee should consider consulting with private legal counsel about their legal rights in that scenario.

**Q: Same as above, except the employee-licensee does not have restricted access entrance to the adequately secured and properly posted building?**

A: Again, such an employee may be allowed by the employer to carry concealed in certain situations but here, absent that authorization, the licensee violates the Act and, again, other laws or actions may be applicable. Again, consult private legal counsel to know your full, personal legal rights in that situation.

**Q: I was reading through the provisions of HB 2052, and I see under Section 9, which addresses K.S.A. 75-7c10, that statute still says an employer can restrict my ability to carry concealed while I'm engaged in the duties of my employment. Does 75-7c10 or Section 2 control these restrictions?**

A: For state or municipal buildings, Section 2 controls. As is clearly spelled out in Section 9, K.S.A. 75-7c10 was amended there so that the entirety of that statute will be subject to Section 2 on and after July 1, 2013. Any employer/employee restrictions will have to comply with Section 2 at that point in time – unless an exemption (granted by the Legislature or exercised by the state or municipal building's management) applies. For any other employer/employee scenario – K.S.A. 75-7c10 controls.

**Q: What are “adequate security measures?”**

A: By definition within Section 2, “adequate security measures” involves “the use of electronic equipment and personnel at public entrances to detect and restrict the carrying of any weapons into the state or municipal building, including, but not limited to, metal detectors, metal detector wands or any other equipment used for similar purposes to ensure that weapons are not permitted to be carried into such building by members of the public.”

**Q: Does the building have to provide secure storage for weapons that are discovered during screening?**

A: No. Storage is not required, but it is allowed.

**Q: Do all entrances of a qualifying state or municipal building have to have “adequate security measures” in place in order to restrict licensed concealed carry?**

A: No, but all public access entrances do under Section 2(b). If other entrances are “restricted access entrances” then those entrances are not required to have “adequate security measures.”

**Q: Is the State Capitol building now accessible for those authorized to carry concealed under the KPFPA?**

A: No. However, between June 1, 2014, and June 30, 2014, the legislative coordinating council will review the security position of the Capitol building and, if “adequate security measures” are not in place by that point in time, CCL holders will be allowed within the Kansas Capitol building.

**Q: I am an individual who is carrying concealed under the authority of the Law Enforcement Officer's Safety Act (LEOSA). Am I allowed to carry concealed into buildings restrict concealed carry under the KPFPA?**

A: As of July 1, 2013, LEOSA carry in Kansas will be more broadly recognized in Kansas. See HB 2052, Sections 4, 5 and 9.

NOTE: LEOSA carry could still be limited in buildings where metal detectors and personnel are employed to detect weapons. The provisions of Section 2 only apply to licensed concealed carry pursuant to the Personal and Family Protection Act, but other adequately secured buildings may have complete weapons bans except those carried by their own personnel.

**Q: What other changes did HB 2052 bring about related to concealed carry in Kansas?**

A: Under Section 5, K.S.A. 21-6309 is amended in several respects. First, under subsection (a), some language was clarified about those places that are off-limits to firearms. Second, former subsection (c)(5) is removed and is now found in a modified form under new subsection (e). This new language eliminates some prior limitations that applied to CCL holders while at the Governor's residence, grounds of the Governor's residence, etc. Third, in subsection (f) some clerical changes were made to the statute to remove the terms "facility" or "facilities" and instead refer to "building" or "buildings." And, finally, in the definitions for 21-6309(g), "adequate security measures" is now defined by reference to the definition found in Section 2.

Under Section 6 of the Bill, the Kansas Open Records Act was amended by adding a new paragraph (53) in subsection (a). This section states that "records of a public agency that would disclose the name, home address, zip code, e-mail address, phone number or cell phone number or other contact information for any person licensed to carry concealed handguns or of any person who enrolled in or completed any weapons training in order to be licensed or has made application for such license under the personal and family protection act,..." are protected information that are not subject to disclosure by the agency unless otherwise required by law.

**Retired Law Enforcement Officers:** In Section 7, K.S.A. 75-7c05 is amended in several ways. First, as of July 1, 2013, all CCL applicants will pay the full application fee of \$132.50 (\$32.50 to the County sheriff where they reside and they will pay \$100.00 to the Attorney General). This will affect those who are applying as retired law enforcement officers. Other fees will be required, such as the training course and getting the actual license card issued through the DMV.

The other manner in which K.S.A. 75-7c05 was modified in HB 2052 is that qualified corrections officers, parole officers or a corrections officer employed by the federal Bureau of Prisons will be exempted from taking the Kansas training course if they were last firearm certified by the Department of Corrections or federal Bureau of Prisons (or similar body from another jurisdiction) within the past year.

Section 8 amends K.S.A. 75-7c06 to simply reflect the modifications made within the Kansas Open Records Act as spelled out under HB 2052, Section 6.

Section 9 amends K.S.A. 75-7c10, making the entire statute is subject to Section 2. Next, the previously listed locations of subsection (a) were removed and the prior bright-line rule of being able to post Attorney General-approved signage on “buildings” is made even brighter.

One substantive change made by HB 2052 is that licensees will no longer be subject to a criminal penalty for simply carrying past a properly posted Attorney General-approved sign. The licensee will be subject to denial of entry or removal from the building. If licensees fail to comply with removal commands, a “criminal trespass” charge may apply. In other words, if you carry past a properly posted Attorney General-approved sign, and are asked to leave the premises – do so.

Under subsection (c), the Legislature sought to include some liability protections for private businesses. Those are when: (1) the business complied with adequate security measures and posted signage; or (2) allows licensed concealed carry into the building. The Legislature also included language stating the act is not meant to increase liabilities as they exist under the personal and family protection act.

New subsection (d) allows various entities (including K-12 school districts and postsecondary education institutions) the option of allowing staff to carry within their buildings even if Attorney General-approved signage is properly posted on the building(s). And finally, a new reference to the state capitol building is added in new subsection (f).

Finally, Section 10 of HB 2052 amends K.S.A. 75-7c17 to reflect the new provisions of Section 2.



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October 23, 2013

ATTORNEY GENERAL OPINION NO. 2013- 14

Michael A. Montoya  
Saline County Counselor  
256 S. Santa Fe Ave.  
Salina, KS 67402-1220

Re: State Departments; Public Officers and Employees—Firearms—Personal and Family Protection Act

Synopsis: For the purposes of the Personal and Family Protection Act (PFPA), a “state or municipal building” does not include a single floor within a county courthouse. A county may restrict the carrying of firearms into a county courthouse only by providing adequate security measures at the public entrances to the courthouse and by posting the courthouse as prohibiting the concealed carry of handguns in accordance with the PFPA and regulations promulgated by the Attorney General. The chief judge of a judicial district may prohibit the carrying of concealed handguns into courtrooms or ancillary courtrooms within the district provided that other means of security are employed.

“Adequate security measures” and “adequate security” are not synonymous for the purposes of K.S.A. 2013 Supp. 75-7c20. Cited herein: K.S.A. 2013 Supp. 75-7c01; 75-7c10; 75-7c20; K.A.R. 16-11-7.

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Dear Mr. Montoya:

As Saline County Counselor, you request our opinion whether Saline County may restrict the concealed carry of handguns into part, but not all, of the Saline County courthouse. You also ask whether the terms “adequate security” and “adequate security

measures” are synonymous for the purposes of the Personal and Family Protection Act (PFPA).<sup>1</sup>

### ***Prohibiting Weapons on One Floor of a Municipal Building***

Your first question involves several provisions of the PFPA. First, K.S.A. 2013 Supp. 75-7c20(a) states:

The carrying of a concealed handgun as authorized by the personal and family protection act shall not be prohibited in any state or municipal building unless such building has adequate security measures to ensure that no weapons are permitted to be carried into such building and the building is conspicuously posted in accordance with K.S.A. 75–7c10, and amendments thereto.

“State or municipal building” is defined as:

[A] building owned or leased by such public entity. It does not include a building owned by the state or a municipality which is leased by a private entity whether for profit or not-for-profit or a building held in title by the state or a municipality solely for reasons of revenue bond financing.<sup>2</sup>

In your letter, you state that the Saline County courthouse currently is posted as prohibiting concealed carry. You further state that only the third floor of the courthouse has electronic equipment and security personnel to detect and restrict the entry of all weapons on that floor. Public visitors may only access the third floor through elevators, and must pass through security upon exiting the elevator.

You ask whether the courthouse may allow concealed carry on the other floors but continue to restrict all weapons on the third floor. In other words, you ask whether the third floor of the Saline County courthouse may be considered a separate “building” for the purposes of the PFPA.

We note that the term “building” itself is not defined in the PFPA, so we ascertain its meaning from its ordinary definition.<sup>3</sup> One ordinary definition of a building is “a structure with a roof and walls, such as a house or factory.”<sup>4</sup> Another ordinary definition is “a relatively permanent enclosed construction over a plot of land, having a roof and usually windows and often more than one level, used for any of a wide variety of activities, as living, entertaining, or manufacturing.”<sup>5</sup> Based upon these definitions, it is our opinion

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<sup>1</sup> K.S.A. 2013 Supp. 75-7c01 et seq.

<sup>2</sup> K.S.A. 2013 Supp. 75-7c20(l)(5)(A).

<sup>3</sup> “In the absence of a statutory or common-law definition of [a phrase], this court will employ the ordinary meaning of the words used by the legislature.” *State v. Taylor*, 27 Kan. App. 2d 539, 541 (2000).

<sup>4</sup> “Building.” Oxford Dictionaries. Oxford University Press.

<http://oxforddictionaries.com/definition/english/building> (accessed on August 21, 2013).

<sup>5</sup> “Building.” Dictionary.com. *Dictionary.com Unabridged*. Random House, Inc.

<http://dictionary.reference.com/browse/building> (accessed on August 21, 2013).

that the Saline County courthouse as a *whole* is a building for the purposes of K.S.A. 2013 Supp. 75-7c20. However, a single floor within a courthouse cannot be reasonably defined as a “building” because the ordinary definition of “building” includes all floors within the building.

Because the Saline County courthouse is a municipal building as defined in the PFPA, the county may restrict the concealed carry of handguns into the courthouse only by providing adequate security measures at public entrances to the courthouse and posting signs in accordance with the PFPA and regulations promulgated by the Attorney General.<sup>6</sup> However, the chief judge of each judicial district may prohibit the carrying of a concealed handgun by any person into *courtrooms* or ancillary courtrooms within the district “provided that other means of security are employed such as armed law enforcement or armed security officers.”<sup>7</sup>

### ***Adequate Security vs. Adequate Security Measures***

We now turn to your second question. K.S.A. 2013 Supp. 75-7c20(i) states that the governing body or chief administrative officer of a municipal building may exempt such building from the provisions of K.S.A. 2013 Supp. 75-7c20 for a period of four years beginning January 1, 2014, by adopting a resolution or drafting a letter with the following statement: “A security plan has been developed for the building being exempted which supplies adequate security to the occupants of the building and merits the prohibition of the carrying of a concealed handgun as authorized by the personal and family protection act.”

Although “adequate security” is not defined by statute, K.S.A. 2013 Supp. 75-7c20(l)(1) defines “adequate security measures” as follows:

“Adequate security measures” means the use of electronic equipment and personnel at public entrances to detect and restrict the carrying of any weapons into the state or municipal building, including, but not limited to, metal detectors, metal detector wands or any other equipment used for similar purposes to ensure that weapons are not permitted to be carried into such building by members of the public. Adequate security measures for storing and securing lawfully carried weapons, including, but not limited to, the use of gun lockers or other similar storage options may be provided at public entrances.

You ask whether the phrase “adequate security” referred to in K.S.A. 2013 Supp. 75-7c20(i) has the same meaning as “adequate security measures.”

It is presumed the legislature understood the meaning of the words it used and intended to use them; that the legislature used the words in their ordinary and common meaning; and that the legislature intended a

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<sup>6</sup> See K.S.A. 75-7c10(i) and K.A.R. 16-11-7.

<sup>7</sup> K.S.A. 2013 Supp. 75-7c20(h).

different meaning when it used different language in the same connection in different parts of a statute.<sup>8</sup>

Following this rule of statutory construction, we note that the legislature chose not to use the defined term “adequate security measures” as part of the statement that must be included in a resolution or letter claiming the four-year exemption from the provisions of K.S.A. 2013 Supp. 75-7c20. In addition, we note that the statement about “adequate security” is required to obtain a four-year exemption, but no exemption is necessary if the building provides “adequate security measures.” Therefore, the terms “adequate security” and “adequate security measures” cannot be synonymous.

Instead, “adequate security” must be construed according to its ordinary meaning. The ordinary meaning of “adequate” is “satisfactory or acceptable in quality or quantity.”<sup>9</sup> Thus, whether security is “adequate” must be determined on a case-by-case basis for each building.

Sincerely,

Derek Schmidt  
Attorney General

Sarah Fertig  
Assistant Attorney General

DS:AA:SF:sb

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<sup>8</sup> *Rogers v. Shanahan*, 221 Kan. 223-24 (1976).

<sup>9</sup> “Adequate.” Oxford Dictionaries. Oxford University Press.

<http://oxforddictionaries.com/definition/english/adequate> (accessed on October 1, 2013).



## Conceal Carry Four Year Exemption

I am writing this on my first day back to work following the annual conference which was in Overland Park this year. At the conference, I presented a workshop on the new conceal carry statutes and the process of establishing the four year exemption that is available to municipalities. The four year exemption will allow municipalities to continue to prohibit those with a conceal carry license from entering a public building while carrying their concealed handgun. Based on the discussion and questions asked, I felt that there was still some confusion about this issue and so I will attempt to answer some of the questions and clear up the confusion this change in the law has created.

First, I will review the requirements for establishing a four year exemption pursuant to 2013 Kan. Sess. Ch. 105. This is the legislation that, in part, allows conceal carry license holders to enter public buildings armed with a concealed handgun. If a governing body does not want to allow this to happen they have two options, meet the "adequate security measures"<sup>1</sup> as defined by the statute or establish a four year exemption. Assuming the desire is to establish the four year exemption a city must:

1. Adopt a resolution or draft a letter containing the legal description of the building being exempted, the reason for the exemption and this statement; "A security plan has been developed for the building being exempted which supplies adequate security to the occupants of the building and merits the prohibition of the carrying of a concealed handgun as authorized by the personal and family protection act."<sup>2</sup>

2. A copy of the security plan must be maintained on file by the city.

3. The security plan must be made available to the Attorney General and local law enforcement if requested.

4. Notice of the exemption as well as a copy of the resolution or letter must be sent to the Kansas Attorney General and local law enforcement.

What do you accomplish by doing this? A city is able to continue to post public buildings with the sign that tells all licensed conceal carry members of the public they must not enter the building carrying their concealed handgun. In other words, the way it has been since conceal carry was first established in Kansas.

**Who says what the security plan is and if it is sufficient?**

The answer is each governing body since there is no state agency oversight. A majority of the governing body will have to agree that the security plan is sufficient for them to approve the resolution or letter containing the language required by the statute.<sup>3</sup>

**Does the security plan need to include the installation of the equipment needed to meet the definition of adequate security measures?** My answer is that it can if that is the goal of the governing body but, there is nothing in the statute mandating what is in the security plan so it is not necessary.

**Who determines if the security plan supplies adequate security to merit prohibiting the carrying of a concealed handgun?** The governing body makes the decision. If a majority of the governing body agrees to approve the language in a resolution or letter then it is deemed adequate.

**What are adequate security measures?** Adequate security measures, as defined by the statute, "means the use of electronic equipment and personnel at public entrances to detect and restrict the carrying of any weapons into the state or municipal building, including, but not limited to, metal detectors, metal detector wands or any other equipment used for similar purposes to ensure that weapons are not permitted to be carried into such building by members of the public..."<sup>4</sup>

**If we install adequate security measures do the personnel need to be armed law enforcement officers?** No. The statute only requires that a city have personnel at the public entrance monitoring the metal detector or using the metal detector wand.<sup>5</sup>

**What happens in four years when the exemption expires?** If there is no change in the law a city will have to remove the no conceal carry signs from all public buildings that do not have adequate security measures in place.

**What is the penalty for not establishing the exemption but keeping the signs on the doors?** There is no penalty in the statute for leaving the signs up without establishing the exemption or installing adequate security measures. However, a governing body would be exposing the city to a civil lawsuit. It is not recommended that any city take this position.

**Can a city prevent a conceal carry license holder from carrying in open areas such as parks and ball fields?** No. This law only applies to public buildings and not open areas. If a city has signage banning conceal carry at these types of facilities the signs need to be removed.

**Can a city combine several buildings into the security plan and resolution?** I do not recommend that a city attempt to combine multiple buildings. The statutes refer to the building being exempted and therefore, I interpret that to mean that each building should have its own plan, resolution and notice. Keep in mind that a resolution is all that is required so there is no publication expense.

I hope that this has helped to answer some questions that a local governing body might have concerning the establishment of the four year exemption. If this has raised other questions please feel free to contact me at the League offices. As always the League of Kansas Municipalities takes no position concerning individual gun rights. LKM is concerned with the ability of local governments to control and regulate the use of locally owned public buildings.

 Eric Smith is Legal Counsel at the League of Kansas Municipalities. He can be reached at [esmith@lkm.org](mailto:esmith@lkm.org) or (785) 354-9565.

### (Endnotes)

1 2013 Kan. Sess. Ch. 105, New Sec. 2(1)(1)

2 2013 Kan. Sess. Ch. 105, New Sec. 2(i)

3 Id.

4 2013 Kan. Sess. Ch. 105, New Sec. 2(1)(1)

5 Id.



## Concealed Carry Briefing

The Legislature passed and Governor Brownback signed HB 2052 which authorizes the carrying of concealed weapons in state and municipal buildings. The following is a summary of the key elements of that bill.

**Effective Date:** July 1, 2013. However, if your city would like time to assess your buildings and make specific determinations, you can simply send a letter to the Attorney General and local law enforcement. In that case, you will have until January 1, 2014 to make such determinations. While there is no deadline specified regarding the submission of this letter, you must do so by July 1, 2013, in order to prevent the law from going into effect in your city. A sample letter can be found at <http://www.lkm.org/legislative/briefings/concealedcarry/exemption2052letter.doc>.

**Applies to:** The State (with certain exceptions) and municipalities. It does not include school districts.

**Possible Outcomes:** Under the provisions of this bill, cities will have the following choices:

1. Remove your no-carry signs and allow concealed carry in your municipal buildings;
2. Provide metal detectors or wands and personnel at each public entrance. Cities can then post the building as no-carry.
3. Assess your buildings and establish a security plan for the buildings. In this case, the buildings will be eligible for a 4-year exemption from the law. The City of Wichita and Sedgwick County recently completed such an assessment. The model for the City of Wichita and Sedgwick County is available here: <http://www.lkm.org/legislative/briefings/concealedcarry/WichitaSGCountyModel.pdf>

**Liability:** Public entities will be exempted from liability for the actions or omissions of concealed carry permit holders if:

1. The entity provides door security and posts the building as no-carry **or**
2. The entity allows concealed carry in their buildings.

**Exemption:** The Legislature has provided for a 4-year exemption if the public entity establishes a security plan and adopts a resolution to exempt certain buildings from the requirements of the act. Such resolution shall include the following statement: "A security plan has been developed for the building being exempted which supplies adequate security to the occupants of the building and merits the prohibition of the carrying of a concealed handgun as authorized by the personal and family protection act." The security plan may be developed by the police chief.

A copy of the security plan shall be maintained on file. Notice of the exemption, together with the resolution, shall be sent to the Kansas Attorney General and to the law enforcement agency of local jurisdiction. Security plans are not subject to KORA.

**Employees:** Cities may restrict or prohibit the carrying of concealed handguns by their employees while on their premises or while engaged in their official duties if the city does so through their personnel policies. Failure to adopt such restrictions in personnel policies will allow public employees to carry concealed handguns in public buildings and while engaged in their duties.



# Commission Work Session Agenda

## Memo

**From:** John Braun, Assistant Director of Public Works

**Work Session:** December 5, 2013

**Subject:** 41<sup>st</sup> Street Construction – Award of Bid

**Person(s)** Toby Dougherty, City Manager

**Responsible:** I.D. Creech, Director of Public Works

### Summary

Residents of Hays have long anticipated the reconstruction of 41<sup>st</sup> Street. Since 2008, City Staff has been working with KDOT and engineering consultants on the design of the project. Bids were recently opened at KDOT, and APAC-Kansas, Inc. of Hays is the low bidder. KDOT has asked for a resolution committing the City's share of the funding in the amount of \$798,000 and authority to award the bid to APAC. The City's share of the cost is funded from Capital Projects.

### Background

Since 2008, City Staff has been working with KDOT on a project to reconstruct 41<sup>st</sup> Street from the US-183 By-pass to Hall Street. The project is being funded in part through the Federal Highway Administration Surface Transportation Program.

The project will reconstruct 41<sup>st</sup> Street from the US-183 By-pass to Hall Street. The old roadway will be removed and replaced with three-lanes of 8" concrete pavement complete with curb and gutter on both sides, new storm sewer pipe and inlets, a 10' wide concrete multi-use path along the north side, no sidewalk on the south side, and stormwater Best Management Practices improvements in two places.

Staff will give a presentation at the December 5<sup>th</sup> work session showing various plan sheets and diagrams describing the project.

### Discussion

KDOT opened bids in Topeka on November 13, 2013. Two contactors submitted bids:

Smoky Hill Construction, Salina      \$3,734,518.40

APAC-Kansas, Inc., Hays              \$2,939,483.20

KDOT has submitted a letter asking for authorization to award the construction contract to the low bidder APAC, and pass a resolution committing the City's share of funding for the project. See attachments.

The Resolution authorizing KDOT to award the contract and commitment of City funds needs to be executed and returned to KDOT by December 16, 2013. The actual payment of the City's share needs to be made by January 2, 2014.

When awarded the bid, the contractor must begin by March 24, 2014, and they have 180 working days for construction, which should result in project completion by the end of 2014.

KDOT will schedule and host an open house in February 2014, sometime prior to starting the construction. At this meeting, City Leaders, property owners along the project, media, general public, and any other stake holders, will be invited to listen to a project overview, review the plans, and ask questions of the engineers and contractor.

### Legal Consideration

There are no known legal obstacles to proceeding as recommended by City Staff.

### Financial Consideration

The 2013 Budget included \$1,885,000 for the City's Share of the project as summarized below:

	City CC - FPP	City Special Parks	City Stormwater	City Water/Sewer	City Total	KDOT	Total
Design	\$235,000				\$235,000		\$235,000
Land Acquisition	\$250,000				\$250,000		\$250,000
Inspection	\$104,000				\$104,000	\$416,000	\$520,000
Hike and Bike		\$102,000			\$102,000		\$102,000
Storm BMPs			\$133,500		\$133,500		\$133,500
H2O Adjustment				\$50,000	\$50,000		\$50,000
Eligible Construction	\$1,010,500				\$1,010,500	\$2,704,000	\$3,714,500
<b>Total Project Cost</b>	<b>\$1,599,500</b>	<b>\$102,000</b>	<b>\$133,500</b>	<b>\$50,000</b>	<b>\$1,885,000</b>	<b>\$3,120,000</b>	<b>\$5,005,000</b>

See the attached Project Detail Sheet.

Based on the actual bid and the information provided by KDOT, an updated summary of costs is shown below:

	City CC - FPP	City Special Parks	City Stormwater	City Water/Sewer	City Total	KDOT	Total
Design	\$240,317				\$240,317		\$240,317
Land Acquisition	\$61,000				\$61,000		\$61,000
<b>Subtotal</b>	<b>\$301,317</b>				<b>\$301,317</b>		<b>\$301,317</b>
Inspection	\$126,507				\$126,507	\$429,125	\$555,632
Hike and Bike		\$71,252			\$71,252		\$71,252
Storm BMPs			\$35,543		\$35,543		\$35,543
H2O Adjustment				\$94,200	\$94,200		\$94,200
Remaining Construction	\$470,252				\$470,252	\$2,276,951	\$2,747,203
<b>Total Const + Insp</b>	<b>\$596,759</b>	<b>\$71,252</b>	<b>\$35,543</b>	<b>\$94,200</b>	<b>\$797,754</b>	<b>\$2,706,076</b>	<b>\$3,503,830</b>

Total Project	\$898,076.00	\$71,252.00	\$35,543.00	\$94,200.00	\$1,099,071.00	\$2,706,076.00	\$3,805,147.00
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To summarize, the City’s share of construction would come from the following sources:

Financial Policy Projects -	\$596,759
Special Parks -	\$71,252
Stormwater -	\$35,543
Water/Sewer -	\$94,200
<b>TOTAL</b>	<b>\$797,754</b>

KDOT requires the City to pay the City’s share up front (before construction). After construction, if there are any change orders or variations in cost, KDOT will audit the project and credit the City any overpayment, or bill the City any additional amount due.

Since this is an upfront estimate of the City’s share, KDOT has rounded the City share up to \$798,000.

### Options

The Commission has the following options:

Option 1: Direct the Mayor to sign the resolution from KDOT authorizing the commitment of City funds and awarding a contract to APAC-Kansas, Inc for the reconstruction of 41<sup>st</sup> Street.

Option 2: Provide alternate direction to staff.

Option 3: Do nothing

### Recommendation

City staff recommends Options 1.

### Action Requested

Consider directing the Mayor to sign the resolution from KDOT authorizing the commitment of City funds and awarding a contract to APAC-Kansas, Inc for the

reconstruction of 41<sup>st</sup> Street. The City share to be paid to KDOT is \$798,000 from the Capital Projects Fund.

### **Supporting Documentation**

KDOT Authority to Award Letter

KDOT Resolution

KDOT Project Cost Summary Sheet

2013 CIP Budget Project Data Sheet



Dwight D. Eisenhower State Office Building  
700 S.W. Harrison Street  
Topeka, KS 66603-3745

Mike King, Secretary  
Ronald J. Seltz, P.E., Chief

Phone: 785-296-3861  
Fax: 785-296-2079  
Hearing Impaired - 711  
publicinfo@ksdot.org  
http://www.ksdot.org

Sam Brownback, Governor

November 25, 2013

**Project Number: 26 U-2295-01**

Asst Pub Wrks Dir  
John Braun-Asst Pub Wrks Dir  
1002 Vine Street  
Hays, Kansas 67601-3464

Dear Mr. Braun:

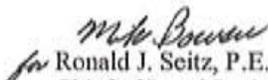
We are listing below the bidder and the low bid received at Topeka, Kansas on 11/13/2013 for the above numbered project.

CONTRACTOR	TYPE OF WORK	AMOUNT
APAC KANSAS INC SHEARS DIVISION  1600 N LORRAINE STE 1 PO BOX 1605, HUTCHINSON KS	Grading and Surfacing	\$ 2,939,483.20

This is considered satisfactory when compared with the engineer's estimate, and we believe that contracts should be awarded to the low bidder. If this bid is considered acceptable to the City, please sign the enclosed resolution and return it to this office. In order to guarantee the low bid, we must receive the expected resolution on or before December 16, 2013. Upon receipt of the signed resolution and approval by the Secretary of Transportation the contract will be awarded.

A combination of bid items and construction engineering and contingencies less \$3,120,000 Maximum State funds will require City matching funds in the amount of \$798,000 . The City remittance should be made on or before January 2, 2014.

Sincerely,

*for*   
Ronald J. Seitz, P.E.  
Chief of Local Projects

RJS:SSC:mb  
Enclosures

c: Mayor/City Manager, w/a  
Ms. Rhonda Seitz, Chief of Fiscal Services  
District Engineer

**AUTHORITY TO AWARD CONTRACT  
COMMITMENT OF CITY FUNDS**

November 25, 2013

2 Copies to City  
Project Number: 26 U-2295-01  
City of Hays

WHEREAS bids were received at Topeka, Kansas on 11/13/2013 for the performance of work covered by plans on the above numbered project, and

WHEREAS the bidder and the low bid or bids on work covered by this project were:

CONTRACTOR	TYPE OF WORK	AMOUNT
<b>APAC KANSAS INC SHEARS DIVISION 1600 N LORRAINE STE 1 PO BOX 1605, HUTCHINSON KS</b>	<b>Grading and Surfacing</b>	<b>\$ 2,939,483.20</b>

WHEREAS bids are considered satisfactory and have been recommended by the Secretary of Transportation of the State of Kansas, hereinafter referred to as the SECRETARY, for consideration and acceptance of the work on this project as covered by such bid or bids.

**A combination of the bid plus construction engineering and contingencies less \$3,120,000 Maximum State Funds = \$798,000 matching City Funds.**

BE IT FURTHER RESOLVED that the City funds in the amount of \$798,000 which are required for the matching of Maximum State Funds are hereby pledged by the County to be remitted to the Chief of Fiscal Services of the Department of Transportation of the State of Kansas on or before January 2, 2014 for use by the SECRETARY in making payments for construction work and engineering on the above designated project with final cost being determined upon completion and audit of the project.

Adopted this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_, Kansas.

Recommended for Approval:

\_\_\_\_\_, Mayor  
City Engineer

Attest: \_\_\_\_\_, Member

(Seal)

\_\_\_\_\_, Member

\_\_\_\_\_  
City Clerk

Revised 12/03  
DOT FORM 1309

**11/25/2013 Bid Letting for Project No. 26 U-2259-01  
Process for Estimating the City of Hays's Share of the Project**

<b>Construction and CE Breakdown</b>	
Actual Bid	\$2,939,483
Water(for grading)	\$8,715
<b>Sub-Total Actual Bid Amount</b>	<b>\$2,948,198</b>
LPA CE Contract	\$496,668
KDOT CE (2%) Estimated	\$58,964
<b>Sub-Tot. Const. and CE (Total Proj. Costs)</b>	<b>\$3,503,830</b>
State-aid Non-Participating Const. Costs	\$102,010
State-aid Non-Participating CE	\$19,225
PE Costs	\$0
Railroad Costs	\$0
ROW Costs	\$0
Utility Costs	\$0
<b>State Participating Project Costs</b>	<b>\$3,382,594</b>

<b>CE Breakdown</b>	
Total LPA CE and	\$555,632
State Non-Participating	\$19,225
State Participating	\$536,406

**Maximum Participating**      **\$3,120,000**

<b>State/City Participation Summary</b>	
State Participating	<b>\$3,382,594</b>
Sub-Total State Participating	<b>\$3,382,594</b>
80% State Part. of Project Costs	\$2,706,076
20% City Part. of Project Costs	\$676,519
100% City Funds Due to Max.	\$0
100% City Funds	\$121,235
<b>Total Project Cost</b>	<b>\$3,503,830</b>

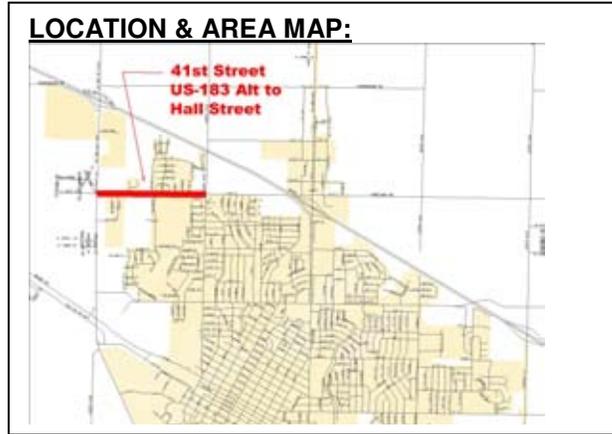
<b>Totals</b>			
	<b>City Funds</b>	<b>State Funds</b>	<b>Total Funds</b>
State Non-Participating Construction	\$102,010	\$0	\$102,010
State Non-Participating CE	\$19,225	\$0	\$19,225
80% State Part. of Project Costs	\$0	\$2,706,076	\$2,706,076
20% City Part. of Project Costs	\$676,519	\$0	\$676,519
100% City Funds Due to Max.	\$0	\$0	\$0
<b>Total</b>	<b>\$797,754</b>	<b>\$2,706,076</b>	<b>\$3,503,830</b>

**Amount to bill City (rounded up)      \$798,000**

<b>Key</b>
- Kansas Department of Transportation
LPA - Local Public Authority
Construction Engineering (Inspection)
Const. - Construction

**PROJECT FORM**

**PROJECT:** 41<sup>st</sup> Street – US-183 Alt to Hall Street  
**FISCAL YEAR:** 2013  
**PROJECT NO:** 2008-03  
**FUND:** Commission Financial Policy Projects  
**DEPARTMENT:** Public Works



**PROJECT DESCRIPTION:** Reconstruction of 41<sup>st</sup> Street from the US-183 Alternate to Hall Street. The project is currently in the design process, with right of way acquisition to start soon. The approved design is a concrete, 3-lane roadway with curb & gutter and 10' wide multi-use (hike/bike) path running the full length of the project along the north side. The design will also include some environmentally friendly improvements at the stormwater crossings at the far west end of the project and between Fillmore and Harrison draining onto the golf course.

**NEED, JUSTIFICATION, BENEFIT:** Improve 41<sup>st</sup> Street to provide better safety for pedestrians and bicyclists utilizing 41<sup>st</sup> Street, improve the failing road way, and to better serve the traffic related to new developments in the northwest portion of the City.

**CONSEQUENCES OF DELAYING OR ELIMINATING THIS PROJECT:** The current roadway is in need of repairs; delay will cause additional maintenance and repair costs. In addition, the existing roadway is not very safe for pedestrians and bicyclists.

**THIS PROJECT IS RELATED TO THE FOLLOWING:** This is the next project on the City's list for KDOT Surface Transportation Program (STP) projects, which is funded at 80% of eligible construction costs.

**EXPLANATION OF IMPACT ON OPERATING BUDGET:** The reconstruction of this roadway would reduce future operating budgets regarding street maintenance.

**TIME-LINE/CURRENT STATUS:** The project is currently under design. The KDOT bid opening date is scheduled for October 2013 for construction in 2014.

**COMMENTS:**

\$102,000 to oversize the 10' multi-use path over the cost of a standard sidewalk is to be funded from Special Parks.  
 \$133,500 for stormwater quality improvements is to be funded from the Stormwater Utility.  
 \$50,000 for Waterline relocation is to be funded from the Water/Sewer Fund

	City CC - FPP	City Special Parks	City Stormwater	City Water/Sewer	City Total	KDOT	Total
Design	\$235,000.00				\$235,000.00		\$235,000.00
Land Acquisition	\$250,000.00				\$250,000.00		\$250,000.00
Inspection	\$104,000.00				\$104,000.00	\$416,000.00	\$520,000.00
Hike and Bike		\$102,000.00			\$102,000.00		\$102,000.00
Storm BMPs			\$133,500.00		\$133,500.00		\$133,500.00
H2O Adjustment				\$50,000.00	\$50,000.00		\$50,000.00
Eligible Construction	\$1,010,500.00				\$1,010,500.00	\$2,704,000.00	\$3,714,500.00
<b>Total Project Cost</b>	<b>\$1,599,500.00</b>	<b>\$102,000.00</b>	<b>\$133,500.00</b>	<b>\$50,000.00</b>	<b>\$1,885,000.00</b>	<b>\$3,120,000.00</b>	<b>\$5,005,000.00</b>

<b>IMPACT ON OPERATING BUDGET:</b>		<b>FINANCING:</b>	
Prior to 2013	\$	Financial Policy Projects	\$1,599,500
2013	\$	Special Parks	\$102,000
2014	\$	Stormwater	\$133,500
2015	\$	Water/Sewer Fund	\$50,000
2016	\$	KDOT/Federal Grant Funds	\$3,120,000
5-YEAR TOTAL:	\$	TOTAL	\$5,005,000

**FIVE-YEAR COST BREAKDOWN SCHEDULE: (Financial Policy Projects Funding Only)**

	<b>Prior to 2013</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>After 2017</b>	<b>Total</b>
Planning & Design	\$200,000	\$35,000						\$235,000
Land		\$250,000						\$250,000
Construction		\$1,010,500						\$1,010,500
Inspection		\$104,000						\$104,000
<b>Total</b>	<b>\$200,000</b>	<b>\$1,399,500</b>						<b>\$1,599,500</b>



# Commission Work Session Agenda

## Memo

**From:** John Braun, Assistant Director of Public Works

**Work Session:** December 5, 2013

**Subject:** 2014 Street Maintenance Program

**Person(s)** Toby Dougherty, City Manager

**Responsible:** I.D. Creech, Director of Public Works

### Summary

Staff presents the street maintenance plan for 2014. The Special Highway Budget includes \$598,352 in the Budgeted Projects line item for maintenance and repair projects. Setting aside \$20,000 for the sidewalk rebate program leaves about \$578K available for street maintenance. The plan presented by staff includes chip seal, polypatch, curb and brick repair, a small area of total reconstruction, as well as some funding for in-house asphalt and concrete patching and crack sealing. Upon direction, staff will solicit bids for work to be contracted out, and bring those bids back to the City Commission for final approval after the first of the year.

### Background

Each year staff evaluates the condition of city streets and develops a maintenance program that is brought forward for Commission consideration. Staff utilizes the most recent street condition data, traffic counts, and available dollars in developing the program. The street maintenance program is funded primarily with Special Highway funds. The last few years the City Commission has utilized Financial Policy Project money to increase the amount spent on maintenance projects.

In 2005, City Staff conducted a pavement condition assessment in-house, and developed a 5-year pavement maintenance plan. That plan was followed from 2006 to 2010, with \$3.85 million spent on street maintenance projects over those 5 years. In 2011, staff did not bring forth a comprehensive street maintenance project due to an automated pavement condition survey being conducted. Using that pavement assessment, staff presented a plan for 2012, which included Chip Seal, Polypatch, Mill and Overlay, Curb & Brick Repair, Concrete Patching, and in-house work. That work cost \$1,250,000 and was funded with 2011 and 2012 Special Highway money and \$250,000 from City Commission Financial Policy Projects. In 2013, contracts totaling \$416,632 were awarded, with about \$90,000 of work done in-house and \$20,000 for Sidewalk projects.



## **Financial Consideration**

Currently street maintenance is financed through the Special Highway Fund, which receives revenue from the State, mainly from fuel tax reimbursements in the amount of approximately \$533,000 per year.

The 2014 budget included \$598,352 in the Special Highway, \$548,352 in Budgeted Projects line item, and \$50,000 in contingency. With direction from the City Commission, staff will solicit bids for the proposed work and bring those bids forward in early 2014 for commission consideration.

## **Options**

The Commission has the following options:

Option 1: Accept the Street Maintenance Program for 2014 as presented and authorize staff to solicit bids for the proposed work to be accomplished in the 2014 construction season.

Option 2: Provide alternate direction to staff.

Option 3: Do nothing

## **Recommendation**

City staff recommends Options 1.

## **Action Requested**

Consider accepting the Street Maintenance Program for 2014 as presented and authorize staff to solicit bids for the proposed work to be accomplished in the 2014 construction season.

## **Supporting Documentation**

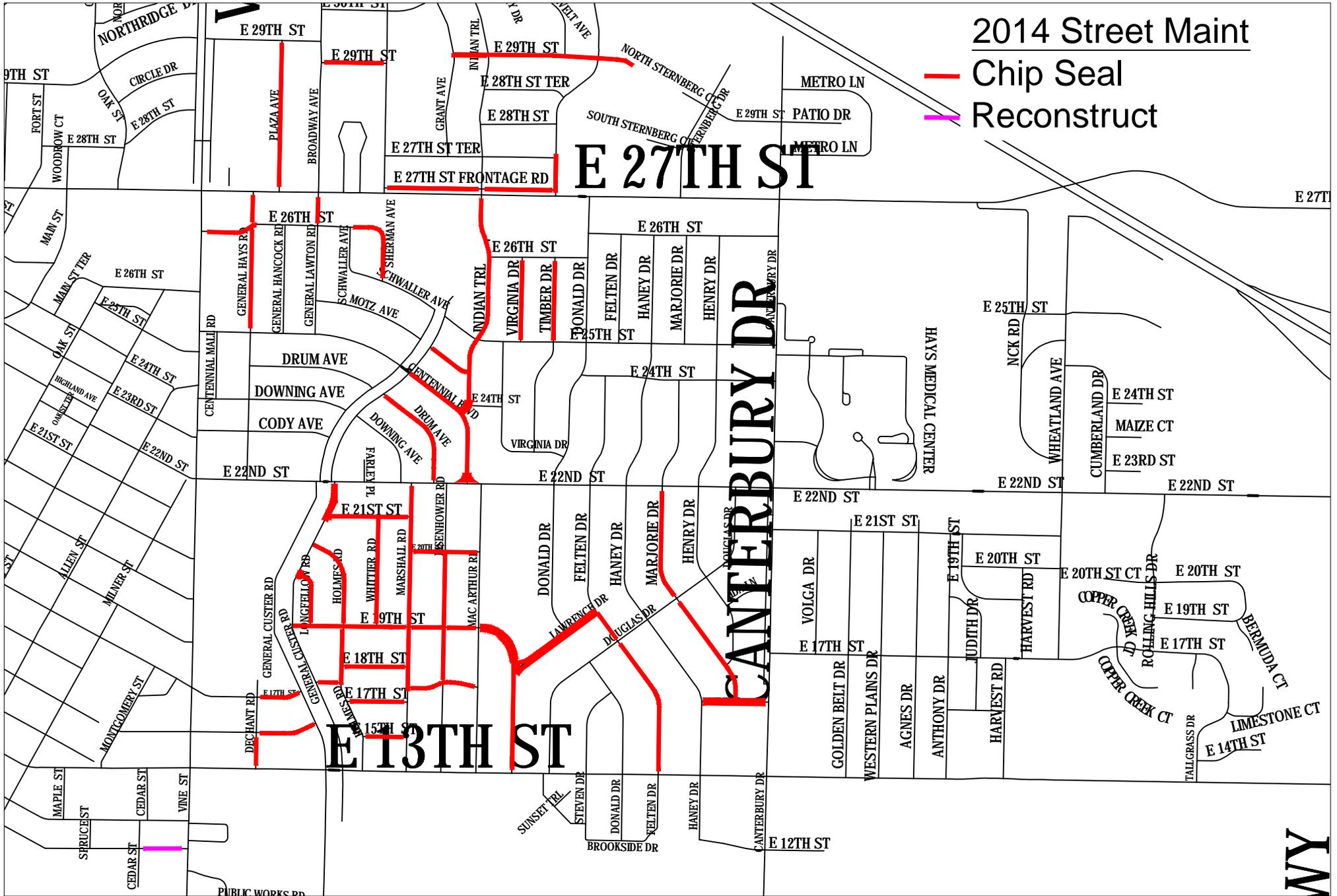
Exhibit A – 2014 Proposed Street Maintenance Location Map

Exhibit B – 2013 AS-Built Street Maintenance

Exhibit C – 2012 AS-Built Street Maintenance

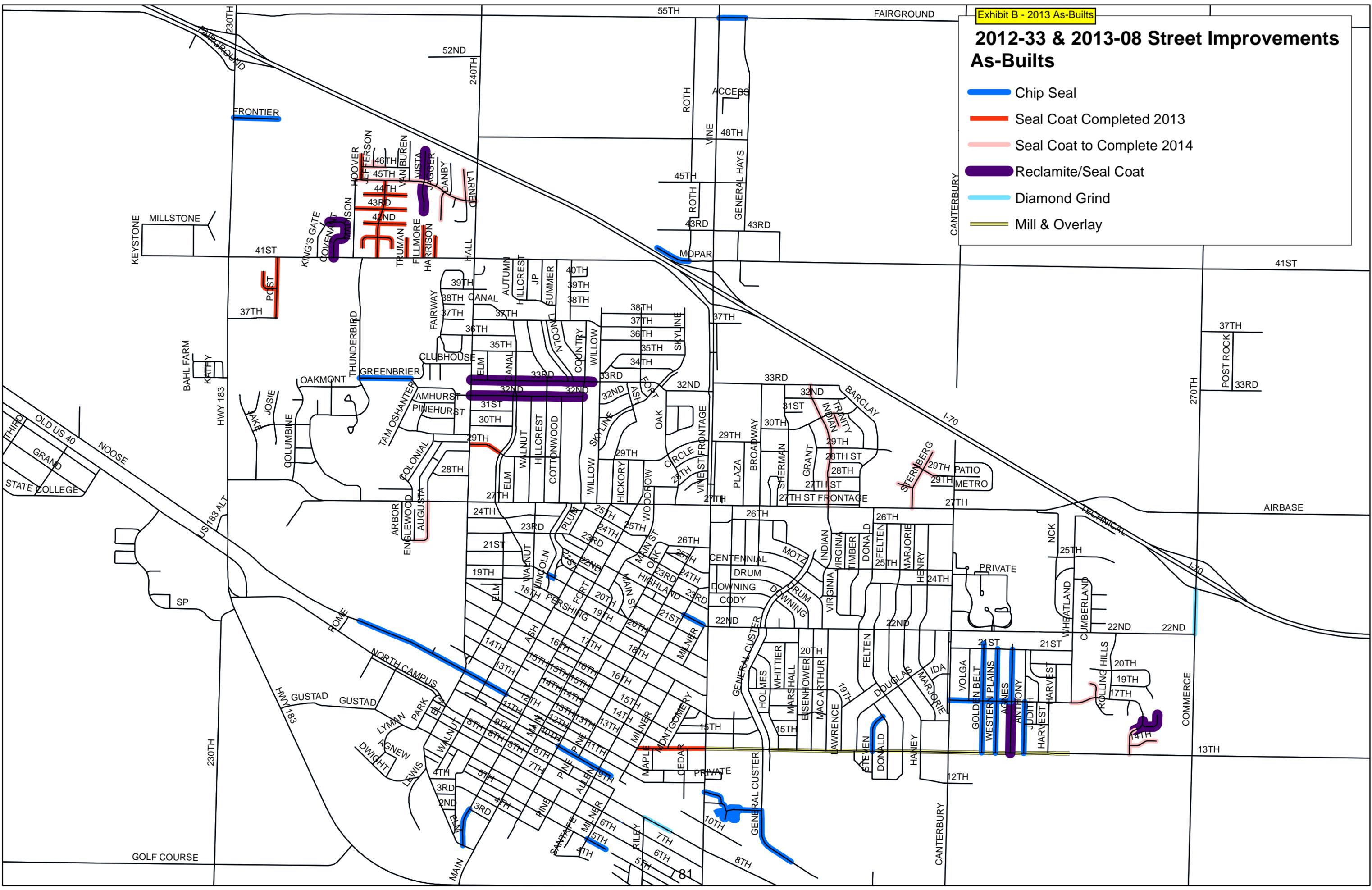
Exhibit D – 2011 Pavement Condition Assessment Summary

Exhibit E – Priority Listing from 2011 Pavement Condition Assessment



# 2012-33 & 2013-08 Street Improvements As-Builts

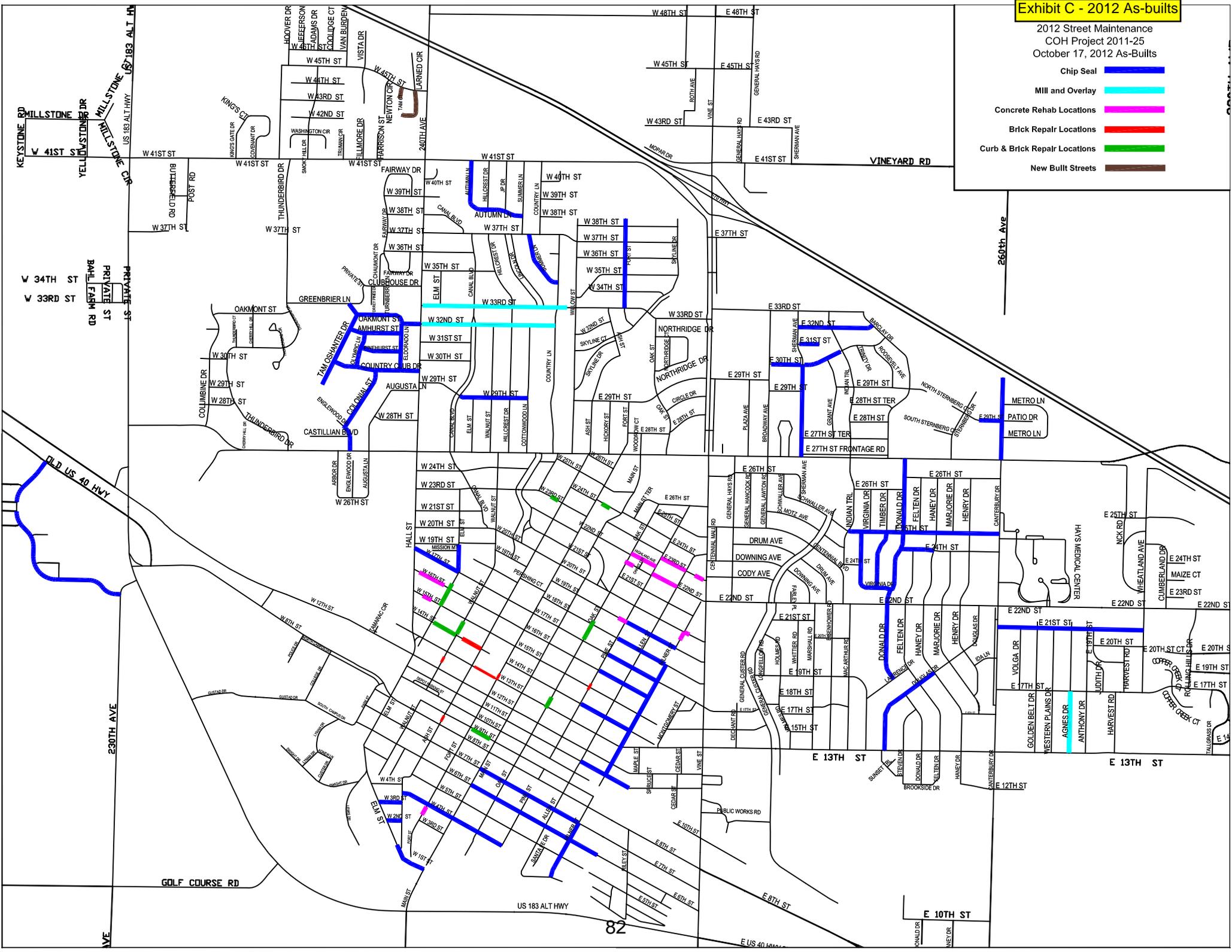
- Chip Seal
- Seal Coat Completed 2013
- Seal Coat to Complete 2014
- Reclamite/Seal Coat
- Diamond Grind
- Mill & Overlay



**Exhibit C - 2012 As-builts**

2012 Street Maintenance  
COH Project 2011-25  
October 17, 2012 As-Builts

- Chip Seal 
- Mill and Overlay 
- Concrete Rehab Locations 
- Brick Repair Locations 
- Curb & Brick Repair Locations 
- New Built Streets 



# City of Hays, KS

## Pavement Management Analysis Report Rev1

November 7, 2011 Rev1

City of Hays  
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Hay, KS 67601  
Attention: John Braun, Assistant Director of Public Works

See Funding Level Recommendation on Last Page (pg 17).



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## TABLE OF CONTENTS

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<b>TABLE OF CONTENTS</b>	<b>I</b>
<b>1.0 PROJECT DESCRIPTION</b>	<b>1</b>
1.1 Principles of Pavement Management	1
1.2 The Pavement Management Process	4
1.3 Understanding the Pavement Condition Score	5
<b>2.0 ROADWAY NETWORK CONDITION AND FINDINGS</b>	<b>6</b>
2.1 Roadway Network Size	6
2.2 Network Present Condition	7
2.3 Structural Evaluation	8
2.4 Index Distribution By Pavement Type	10
2.5 Reconstruction Backlog	11
<b>3.0 REHABILITATION PLAN AND BUDGET DEVELOPMENT</b>	<b>12</b>
3.1 Key Analysis Set Points	12
3.2 Fix All and Annual Estimates	15
3.3 Network Budget Analysis Models – Asphalt network	15
3.4 Network Budget Analysis Models – Concrete network	17
3.5 Network Recommendations and Comments	17
<b>APPENDED REPORTS</b>	<b>Following Page 17</b>
Appendix A	Street Inventory and Condition Summary (Subsegments Sorted by Street Name)
Appendix B	Street Inventory and Condition Summary (Supersegments Sorted by ID)
Appendix C	Street Inventory and Condition Summary (Supersegments Sorted by Priority)
Appendix D	\$850k ACP Rehab Plan by Supersegments
Appendix E	\$850k ACP Rehab Plan by Subsegments
Appendix F	\$115k PCC Rehab Plan by Supersegments
Appendix G	\$115k PCC Rehab Plan by Subsegments

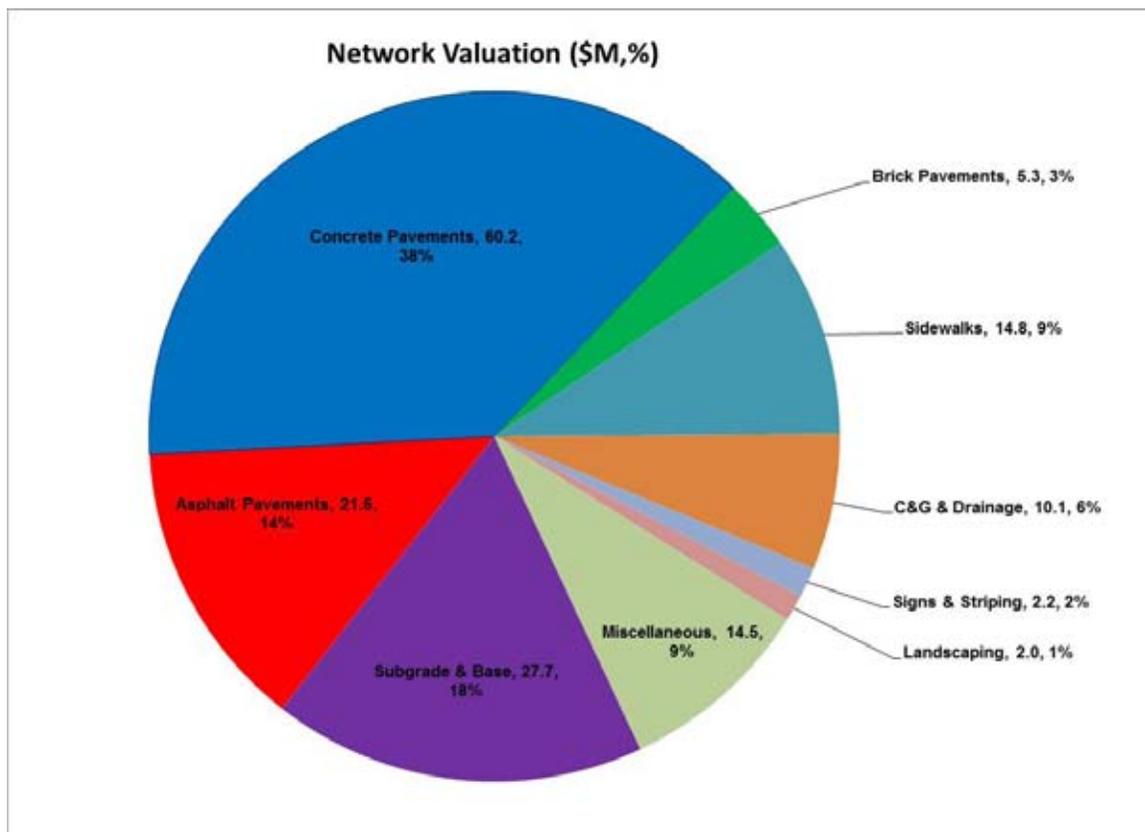
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## 1.0 PROJECT DESCRIPTION

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### 1.1 PRINCIPLES OF PAVEMENT MANAGEMENT

Nationwide, billions of dollars have been invested in roadway networks by municipal, state and federal governments. Locally, the City of Hays has over 47 miles of major roadways (arterials and collectors), 72 miles of residential roadways encompassing over 21M square feet of asphalt, brick and concrete surfacing. At a replacement cost approaching \$1.3M per mile – not including the value of the land, the City has over \$158 million invested in their paved roadway network.



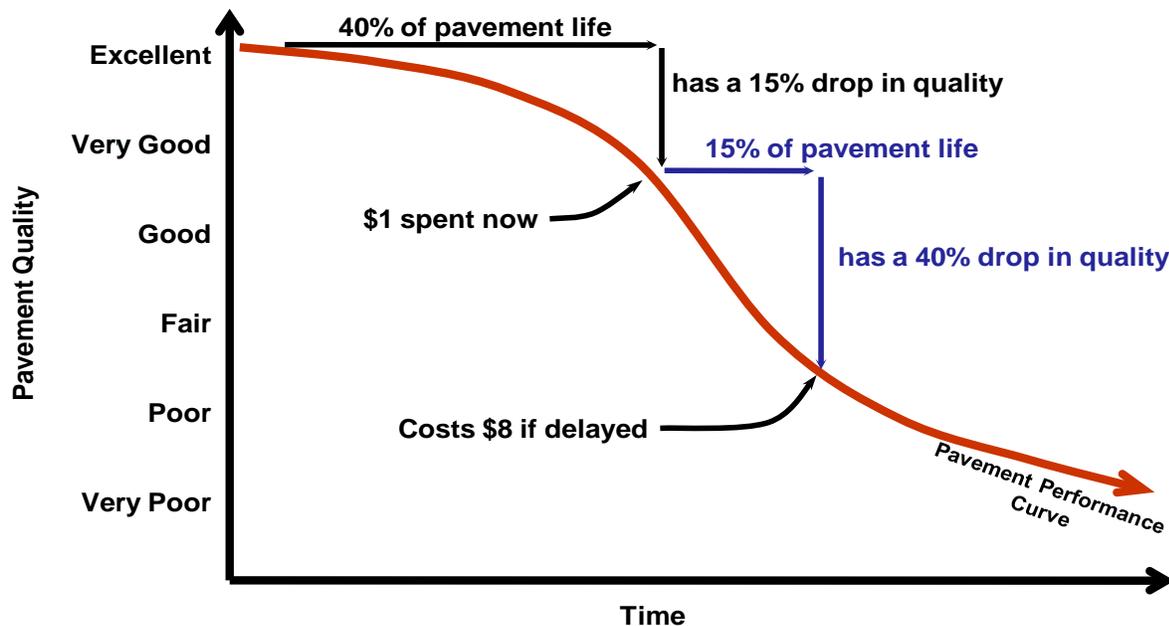
**Figure 1 – Replacement Value of the City of Hays Paved Roadway Network (\$M, %)**  
**Total = \$158M**

Preservation of existing road and street systems has become a major activity for all levels of government. There is a shortage of funds to maintain street systems at the state and local government levels. Funds that have been designated for pavements must therefore be used as effectively as possible. One proven method to obtain maximum value of available funds is through the use of a pavement management system.

Pavement management is the process of planning, budgeting, funding, designing, constructing, monitoring, evaluating, maintaining, and rehabilitating the pavement network to provide maximum benefits for available funds. A pavement management system is a set of tools or methods that assists decision makers in finding optimum strategies for providing and maintaining pavements in a serviceable condition over a given time period.

As shown in Figure 2, streets that are repaired when they are in a good condition will cost less over their lifetime than streets that are allowed to deteriorate to a poor condition. Without an adequate routine pavement maintenance program, streets require more frequent reconstruction, thereby costing millions of extra dollars. Over time, pavement quality drops until the pavement condition becomes unacceptable. For each street, the shape of the curve, and hence rate of deterioration, is dependent on many factors – foremost of which are the strength of the roadway structure and traffic loading. The key to a successful pavement management program is to develop a reasonably accurate performance model of the roadway, and then identify the optimal timing and rehabilitation strategy. The resultant benefit of this exercise is realized by the long term cost savings and increase in pavement quality over time. As illustrated in Figure 2, pavements typically deteriorate rapidly once they hit a specific threshold. A \$1 investment after 40% lifespan is much more effective than deferring maintenance until heavier overlays or reconstruction is required just a few years later.

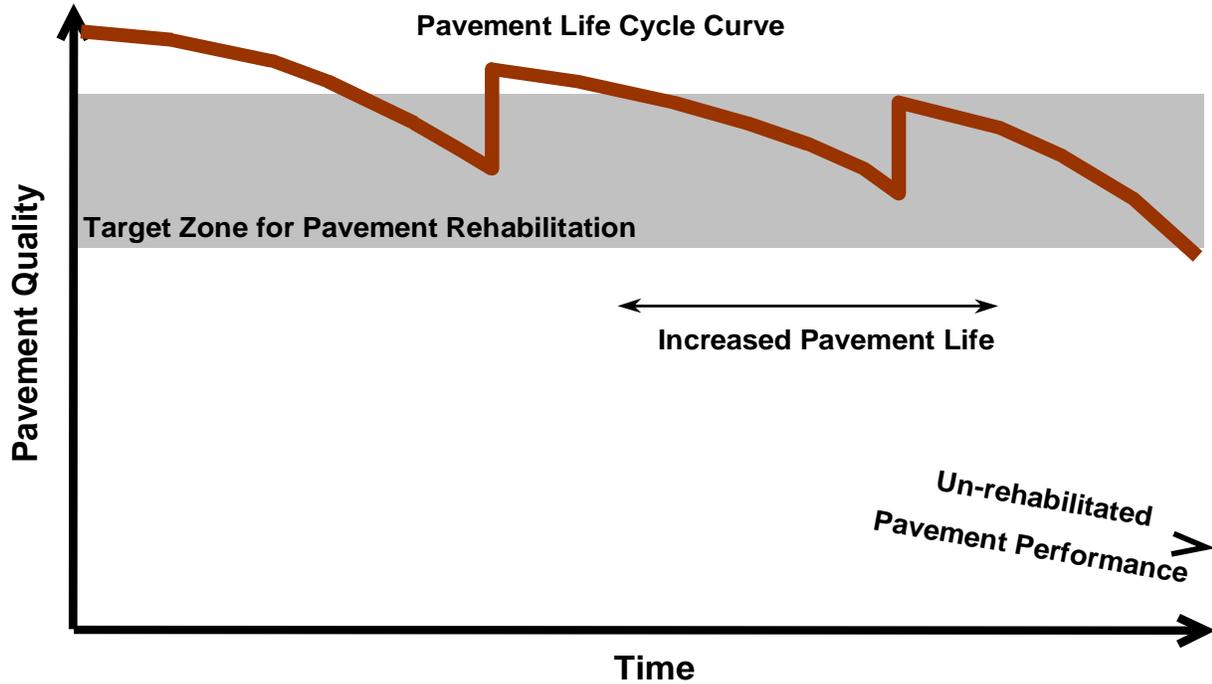
Once implemented, an effective pavement information management system can assist agencies in developing long-term rehabilitation programs and budgets. The key is to develop policies and practices



**Figure 2 – Pavement Deterioration and Life Cycle Costs**

that delay the inevitable total reconstruction for as long as practical yet still remain within the target zone for cost effective rehabilitation.

That is, as each roadway approaches the steep part of its deterioration curve, apply a remedy that extends the pavement life - at a minimum cost, thereby avoiding costly heavy overlays and reconstruction. Thus, the goal of a pavement information management system is to identify the optimal level of funding, timing, and renewal strategy agencies should adopt to keep their roadway network at a satisfactory level of service. Figure 3 illustrates the concept of extending pavement life through the application of timely rehabilitation activities.



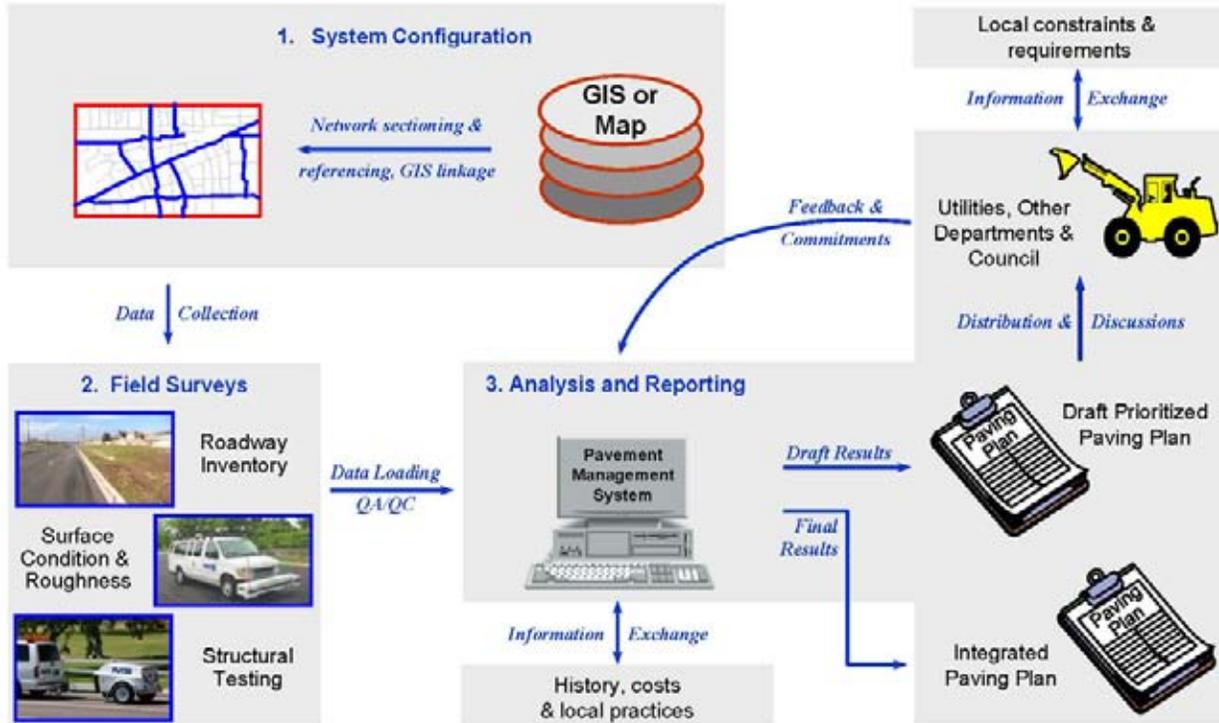
**Figure 3 – Pavement Life Cycle Curve**

Ideally, the lower limit of the target zone shown in Figure 3 would have a minimum value of 70 – that is to keep as many streets as possible requiring a thin overlay or less. The upper limit would tend to fall close to upper range of the very good category – that is a pavement condition score of 85.

Other functions of a pavement management system include assessing effectiveness of maintenance activities and new technologies; storing historical data and images.

## 1.2 THE PAVEMENT MANAGEMENT PROCESS

The actual pavement management process involves three unique, but important steps, and is presented graphically in Figure 4. Each activity builds on the previous, until the end result is a prioritized paving and rehabilitation program.



**Figure 4 - The Pavement Management Process**

The final Pavement Condition Index (PCI) is made up from three inputs, namely Surface Distress, Roughness and Structural Analysis as follows:

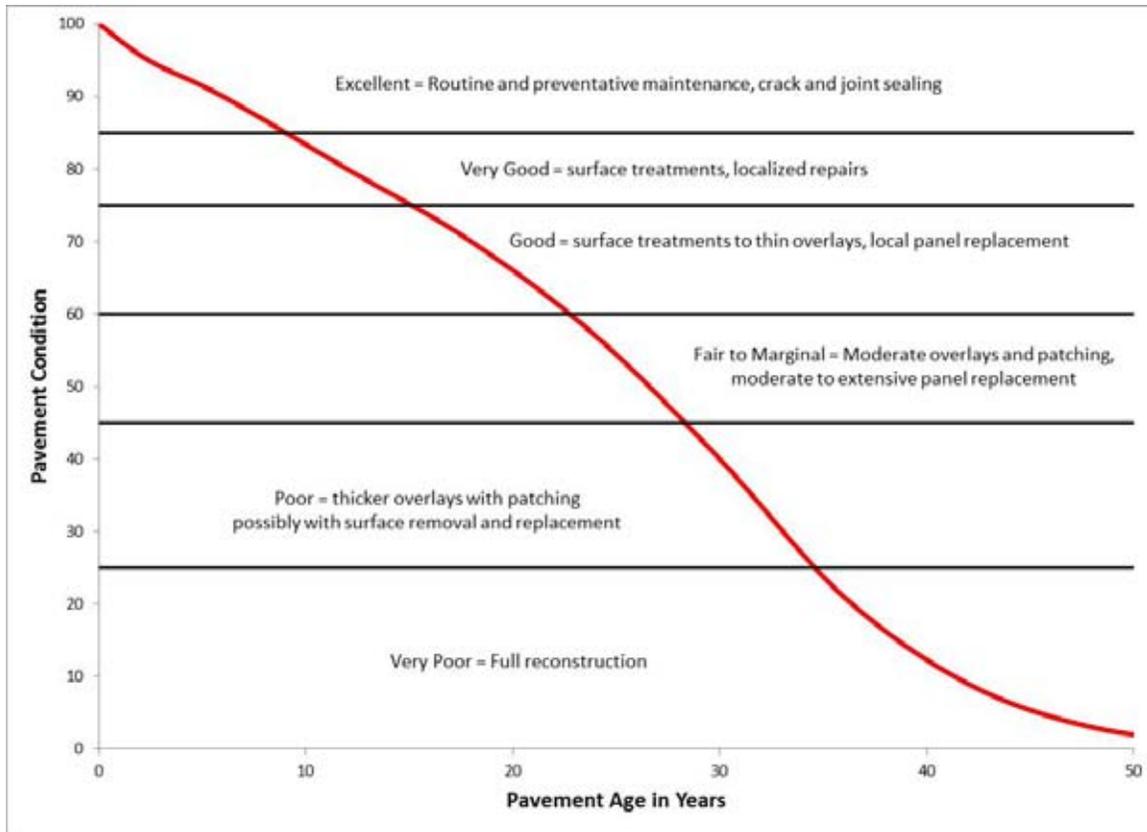
1. Surface Distress – based on collecting severity and extent observations using the ASTM D6333-09 protocols for asphalt and rigid pavements.
2. Roughness data collection was based on the International Roughness Index and converted to a roughness score (RI) where  $RI = 11 - 3 \times \ln(IRI)$ .
3. Structural analysis was completed using a Dynaflect device for field testing device and then completing a layer analysis using the sensor outputs, temperate and traffic counts. Only asphalt streets were analyzed with a Dynaflect device. Streets that were not deflection tested had a Structural Index assigned to them based on the extent and severity of their surface distresses; however it is only used for the rehab selection and does not contribute to the pavement condition score.
4. The Pavement Condition Index (PCI) is calculated one of two formulas:

PCI = 33% Roughness + 67% Surface Distress if no deflection data was collected, or

PCI = 25% Structure + 25% Roughness + 50% Surface Distress if deflection data was collected.

### 1.3 UNDERSTANDING THE PAVEMENT CONDITION SCORE

The following illustration compares Pavement Condition Index (PCI) to commonly used descriptive terms. The divisions between the terms are not fixed, but are meant to reflect common perceptions of condition.



**Figure 5 – Understanding the Pavement Condition Index Score**

The general idea of what these condition levels mean with respect to remaining life and typical rehabilitation actions is included in the following table:

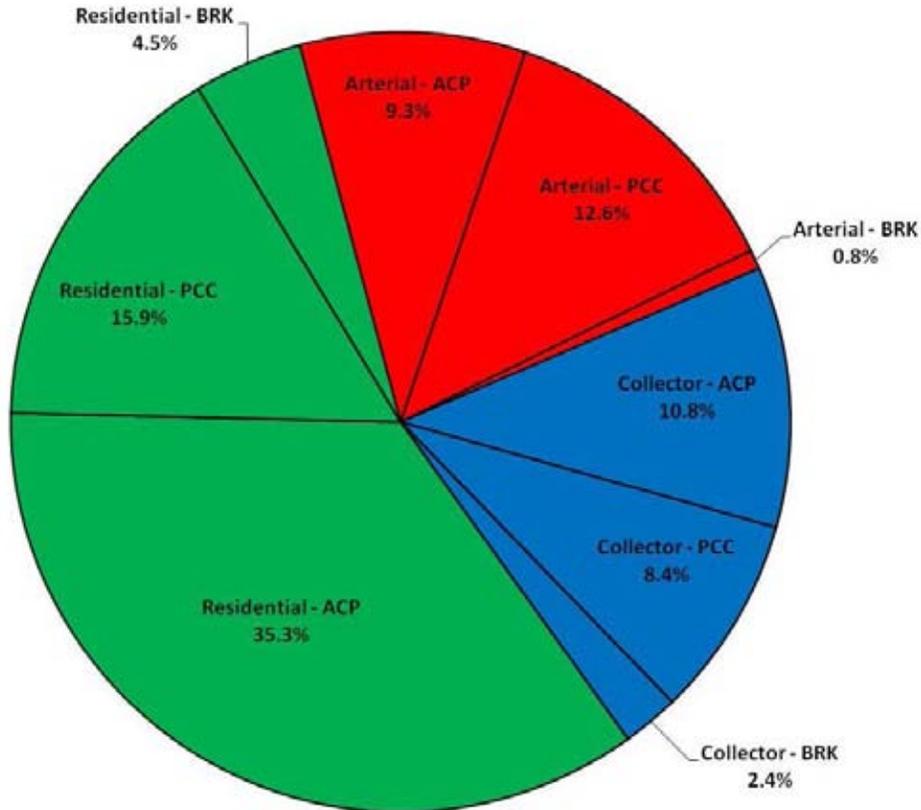
PCI Range	Description	Relative Remaining Life	Definition
85 – 100	Excellent	15 to 25 Years	Like new condition – little to no maintenance required when new, routine maintenance such as crack and joint sealing.
75 – 85	Very Good	12 to 20 Years	Routine maintenance such as patching, crack sealing with surface treatments such as seal coats or slurries.
60 – 75	Good	10 to 15 Years	Heavier surface treatments and thin overlays. Localized panel replacements.
45 – 60	Fair to Marginal	7 to 12 Years	Progressively thicker overlays with localized repairs. Moderate to extensive panel replacements.
25 – 45	Poor	5 to 10 Years	Sections will require very thick overlays, surface replacement, base reconstruction and possible subgrade stabilization.

## 2.0 ROADWAY NETWORK CONDITION AND FINDINGS

### 2.1 ROADWAY NETWORK SIZE

The paved roadway network consists of five functional classes, covering approximately 119.8 miles of pavement. The average overall pavement condition of the roadway network (asphalt and concrete only) at the time of the survey was 70. The network has three pavement types asphalt, brick and concrete, with asphalt being slightly predominant. The following table summarizes the functional class splits within the system.

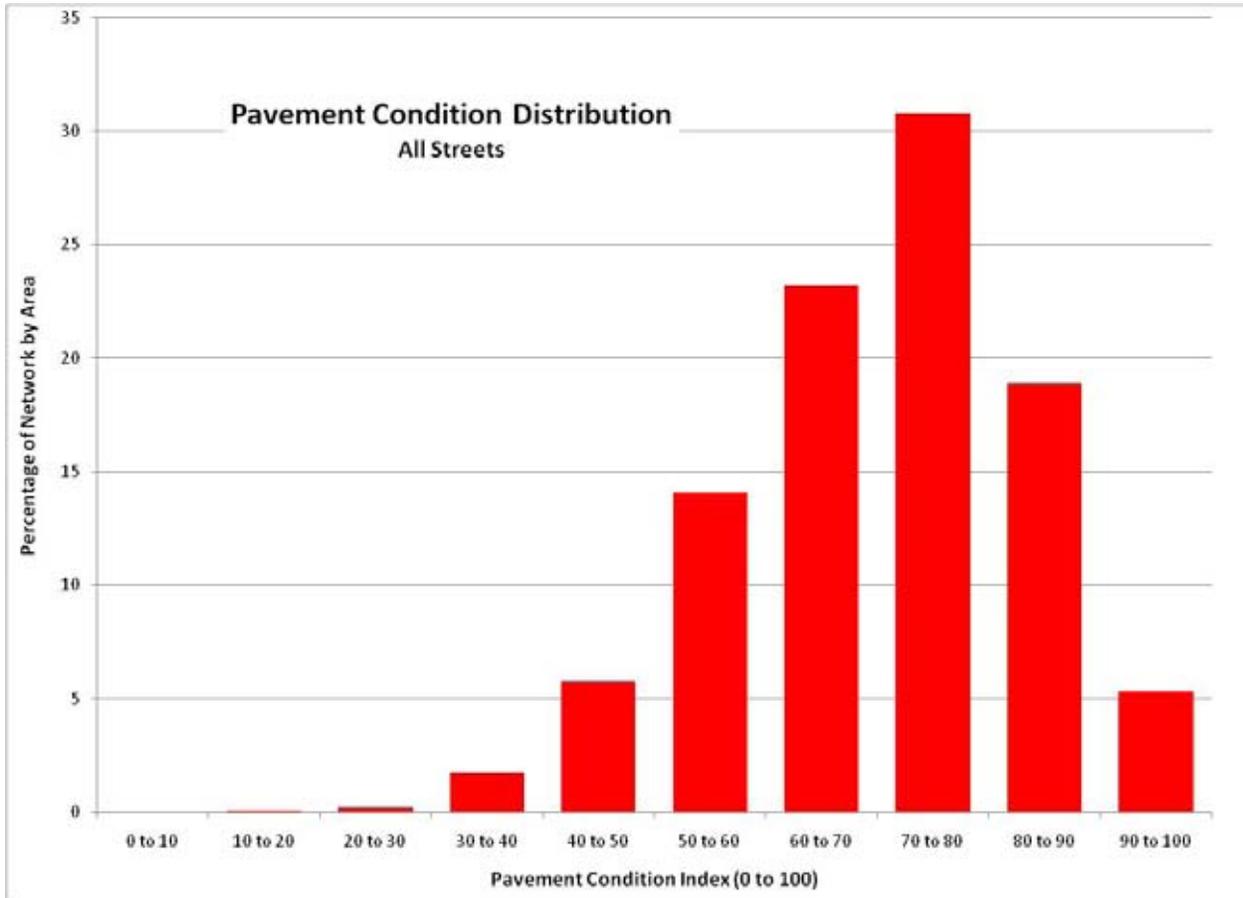
FuncL	Group	Asphalt Network			PCC Network			Brick Network			All Streets		
		Length (ft)	Length (mi)	Area (ft2)	Length (ft)	Length (mi)	Area (ft2)	Length (ft)	Length (mi)	Area (ft2)	Length (ft)	Length (mi)	Area (ft2)
ARTERIAL	ART	47,209	8.9	1,882,230	58,251	11.0	2,499,278	3,601	0.7	129,619	109,060	20.7	4,511,127
Minor Arterial	ART	2,800	0.5	98,297	4,995	0.9	170,498	1,676	0.3	40,228	9,470	1.8	309,023
COLLECTOR	COL	35,577	6.7	1,229,457	27,663	5.2	905,767	17,270	3.3	488,465	80,511	15.2	2,623,689
Unclassified Collector	COL	27,779	5.3	1,065,087	25,279	4.8	874,074	322	0.1	11,927	53,380	10.1	1,951,089
Residential	RES	231,664	43.9	7,483,196	111,978	21.2	3,382,030	36,227	6.9	959,078	379,870	71.9	11,824,304
Totals:		345,029	65.3	11,758,268	228,166	43.2	7,831,646	59,096	11.2	1,629,318	632,291	119.8	21,219,233



**Figure 6 – Network Split by Functional Classification (%)**

**2.2 NETWORK PRESENT CONDITION**

Figure 7, presented below shows distribution of pavement condition for the paved roadway network in the City of Hays on a 0 to 100 scale, 0 being worst and 100 being best condition. The average PCI for the network is 70. While direct comparisons to other agencies is difficult due to variances in ratings systems, overall, Hays is above the average of agencies recently surveyed by IMS.

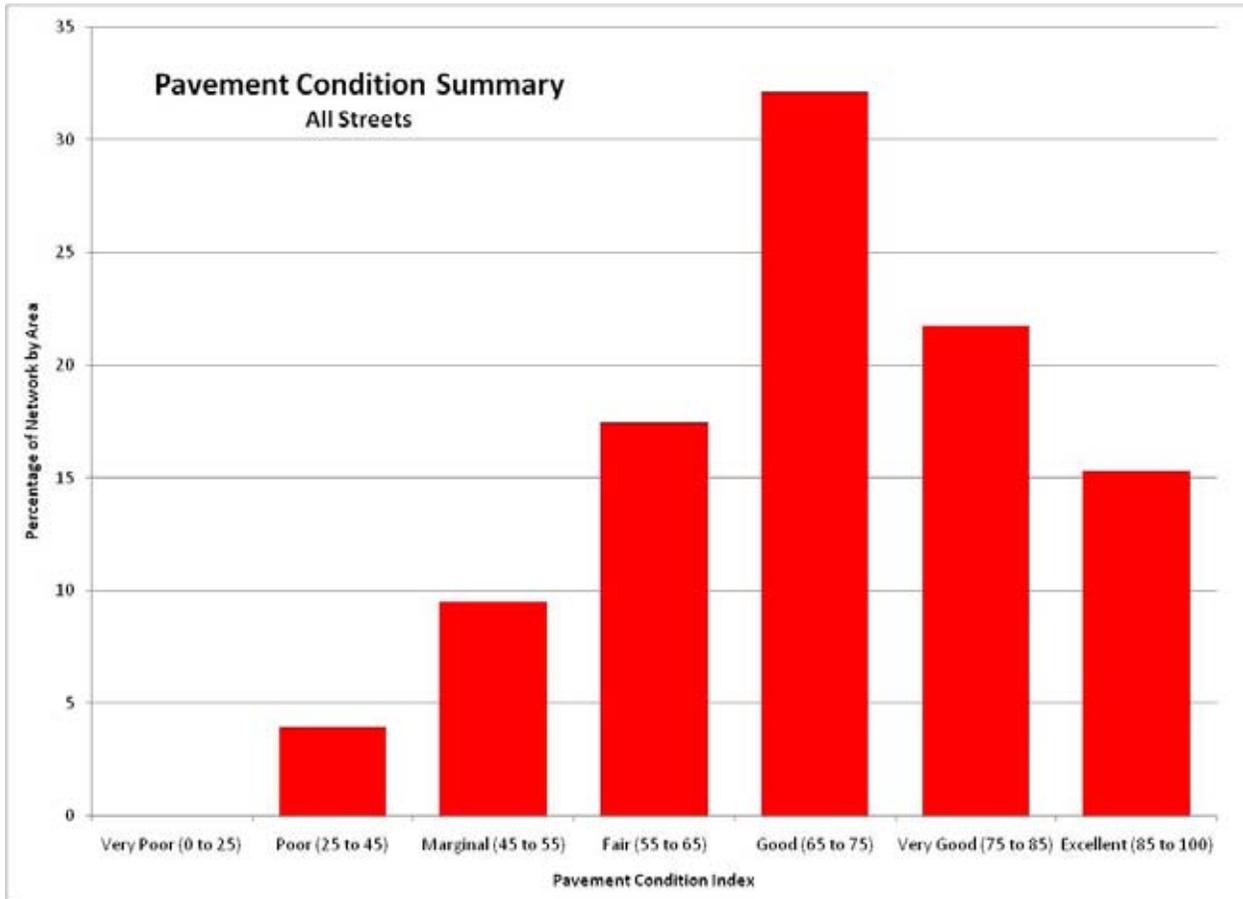


**Figure 7 –Roadway Network Present Status**

This is reflective of a network with a high percentage of concrete roadways (which generally score higher than asphalt streets of the same age), coupled with an effective program to not let too many streets deteriorate past their prime.

The following graph (Figure 8) plots the same pavement condition information, but instead of using the actual Pavement Condition Index value, descriptive terms are used to classify the roadways. From the chart, 15% of the network can be considered in excellent condition with a PCI score greater than 85. These streets are in like new condition and require routine maintenance. Nationwide, the amount of roadways falling into the very good category is about 15%, so this value is spot on. Just under 22% of the network falls into the very good classification. These are roads that benefit the most from

preventative maintenance techniques such as microsurfacing, slurry seals and localized repairs. If left untreated these roadways will drop in quality to become heavy surface treatment or overlay candidates.



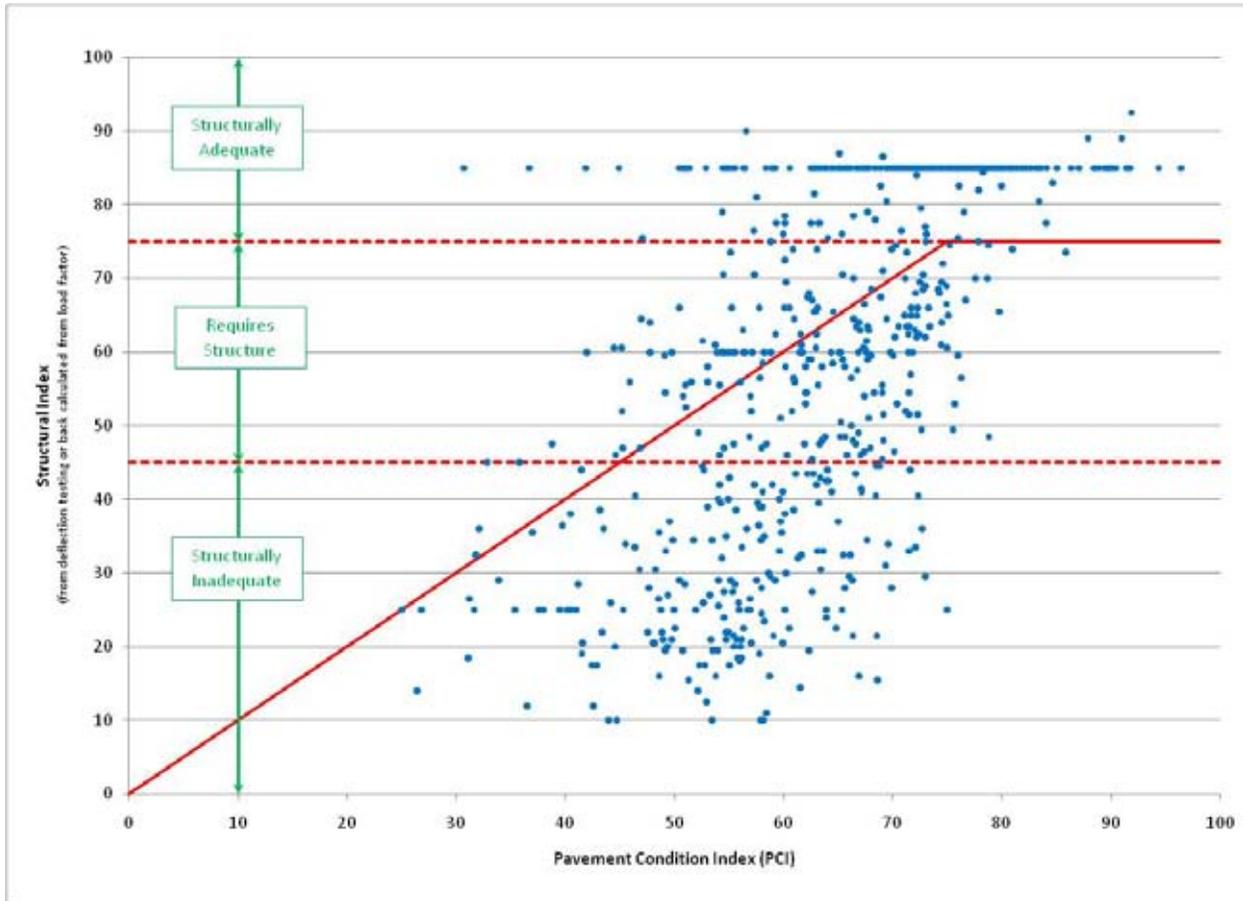
**Figure 8 – Present Status Using Descriptive Terms**

32% of the streets are rated as good – and are candidates for surface treatment based rehabilitation. 27% of the network can be considered in fair or marginal condition, representing candidates for progressively thicker overlay based rehabilitation or panel replacements. If left untreated, they will decline rapidly into reconstruction candidates. The remaining 4% percent of the network is rated as “poor” or “very poor”, meaning these roadways have failed or are past their optimal due point for overlay or surface based rehabilitation and may require progressively heavier or thicker forms of rehabilitation (such as surface reconstruction or deep patch and paving) or total reconstruction.

### **2.3 STRUCTURAL EVALUATION**

The asphalt roadway network was tested for structural adequacy using a Dynaflect device to complete a layer analysis of the pavement structure. Dynaflects apply a known load to the pavement and measures the pavement response to the load. The structural adequacy of a road is expressed as a 0 to 100 score with several key ranges: roadways with a Structural Index greater than 75 are deemed to be structurally adequate for the loading and may be treated with lightweight surface treatments or thin overlays; those between 45 and 75 typically reflect roads that require additional pavement thickness or localized remove

and replace activities; and scores below 45 typically require base stabilization or reconstruction. The following plot (figure 9) presents the structural adequacy of the major roadway network against its average pavement condition.



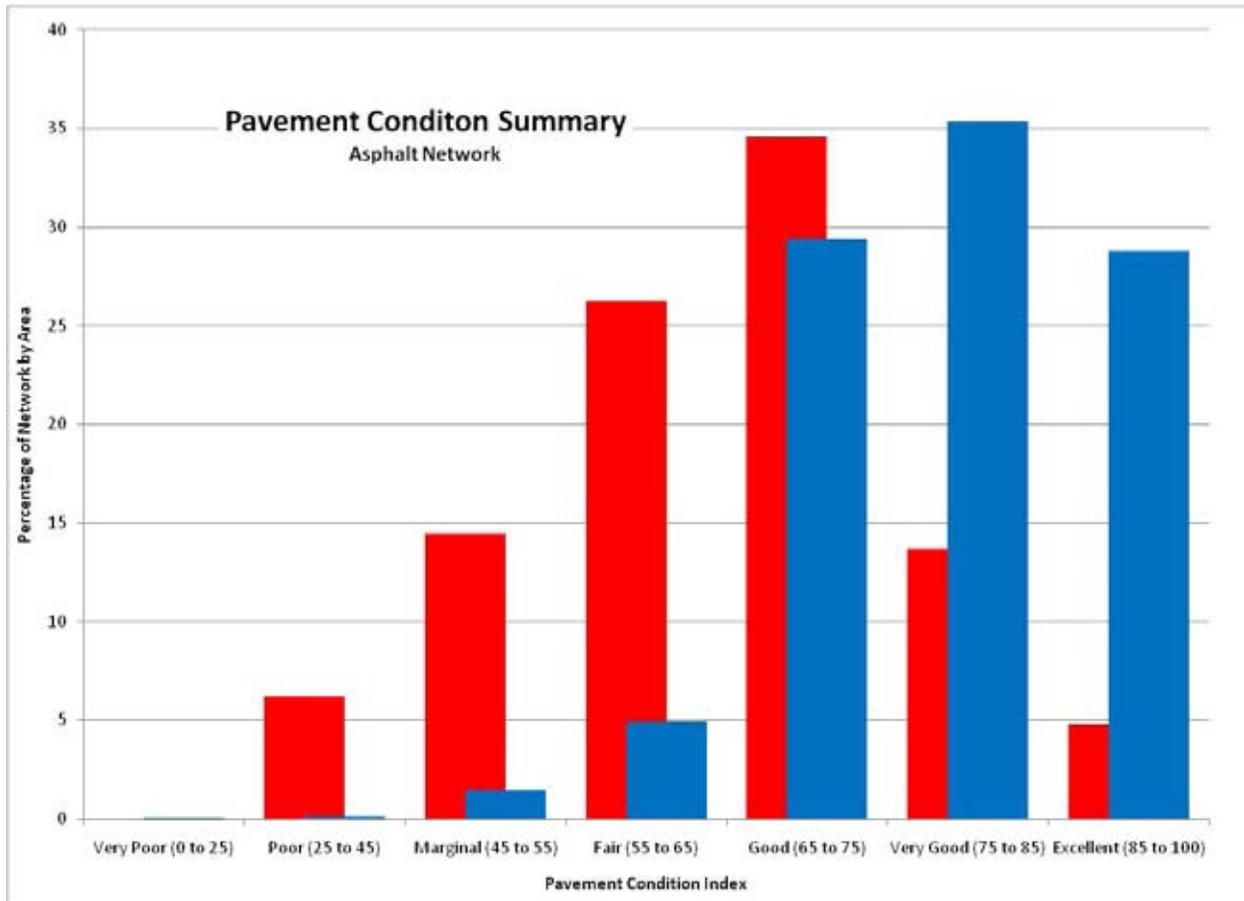
**Figure 9 – Structural Adequacy of the Roadway Network**

The diagonal line separates roadways that are performing above expectations and lie above the line, from those that are not, and fall below the line. The asphalt segments falling on Structural Index scores of 85 and 60 are primarily residential roadways that have default Structural Index scores assigned to them based on the quantity of distresses they display that are Load Associated – that is ones based on structural deficiencies. These default values do not contribute to the Pavement Condition Index score, and are only used as a qualifier for rehab selection.

From the plot, it is apparent that numerous roadways are not meeting structural performance requirements. This is indicative of roadways that have thin pavements or insufficient base course thickness. Prior to rehabilitation, these sections should be reviewed to ensure rehab activities that do not address structural deficiencies are avoided.

## 2.4 INDEX DISTRIBUTION BY PAVEMENT TYPE

Figure 10, presented below, highlights the pavement condition distribution for the asphalt and concrete pavement. From the plot it is apparent the asphalt roadways (shown in red) have a much wider range of condition scores with a lower PCI average of 65, while the concrete roads tend to fall in the very good and excellent ratings with an average PCI score of 78.



**Figure 10 – PCI Distribution by Functional Class**

The following table presents the overall conditions scores by pavement type and functional class (only actual structural tests are presented under the SI scores and not any defaulted values).

FuncL	Group	Asphalt Network				Concrete Network			
		SDI	RCI	SI	PCI	SDI	RCI	SI	PCI
ART	Arterial	65	62	39	59	85	69		80
COL	Collector	69	62	39	60	85	68		79
RES	Residential	71	62	59	68	81	67		76
<b>Totals:</b>		<b>70</b>	<b>62</b>	<b>48</b>	<b>65</b>	<b>83</b>	<b>68</b>		<b>78</b>

## 2.5 RECONSTRUCTION BACKLOG

Backlog roadways are those that have dropped sufficiently in quality that surface based rehabilitation efforts would no longer prove to be cost efficient and require either partial or total reconstruction. Backlog is expressed as the percentage of roads requiring reconstruction as compared to the network totals.

*The concept of Pavement Condition Index (PCI) score and backlog must be fully understood in order to develop an effective pavement management program. The PCI score indicates the overall pavement condition and represents the amount of equity in the system and is the value most commonly considered when gauging the overall quality of a roadway network. It may also be used to define a desired level of service – that is an agency may wish to develop a pavement management program such that in 5 years the overall network score meets a set minimum value. It is the backlog however, that defines the amount of work an agency is facing and is willing to accept in the future. Further, it is the combination of the two that presents the true picture of the condition of a roadway network, and conversely defines improvement goals.*

*With the City of Hays's current PCI at 70 and the reconstruction backlog at 4%, the City's short term objectives needs to focus not letting this backlog percentage increase by focusing its current rehab program on the asphalt network to arrest any potential PCI slide. The asphalt network forms virtually 100% of the city's overall backlog. Examination of figure 10 indicates close to 6% of the city's asphalt roadways are in a backlog state requiring reconstruction.*

Generally a backlog of 10% to 15% of the overall network is considered manageable from a funding point of view – a target value of less than 12% would be considered ideal. Backlogs approaching 20% and above tend to become unmanageable unless aggressively checked through larger rehabilitation programs. For cities with a low backlog (that is below 10%, as is the case in Hays) it is important that this value not be allowed to increase. It is far more costly to let the backlog amount increase and then attempt to reduce it later than to keep it at its current low rate.

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### 3.0 REHABILITATION PLAN AND BUDGET DEVELOPMENT

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#### 3.1 KEY ANALYSIS SET POINTS

Pavement management systems require user inputs in order to complete its condition forecasting and prioritization. Key operating parameters used in the analysis are as follows:

- **Pavement Performance Curves**

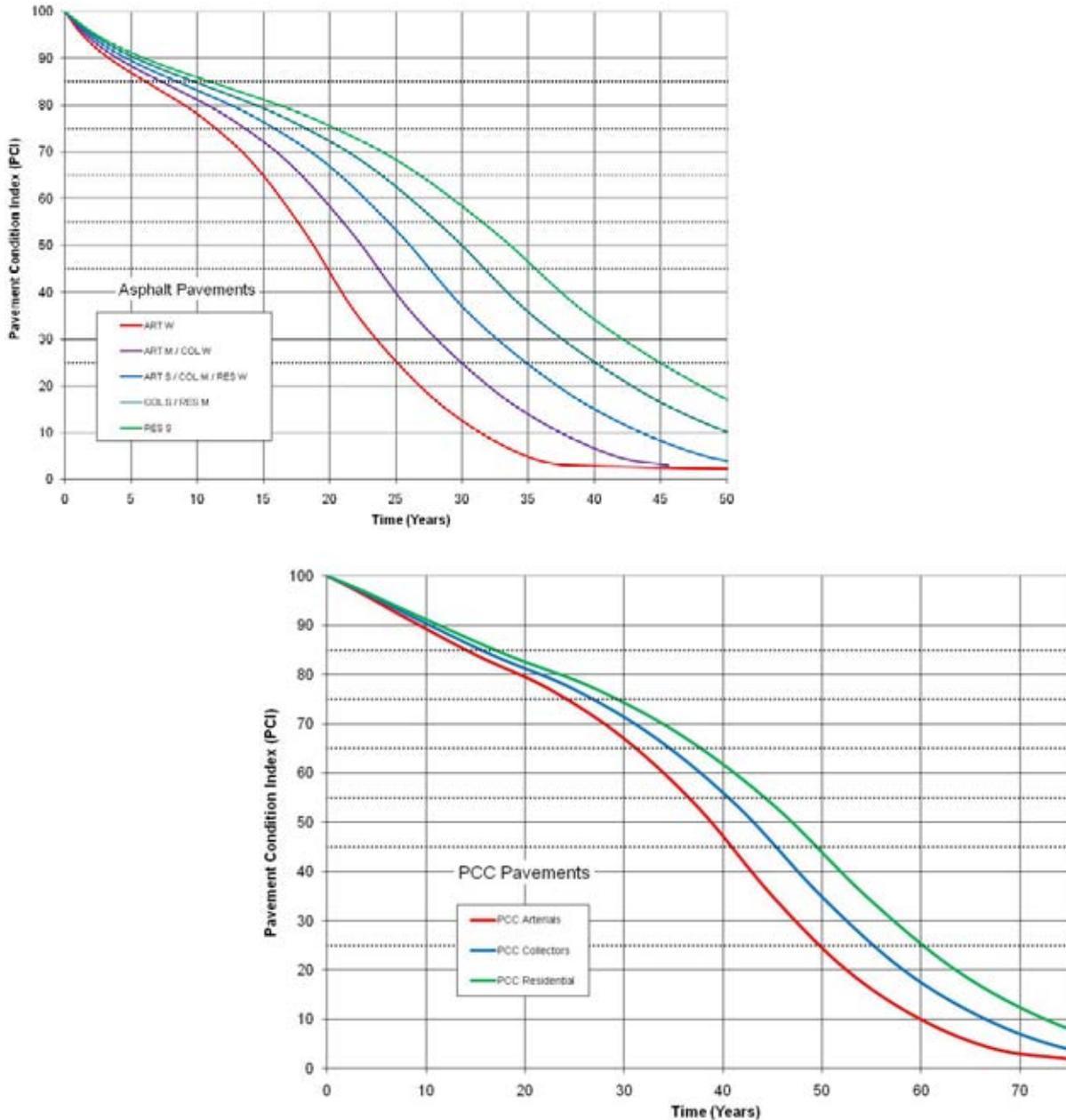


Figure 11 – ACP and PCC Performance Curves

The basic shape of the curves follows traditional sigmoidal performance models such as those contained in MicroPaver and other commonly used pavement management applications.

- Prioritization – The pavement management program prioritizes streets for rehab selection based on the following formula:

Priority = (100 – PCI) X PWF, where the PWF is the priority weighting factor as follows:

Pavement Type	Pavement Strength	Functional Classification		
		Arterial	Collector	Residential
Asphalt	Weak	1.5	1.4	1.3
	Moderate	1.4	1.3	1.2
	Strong	1.3	1.2	1.1
Concrete	Weak	1.4	1.3	1.2
	Moderate	1.3	1.2	1.1
	Strong	1.2	1.1	1.0

The effect of the PWF is place an emphasis on weaker asphalt streets with higher functional classes tapering down to stronger concrete residential. A PWF of 1.0 was assigned to brick streets.

- **Rehabilitation Strategies and Unit Rates** – The rehab strategies, unit rates, PCI ranges and selection criteria used in the pavement analysis are presented below. Key items presented with the rehabilitation strategies are:

Pave Type	Code	Rehab Description	Sequence	PCI Range		SI Range		Unit Rates (\$/yd2)			Reset PCI Value	Minimum Life
				Minimum	Maximum	Minimum	Maximum	Arterial	Collector	Residential		
Asphalt	10	Seal Coat	8	75	85	75	100	0.80	0.80	0.80	90	5
Asphalt	11	Seal Coat + R&R	7	75	85		75	1.25	1.15	1.15	90	5
Asphalt	20	Surface Trtmnt	6	60	75	75	100	3.25	3.05	3.05	90	5
Asphalt	21	Surface Trtmnt + R&R	5	60	75	45	75	3.75	3.55	3.55	90	5
Asphalt	30	Mill + Thin Olay	4	45	60	75	100	15.25	14.25	13.25	94	5
Asphalt	31	Mill + Thin Olay + R&R	2	45	60	45	75	16.25	15.25	14.25	94	5
Asphalt	32	Mill + Thin Olay + R&R	3	60	75		45	16.25	15.25	14.25	94	5
Asphalt	40	Mill + Mod Olay	12	25	45	75	100	17.25	16.25	15.25	95	5
Asphalt	41	Mill + Mod Olay + R&R	9	35	45	45	75	18.25	17.25	16.25	95	5
Asphalt	42	Mill + Mod Olay + R&R	1	45	60		45	18.25	17.25	16.25	95	5
Asphalt	50	Mill + Thick Olay	15								96	5
Asphalt	51	Mill + Thick Olay + R&R	10	25	35	45	75	20.25	19.25	18.25	96	5
Asphalt	52	Mill + Thick Olay + R&R	11	35	45		45	20.25	19.25	18.25	96	5
Asphalt	60	Partial Reconstruction	13	25	35		45	0.01	0.01	0.01	98	5
Asphalt	70	Full Reconstruction	14		25			0.01	0.01	0.01	100	5
Concrete	100	PCC Crk Seal	3	75	85			0.80	0.80	0.80	95	5
Concrete	101	PCC Localized R&R	2	60	75			8.75	7.50	6.25	95	5
Concrete	110	PCC Localized Pnl Rplcmnt	5	45	60			17.50	15.00	12.50	95	5
Concrete	111	PCC Moderate Pnl Rplcmnt	4	45	55			26.25	26.25	22.50	95	5
Concrete	112	PCC Extensive Pnl Rplcmnt	1	25	45			35.00	30.00	25.00	95	5
Concrete	120	PCC Full Reconstruction	6		25			0.01	0.01	0.01	100	5

**Sequence** – defines the order in which rehabilitations are applied.

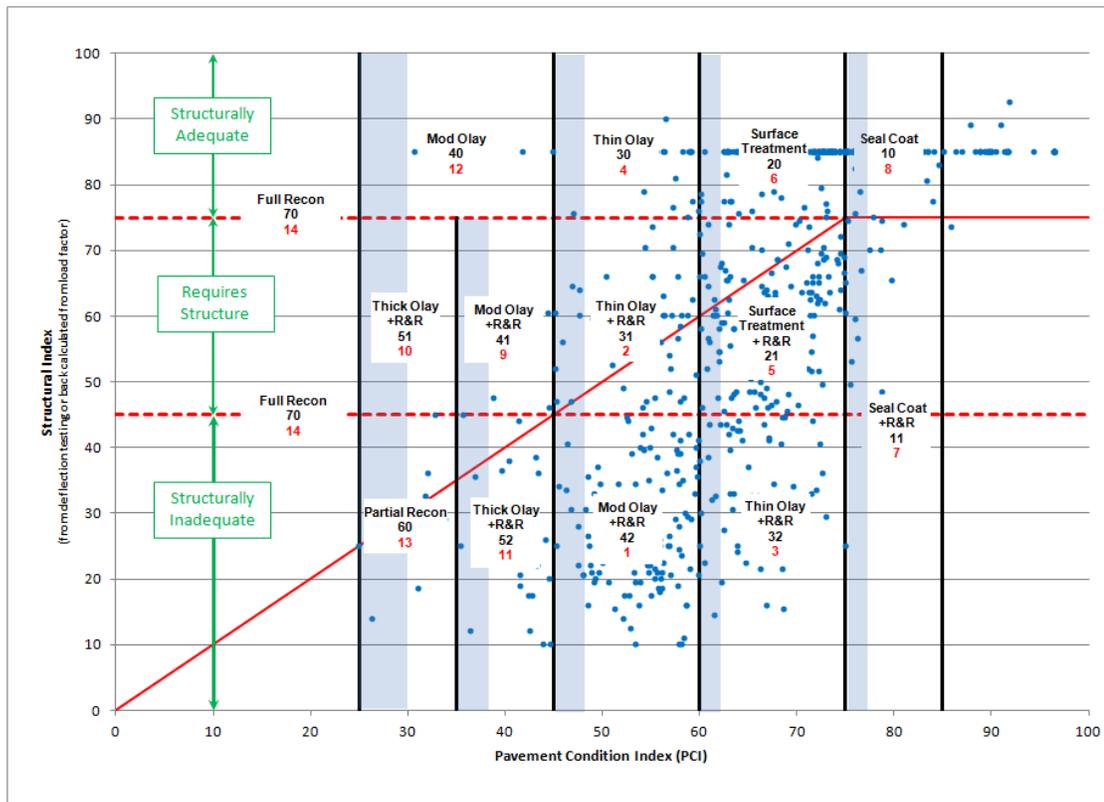
**PCI Range** - defines the Pavement Condition Index (PCI) range applicable to the rehab selection.

**SI Range** – defines the Structural Index (SI) range applicable to the rehab selection.

**Unit Rates** – the rehabilitation costs are presented on a per square yard basis for each pavement type–functional class–rehabilitation activity combination. The rates were developed using typical national averages for similar activities and then were adjusted for Hays’s location and unique conditions. The rates include an allowance to cover costs for, traffic control and site preparation, striping and pavement markings, engineering and inspection, and miscellaneous costs and contingency. The rates do not include ADA compliance costs, landscaping, signals or signage upgrades, or peripheral concrete repairs.

**Post Rehab Values** – after a rehabilitation is completed, a PCI score is assigned to reflect the improved conditions. The post rehab PCI is a fixed value based on the rehab activity. This method was selected over the alternate of adding a set number of points to the current PCI value as it more accurately reflects actual field activities – that is assuming all rehabs are completed according to project level testing and analysis design. Post rehab PCI values range from 92 for surface treatments through to 100 for full reconstruction. Similar reset values are assigned to Structural and Roughness Indexes.

The following plot, figure 12, graphically presents the application of pavement rehabs for asphalt streets by PCI and Structural Index.



**Figure 12 – ACP Rehabs by PCI and SI**

### 3.2 FIX ALL AND ANNUAL ESTIMATES

The Fix All estimate is the theoretical value to rehabilitate all streets in the network to identify the magnitude of the current condition deficiency. The estimate is developed external to the software and is used to validate the Fix All budget analysis and provide direction where rehab budgets are best expended. For Hays, The Fix All total is estimated at \$20M, broken down as follows:

Fix All Rehab Activity	Pavetype			
	ACP	PCC	BRK	
Full Reconstruction	0	28,541	0	PCC Annual Budget: 370,000
Partial Reconstruction	1,358,058	21,867	295,518	ACP Annual Budget: 930,000
Thick Overlay / Extensive Pnl/Brk Rplcmnt	3,383,548	200,500	268,142	BRK Annual Budget: 60,000
Mod Overlay / Mod Pnl/Brk Rplcmnt	4,508,759	561,883	189,194	
Thin Overlay / Local Pnl/Brk Rplcmnt	4,885,921	2,895,584	245,902	<b>Network: 1,360,000</b>
Surface Treatment / Localized Repair	379,733	625,625	52,497	
Routine Maintenance	50,105	125,269	23,828	
<b>Totals:</b>	<b>14,570,000</b>	<b>4,460,000</b>	<b>1,080,000</b>	

By dividing the above FIX All totals developed above by typical life cycles for each rehab, an annual steady state budget may be developed. For Hays, the steady state budget (that is, maintaining the current PCI) is estimated at \$1.36M annually with \$930k dedicated to asphalt pavements.

### 3.3 NETWORK BUDGET ANALYSIS MODELS – ASPHALT NETWORK

A total of 4 budget runs ranging from \$250k to \$1.00M per year plus Fix All and Do Nothing options were ran for the asphalt network in order to fine tune the analysis process and identify optimum expenditures.

The budget analysis results are summarized below:

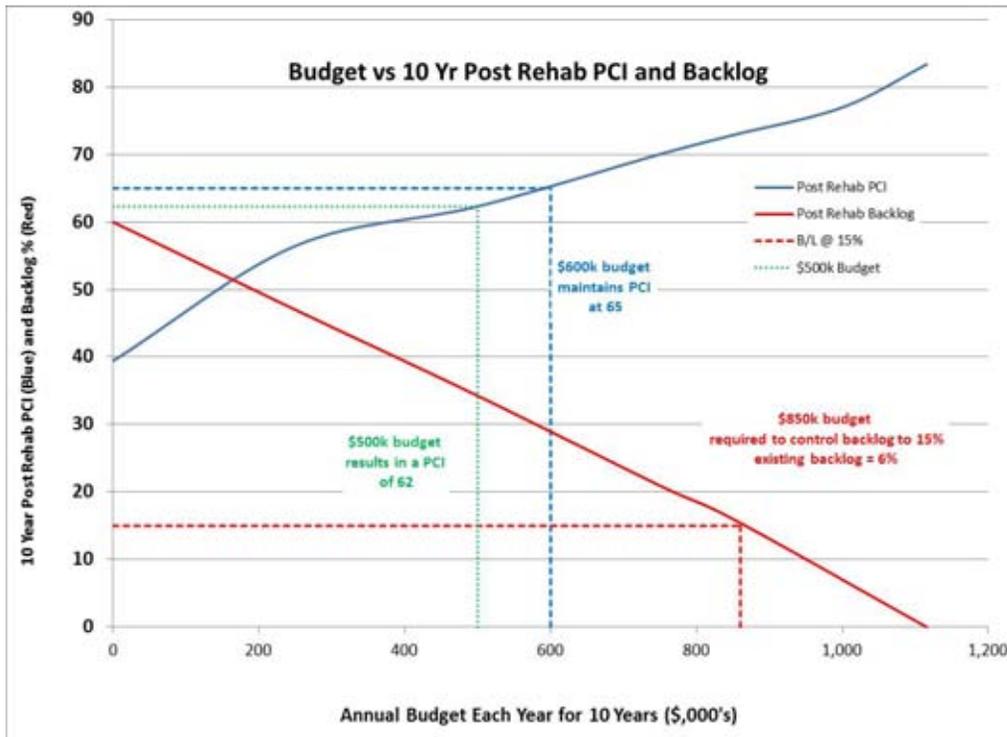
**Fix All** – The Fix All budget is similar to the Fix All estimate in that it assumes each street is rehabbed with unlimited funds available. The idea is to identify the upper limit of spending the City would require without any constraints on budgets. For Hays, the Fix All budget is approximately \$12M over 10 years and increases the network PCI to 83. This number is reasonably close to the Fix All estimate thus proving that this goal is feasible.

**Do Nothing** – this option identifies the effect of spending no capital for 10 years. After 10 years, the Do Nothing option results in a PCI drop from a 65 to a 39.

**\$250k through \$1M** – identifies the resultant network PCI at various funding levels.

The results of the analysis are summarized in the following plot (Figure 13). The X axis highlights the annual budget, while the Y axis plots the 10 year Network Post Rehab PCI value and the percentage of backlogs. The diagonal red line is the analysis results. As can be seen from the plot, a budget of 600k would maintain the current PCI but the percentage of backlogs would rise to 28%. With a minimum expenditure of just under \$850k per year, the PCI can be slightly improved and the percentage of backlogs would be kept under 15%– excluding the cost of inflation and routine maintenance. If the percentage of backlogged roads ventures any higher than 15%, roads would deteriorate at a faster rate

than funding could be acquired to repair them. Furthermore, with a budget just of \$1M, the percentage of backlogged roads could be maintained at its current rate with an additional improvement in overall PCI.



**Figure 13 – 10 Year Network PCI Analysis Results**

Figure 14 presents the same analysis results on an annual basis.

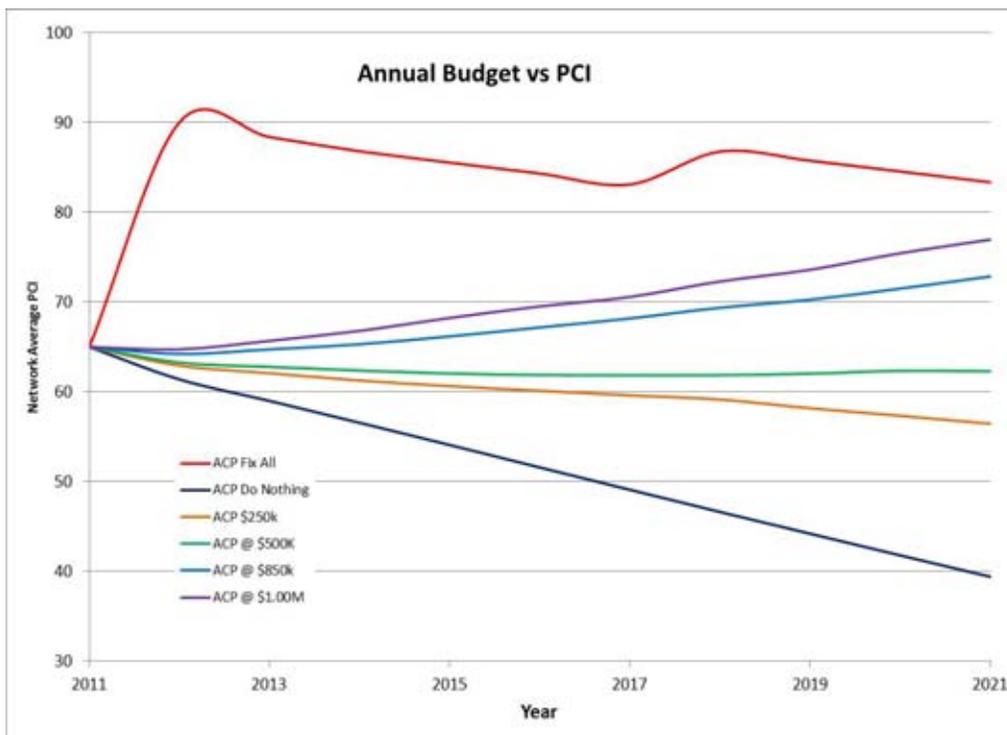


Figure 14 –10 Year Annual PCI

### 3.4 NETWORK BUDGET ANALYSIS MODELS – CONCRETE NETWORK

In order to keep concrete roads at their current PCI and to control backlogs to their current level, a budget of \$155k is required (figure 15). If the budget falls below \$155k, the percentage of backlogs will increase and the overall quality of roads will drop. This will also force more costly repairs to return roads to a more acceptable condition.

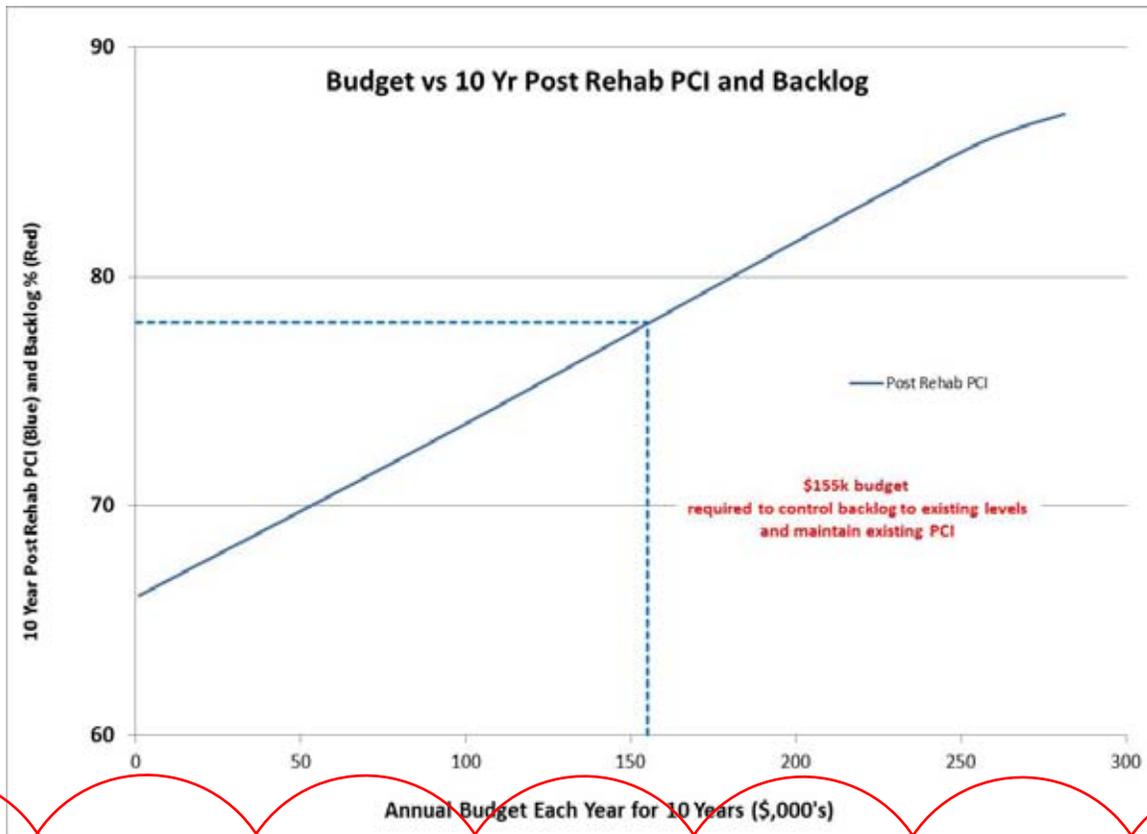


Figure 15 –10 Year Annual PCI

### 3.5 NETWORK RECOMMENDATIONS AND COMMENTS

The following recommendations are presented to City of Hays as an output from the pavement analysis, and must be read in conjunction with the attached reports.

1. The City should adopt a policy statement identifying the desired level of service and acceptable amount of backlog. We suggest a PCI target that maintains the current network profile on the order of 65, while maintaining the backlog at current levels.

**An annual budget of \$850k asphalt (ACP) roads and \$155k for concrete (PCC) roads is required to achieve this goal.**

2. The full suite of proposed rehabilitation strategies and unit rates should be reviewed annually as these can have considerable effects on the final program.
3. Compliance with the Americans with Disabilities Act is required on all roadway rehabilitation projects including: the provision of para-ramps at all crosswalks, minimum of 30 inch obstruction free clearance along all sidewalks, and a maximum of 1 inch lip of asphalt above the curb line.

**City of Hays  
Street Inventory and Condition Summary (Supersegments Sorted by Priority)**

SuperSeg ID	Description	FunCL	PaveType	Strength	Length (ft)	Width (ft)	Area (Yd2)	PCI	Load Factor	Non-Load Factor	Structural Factor	Priority
2115	GREENBRIER LN - 2115	Collector	Asphalt	Weak	1,123	34	4,244	27	42	32	17	103
260	13TH ST - 260	Arterial	Asphalt	Weak	2,167	48	10,684	35	45	25	36	98
1260	7TH ST - 1260	Collector	Asphalt	Weak	1,478	35	5,747	30	73	11	36	97
1085	41ST ST - 1085	Arterial	Asphalt	Weak	953	20	2,119	36	57	13	25	97
735	27TH ST - 735	Arterial	Asphalt	Weak	1,122	25	3,527	38	46	11	18	93
230	13TH ST - 230	Arterial	Asphalt	Weak	2,039	28	6,001	38	30	36	33	92
150	11TH ST - 150	Residential	Asphalt	Weak	449	35	1,746	30	69	9	19	91
2680	PUBLIC WORKS RD - 2680	Residential	Asphalt	Weak	947	20	2,083	35	61	15	25	85
1230	6TH ST - 1230	Collector	Asphalt	Weak	1,476	34	5,576	40	50	14	31	83
775	27TH ST - 775	Arterial	Asphalt	Weak	1,738	48	9,272	45	16	32	23	83
2275	INDIAN TRL - 2275	Collector	Asphalt	Weak	1,359	40	6,041	42	32	21	18	82
770	27TH ST - 770	Arterial	Asphalt	Weak	1,879	48	10,024	46	15	26	22	81
3060	WILLOW ST - 3060	Collector	Asphalt	Weak	186	34	702	42	40	6	10	81
1090	41ST ST - 1090	Arterial	Asphalt	Weak	3,455	20	7,679	47	48	10	25	80
915	33RD ST - 915	Collector	Asphalt	Weak	248	38	1,046	43	23	24	10	80
1195	5TH ST - 1195	Residential	Asphalt	Weak	465	17	879	39	54	10	25	80
1480	BARCLAY DR - 1480	Residential	Asphalt	Weak	350	34	1,330	39	53	11	31	79
2130	HALL ST - 2130	Arterial	Asphalt	Weak	2,309	48	12,313	47	11	28	24	79
2415	MARJORIE DR - 2415	Residential	Asphalt	Weak	1,835	34	6,932	39	39	26	53	79
2690	RILEY ST - 2690	Residential	Asphalt	Weak	762	31	2,625	41	54	11	41	77
1995	FORT ST - 1995	Collector	Asphalt	Weak	657	28	2,009	46	26	24	24	76
2360	MAIN ST - 2360	Arterial	Asphalt	Weak	1,899	42	8,372	50	16	26	30	75
2140	HALL ST - 2140	Arterial	Asphalt	Weak	1,323	48	7,058	50	11	24	21	74
2705	ROTH AVE - 2705	Collector	Asphalt	Weak	1,229	30	4,095	47	33	13	36	74
2350	MADISON DR - 2350	Residential	Asphalt	Weak	1,696	13	2,588	43	63	2	25	74
2905	VINE ST - 2905	Arterial	Asphalt	Strong	1,495	62	10,299	43	33	26	85	73
1075	41ST ST - 1075	Arterial	Asphalt	Weak	867	24	2,311	51	37	8	39	73
3055	WILLOW ST - 3055	Collector	Asphalt	Weak	481	35	1,869	48	28	16	21	73
1805	ELM ST - 1805	Collector	Asphalt	Strong	682	27	2,418	40	49	21	85	72
315	15TH ST - 315	Residential	Asphalt	Average	372	35	1,447	41	48	10	60	71
525	20TH ST - 525	Collector	Asphalt	Weak	1,531	30	5,218	49	21	18	27	71
2135	HALL ST - 2135	Arterial	Asphalt	Weak	1,653	48	8,815	53	4	29	24	71
1565	CANTERBURY DR - 1565	Arterial	Asphalt	Weak	1,489	47	7,842	53	1	30	24	70
1080	41ST ST - 1080	Arterial	Asphalt	Weak	1,168	20	2,595	54	41	5	35	68
1855	ELM ST - 1855	Residential	Asphalt	Average	31	34	116	43	9	62	61	68
1675	COTTONWOOD LN - 1675	Residential	Asphalt	Average	1,316	18	2,631	44	25	26	52	67
910	33RD ST - 910	Collector	Asphalt	Weak	2,216	40	9,848	52	11	23	25	67
710	26TH ST - 710	Residential	Asphalt	Average	486	35	1,891	44	34	16	47	67
2855	THUNDERBIRD DR - 2855	Collector	Asphalt	Weak	1,161	34	4,387	52	11	20	19	67
395	17TH ST - 395	Collector	Asphalt	Weak	1,025	26	2,961	53	12	21	23	66



2014

# Statement of Legislative Priorities

As approved by the Hays

City Commission

on

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## **2013 Statement of Legislative Priorities**

In order to communicate issues and goals with its elected legislators, the City of Hays hereby presents its 2014 Statement of Legislative Priorities.

In summary, the 2014 legislative goals for the City of Hays are to improve water planning ability, preserve the current municipal funding framework, and maintain local determination on governance issues that are essential to Hays. The 2013 agenda ensures that Hays remains a strong economic presence in Northwest Kansas while continuing to meet the needs of its citizens. The following items identify the core areas of legislative importance to the City of Hays.

### **Water Conservation and Planning**

Conservation and long-term source preservation are of critical importance to the City of Hays. We support and encourage laws and regulations that allow all cities to become better stewards of their water sources. This includes reuse of existing water as well as recharging aquifers with locally captured stormwater runoff.

We feel the current 20 year planning horizon is too short given the significant infrastructure investment required to develop a new water source. We support laws and regulations that allow for adequate long-term planning for water needs, and oppose laws and regulations that force communities to wait until emergency conditions develop before reacting.

### **Regulation of Local Water Supplies**

In circumstances where the State of Kansas chooses not to regulate or provide oversight, we support giving all cities the ability to regulate and monitor their local water supplies, and the actions that impact those sources. This will allow cities to protect valuable local sources from contamination and depletion.

### **Water Quantity and Quality**

State laws and administrative procedures should provide for the vigorous protection of current and future municipal water supplies from contamination and encroachment.

### **Fair Fares Funding**

In 2006 the Fair Fares program was created with the statutory objective of providing “more air flight options, more competition for air travel, and more affordable air fares for Kansas, including a regional airport in Western Kansas”. From 2006 through 2013 the Fair Fares program was administered by REAP (Regional Economic Area Partnership). The distribution process was competitive. In 2013 the Kansas Legislature moved Fair Fares administration to the Department of Commerce and required the funds be distributed in a non-competitive manner.

We feel that all airports in Western Kansas should have competitive access to the Fair Fares program and encourage the Legislature to remove non-competitive restrictions.

### **Alcoholic Liquor/Motor Fuel Taxes**

We support the current statutory framework with regard to the collection and distribution of locally collected alcoholic liquor and motor fuel taxes. These taxes are collected locally and redistributed with very specific restrictions on usage. They should not be used to support the State's General Fund.

### **Sales Tax Exemptions**

Given the current and future budget challenges facing both state and local governments, we oppose the continued erosion of the state and local sales tax base with added exemptions. If it is the State's intent to provide exemptions it should be in the form of a state rebate so as not to unduly burden local taxing entities. The Legislature should actively review existing exemptions in order to determine whether the exemptions are still appropriate.

### **Personal Property Tax Exemptions**

We are opposed to any further state mandated property tax exemptions as this practice shifts the tax burden from one tax payer to another. The State of Kansas receives less than ½ of one percent of its revenue from property taxes. If it is the State's intent to provide tax exemptions it should be in the form of a state rebate so as not to unduly burden local taxing entities who rely heavily on property taxes.

### **Revenue Sharing**

As required by State Statutes, the State Legislature should reinstate the City-County Revenue Sharing program and the Local Ad Valorem Tax Reduction program, and should maintain complete funding for the Special City-County Highway Fund. The State should fund all revenue sharing funds at the existing statutorily-required levels.

### **TABOR**

We oppose the application of a Taxpayer Bill of Rights (TABOR) as an erosion of representative democracy which, over time, will erode local determination and jeopardize the ability of cities to make prudent financial decisions.

### **Unfunded Mandates**

We oppose unfunded mandates. If the state or federal governments seek to promote specific policy objectives, such mandates should be accompanied by an appropriate level of funding

### **Stormwater Management**

We encourage KDHE to work with cities and provide technical support in the implementation of reasonable regulations related to stormwater management. We endorse cooperative solutions to stormwater quality and quantity challenges. We oppose regulations that place excessive financial burdens on local governments.

### **Public Property and Rights-of-Way**

We oppose any legislation that restricts the ability of cities to control public property and rights-of-way or the ability of cities to franchise those entities that utilize the rights-of-way. We encourage the Kansas Legislature to protect the ability of cities to manage their rights-of-way and impose franchise fees regarding telecommunication, cable, and utility services.

### **PEERA/Collective Bargaining**

We support the current statutory process in the Public Employer-Employees Relations Act. We oppose any federal or state mandate which would require collective bargaining at the local level.