

Memo

To: City Commission
From: Toby Dougherty, City Manager
Date: 2-10-15
Re: February 17, 2015 Work Session

Please find the attached agenda and supporting documentation for the February 17, 2015 Work Session.

Item 2 – North Central Kansas Technical College (NCKTC) Big Creek Technical Training Center - 2015 Annual Report

Please refer to the attached correspondence from North Central Kansas Technical College. NCKTC has been very active this year working for the City. Prior to the work session, City staff invites the Commission to view the improvements made to a storage area upstairs at City Hall.

Item 3 – Levee Improvements – Award of Bid

Please refer to the attached memorandum from Steven Walters, Stormwater Specialist, regarding the award of bid for levee improvements. As you will see, the prices came in quite competitive, and we are suggesting moving forward with JCorp of Hays for the improvements as well as the concrete cap.

Item 4 – Levee Repairs Construction Phase Engineering Services – Award of Contract

Please refer to the attached memorandum from Steven Walters. City staff does not have the knowledge and expertise to provide construction engineering inspection services for this project, therefore, solicited proposals from engineers. Staff is suggesting moving forward with Penco Engineering, P.A. of Plainville, Kansas for the project.

Item 5 – Proposed Ordinance Amending Chapter 53 – Stormwater Management

A few weeks back, Steven Walters updated the Commission on necessary changes to the Code of Ordinances that would be coming forward at future dates. One of the items that he spent the most time discussing was changes to Chapter 53 requiring post construction stormwater controls. This is a comprehensive item with several changes being suggested to Chapter 3. City staff is

also suggesting the Governing Body adopt the Post Construction Storm Water Best Management Practices manual. The redline changes to Chapter 53 are included with this agenda item. The manual is too detailed and lengthy to include in this item; therefore, it is linked in Steven's memorandum. Please feel free to review the Best Practices manual online. Steven will have much more information at the work session on Tuesday.

Item 6 – Street Maintenance Future Projects Discussion

When City staff presented the 2015 Street Maintenance Program, it was asked to develop a prioritized list of smaller projects to go with the larger projects we had identified. Please refer to the memorandum from John Braun, Assistant Director of Public Works, and, more specifically, the first attachment which breaks the projects out between large and small. City staff is also making a preliminary recommendation for the 2016 Street Maintenance Program.

Item 7 – 13th Street Improvement (Main to Milner) – Award of Bid

Please refer to the attached memorandum from John Braun regarding the 13th Street (Main to Milner) award of bid. Bids were fairly competitive for this project, and City staff recommends moving forward with the base option as well as the replacement of the parking area. This would provide a curb-to-curb concrete replacement. City staff also recommends storm sewer improvements and water service upgrades as well as adding the brick crosswalks to all intersections.

Item 8 – 2015 Street Maintenance Program – Award of Bid

Please refer to the attached memorandum from John Braun regarding the 2015 Street Maintenance Program award of bid. Staff proposed the 2015 Street Maintenance Program to the City Commission prior to obtaining bids for the projects and materials.

Item 9 – CID Policy Discussion

The CID Policy was last discussed at the January 15, 2015 Work Session. The initial memo from December 30, 2014 is included with this agenda item. At the work session, the Commission asked for some comparisons to some of our peer cities in regard to whether or not they place any further restrictions on CID use, such as the required developer investment the City Commission is considering. Please refer to the first attachment to the memorandum. Paul Briseno, Assistant City Manager, has been in contact with the cities listed below, and as you will note, some of them do have requirements for a specific amount of developer "skin in the game".

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CITY OF HAYS
CITY COMMISSION WORK SESSION
TUESDAY, FEBRUARY 17, 2015 – 6:30 P.M.
AGENDA

1. **ITEM FOR REVIEW: February 5, 2015 Work Session Notes (PAGE 1)**
DEPARTMENT HEAD RESPONSIBLE: Kim Rupp, Director of Finance
2. **ITEM FOR REVIEW: North Central Kansas Technical College Big Creek Technical Training Center - 2015 Annual Report (PAGE 9)**
PERSON RESPONSIBLE: Eric Burks, NCK Tech President
3. **ITEM FOR REVIEW: Levee Improvements – Award of Bid (PAGE 13)**
DEPARTMENT HEAD RESPONSIBLE: I.D. Creech, Director of Public Works
4. **ITEM FOR REVIEW: Levee Repairs Construction Phase Engineering Services – Agreement (PAGE 21)**
DEPARTMENT HEAD RESPONSIBLE: I.D. Creech, Director of Public Works
5. **ITEM FOR REVIEW: Proposed Ordinance Amending Chapter 53 – Stormwater Management (PAGE 31)**
DEPARTMENT HEAD RESPONSIBLE: I.D. Creech, Director of Public Works
6. **ITEM FOR REVIEW: Street Maintenance Future Projects Discussion (PAGE 107)**
DEPARTMENT HEAD RESPONSIBLE: I.D. Creech, Director of Public Works
7. **ITEM FOR REVIEW: 13th Street Improvement (Main to Milner) – Award of Bid (PAGE 113)**
DEPARTMENT HEAD RESPONSIBLE: I.D. Creech, Director of Public Works
8. **ITEM FOR REVIEW: 2015 Street Maintenance Program – Award of Bid (PAGE 135)**
DEPARTMENT HEAD RESPONSIBLE: I.D. Creech, Director of Public Works
9. **ITEM FOR REVIEW: CID Policy Discussion (PAGE 141)**
PERSON RESPONSIBLE: Toby Dougherty, City Manager
10. **OTHER ITEMS FOR DISCUSSION**
11. **EXECUTIVE SESSION (IF REQUIRED)**
12. **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
Thursday, February 5, 2015 – 6:30 p.m.

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

Absent: Henry Schwaller IV

January 15, 2015 Work Session Notes

There were no corrections or additions to the minutes of the work session held on January 15, 2015; the minutes stand approved as presented.

Turf Conversion Rebate Program

During the 2015 budget process, City Commissioners allocated \$50,000 for the development of a Turf Conversion Program. Outdoor water use accounts for a large percentage of summer water consumption and has the greatest potential for reduction with an effective rebate program. The turf rebate program is meant to incentivize home/business owner's conversion of irrigated cool-season turf to more water-wise, drought tolerant landscaping and turf types.

Jason Riegel, Water Conservation Specialist, discussed current rebate programs and details regarding the Turf Conversion Program. He emphasized warm season grasses require less mowing, chemicals, and are able to withstand drought. He stated we want to make smart landscapes in Hays the norm.

Knowing the greatest potential for water savings is the conversion of irrigated cool-season yards to more water-wise landscape types, the following turf conversion rebate program details were presented:

- Rebate-eligible properties are those that have permanently irrigated and well maintained cool season yards
- Eligible conversion types include warm season grass, xeriscaping, and artificial turf

- Rebate of \$1 per square foot
- Minimum of 100 square feet
- Maximum rebate amount of \$1,000

The average yard size in Hays is approximately 9,200 square feet or 0.21 acres. For a homeowner that converts an entire average sized yard from cool season to warm season, the anticipated savings would be 16,850 cubic feet of water annually or \$625 at tier rates. A homeowner who converts 1,000 square feet from cool season to xeriscaping could expect to save approximately 2,500 cubic feet of water annually or \$100 at tier rates. This program has the potential to save up to 19 acre feet of water and \$570,000 per year when compared to the cost of new water source development. In early January, City staff called a meeting with local licensed landscape contractors and the response was positive.

The Commission will review the progress of the program mid-summer.

ZMM Development Addition – Rezoning of Lots 7-20 (R-1 to R-3)

The owners of Lots 7-20 of ZMM Development Addition have submitted a request asking that the property be rezoned from single-family dwelling district (R-1) to two-family dwelling district (R-3). A public hearing was conducted on January 19, 2015 at the regular meeting of the Planning Commission and it was recommended that the rezoning be approved. The zoning change from R-1 to R-3 would allow for duplex dwelling units to be constructed, as well as single-family homes.

The property has been in its current vacant state as open space for years. When originally platted in 1974, the property was set aside for a school site and was owned by the school district prior to the sale this past year. The adjacent properties have similar or more intense multi-family zoning districts as what is being requested.

At the February 12, 2015 Commission meeting, Commissioners will be requested to approve an ordinance rezoning Lots 7-20 of ZMM Development Addition from R-1 to R-3.

Connie Leikam, a resident in the area, voiced her concerns with possible increased traffic and safety issues if the zoning change is approved.

Jennifer Whitmer, a resident at 33rd and Elm, has three small children and shared her concerns regarding the increased traffic. She was also concerned that property values may decrease in the surrounding areas. She would like it to remain a single-family dwelling district.

Carol Shepherd, a duplex owner in the area, voiced similar concerns.

ZMM Development Addition – Final Plat

The owners of the proposed ZMM Development Addition have submitted a final plat for consideration. The property is adjacent to previously platted property and has become an island of undeveloped property. The plat is comprised of 26 lots slated for residential development and does include dedication of street and alley right-of-way. Staff has reviewed the proposed plat which has also been reviewed by the Utility Advisory Committee. On November 17, 2014 the final plat was reviewed and approved by the Hays Area Planning Commission.

This property has remained undeveloped as the surrounding property has grown and developed through the years. The property was formerly owned by the USD 489 school district and was recently sold to the current owner. The area of this development is within a highly desirable and developable area for residential development.

At the February 12, 2015 Commission meeting, Commissioners will be requested to approve the resolution accepting the final plat known as ZMM Development Addition.

Tallgrass Addition Phase 5 – Resolution to Establish Benefit District (17th Street, Tallgrass Drive and Prairie Run Court)

TG Investments, LLC has petitioned the City for street, storm sewer, water, and sanitary sewer improvements to an area containing 33 lots in the Tallgrass Addition within the City of Hays to be financed through the

establishment of a special benefit district. The engineer's estimate for total construction costs is \$1,055,000. In accordance with the City's Development Policy, the City's estimated share of the cost for over-sizing would be \$104,000; however, staff is recommending that 17th Street and Tallgrass Drive be built to only 40' width rather than the 45' width of the adjacent existing street. That reduction in width would reduce the City share by approximately \$40,000. The cost to over-size sanitary sewer would be funded out of Water/Sewer Capital. It is recommended the actual cost to over-size the street be funded out of City Commission Capital Reserve.

This is the logical continuation of the construction of the Tallgrass Addition that has been developing in phases over the last several years. This project follows the plan that has been set forth and constructed in various phases over the last 20 years and would complete the connection of East 17th Street to Tallgrass Drive.

The developer is intending to finance the development project through the creation of a special benefit district. After subtracting the estimated City share for over-sizing, 70% of the remaining costs for this project will be allowed to be special assessed with the remaining 30% being paid in full by the developer prior to award of the construction contract. The per lot special assessment is estimated to be \$20,166. Based on the 15 year assessment at an assumed interest rate of 4%, the estimated monthly assessment per lot equals \$149.

At the February 12, 2015 Commission meeting, Commissioners will be requested to approve the Resolution authorizing the creation of a special benefit district for infrastructure improvements for the development of 33 lots along East 17th Street, Tallgrass Drive, and Prairie Run Court within the Tallgrass Addition, with 17th Street and Tallgrass Drive constructed at 40' width.

Tallgrass Addition Phase 5 – Engineering Services Agreement (17th Street, Tallgrass Drive and Prairie Run Court)

TG Investments, LLC has petitioned the City for street, storm sewer, water, and sanitary sewer improvements to an area containing 33 lots in the

Tallgrass Addition within the City of Hays. Baughman Company, P.A. has now prepared a contract for engineering services to include engineering design and contractor solicitation. The contract is for a not-to-exceed amount of \$58,000.

At the February 12, 2015 Commission meeting, Commissioners will be requested to approve the Engineering Services Agreement with Baughman Company, P.A. for an amount not to exceed \$58,000 for the development of Phase 5 of the Tallgrass Addition.

Fort Hays Municipal Golf Course Rental Golf Cart Shed – Award of Bid

Jeff Boyle, Director of Parks, informed the Commissioners that on September 9, 2014 the city-owned rental cart storage building was destroyed by a storm. This building is essential to the golf cart rental program and the golf course pro shop manager. City staff recommends reconstructing the facility at an expected cost of \$49,880 which includes a low bid from Quality Structures Incorporated and separate concrete and electrical costs.

The proposed shed would be utilized for rental golf carts as well as providing several other functions that would assist golf course staff and help facilitate tournaments.

At the February 12, 2015 Commission meeting, Commissioners will be requested to approve the replacement of the golf cart shed for \$49,880 which includes a low bid from Quality Structures Incorporated for \$35,980 with funding from the Park Improvement and Special Parks and Recreation funds.

2014 Golf Course Tournament Report

In January of 2014, the City Commission approved a new golf course tournament fee schedule. This requires each individual playing in the tournament to pay \$15 for greens fees. Under the previous fee schedule each tournament player was paying an average of \$6.73 to play in a tournament. The City Commission advised City staff to report back at the end of the season regarding the financial outcome of these changes. The new fee schedule resulted in \$9,040 dollars of additional revenue when compared to what the old

fee schedule would have brought in. Total tournament greens fees for 2014 was \$18,005.

Family Pool Pass Report

The City Commission requested staff review the possibility of creating a \$50 to \$70 family pool pass. Based on 2014 data, the implementation of such a pass could result in a 20% to 37% loss of revenue (\$11,410 to \$20,530). In order to break even, a family pass would need to be in the \$140 dollar range for families with five or more individuals. The Hays Recreation Commission and City staff recommend no family pass rates at this time.

Utilities Maintenance Facility

Bernie Kitten, Director of Utilities, stated the Utilities Department is requesting approval to construct a maintenance facility to store weather sensitive vehicles and maintenance equipment. Currently, this equipment is stored in the Public Works buildings. The Utilities Maintenance Division personnel and large equipment create additional crowding in the main Public Works building. To alleviate this, a maintenance facility was budgeted within the capital improvement plan for \$300,000 in 2014. The new building project was delayed until now as the owner of the property, DOW Chemical Company, was in the process of remediation of soil contamination. Contaminants have been addressed and DOW Chemical Company will continue to monitor the site. DOW Chemical Company and the Kansas Department of Health and Environment have accepted a plan to build on the leased property located adjacent and south of the Water Plant.

The City has a 30 year lease with DOW Chemical Company that ends in December of 2038. The lease has an option to purchase at the end of the lease or upon achievement of the contamination cleanup. The purchase option allows City staff to feel comfortable with building on a lease with 25 years remaining.

Staff recommends constructing the facility at an expected cost of \$300,000 which contains a low bid from Haselhorst Construction and separate

site work including sidewalks, gravel and stormwater drainage to be completed in-house.

At the February 12, 2015 Commission meeting, Commissioners will be requested to approve construction of the Utilities maintenance facility for \$300,000 which includes a low bid from Haselhorst Construction of Hays with alternates for \$285,700 and rock drive/sidewalk improvements from the Water/Sewer Capital Fund.

Other Items for Discussion

There were no other items for discussion.

The work session was adjourned at 8:00 p.m.

Submitted by: _____

Brenda Kitchen – City Clerk



NORTH CENTRAL KANSAS TECHNICAL COLLEGE
Big Creek Technical Training Center
Annual Report 2015

This report is the fifth annual summary of the activities completed or in progress at the Big Creek Technical Training Center housed at 101 South Main Street in agreement with the City of Hays.

NCK Tech's utilization of the Big Creek Technical Training Center has provided space to deliver training in the areas of Carpentry, Electrical Technology, and Plumbing, Heating and Air-Conditioning (PHAC) for students in the Hays region. Several area businesses serve on the advisory committees for these programs to ensure appropriate training is provided to meet their needs. All of the instructors of these programs are licensed under the Hays City Codes for their instructional areas.

NCK Tech maintains the building's condition to provide a comfortable educational learning environment for students at the Big Creek Technical Training Center. Beyond the typical upkeep, this year's maintenance has included fixing the plugged roof drains (cutting out and replacing), snaked out the one men's urinals to get it in working order and replaced the cracked out copper in the Boiler system, placed insulation since there wasn't insulation present and will be adding Glycol into the system once spring arrives.

Student projects completed for the City of Hays, since the previous report, include the completion of 13 Wood Duck boxes for the Parks Department. The size of the duck houses are 10" x 10" x 24" and the wood has been treated. The duck houses were delivered to the Parks Department on November 15, 2014.

Students also remodeled two rooms on the second floor of City Hall. This involved building interior walls which were sheet rocked, taped and sanded. One door was hung. One outside wall was built, insulated, sheet rocked, taped and then sanded. The floors were leveled and rough fill in the east room. The student's fire taped the wall between the electrical room and the office room. All network drops have 2 cat-5 cables ran and all

North Central Kansas Technical College

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1-888-567-4297 | 785-625-2437

130v receptacles have been completed and the 208v receptacles have also been completed. The ceiling has been painted black.

Currently the Carpentry Students are looking at hanging some pre-manufactured cabinets in the Executive Assistant's storage room.

NCK Tech and the City Administration are keeping the lines of communication open. Departments from within the City have established a list of potential projects and presented those to NCK Tech in the fall semester. The list was reviewed by the instructors and the previously mentioned projects were selected to be completed by spring 2015. The department heads and instructors will continue to work together to determine the costs, expected outcomes, and timelines for the projects. NCK Tech Administration is always informed of the plans and the progress.

The College has also requested that additional projects be suggested with a focus on the areas of Electrical Technology and Plumbing, Heating and Air-conditioning. The majority of the proposed projects on the initial list required the work of the Carpentry program. The Carpentry program has a yearly major student project – building a house! With the consent of the City, NCK Tech is building another 1,920 square foot single family home again this year. This project is being built on the Wheatland campus, but is designed to be moved and will be sold at auction on May 23, 2015.



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Although this project is not directly for the City of Hays, last year's house sold for \$100,000 generating over \$8,400 in sales taxes. It also represented over \$86,000 worth of building materials purchased from Hays businesses.



Beyond the training of full-time program students, NCK Tech has used the Big Creek Technical Training Center to provide the International Association of Plumbers and Mechanics Officials Continuing Education training twice a year. In addition, OSHA Certification continues to take place.

NCK Tech also tried to benefit the community by providing access to the Big Creek facility for the Wild West Festival, Blues and Barbeque, Fire Safety Training, and other events. Being an engaged partner in the community is important to the College.

As a result of our agreement, since 2009 NCK Tech has trained 272 students in Carpentry, Electrical Technology, and Plumbing, Heating and Air-Conditioning. Of the 39 program graduates from last year, 17 or 44% are continuing their education. Of the remaining 22 graduates, 6 or 27% are employed in unrelated jobs. The remaining 16 (41%) graduates are employed in their related fields. While it is difficult to isolate the economic impact to Hays and Ellis County through this agreement, it is undoubtedly substantial given the

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projects performed and the students the programs attract. These programs also provide another way for us to collaborate with Fort Hays State University and their Institute of Applied Technology.

In closing, NCK Tech would like to thank the City of Hays for the partnership we have enjoyed over the past six years. We greatly value and appreciate this collaboration with the City of Hays. We are very interested in continuing to discover ways to bring additional value to this partnership that will mutually benefit the community and the College. On behalf of the NCK Tech Board of Trustees, I want to thank you for your continued support of this arrangement.

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Commission Work Session Agenda

Memo

From: Steven Walters, Stormwater Specialist

Work Session: February 17, 2015

Subject: Levee Improvements – Award of Bid

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

Summary

City Staff is asking the Commissioners to award \$486,645.00 for levee improvements to J Corp of Hays, KS. The suggested award includes tree removal, repair of outfall structures, replacement of stormsewer pipe, re-grading of Montgomery Ditch, the repair/rebuilding of the levee embankment east of Main Street, and constructing a 6” concrete cap on the levee. The 6” concrete cap will extend the KDOT hike and bike trail project east of Main Street.

The project will be funded by the Stormwater Utility – Capital projects line item.

Background

Wilson & Co. was hired in 2012 to perform a safety inspection of the Hays levee system. In their inspection, they found several items needing to be addressed as detailed during Wilson & Co.’s presentation to the City Commission at the May 2, 2013 Work Session. In September 2013, an engineering service agreement was entered into with Wilson & Co to provide surveying, engineering design and construction documents for repairs or improvements to most of the identified problems.

The levee is also part of a federal insurance program called Public Law 84-99. Participation in this program is at no direct cost to the City of Hays and allows for federal reimbursement should the levee be damaged during a flood event. Repairs to damages caused by floods are made to the system with 80% of the costs picked up by the federal government. To maintain eligibility in this program, the levee is periodically inspected by the U.S. Army Corps of Engineers. Hays’ latest rating is “minimally acceptable,” the lowest rating in which a levee sponsor can remain in the program. Items such as poor sod cover, tree encroachment, minor erosion, silt deposits and erosion near drainages have led to this rating.

The project includes the removal of 74 trees and associated roots varying in size from 4” to 96”, repair of 5 outfall structures, replacement of storm sewer pipe, repair/rebuilding of the levee embankment east of Main Street, re-grading of Montgomery Ditch, and

constructing a 6” concrete cap on the levee. The 6” concrete cap is an extension of the Kansas Department of Transportation hike and bike trail project.

Discussion

Bids were opened on January 28, 2015 from four bidders: Stripe and Seal of Hays, JCorp of Hays, APAC-Kansas, Inc. and Smoky Hill Construction of Salina. Stripe and Seal’s bid was determined to be invalid and was withdrawn. **A summary of the bids is listed below and a detailed bid tabulation is attached.**

Engineer’s Est.	Stripe and Seal	APAC	Smoky Hill	JCorp
\$776,819	\$0	\$512,797.25	\$703,818.05	\$486,645.00

The project includes the repair of levee outfall structures, removal of trees, upgrading the levee, re-grading Montgomery Ditch, and constructing a concrete cap on the levee. The project addresses the majority of the deficiencies noted in the previous inspection report. The project does not address the Gustad Drive outfall or the Union Pacific Railroad levee crossing. These two parts of the levee continue to be looked at and will be addressed in the future.

The bid from the apparent low responsive bidder (JCorp) identifies an estimated start date of March 1, 2015 with a sixty (60) working day allowance.

The City’s engineer, Wilson & Company, has reviewed the bids and finds the low bid from JCorp to be valid and recommends awarding a contract to JCorp in the amount of \$485,645.00.

Legal Consideration

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

Financial Consideration

The Capital Improvement Plan (CIP) within the 2015 Budget included \$900,000 for this project. Very competitive bid prices and some changes in project scope since initial budget submittal account for the proposed cost being significantly lower than identified in the CIP.

There will be an additional cost for Construction Phase Engineering Services (Inspection and Testing). Work in the vicinity of the levee needs to be of the highest quality and earthwork needs proper moisture levels and compaction. Due to the projected work load of City Staff and the lack of proper soils testing equipment, staff will be addressing this in another agenda item.

The \$486,645.00 cost for construction will be from the Stormwater Utility Capital Projects Fund.

Options

The City Commission has the following options:

- Award the Bid to the apparent low bidder
- Reject all bids

- Direct Staff otherwise
- Do Nothing

Recommendation

City Staff recommends the City Commission award a contract in the amount of \$486,645.00 to JCorp for the project as described.

Action Requested

Authorize the City Manager to execute the contract with JCorp in the amount of \$486,645.00.

Supporting Documentation

Location Map
Bid Tabulation
Low Bid Proposal as submitted



SITE 1
UPRR Gap

SITE 2
Gustad Dr

Tree Removal within
Vegetation Free Zone

SITE 3
Wiest Hall Outfall

SITE 4
S Ash St Outfall

Extend Trail

SITE 6
S Pine St Outfall

Channel Grading

SITE 5
S Main St Outfall

CITY OF HAYS
2015 Levee Improvements
Scope of Services
Overall Location Map

September 2014

0 500 1,000
Feet

WILSON & COMPANY

FIGURE A-1

Bid Item	Description	Engineer's Estimate				APAC		Smoky Hill		Jcorp	
		Quantity	Unit	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1	Mobilization	1	LS	\$ 35,000.00	\$ 35,000.00	\$ 22,600.00	\$ 22,600.00	\$ 41,750.00	\$ 41,750.00	\$ 13,000.00	\$ 13,000.00
2	Contractor Construction Staking	1	LS	\$ 15,000.00	\$ 15,000.00	\$ 2,800.00	\$ 2,800.00	\$ 3,200.00	\$ 3,200.00	\$ 3,300.00	\$ 3,300.00
3	Clearing and Grubbing	1	LS	\$ 25,000.00	\$ 25,000.00	\$ 8,000.00	\$ 8,000.00	\$ 11,400.00	\$ 11,400.00	\$ 17,500.00	\$ 17,500.00
4	Tree Removal	74	EA	\$ 2,500.00	\$ 185,000.00	\$ 1,000.00	\$ 74,000.00	\$ 2,400.00	\$ 177,600.00	\$ 1,200.00	\$ 88,800.00
5	Common Excavation (Levee)	1255	CY	\$ 15.00	\$ 18,825.00	\$ 9.15	\$ 11,483.25	\$ 11.95	\$ 14,997.25	\$ 7.50	\$ 9,412.50
6	Common Excavation (Montgomery Ditch)	4475	CY	\$ 20.00	\$ 89,500.00	\$ 5.00	\$ 22,375.00	\$ 9.60	\$ 42,960.00	\$ 7.50	\$ 33,562.50
7	Embankment (Levee)	4230	CY	\$ 10.00	\$ 42,300.00	\$ 5.00	\$ 21,150.00	\$ 4.40	\$ 18,612.00	\$ 5.00	\$ 21,150.00
8	Concrete Pavement (6") (AE) (Trail)	1951	SY	\$ 65.00	\$ 126,815.00	\$ 45.00	\$ 87,795.00	\$ 60.10	\$ 117,255.10	\$ 49.00	\$ 95,599.00
9	Concrete Pavement (6") (AE) (Park Entrance)	111	SY	\$ 65.00	\$ 7,215.00	\$ 78.00	\$ 8,658.00	\$ 56.60	\$ 6,282.60	\$ 50.00	\$ 5,550.00
10	Concrete Pavement (6") (AE) (Sidewalk Ramp)	3	SY	\$ 500.00	\$ 1,500.00	\$ 375.00	\$ 1,125.00	\$ 347.00	\$ 1,041.00	\$ 300.00	\$ 900.00
11	Headwall (15")	1	EA	\$ 5,000.00	\$ 5,000.00	\$ 7,000.00	\$ 7,000.00	\$ 6,790.00	\$ 6,790.00	\$ 3,500.00	\$ 3,500.00
12	Headwall (24")	1	EA	\$ 6,000.00	\$ 6,000.00	\$ 21,200.00	\$ 21,200.00	\$ 9,275.00	\$ 9,275.00	\$ 7,500.00	\$ 7,500.00
13	Headwall (36")	1	EA	\$ 7,000.00	\$ 7,000.00	\$ 21,400.00	\$ 21,400.00	\$ 14,750.00	\$ 14,750.00	\$ 8,500.00	\$ 8,500.00
14	Headwall (60")	1	EA	\$ 10,000.00	\$ 10,000.00	\$ 28,000.00	\$ 28,000.00	\$ 13,750.00	\$ 13,750.00	\$ 11,500.00	\$ 11,500.00
15	15" RCP	15	LF	\$ 120.00	\$ 1,800.00	\$ 104.00	\$ 1,560.00	\$ 284.40	\$ 4,266.00	\$ 220.00	\$ 3,300.00
16	24" RCP	145	LF	\$ 170.00	\$ 24,650.00	\$ 140.00	\$ 20,300.00	\$ 153.70	\$ 22,286.50	\$ 120.00	\$ 17,400.00
17	36" RCP	26	LF	\$ 210.00	\$ 5,460.00	\$ 235.00	\$ 6,110.00	\$ 401.30	\$ 10,433.80	\$ 250.00	\$ 6,500.00
18	Flap Gate (15")	1	EA	\$ 1,500.00	\$ 1,500.00	\$ 2,600.00	\$ 2,600.00	\$ 2,035.00	\$ 2,035.00	\$ 1,945.00	\$ 1,945.00
19	Flap Gate (24")	1	EA	\$ 2,000.00	\$ 2,000.00	\$ 3,000.00	\$ 3,000.00	\$ 2,670.00	\$ 2,670.00	\$ 2,200.00	\$ 2,200.00
20	Flap Gate (36")	1	EA	\$ 3,000.00	\$ 3,000.00	\$ 5,200.00	\$ 5,200.00	\$ 4,645.00	\$ 4,645.00	\$ 3,264.00	\$ 3,264.00
21	Flap Gate (60")	1	EA	\$ 5,000.00	\$ 5,000.00	\$ 21,000.00	\$ 21,000.00	\$ 11,450.00	\$ 11,450.00	\$ 15,495.30	\$ 15,495.30
22	Flowable Fill	120	CY	\$ 300.00	\$ 36,000.00	\$ 105.00	\$ 12,600.00	\$ 125.90	\$ 15,108.00	\$ 90.00	\$ 10,800.00
23	Annular Drainage Fill	27	CY	\$ 70.00	\$ 1,890.00	\$ 20.00	\$ 540.00	\$ 42.60	\$ 1,150.20	\$ 45.00	\$ 1,215.00
24	Riprap	784	SY	\$ 80.00	\$ 62,720.00	\$ 84.00	\$ 65,856.00	\$ 150.00	\$ 117,600.00	\$ 82.00	\$ 64,288.00
25	Sandblast/Prime/Paint (Sluice Gate)	1	EA	\$ 1,000.00	\$ 1,000.00	\$ 4,000.00	\$ 4,000.00	\$ 1,170.00	\$ 1,170.00	\$ 3,000.00	\$ 3,000.00
26	Sandblast/Prime/Paint (Flap Gate)	1	EA	\$ 500.00	\$ 500.00	\$ 4,000.00	\$ 4,000.00	\$ 1,380.00	\$ 1,380.00	\$ 2,000.00	\$ 2,000.00
27	Pavement Marking (4" Yellow)	456	LF	\$ 5.00	\$ 2,280.00	\$ 4.00	\$ 1,824.00	\$ 4.25	\$ 1,938.00	\$ 5.25	\$ 2,394.00
28	Permanent Signs	8	EA	\$ 600.00	\$ 4,800.00	\$ 295.00	\$ 2,360.00	\$ 315.00	\$ 2,520.00	\$ 550.00	\$ 4,400.00
29	Bollard	4	EA	\$ 2,000.00	\$ 8,000.00	\$ 900.00	\$ 3,600.00	\$ 1,010.00	\$ 4,040.00	\$ 1,430.00	\$ 5,720.00
30	Straw Wattle	3258	LF	\$ 8.00	\$ 26,064.00	\$ 4.50	\$ 14,661.00	\$ 4.70	\$ 15,312.60	\$ 4.65	\$ 15,149.70
31	Seeding (Buffalograss Seed Mix)	2	AC	\$ 4,000.00	\$ 8,000.00	\$ 1,600.00	\$ 3,200.00	\$ 1,650.00	\$ 3,300.00	\$ 2,000.00	\$ 4,000.00
32	Seeding (CRP Seed Mix)	2	AC	\$ 4,000.00	\$ 8,000.00	\$ 1,400.00	\$ 2,800.00	\$ 1,425.00	\$ 2,850.00	\$ 1,900.00	\$ 3,800.00
TOTAL				\$ 776,819.00		\$ 512,797.25		\$ 703,818.05		\$ 486,645.00	
				Engineer's Estimate		APAC		Smoky Hill		Jcorp	

JCOOP

CITY OF HAYS, KANSAS

HAYS LEVEE REHABILITATION

COH PROJECT NO. 2014-20

PROPOSAL

TO THE HONORABLE MAYOR AND CITY COMMISSION

CITY OF HAYS, KANSAS

1. The undersigned declares he has read the Specifications and other Contract Documents, has examined and understands the Plans, has examined the site of the Work and has determined for himself the conditions affecting the Work; and he proposes and agrees to provide at his own expense all labor, superintendence, machinery, plant, equipment, tools, apparatus, appliances and means of construction, and all materials and supplies, and to complete ready for its intended purpose the entire work and all parts thereof described as included under the Contract herein, including all work incidental thereto, according to the Plans and Specifications, and such instructions the Owner may give.
2. The Undersigned Bidder, in compliance with your Notice to Contractors dated January 7, 2015, hereby proposes to do the Work called for in said Specifications and other Contract Documents and shown on said Plans for the said work at the following rates and prices:

SCHEDULE OF ITEMS AND PRICES

HAYS LEVEE REHABILITATION

Instructions to contractors. Please use the tables below for submitting your bids. The City of Hays strongly encourages you to submit prices for all the alternate items listed.

ITEM	DESCRIPTION	QUAN	UNIT	UNIT PRICE	TOTAL PRICE
1	Mobilization	1	LS	13,000.00	13,000.00
2	Contractor Construction Staking	1	LS	3,300.00	3,300.00
3	Clearing and Grubbing	1	LS	17,500.00	17,500.00
4	Tree Removal	74	EA	1,200.00	88,800.00

ITEM	DESCRIPTION	QUAN	UNIT	UNIT PRICE	TOTAL PRICE
5	Common Excavation (Levee)	1,255	CY	7.50	9,412.50
6	Common Excavation (Montgomery Ditch)	4,475	CY	7.50	33,562.50
7	Embankment (Levee)	4,230	CY	5.00	21,150.00
8	Concrete Pavement (6") (AE) (Trail)	1,951	SY	49.00	95,599.00
9	Concrete Pavement (6") (AE) (Park Entrance)	111	SY	50.00	5,550.00
10	Concrete Pavement (6") (AE) (Sidewalk Ramp)	3	SY	300.00	900.00
11	Headwall (15")	1	EA	3,500.00	3,500.00
12	Headwall (24")	1	EA	7,500.00	7,500.00
13	Headwall (36")	1	EA	8,500.00	8,500.00
14	Headwall (60")	1	EA	11,500.00	11,500.00
15	15" RCP	15	LF	220.00	3,300.00
16	24" RCP	145	LF	120.00	17,400.00
17	36" RCP	26	LF	250.00	6,500.00
18	Flap Gate (15")	1	EA	1,945.00	1,945.00
19	Flap Gate (24")	1	EA	2,200.00	2,200.00
20	Flap Gate (36")	1	EA	3,264.00	3,264.00
21	Flap Gate (60")	1	EA	15,495.30	15,495.30
22	Flowable Fill	120	CY	90.00	10,800.00
23	Annular Drainage Fill	27	CY	45.00	1,215.00
24	Riprap	784	SY	82.00	64,288.00
25	Sandblast/Prime/Paint (Sluice Gate)	1	EA	3,000.00	3,000.00
26	Sandblast/Prime/Paint (Flap Gate)	1	EA	2,000.00	2,000.00
27	Pavement Marking (4" Yellow)	456	LF	5.25	2,394.00
28	Permanent Signs	8	EA	550.00	4,400.00
29	Bollard	4	EA	1,430.00	5,720.00
30	Straw Wattle	3,258	LF	4.65	15,149.70
31	Seeding (Buffalograss Seed Mix)	2.0	AC	2,000.00	4,000.00
32	Seeding (CRP Seed Mix)	2.0	AC	1,900.00	3,800.00
				TOTAL PRICE	486,645.00

Commission Work Session Agenda

Memo

From: Steven Walters, Stormwater Specialist

Work Session: February 17, 2015

Subject: Levee Repairs Construction Phase Engineering Services – Agreement

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

Summary

City Staff is asking the Commissioners to enter an agreement with Penco Engineering, P.A. of Plainville, KS in the amount of \$21,000 for Construction Phase Engineering Services. The proposed agreement includes concrete testing, soil compaction testing, and part-time construction observation for the Levee Improvement Project.

The project will be funded by the Stormwater Utility – Capital projects line item.

Background

A related memo regarding the award of bid for construction of Levee Repair Improvements provided background information for this project.

Discussion

City Staff does not have the expertise or equipment to perform soil compaction testing, and with the multitude of ongoing and projected projects this summer existing staff will not be available to adequately inspect this project. Due to the nature of levee construction it is imperative that work be of the highest quality as the levee is only as strong as its weakest part. Therefore, City Staff issued a request for proposals for construction phase testing and observation services to eight (8) construction engineering firms to ensure construction quality. These firms were provided copies of the project plans and asked to present proposals providing adequate inspection and testing to insure quality outcomes.

Proposals were opened on January 21, 2015 from six (6) construction engineering firms: Olsson Associates; Penco Engineering; Driggs Design Group; Alfred Benesch; Terracon; and Professional Technical Services. The proposals varied greatly from full-time testing and observation to part-time testing and observation and the proposed prices reflected those differing views ranging from \$21,000 to \$58,000.

Company	Testing		Observation		Total Price
	Hours	Price	Hours	Price	
Olsson					\$58,690**
Terracon					\$54,500**
Benesch	120	\$12,000	90	\$11,000	\$23,000
Penco	120	\$12,500	90	\$8,500	\$21,000
Driggs	285	\$18,825	275	\$16,650	\$35,475
Professional					\$30,000*

*Does not include actual testing costs

**Full time

City Staff reviewed the proposals and concluded that part-time testing and construction observation for the levee improvement project was the best value approach. Based on this conclusion, City Staff is recommending Penco Engineering, P.A. (Penco) of Plainville, Kansas for construction phase testing and observation. Penco proposes to provide all testing services including concrete and soil compaction testing and an average of two (2) hours of construction observation per day for the duration of the levee improvement project. City Staff will also be performing observation during the project as an additional check supplemented by Penco.

City Staff reviewed all proposals and is recommending a contract be awarded to Penco Engineering, P.A. in the amount not to exceed \$21,000.

Legal Consideration

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

Financial Consideration

The \$21,000 cost for construction phase testing and observation services will be from the Stormwater Utility Capital Projects Fund.

Options

The City Commission has the following options:

- Enter the Agreement with Penco
- Reject all proposals
- Direct Staff otherwise
- Do Nothing

Recommendation

City Staff recommends the City Commission enter an Agreement in the amount of \$21,000 with Penco for the services as described.

Action Requested

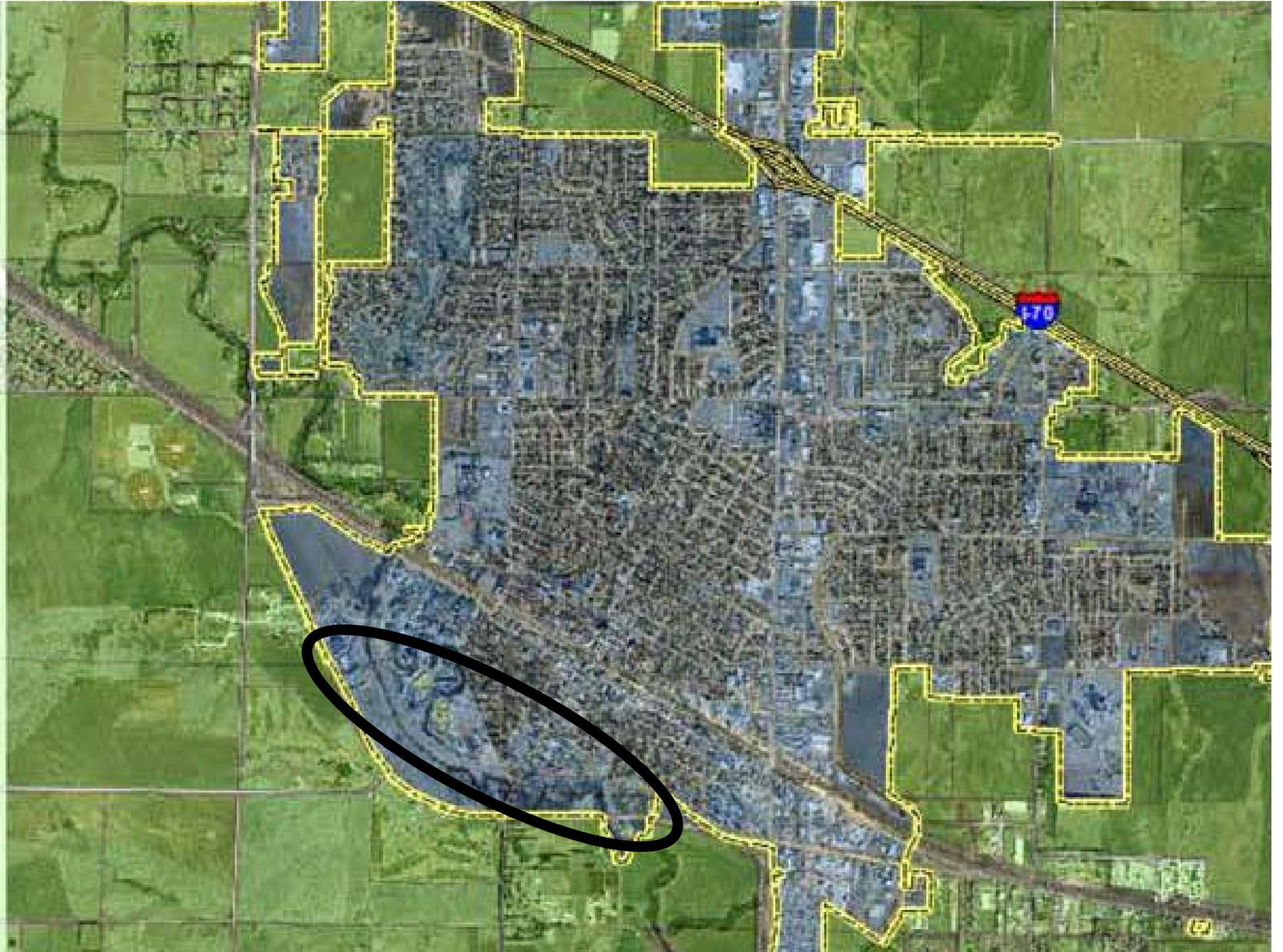
Authorize the City Manager to execute the agreement with Penco in the amount of \$21,000.

Supporting Documentation

Map

Low Bid Proposal as submitted

Engineering Service Agreement



**CITY OF HAYS
COH PROJECT 2014-20
HAYS LEVEE REHABILITATION**

PROJECT TESTING & CONSTRUCTION OBSERVATION

TESTING SERVICES

The following is included:

- 1) Proctors (3 @ \$300.00)
- 2) Soil Compaction Testing (20 half days)
- 3) Concrete Cylinders (3 sets @ \$150.00/set)
- 4) Concrete Field Testing (10 half days):

Total Testing Services----- \$12,500.00

INSPECTION SERVICES

Inspection (45 working days) ----- \$8,500.00
(Estimated at 2 hrs/day with office oversight)

TOTAL TESTING AND INSPECTION SERVICES ----- \$21,000.00

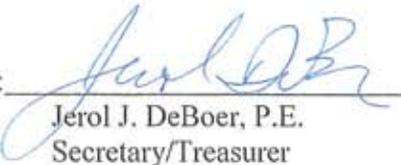
DAILY FEES

Technician Daily Fee-----\$550.00
Mobilization ----- \$100.00

TOTAL DAILY FEES-----\$650.00

Penco Engineering, P.A.

Date: February 3, 2015

By: 
Jerol J. DeBoer, P.E.
Secretary/Treasurer

AGREEMENT – SOIL AND CONCRETE TESTING SERVICES

This agreement made and entered into by and between the CITY of Hays, hereinafter referred to as the CITY, and PENCO ENGINEERING, P.A., of Plainville, Kansas hereinafter referred to as the CONSULTANT.

WITNESSETH: That the CITY desires to engage said CONSULTANT for soil and concrete testing for the following: City of Hays Project #2014-20 a/k/a Hays Levee Rehabilitation Project This contract to expire on the completion of construction.

Compensation to the CONSULTANT for soil testing, concrete testing, and field densities services rendered in connection with the work herein set forth shall be made on the basis of the revised Project Testing and Construction Observation Bid Proposal dated February 3, 2015.

During the progress of work covered by this Agreement, partial payments may be made to the CONSULTANT from the CITY within thirty (30) days of receipt of proper billing, but at intervals of not less than one calendar month.

NOW THEREFORE, in consideration of the premises and covenants herein contained, the CITY and the CONSULTANT agree as follows.

THE CONSULTANT AGREES:

- 1) Attend all conferences designated by the CITY, or required under the terms of the Agreement.
- 2) Designate a Project Engineer/Project Manager who shall serve as the CONSULTANT'S Field Supervisor. The Project Engineer/Project Manager will meet the CITY'S certification policy and report and transmit Project testing documents to the CITY Public Works Department. KDOT Certified Inspector(s) will perform soil testing, concrete testing, and field densities. The Project Engineer/ Project Manager will not be authorized to issue instructions contrary to the Plans and Specifications, or to act as foreman for the Contractor.

- 3) Assign a sufficient number of KDOT Certified Inspector(s) to the Project to perform the services required under this Agreement, in a timely manner to avoid delay to the Contractor.
- 4) Become familiar with the standard practices of the KDOT, the Contract Documents (Specifications, Contract, Special Provisions and Plans), and the Contractor's proposed schedule of operations prior to beginning field services to be performed under the Agreement.
- 5) Perform the CONSULTANT'S field operations in accordance with accepted safety practices.
- 6) Furnish all equipment required to accomplish the CONSULTANT'S services, and to check or test it prior to use on the Project.
- 7) Provide for CONSULTANT personnel such transportation, supplies, materials and incidentals as are needed to accomplish the services required under the Agreement.
- 8) Undertake the following:
 - Transmit test results to the CITY and provide guidance in the proper interpretation of the soil tests, concrete tests, and field densities.
 - Take field samples and/or test materials to be incorporated in the work, and notify the CITY and Contractor of those not meeting the provisions of the Contract Documents.
 - Keep such daily diaries, logs and records as are needed for a complete record of soil tests, concrete tests, and field densities.
- 9) Collect, properly label or identify, and deliver to the CITY all original testing documents prepared by CONSULTANT in the performance of the Agreement, upon completion of the Agreement.
- 10) Prepare and submit a final payment voucher for services rendered by the CONSULTANT.

THE CITY AGREES:

- 1) That the CONSULTANT has been duly authorized to perform all of the necessary soil testing, concrete testing, and field densities services and the furnishing of all labor, equipment, materials, and engineering essential thereto, for the fee as stipulated, and that said CITY hereby agrees to make payment to the CONSULTANT as hereinbefore set forth.
- 2) It is further understood and agreed by said CITY that this agreement as all contracts entered into under the provisions of this agreement shall be binding upon the CITY of said City of Hays, Kansas.

The CITY has advised the CONSULTANT that the anticipated services to be performed in 2015 with the estimated number of contractor working days being 60.

The CONSULTANT will save the CITY and their authorized representatives harmless from costs, liabilities, expenses, suits, judgments, and damages to persons or property caused by the CONSULTANT, its agents, or employees or subcontractors which may result from negligent acts, errors, mistakes or omissions from the CONSULTANT'S operation in connection with the services to be performed hereunder.

The CONSULTANT will make all documents and accounting records pertaining to the cost of these services for the Project available at the CONSULTANT'S office to representatives of the CITY, or any authorized representatives of the Federal Government for audit for a period of three (3) years after the date of final payment.

The CONSULTANT will comply with all federal, state and local laws and ordinances applicable to the services to be performed.

The CONSULTANT may provide engineering services outside those set forth above, or for changes in criteria. The CITY must approve any payment authorized under this paragraph in a supplemental agreement.

THE PARTIES HERETO MUTUALLY AGREE:

- 1) The CONSULTANT has the duty to follow the generally accepted practices of its profession.
- 2) The KDOT Certified Inspector(s) will not have control over, and will not be responsible for construction inspection, construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the work.
- 3) That the right is reserved to the CITY or CONSULTANT to terminate this agreement at any time provided, however, that in any such case the CONSULTANT shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the payment provisions of this agreement.
- 4) That an adjustment of the CONSULTANT'S fee as stipulated in said agreement, may be made if, for some reason, the scope of the work as set forth in said agreement is materially changed.
- 5) When an adjustment is to be made in accordance with said agreement, the reasonable value for such adjustment shall be negotiated between the CITY and the CONSULTANT prior to any expenditure of time and material as may be required by said adjustment.
- 6) This contract shall be subject to the provisions of City of Hays Code Sec. 2-576 through Sec. 2-580 which contains specific inclusions and prohibitions of certain contractual provisions and to the extent that anything herein contradicts said Code, the requirements and provisions of the Code shall govern.

BE IT THEREFORE AGREED that the CITY hereby engages said CONSULTANT for soil testing, concrete testing, and field densities as set forth hereinbefore, and said CONSULTANT agrees to perform the same.

IT WITNESS WHEREOF, said parties have caused this agreement to be signed
by their authorized officers this _____ day of _____, 2015.

CITY OF HAYS, KANSAS

CONSULTANT

CITY:

PENCO ENGINEERING, P.A.
Plainville, Kansas 67663

By: _____

By: 
Jerol J. DeBoer, P.E.
Secretary/Treasurer

ATTEST:

CITY Clerk

Commission Work Session Agenda

Memo

From: Steven Walters, Stormwater Specialist

Meeting: February 17, 2015

Subject: Proposed Ordinance Amending Chapter 53 – Stormwater Management

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

Summary

Staff recommends for adoption certain changes to Chapter 53 – Stormwater Management of the code of the City of Hays. These changes will bring the City of Hays into compliance with federal Clean Water Act requirements for “post construction” stormwater controls; will impose requirements on residential developments for stormwater management; and, will change the current standards for storm sewer infrastructure, moving away from water in pipes to overland flows in new developments. Additionally, non-stormwater discharges causing problems with unpaved surfaces are added to the list of prohibited discharges.

Background

The City of Hays is regulated under Section 402 of the Clean Water Act (CWA) by the Environmental Protection Agency. Section 402 of the CWA established the National Pollutant Discharge Elimination System (NPDES). The City of Hays began being regulated in 2004 as part of Phase II of the Municipal Separate Storm Sewer System (MS4) regulations and was re-issued our MS4 permit in February 2014. The City of Hays has never been fully compliant with the requirements of the Permit.

Several major changes are being proposed to bring the City of Hays into permit compliance, ease the administration of the stormwater utility, and to reduce the long-term financial liability to the stormwater utility. They include:

- 1) Eliminating the current exemptions for stormwater management and establishing areal thresholds for water quantity controls, water quality controls, and stormwater pollution prevention controls. The new thresholds include a 1,000 ft² disturbance threshold for a stormwater pollution prevention plan, a 1 acre disturbance threshold for water quality controls, and the addition of 10,000 ft² of

impervious surface for water quality controls. The first two thresholds are new while the addition of 10,000 ft² impervious surface is currently in place, but will now apply to all types of land development.

- 2) Adoption by reference of requirements for post construction stormwater controls from new and redevelopment, as required by the City's NPDES MS4 permit governing its discharges of urban stormwater runoff. Current law has no requirements for the water quality from new and redevelopment.
- 3) Adoption of new requirements for the design of stormwater infrastructure for all types of development. Currently in new developments, all water up to a storm statistically occurring every 5 years is required to be conveyed in a pipe as long as it is 72 inches or lower in diameter. This requirement will be removed. With the proposed changes, stormwater will only be conveyed overland, with a minimal amount of new pipe allowed for road crossings, drainage of stormwater controls, etc.

Discussion

Three significant changes to Chapter 53 – Stormwater Management are being proposed. The first significant change is the removal of existing exemptions to the requirements of current law and replacing them with a series of areal thresholds, Section 53-3. The thresholds include the requirements for water quantity controls, water quality controls and stormwater pollution prevention plans. The thresholds layout the specific requirements for all types of land development activities within the City of Hays pertaining to stormwater management.

The second significant change is the adoption of post construction stormwater controls, Section 53-13. This is a requirement of the NPDES MS4 permit. In essence, this means developments in Hays will need to infiltrate or otherwise utilize more stormwater and allow less runoff from site. This change is implemented through the adoption of a post construction stormwater manual. The manual was created for a group of Phase II MS4 permit holders in Kansas. The City of Hays is not in compliance with the federal Clean Water Act regarding these requirements. Below is a link to document on the City of Hays webpage under Environmental Programs- Stormwater:

http://www.haysusa.com/Post_Construction_BMP_Hays.pdf

The third major change, a shift from a piped stormwater system to an open channel stormwater system will greatly serve to facilitate the first change. Stormwater cannot be infiltrated when it is in a pipe, and current design criteria require stormwater to be in a pipe. The proposed changes give the developer(s) multiple options for planning and construction of stormwater infrastructure. In general it gives the developer(s) the opportunity to reduce stormwater infrastructure costs. Additionally, there is an extremely high burden to maintain the stormwater pipe network throughout the City of Hays.

Lining of 1000 feet of stormwater pipe may cost up to \$170,000, inclusive of design and surveying. Clearing an open channel back of the same length may only cost \$20,000.

The Design Criteria – Storm Drainage Systems and Facilities will also need updated to reflect the proposed changes to Chapter 53 – Stormwater Management.

The proposed changes have the following Pros and Cons

Pros:

1. The City of Hays will be in compliance with the MS4 permit.
2. Future new development will not increase flood flows.
3. Stormwater discharge from new and re-development should have less impact on Big Creek water quality.
4. Development and re-development should decrease nuisance flows and improve groundwater recharge.
5. Removal of current exemptions allows for uniform application of stormwater controls based on proposed thresholds.
6. New development should have less negative impact on aquifer recharge.

Cons

1. Growing Pains – the new water quality requirements will initially be a challenge for developers and planning engineers.
2. Upfront costs for developers will increase, but may be offset with a reduction in infrastructure.
3. Changes to the development policy will likely be required to reflect the changes proposed to Chapter 53 – Stormwater Management and the drainage standards.
4. Additional staff time for review of documents and inspection of structural controls will be required.

Legal Consideration

To be inserted by the City Attorney.

Financial Consideration

The drainage standards, as proposed, will lead to some increased city responsibilities - primarily review of design plans and inspection of structural stormwater controls. City Staff believes these new responsibilities can be accomplished without adding additional staff. Therefore, there are no financial obstacles for the City of Hays in adopting the proposed changes

Options

The City Commission has the following options available:

1. Adopt the proposed changes.
2. Reject the proposed changes.
3. Provide staff with further direction.
4. Do nothing

Recommendation

Staff recommends that the City Commissioners adopt these changes.

Action Requested

Adoption of the proposed ordinance.

Supporting Documentation

Proposed Ordinance
Redlined version of Chapter 53

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 53 OF THE CITY OF HAYS, KANSAS, MUNICIPAL CODE, BY MODIFYING ARTICLE I, SECTION 53-3, REGARDING APPLICABILITY; BY MODIFYING ARTICLE 1, SECTION 53-10, REGARDING DEFINITIONS; BY ADDING ARTICLE 1, SECTION 53-13 REGARDING ADOPTION OF POST CONSTRUCTION STORM WATER BEST MANAGEMENT PRACTICES MANUAL; BY MODIFYING ARTICLE II, SECTION 53-44, REGARDING MANAGEMENT-CONTROLS; BY MODIFYING ARTICLE II, SECTION 53-45 REGARDING SAME-PRACTICES; BY MODIFYING ARTICLE II, SECTION 53-47(b), 53-47(c), 53-47(d), AND 53-47(e) REGARDING PRIVATE RESPONSIBILITIES UNDER THE STORMWATER MANAGEMENT SYSTEM; BY MODIFYING ARTICLE III, SECTION 53-69(5) REGARDING SUBMISSION—PRELIMINARY STORMWATER MANAGEMENT PLAN; BY MODIFYING ARTICLE III, SECTIONS 53-70(1), 53-70(4), 53-70(6) AND 53-70(7) REGARDING SAME—FINAL STORMWATER MANAGEMENT PLAN; BY ADDING ARTICLE III, SECTION 53-70(10) REGARDING SAME—FINAL STORMWATER MANAGEMENT PLAN; BY MODIFYING ARTICLE III, SECTION 53-74 REGARDING STORMWATER POLLUTION PREVENTION PLAN SUBMISSION, AMENDMENTS; BY MODIFYING ARTICLE IV, SECTION 53-101, DESIGN CRITERIA; BY MODIFYING ARTICLE IV, SECTION 53-102(e), 53-102(f), AND 53-102(g) REGARDING PERFORMANCE STANDARDS; AND BY ADDING ARTICLE V, SECTION 53-135(f) REGARDING PROHIBITIONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HAYS, KANSAS:

Section 1. Chapter 53, Article I, Section 53-3 of the City of Hays, Kansas Municipal Code is hereby amended as follows:

CHAPTER 53

STORMWATER MANAGEMENT

ARTICLE I. - IN GENERAL

Sec. 53-3. - Applicability.

- (a) The provisions of this chapter shall extend and apply to all land and existing or proposed improvements thereon within the corporate limits of the City and to all substances entering the municipal stormwater drainage system generated on any developed and undeveloped lands within the corporate limits of the City, unless explicitly exempted under the provisions of this chapter.

- (b) Post construction storm water controls include water quality treatment and flood control. Post construction storm water controls are required in the following circumstances:

For properties in the major system as defined in Section 53-42:

When any property or larger common plan of development ~~proposes to will~~ add 10,000 square feet of impervious area, it shall meet requirements of the Post Construction Storm Water Best Management Practices manual. Redevelopment shall be required to control the 85% storm for water quality purposes. New development shall be required to control the 90% storm for water quality purposes.

When any property or larger common plan of development disturbs more than one acre of land, it shall meet the requirements of the Post Construction Storm Water Best Management Practices manual. Redevelopment shall be required to control the 85% storm for water quality purposes. New development shall be required to control the 90% storm for water quality purposes.

For properties in the minor system as defined in Section 53-42:

When any property or larger common plan of development ~~proposes to will~~ add 10,000 square feet of impervious area, it shall meet requirements of the Post Construction Storm Water Best Management Practices manual AND ensure that post-development runoff from the 5 year, 25 year and 100 year storm event results in no increase in peak flow rates from the entire site, in accordance with the most recently adopted "Design Criteria Storm Drainage Systems and Facilities."

When any property or larger common plan of development disturbs more than one acre of land, it shall meet the requirements of the Post Construction Storm Water Best Management Practices manual. Redevelopment shall be required to control the 85% storm for water quality purposes. New development shall be required to control the 90% storm for water quality purposes.

- (c) Storm water pollution prevention for properties in the major and minor system:

When any property ~~proposes to will~~ disturb greater than 1,000 square feet, ~~it there~~ shall be required ~~to submit~~ a storm water pollution prevention plan before a building permit is issued. The storm water pollution prevention plan shall detail construction site Best Management Practices that prevent the illicit discharge of prohibited substances, as detailed in Section 53-136, into ~~the~~ municipal storm water drainage system.

- (d) Any person ~~proposing~~ ~~proposes~~ to construct buildings or develop land, or make improvements to existing buildings or projects, or grade land within the area described in this section, or take any action the net effect of which will cause a change in existing stormwater runoff, ~~shall make~~ application ~~shall be made~~ to the ~~city~~ ~~City engineer~~ for

ORDINANCE NO. _____

Page 3

approval of a stormwater management plan and issuance of a drainage permit as specified in this chapter. No land shall be graded, developed, or improvements constructed except upon issuance of such drainage permit or as exempted herein.

- (e) Any person to have construction stormwater permit coverage to discharge stormwater associated with construction activities shall make application to KDHE for issuance of a permit [and obtain it](#).

Section 2. Chapter 53, Article I, Section 53-10, *Freeboard, Municipal stormwater drainage system* and *Retention* definitions, of the [CityCity](#) of Hays, Kansas Municipal Code are hereby amended as follows:

CHAPTER 53

STORMWATER MANAGEMENT

ARTICLE I. - IN GENERAL

Sec. 53-10. - Definitions.

Freeboard means a factor of safety expressed as the difference in elevation between the top of a retention/detention basin dam or channel bank and the design surface water elevation resulting from the storm for which the basin's required storage volume or channel's flow was determined.

Municipal stormwater drainage system means the system of conveyances (including sidewalks, roads, streets, curbs, gutters, ditches, designated drainage easements, inlets, drains, catch basins, pipes, tunnels, culverts, channels, creeks, rivers, streams, retention/detention basins and ponds owned, operated or otherwise utilized by the [City](#) for collecting or conveying stormwater and stormwater drainage, and that is not intended for the collection or conveyance of sewage.

Retention means a stormwater management technique of which the primary function is to hold water for a considerable length of time and then release it by evaporation, plant transpiration, and/or infiltration into the ground.

Section 3. Chapter 53, Article I, of the [City](#) of Hays, Kansas Municipal Code is hereby amended by adding Section 53-13 as follows:

CHAPTER 53

STORMWATER MANAGEMENT

ARTICLE I. - IN GENERAL

Sec. 53-13. - Adoption of "Post Construction Storm Water Best Management Practices" manual.

The [City](#) hereby adopts [by reference](#) the document "Post Construction Storm Water Best Management Practices" authored in April 2009 by Wilson & Company and CDM.

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Section 4. Chapter 53, Article II, Section 53-44 of the ~~City~~City of Hays, Kansas Municipal Code is hereby amended as follows:

CHAPTER 53

STORMWATER MANAGEMENT

ARTICLE II. – STORMWATER RUNOFF MANAGEMENT SYSTEM

Sec. 53-44. - Management–Controls.

- (a) Management controls are regulations applicable to the minor system under the provisions of this chapter. Such controls shall govern any activity which will adversely affect hydraulic function of any stormwater drainage facilities, public or private, including, but not limited to, retention/detention facilities, open channels, drainage swales, enclosed or open stormwater conveyance systems.
- (b) The building code administrator shall refer to the City Stormwater Superintendent all development plans and all building permit applications that may require a stormwater management plan and subsequent drainage permit ~~to the city~~City stormwater superintendentCity Stormwater Superintendent for determination of applicability of this chapter thereto.
- (c) The drainage permit fee is as set out in Section 53-134.

Section 5. Chapter 53, Article II, Section 53-45 of the ~~City~~City of Hays, Kansas Municipal Code is hereby amended as follows:

CHAPTER 53

STORMWATER MANAGEMENT

ARTICLE II. – STORMWATER RUNOFF MANAGEMENT SYSTEM

Sec. 53-45. - Same–Practices.

The following practices may be utilized upon approval of the ~~city~~City stormwater superintendentCity Stormwater Superintendent. Use of these methods shall be fully in accordance with the design criteria and performance standards as set forth for the following:

- (1) *Storage.* Runoff may be stored in temporary or permanent retention/detention basins, through rooftop or parking lot ponding, percolation storage, or by other approved means.
- (2) *Enclosed Systems with Underground Structures.* Enclosed systems consisting of underground pipes, culverts, and similar functional underground structures shall not be used to convey stormwater unless overland conveyance is ~~proven infeasible by the design engineer shown to be not feasible~~. Short sections of pipe are ~~allowable~~ allowed in order to reduce risk to adjacent properties and drain stormwater best management practices. ~~Maximum~~ Maximal use of open channels is required ~~in order~~ to reduce long-term ~~liability of costs to the city~~ City for infrastructure maintenance and to promote improved water quality while reducing stormwater flows and maintaining groundwater recharge.
- (3) *Streets, Curbs and Gutters.* Streets, curbs and gutters shall be an integral part of the stormwater management system. To the maximum extent possible, drainage systems, street layout and grades, lot patterns and location of the curbs, inlets, and site drainage and overflow swales shall be ~~concurrently~~ designed in accordance with the design criteria and performance standards set forth in these regulations.
- (4) *Enclosed Conveyance Systems.* Enclosed conveyance systems consisting of inlets, conduits and manholes may be used to convey stormwater runoff only where open channel flow is ~~infeasible~~ not feasible.
- (5) *Practices Not Exclusive.* The stormwater runoff management practices enumerated in this article shall not constitute an exclusive listing of available management practices. Other generally accepted practices and methods may be utilized where approved by the ~~city~~ City ~~engineer~~ if the minimum standards and intent as described in this chapter are maintained.

Section 6. Chapter 53, Article II, Section 53-47, subsections (b), (c), (d) and (e) of the City of Hays, Kansas Municipal Code is hereby amended as follows:

CHAPTER 53

STORMWATER MANAGEMENT

ARTICLE II. – STORMWATER RUNOFF MANAGEMENT SYSTEM

Sec. 53-47. - Private responsibilities under the stormwater management system.

- (b) ~~Each developer/permittee and/or owner of land within the city~~ City has shall have the responsibility and duty ~~before and after construction~~ to properly design, construct, operate and maintain any on-site stormwater retention/detention facility which has not been accepted for maintenance by the ~~city~~ City. Such responsibility ~~shall be a covenant running with the land, transferred is to be transmitted~~ to subsequent owners through appropriate covenants. This maintenance shall include debris control and cleaning, cutting of vegetation, erosion repair, repair of rodent damage to dams and levees, removal of silt, and maintenance of structural facilities and all other actions necessary to accomplish the ultimate goal of stormwater control.
- (c) ~~Owners of retention/detention basins and associated facilities shall,~~ upon completion of construction, ~~shall~~ furnish certification by a professional engineer licensed in the state to the ~~city stormwater superintendent~~ City Stormwater Superintendent that the retention/detention basin has ~~full adequate~~ storage capacity and that all associated facilities including inlet and outlet structures are fully functional.
- (d) ~~Owners of all property containing either public or private drainage systems shall provide access to the system for city~~ City maintenance crews. No structures shall be constructed to obstruct access. The ~~city stormwater superintendent~~ City Stormwater Superintendent's ~~must approve approval of~~ proposed changes to any drainage system shall be obtained prior to construction.
- (e) ~~Owners of retention/detention basins and associated facilities with storage capacity in excess of 100,000 cubic feet total on-site storage shall furnish certification by a professional engineer licensed in the state to the city stormwater superintendent~~ City Stormwater Superintendent once every four years that the retention detention basin has ~~full adequate~~ storage capacity City and that all associated facilities including all inlet and outlet structures are fully functional. ~~This shall not apply to excluding regional retention/detention facilities currently in which were in~~ place as of January 1, 2000.

Section 7. Chapter 53, Article III, Section 53-69, subsection (5), of the City of Hays, Kansas Municipal Code is hereby amended as follows:

CHAPTER 53

STORMWATER MANAGEMENT

ARTICLE III. – PROCEDURE FOR THE SUBMISSION, REVIEW AND APPROVAL OF

STORMWATER MANAGEMENT PLANS; SUBMISSION OF STORMWATER POLLUTION PREVENTION PLANS

Sec. 53-69. - Submission—Preliminary stormwater management plan.

(5) ~~___~~A preliminary plan of the proposed storm drainage facilities including preliminary calculations of stormwater runoff and retention/detention volume, if required, to be handled by such facilities, including information regarding the effect the proposed project will have on existing downstream drainage facilities;

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Section 8. Chapter 53, Article III, Section 53-70, subsection (1), of the City of Hays, Kansas Municipal Code is hereby amended as follows:

CHAPTER 53

STORMWATER MANAGEMENT

ARTICLE III. – PROCEDURE FOR THE SUBMISSION, REVIEW AND APPROVAL OF STORMWATER MANAGEMENT PLANS; SUBMISSION OF STORMWATER POLLUTION PREVENTION PLANS

Sec. 53-70. - Same—Final stormwater management plan.

(1) A topographic map of the project site and adjacent areas, of suitable scale and contour interval, which shall define the location of streams, the extent of floodplains and calculated high water elevations, the shoreline of lakes, ponds, swamps and retention/detention basins including their inflow and outflow structures, if any;

Section 9. Chapter 53, Article III, Section 53-70, subsection (4), of the City of Hays, Kansas Municipal Code is hereby amended as follows:

CHAPTER 53

STORMWATER MANAGEMENT

ARTICLE III. – PROCEDURE FOR THE SUBMISSION, REVIEW AND APPROVAL OF STORMWATER MANAGEMENT PLANS; SUBMISSION OF STORMWATER POLLUTION PREVENTION PLANS

Sec. 53-70. - Same—Final stormwater management plan.

- (4) A refined layout of the proposed stormwater management system including the location and size of all drainage structures, storm sewers, channels and channel sections, retention/detention basins, and analyses regarding the effect such improvements will have upon the existing downstream drainage facilities;

Section 10. Chapter 53, Article III, Section 53-70, subsections (6) and (7), of the City of Hays, Kansas Municipal Code are hereby amended as follows:

CHAPTER 53

STORMWATER MANAGEMENT

ARTICLE III. – PROCEDURE FOR THE SUBMISSION, REVIEW AND APPROVAL OF STORMWATER MANAGEMENT PLANS; SUBMISSION OF STORMWATER POLLUTION PREVENTION PLANS

Sec. 53-70. - Same—Final stormwater management plan.

- (6) For all retention/detention basins, if any, a plot or tabulation of storage volumes with corresponding water surface elevations and of the basin outflow rates for those water surface elevations;
- (7) For all retention/detention basins, if any, design hydrographs of inflow and outflow from the site under proposed project conditions;

Section 11. Chapter 53, Article III, Section 53-70, of the City of Hays, Kansas Municipal Code is hereby amended by adding subsection (10) as follows:

CHAPTER 53

STORMWATER MANAGEMENT

ARTICLE III. – PROCEDURE FOR THE SUBMISSION, REVIEW AND APPROVAL OF STORMWATER MANAGEMENT PLANS; SUBMISSION OF STORMWATER POLLUTION PREVENTION PLANS

Sec. 53-70. - Same—Final stormwater management plan.

(10) For all post construction BMPs, submittal of calculations, hydrographs, plans, profiles and detailed specifications is required.

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Section 12. Chapter 53, Article III, Section 53-74, of the City of Hays, Kansas Municipal Code is hereby amended as follows:

CHAPTER 53

STORMWATER MANAGEMENT

ARTICLE III. – PROCEDURE FOR THE SUBMISSION, REVIEW AND APPROVAL OF STORMWATER MANAGEMENT PLANS; SUBMISSION OF STORMWATER POLLUTION PREVENTION PLANS

Sec. 53-74. - Stormwater pollution Prevention plan submission; amendments.

- (a) Construction sites disturbing one or more acres of land and construction sites disturbing less than one acre of land but part of a larger common plan of development within the City are required to submit a storm water pollution prevention plan that meets KDHE requirements and complies with BMPs, as part of the standard building permit process. The stormwater pollution prevention plan shall be reviewed as to form as part of the City's established platting and building permitting process. Issuance of a building permit by the City shall not be construed ~~to indicate as~~ an opinion about the effectiveness of the proposed stormwater pollution prevention plan.
- (b) Construction sites disturbing greater than 1,000 square feet but less than one acre and NOT part of a larger common plan of development are required to submit a storm water pollution prevention plan that details and illustrates storm water BMPs to reduce or eliminate pollutants in storm water discharges from the construction site. The storm water pollution prevention plan shall be reviewed as to form as part of the City's established building permitting process. Issuance of a building permit by the City shall not be construed ~~to indicate as~~ an opinion about the effectiveness of the proposed storm water pollution prevention plan
- (c) Changes to the stormwater pollution prevention plan are authorized so long as compliance with KDHE's general construction stormwater permit is maintained.

If proposed changes impact the post-construction conditions of the site, the changes ~~must~~shall be submitted to the City for review.

Section 13. Chapter 53, Article IV, Section 53-101, of the City of Hays, Kansas Municipal Code is hereby amended as follows:

CHAPTER 53

STORMWATER MANAGEMENT

ARTICLE IV. – STORMWATER DESIGN CRITERIA AND PERFORMANCE STANDARDS.

Sec. 53-101. - Design Criteria.

Unless otherwise approved, the following criteria shall govern the design of improvements with respect to managing stormwater runoff:

Stormwater System Design Criteria. Unless otherwise provided by the City ~~engineer,~~ the latest approved edition of Design Criteria, Storm Drainage Systems and Facilities, as approved by the City, ~~which~~ is by reference made a part of this article ~~and~~ shall govern the design of stormwater systems within the City.

Section 14. Chapter 53, Article IV, Section 53-102, subsections (e), (f), and (g) of the City of Hays, Kansas Municipal Code ~~is~~are hereby amended as follows:

CHAPTER 53

STORMWATER MANAGEMENT

ARTICLE IV. – STORMWATER DESIGN CRITERIA AND PERFORMANCE STANDARDS.

Sec. 53-102. - Performance standards.

(e) *Easements.* Permanent easements for the retention/detention and conveyance of stormwater, including easements of access to structures and facilities, shall be dedicated to the ~~city~~City. Easements shall be as provided in subsections 4.1, 5.1 and 6.2, Easements, Design Criteria, Storm Drainage Systems and Facilities.

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(f) *Maintenance.* Provisions acceptable to the ~~city~~City for perpetual maintenance of retention/detention/ facilities, best management practices, outlet works, and appurtenances shall be made as follows.

Small ditches and similar conveyances planted to turf grass needing no special long-term care shall be in rights-of-way or easement and be the responsibility of abutting property owners for regular mowing in accordance with ~~city~~City ordinance.

Retention/detention facilities, best management practices, outlet works, and appurtenances serving multiple properties and rights-of-way in residential, mixed-use, industrial, and commercial development shall be the long-term responsibility of property owners the facilities serve. Additionally, a restrictive covenant by deed or plat shall~~will~~ be required. ~~between the of Hays and the developer/property owners.~~

Retention/detention facilities, best management practices, outlet works, and appurtenances serving individual commercial and industrial properties shall be located on the same parcel as the commercial and industrial development and ~~are~~ shall be the long term responsibility of the property owner, in perpetuity.

(g) *Drainage Permits.* A drainage permit for projects including retention/detention facilities shall be granted by the ~~city stormwater superintendent~~City Stormwater Superintendent only after the final stormwater management plan has been approved and all easements and restrictions have been transferred, dedicated, accepted and recorded, and all required maintenance assurances and any required security or bonds have been executed and recorded, if necessary.

Section 15. Chapter 53, Article V, Section 53-135, of the ~~City~~City of Hays, Kansas Municipal Code is hereby amended by adding subsection (f) as follows:

CHAPTER 53

STORMWATER MANAGEMENT

ARTICLE V. – DRAINAGE PERMITS AND PROHIBITED ACTS

Sec. 53-135. - Prohibitions.

f) No person shall discharge otherwise allowable waters under this Chapter to public property and rights-of-way which causes damage, harm or inconvenience

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to the public through prolonged saturation, erosion, water pollution or damage to property.

Section 16. This ordinance shall take effect and be in force from and after its passage and publication one time in the Hays Daily News, the official City newspaper.

PASSED by the Commission on _____.

HENRY SCHWALLER, IV
Mayor

ATTEST:

BRENDA KITCHEN
City Clerk

(SEAL)

Chapter 53 - STORMWATER MANAGEMENT

ARTICLE I. - IN GENERAL

ARTICLE II. - STORMWATER RUNOFF MANAGEMENT SYSTEM

ARTICLE III. - PROCEDURE FOR THE SUBMISSION, REVIEW AND APPROVAL OF STORMWATER MANAGEMENT PLANS; SUBMISSION OF STORMWATER POLLUTION PREVENTION PLANS

ARTICLE IV. - STORMWATER DESIGN CRITERIA AND PERFORMANCE STANDARDS

ARTICLE V. - DRAINAGE PERMITS AND PROHIBITED ACTS

ARTICLE VI. - ENFORCEMENT

ARTICLE VII. - STORMWATER UTILITY

ARTICLE I. - IN GENERAL

Sec. 53-1. - Title.

Sec. 53-2. - Authority.

Sec. 53-3. - Applicability.

Sec. 53-4. - Interpretations.

Sec. 53-5. - Purpose.

Sec. 53-6. - Relationship to other law.

Sec. 53-7. - Conflict with public and private provisions.

Sec. 53-8. - Amendment.

Sec. 53-9. - Disclaimer of liability.

Sec. 53-10. - Definitions.

Sec. 53-11. - Designation of city stormwater superintendent.

Sec. 53-12. - Severability.

Secs. 53-13—53-40. - Reserved.

Sec. 53-1. - Title.

This chapter shall hereafter be known, cited and referred to as the "Stormwater Management Ordinance" of the city.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-2. - Authority.

These regulations are adopted pursuant to the power and authority vested through relevant statutory enabling provisions and other applicable laws and statutes of the state.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-3. - Applicability.

(a)

The provisions of this chapter shall extend and apply to all land and existing or proposed improvements thereon within the corporate limits of the city and to all substances entering the municipal stormwater drainage system generated on any developed and undeveloped lands within the corporate limits of the city, unless explicitly exempted under the provisions of this chapter.

(b)

Post construction storm water controls include water quality treatment and flood control. Post construction storm water controls are required in the following circumstances:

For properties in the major system as defined in Section 53-4210:

When any property or larger common plan of development proposes to add 10,000 square feet of impervious area, it shall meet requirements of the Post Construction Storm Water Best Management Practices manual. Redevelopment shall be required to control the 85% storm for water quality purposes. New development shall be required to control the 90% storm for water quality purposes.

When any property or larger common plan of development disturbs more than one acre of land, it shall meet the requirements of the Post Construction Storm Water Best Management Practices manual. Redevelopment shall be required to control the 85% storm for water quality purposes. New development shall be required to control the 90% storm for water quality purposes.

For properties in the minor system as defined in Section 53-4210:

When any property or larger common plan of development proposes to add 10,000 square feet of impervious area, it shall meet requirements of the Post Construction Storm Water Best Management Practices manual AND ensure that post-development runoff from the 5 year, 25 year and 100 year storm event results in no increase in peak flow rates from the entire site in accordance with the most recently adopted “Design Criteria Storm Drainage Systems and Facilities.”

When any property or larger common plan of development disturbs more than one acre of land, it shall meet the requirements of the Post Construction Storm Water Best Management Practices manual. Redevelopment shall be required to control the 85% storm for water quality purposes. New development shall be required to control the 90% storm for water quality purposes.

(c)

Storm water pollution prevention for properties in the major and minor system:

When any property proposes to disturb greater than 1,000 square feet, it shall be required to submit a storm water pollution prevention plan before a building permit is issued. The storm water pollution prevention plan shall detail construction site Best Management Practices that prevent the illicit discharge of prohibited substances, as detailed in Section 53-136, into municipal storm water drainage system.

(d)

Any person proposing to construct buildings or develop land, or make improvements to existing buildings or projects, or grade land within the area described in this section, or take any action the net effect of which will cause a change in existing stormwater runoff, shall make application to the city engineer for approval of a stormwater management plan and issuance of a drainage permit as specified in this chapter. No land shall be graded, developed, or improvements constructed except upon issuance of such drainage permit or as exempted herein.

(ee)

Any person required to have construction stormwater permit coverage to discharge stormwater associated with construction activities shall make application to KDHE for issuance of a permit.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-4. - Interpretations.

The provisions of this chapter are intended to supplement existing zoning and land use ordinances of the city. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of public health, safety and general welfare.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-5. - Purpose.

In order to promote the public health, safety, and general welfare of the citizens of the city, the ordinance from which this chapter is derived is enacted for the general purpose of assuring the proper balance between the use of land and the preservation of a safe and beneficial environment. The maintenance, improvement and protection of the stormwater drainage system of the city necessitates the prevention of the discharge of contaminated stormwater runoff and illicit discharges from industrial, commercial, residential and construction sites into the stormwater drainage system. The establishment of regulations in this regard is necessary not only to facilitate compliance with state and federal standards and permit by owners for construction sites within the city, but also to enable the city to comply with all federal and state laws and regulations applicable to the National Pollution Discharge Elimination System (NPDES). More specifically, the provisions of these regulations, as amended from time to time, are intended to reduce property damage and to minimize the hazards of personal injury and loss of life due to flooding, to be accomplished by:

(1)

Establishing the major and minor stormwater management systems;

(2)

Defining and establishing stormwater management controls and practices;

(3)

Establishing guidelines for attenuating or avoiding flooding within the city from the cumulative effects of increased volume and peak discharge of surface water runoff;

(4)

Establishing an appeals board, which shall be the Hays Area Board of Zoning Appeals, to review decisions of the city stormwater superintendent or city engineer.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-6. - Relationship to other law.

These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person as waiving any right of the city under any section or provision existing at the time of adoption of the ordinance from which this chapter is derived, or as vacating or annulling any rights obtained by any person by lawful action of the city, except as shall be expressly provided for in these regulations.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-7. - Conflict with public and private provisions.

(a)

Public Provisions. These regulations are not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other ordinance, rule or regulation or other provision of the law, whichever provisions are more restrictive or impose higher standards shall control.

(b)

Private Provisions. These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction; provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations, and such private provisions are inconsistent with these regulations or determinations made hereunder.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-8. - Amendment.

For the purpose of providing the public health, safety and general welfare, the governing body may, from time to time, amend the provisions of these regulations.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-9. - Disclaimer of liability.

The performance standards and design criteria set forth in this chapter establish minimum requirements which must be implemented with good engineering practice and workmanship. Use of the requirements contained in this chapter shall not constitute a representation, guarantee or warranty of any kind by the city, its agents, or its officers and employees, of the adequacy or safety of any stormwater pollution prevention plan,

stormwater management plan, structure, or use of land. Nor shall the approval of a stormwater pollution prevention plan or stormwater management plan and the issuance of a drainage permit imply that land uses permitted will be free from damages caused by stormwater runoff. The degree of protection by these regulations is considered reasonable for regulatory purposes and is based on historical records, engineering and scientific methods of study. Larger storms may occur or stormwater runoff heights may be increased by manmade or natural causes. These regulations therefore shall not create liability on the part of the city, its agents, or any officer or employee with respect to any legislative or administrative decision lawfully made hereunder.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-10. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the present tense include the future tense; words used in the singular number shall include the plural, and vice-versa; the term "building" includes the term "structure"; the term "person" includes corporation, partnership, and unincorporated association of persons; the term "used for" includes the meaning "designated for" or "intended for;" and the word "shall" or the word "must" is mandatory.

Base flood means the flood has a one-percent chance of being equaled or exceeded in any given year; the 100-year flood.

Best management practices and *BMPs* means a defined set of activities, prohibitions, pollution prevention and educational practices, maintenance procedures, and other management practices designed to prevent or reduce the discharge of pollutants directly or indirectly into stormwater, receiving waters, or stormwater conveyance systems. Best management practices and BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage and leaks, sludge and water disposal, and drainage from raw materials storage.

Bond means any form of security for the completion or performance of a stormwater management plan or the maintenance of drainage improvements, including surety bond, collateral, property or instrument of credit, or escrow deposit in the amount and form satisfactory to the governing body.

Bridge means a structure generally consisting of abutments and a superstructure used to carry traffic over a channel.

Building means any existing or proposed structure built for the support, shelter or enclosure of persons, animals, chattels, or movable property of any kind.

Channel means a watercourse of perceptible extent, either natural or improved, which periodically or continuously contains moving water or which forms a connecting link between two bodies of water.

City means the City of Hays, Kansas.

City BMPs means the best management practices established by the city stormwater superintendent for the city under the authority of this chapter.

City engineer means the person assigned by the director of public works to complete technical tasks associated with stormwater issues.

City stormwater superintendent means the city employee responsible for implementing, administering and enforcing the provisions of this chapter.

Construction activity means any activity, including clearing, grading and excavating, which results in disturbance of any land surface.

Contaminated means containing substances regarded under state or federal law as being pollutants.

Culvert means a closed conduit used for the passage of stormwater under an embankment such as a street, railroad or levee.

Detention means a stormwater management technique of which the primary function is to control the peak rate of surface water runoff by utilizing temporary storage and a controlled rate of release. This may include, but not be limited to, the use of reservoirs, rooftops, parking areas, holding tanks, in-pipe storage, and in-channel storage.

Discharge means the release, addition or introduction of any substance directly or indirectly into the municipal stormwater drainage system.

Drainage permit means a permit issued by the city subsequent to approval of a final stormwater management plan.

Dry bottom basin means a natural or artificial stormwater storage area which is designed and maintained for temporary containment of stormwater runoff and is not designed to retain water.

Easement means authorization by a property owner for use by another party of all or any portion of his land for a specified purpose.

Enclosed conveyance system means a system for conveying stormwater runoff consisting of inlets, manholes and storm sewers.

EPA means the United States Environmental Protection Agency.

Erosion means the wearing away of land by wind and water.

Five-year storm means a rainstorm having a 20-percent chance of occurrence in any given year.

Floodplain means the land area adjoining a river, stream, watercourse, or lake which is likely to be flooded in the event of a 100-year flood.

Floodway means the channel of a watercourse and the adjacent land area that must be reserved in order to discharge a 100-year flood without cumulatively increasing the water surface elevation more than one foot.

Freeboard means a factor of safety expressed as the difference in elevation between the top of a retention/detention basin dam or channel bank and the design surface water elevation resulting from the storm for which the basin's required storage volume or channel's flow was determined.

Habitable dwelling unit means a dwelling unit intended for and suitable for human habitation.

Hazardous waste means any substance, material or waste identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261.

Household hazardous waste means any substance, material or waste identified or listed as a household hazardous waste pursuant to K.A.R. 28-29-23b.

Illicit connections means either of the following:

(1)

Any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the municipal stormwater drainage system either directly or indirectly;
or

(2)

Any drain or conveyance connected from a commercial or industrial land use to the municipal stormwater drainage system, either directly or indirectly, and which has not been documented in any approved plans, maps or equivalent records, or which has not otherwise been approved by the city stormwater superintendent.

Illicit discharge means any occurrence prohibited under the provisions of Section 53-135.

Inlet means an opening into a storm sewer system for the entrance of runoff.

KDHE means the Kansas Department of Health and Environment, or any duly authorized official of the Kansas Department of Health and Environment acting on its behalf.

Manhole means a structure through which a person may enter to gain access to a storm sewer.

Municipal stormwater drainage system means the system of conveyances (including sidewalks, roads, streets, curbs, gutters, ditches, designated drainage easements, inlets, drains, catch basins, pipes, tunnels, culverts, channels, creeks, rivers, streams, retention/detention basins and ponds owned, operated or otherwise utilized by the city for collecting or conveying stormwater and stormwater drainage, and that is not intended for the collection or conveyance of sewage.

National Pollutant Discharge Elimination System and *NPDES* means the national system for the issuance of permits under 42 U.S.C. Section 1342, and includes any state or interstate program which has been approved by the administrator, in whole or in part, pursuant to 42 U.S.C. Section 1342.

NPDES stormwater discharge permit means an NPDES stormwater discharge permit issued by the EPA, or issued by a State under authority delegated pursuant to 33 USC § 1342(b), which permit authorizes and regulates discharges into surface waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.

Nonstormwater discharge means any discharge to the storm drain system that is not composed entirely of stormwater.

100-year storm means a rainstorm having a one-percent chance of occurrence in any given year.

Open conveyance system means a system for conveying stormwater runoff consisting of natural and/or improved open channels with intermittent culverts or bridges crossing streets, railroads or other surfaced areas.

Peak rate of runoff means the maximum rate of runoff for a given return frequency storm.

Permittee means a person, partnership or corporation to whom a permit is granted.

Person means any individual, association, organization, partnership, firm, corporation or other legal entity.

Pollutant means any substance or material which contaminates or adversely alters the physical, chemical or biological properties of water, including changes in the temperature, taste, odor, turbidity or color of water. Pollutant includes, but is not limited to the following: Dredged spoil; spoil waste; incinerator residue; animal waste; trash, refuse and garbage; sewage and sewage sludge; chemical waste; biological materials;

radioactive materials; wrecked or discarded objects and equipment; rock, sand and soil; yard waste; hazardous waste and household hazardous waste; oil and petroleum products or waste; paints, varnishes and solvents; automotive fluids; nonhazardous liquid and solid wastes and yard wastes; pesticides, herbicides, and fertilizers; fecal coliform and pathogens; dissolved and particulate metals; and wastes and residues which result from the construction or demolition of any building or structure.

Plat means a legally recorded plan of a parcel of land indicating the location and dimension of such features as streets, alleys, lots, easements and other elements pertinent to a subdivision.

Premises means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

Public-owned improvements means improvements such as, but not limited to, concrete channel liner, pipe of various sizes and materials, box culverts and miscellaneous other concrete structures located on public rights-of-way or easements.

Rational method means an empirical formula for calculating peak rates of stormwater runoff resulting from rainfall.

Release means to dump, spill, leak, pump, pour, emit, empty, inject, leach, dispose, add or otherwise introduce any substance, directly or indirectly, or intentionally or unintentionally, into the municipal stormwater drainage system.

Retention means a stormwater management technique of which the primary function is to hold water for a considerable length of time and then release it by evaporation, plant transpiration, and/or infiltration into the ground.

Return frequency means the average interval of time which a given event will be equaled or exceeded once.

Runoff means water resulting from precipitation which is not absorbed by the soil, evaporated into the atmosphere, or entrapped by ground surface depressions and vegetation, and which flows over the ground surface.

Runoff total means the total volume of stormwater runoff from a tributary area for a definite period of time such as a day, month or a year, or for the duration of a particular storm.

Sediment means soil and rock material transported, carried or deposited by water.

Storm sewer means a closed conduit for transporting stormwater runoff that has been collected by inlets.

Stormwater means any surface flow, runoff or drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Structure means any object constructed above or below ground.

Ten-year storm means a rainstorm having a ten-percent chance of occurrence in any given year.

Tributary area means all of the area contributing runoff to a given point of consideration, both public and private.

Uncontaminated means not containing pollutants.

Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Watercourse means any stream, creek, brook, branch, depression, reservoir, lake, pond, or drainageway in or into which stormwater runoff flows.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-11. - Designation of city stormwater superintendent.

The stormwater superintendent of the city is hereby authorized and directed to implement, administer and enforce provisions of this chapter, and to perform all functions and duties, and to exercise such authority and discretion as prescribed under this chapter. The stormwater superintendent, with the approval of the city manager, may delegate any of the powers, duties or functions prescribed under this chapter.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-12. - Severability.

If for any reason any section, subsection, sentence, clause or phrase of this chapter or the application thereof to any person or circumstance is declared to be unconstitutional or invalid or unenforceable, such decision shall not affect the validity of the remaining portions of this chapter.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

[Sec. 53-13. – Adoption of “Post Construction Storm Water Best Management Practices” manual.](#)

[The city hereby adopts the document “Post Construction Storm Water Best Management Practices” authored in April 2009 by Wilson & Company and CDM.](#)

Secs. 53-134—53-40. - Reserved.

Hays, Kansas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 53 - STORMWATER MANAGEMENT >> ARTICLE II. - STORMWATER RUNOFF MANAGEMENT SYSTEM >>

ARTICLE II. - STORMWATER RUNOFF MANAGEMENT SYSTEM

Sec. 53-41. - General.

Sec. 53-42. - Major system.

Sec. 53-43. - Minor system.

Sec. 53-44. - Management—Controls.

Sec. 53-45. - Same—Practices.

Sec. 53-46. - Public responsibilities under the stormwater management system.

Sec. 53-47. - Private responsibilities under the stormwater management system.

Secs. 53-48—53-67. - Reserved.

Sec. 53-41. - General.

(a)

This article establishes the stormwater runoff management system which shall be composed of a major system, a minor system, management controls, and management practices.

(b)

These regulations apply to the minor system.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-42. - Major system.

(a)

The major system shall be composed of the regulatory floodplain as shown on the National Flood Insurance Program maps developed for the city by the Federal Emergency Management Agency (FEMA).

(b)

Floodplain management regulations adopted by the city shall govern development and improvements within the regulatory floodplain.

(c)

For areas located in FEMA zone A outside the detailed study area, the developer shall prepare studies and calculations establishing the floodplain elevation and width. These calculations shall be submitted to the city engineer for review.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-43. - Minor system.

The minor system shall consist of storm drainage facilities including, but not necessarily limited to, roadway curb and gutter, open channels, gullies, streams, creeks, swales, and enclosed and open conveyance systems which transport storm runoff to the major system.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-44. - Management—Controls.

(a)

Management controls are regulations applicable to the minor system under the provisions of this chapter. Such controls shall govern any activity which will adversely affect hydraulic function of any stormwater drainage facilities, public or private, including, but not limited to, retention/detention facilities, open channels, drainage swales, enclosed or open stormwater conveyance systems.

~~(b)~~

~~Applicability of the use of stormwater management controls for proposed projects or improvements thereon shall apply in the following situations:~~

~~(1)~~

~~Additions to, improvements or repair of existing retail, commercial, institutional or industrial structures;~~

~~(2)~~

~~New construction of any residential, retail, commercial, institutional or industrial development.~~

(c)

~~These requirements do not apply to:~~

~~(1)~~

~~Situations in which downstream flooding is entirely confined within the limits of the 100-year floodplain as defined by the Federal Insurance Study (FIS) current at the time of the development and no existing or proposed structures or property will be adversely impacted;~~

~~(2)~~

~~Additions to, improvements and repairs of existing single family or duplex dwellings;~~

~~(3)~~

~~Remodeling, repair, replacement, and improvements to any existing structure or facility and appurtenances that increase the impervious area by less than 10,000 square feet;~~

~~(4)~~

~~Improvements to any site having a gross land area of one fourth acre or less, regardless of land use;~~

~~(5)~~

~~Construction of any one new single family dwelling unit.~~

(bd)

The building code administrator shall refer all development plans and all building permit applications that may require a stormwater management plan and subsequent drainage permit to the city stormwater superintendent for determination of applicability of this chapter thereto.

(ce)

The drainage permit fee is as set out in Section 53-134

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-45. - Same—Practices.

The following practices may be utilized upon approval of the city stormwater superintendent. Use of these methods shall be fully in accordance with the design criteria and performance standards as set forth for the following:

(1)

Storage. Runoff may be stored in temporary or permanent retention/detention basins, through rooftop or parking lot ponding, percolation storage, or by other approved means.

(2)

Enclosed Systems with Underground Structures. Enclosed systems consisting of underground pipes, culverts, and similar functional underground structures shall not be used to convey stormwater unless overland conveyance is proven infeasible by the design engineer. Short sections of pipe are allowable in order to reduce risk to adjacent properties and drain stormwater best management practices. Maximum use of open channels is required in order to reduce long-term liability of the city for infrastructure maintenance and to promote improved water quality while reducing stormwater flows and maintaining groundwater recharge.

~~Enclosed systems consisting of underground pipes, culverts and similar functional underground structures shall be used to convey stormwater at all locations:~~

~~a.~~

~~Where the design peak discharge of the five year return period storm is equal to or less than the capacity of a 72-inch diameter round pipe with a Manning's "n" of 0.013 using the existing slope;~~

~~b.~~

~~Within the right of way of improved streets regardless of system design capacity;~~

~~c.~~

~~Within 50 feet of any existing or proposed habitable building regardless of system design capacity;~~

~~d.~~

~~For developed areas where the design peak discharge of a ten year return period storm equals or exceeds eight CFS and the collected drainage is generated from more than one lot;~~

e.

~~Open channels will be used where designated by the city.~~

(3)

Streets, Curbs and Gutters. Streets, curbs and gutters shall be an integral part of the stormwater management system. To the maximum extent possible, drainage systems, street layout and grades, lot patterns and location of the curbs, inlets, and site drainage and overflow swales shall be concurrently designed in accordance with the design criteria and performance standards set forth in these regulations.

(4)

Enclosed Conveyance Systems. Enclosed conveyance systems consisting of inlets, conduits and manholes may be used to convey stormwater runoff only where open channel flow is infeasible. ~~except as designated as open channel by the city.~~

(5)

Practices Not Exclusive. The stormwater runoff management practices enumerated in this article shall not constitute an exclusive listing of available management practices. Other generally accepted practices and methods may be utilized where approved by the city engineer if the minimum standards and intent as described in this chapter are maintained.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-46. - Public responsibilities under the stormwater management system.

(a)

Administration. The administration of these regulations shall be the responsibility of the city stormwater superintendent, or his designee, who shall review and approve stormwater management plans as provided in this chapter.

(b)

Operation and Maintenance of Public-Owned Facilities. The city shall be responsible for all maintenance of the public-owned drainage system, either improved or unimproved, located on a right-of-way and city-owned property. Maintenance of the public-owned drainage system located on private property and/or in utility or drainage easements shall be limited to the public-owned improvements such as concrete structures, pipelines or concrete channel liner, and to the repair of any erosion-caused drainage system failure within this improved portion only of the drainage system. The city will maintain the free flow of all storm drainage within the corporate limits of the city. However, it shall be the responsibility of the owner, occupant or agent in charge of private property, upon which

the public storm drainage system exists, to maintain all vegetation including mowing the grass and weeds, trimming and/or removal of dead trees and shrubs and providing of such other general maintenance as is required except as described in this subsection.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-47. - Private responsibilities under the stormwater management system.

(a)

Each developer/permittee and/or owner of land within the city has the responsibility to provide all approved stormwater runoff management facilities to ensure the adequate drainage and control of stormwater on the developer's/permittee's and/or property owner's property both during and after construction of such facilities.

(b)

Each developer/permittee and/or owner of land within the city has the responsibility and duty before and after construction to properly operate and maintain any on-site stormwater retention/detention facility which has not been accepted for maintenance by the city. Such responsibility is to be transmitted to subsequent owners through appropriate covenants. This maintenance shall include debris control and cleaning, cutting of vegetation, erosion repair, repair of rodent damage to dams and levees, removal of silt, and maintenance of structural facilities.

(c)

Owners of retention/detention basins and associated facilities upon completion of construction shall furnish certification by a professional engineer licensed in the state to the city stormwater superintendent that the retention/detention basin has full storage capacity and that all associated facilities including inlet and outlet structures are fully functional.

(d)

Owners of all property containing either public or private drainage systems shall provide access to the system for city maintenance crews. No structures shall be constructed to obstruct access. The city stormwater superintendent must approve proposed changes to any drainage system prior to construction.

(e)

Owners of retention/detention basins and associated facilities with storage capacity in excess of 100,000 cubic feet total on-site storage shall furnish certification by a professional engineer licensed in the state to the city stormwater superintendent once every four years that the retention detention basin has full storage capacity and that all

associated facilities including all inlet and outlet structures are fully functional, excluding regional retention/detention facilities currently in place as of January 1, 2000.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Secs. 53-48—53-67. - Reserved.

Hays, Kansas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 53 - STORMWATER MANAGEMENT >> ARTICLE III. - PROCEDURE FOR THE SUBMISSION, REVIEW AND APPROVAL OF STORMWATER MANAGEMENT PLANS; SUBMISSION OF STORMWATER POLLUTION PREVENTION PLANS >>

**ARTICLE III. - PROCEDURE FOR THE SUBMISSION, REVIEW AND APPROVAL OF STORMWATER MANAGEMENT PLANS;
SUBMISSION OF STORMWATER POLLUTION PREVENTION PLANS**

Sec. 53-68. - General.

Sec. 53-69. - Submission—Preliminary stormwater management plan.

Sec. 53-70. - Same—Final stormwater management plan.

Sec. 53-71. - Review and approval of final stormwater management plan.

Sec. 53-72. - Establishment of construction activities best management practices (BMPs) and requirements for stormwater pollution prevention plans.

Sec. 53-73. - Requirement of stormwater pollution prevention plans for subdivision developments.

Sec. 53-74. - Stormwater pollution prevention plan submission; amendments.

Sec. 53-75. - Requirements applicable to utility companies.

Sec. 53-76. - Requirements generally applicable.

Sec. 53-77. - Requirements for industrial stormwater and other permitted discharges.

Secs. 53-78—53-100. - Reserved.

Sec. 53-68. - General.

The stormwater management plan and/or all construction drawings and specifications shall be prepared, signed and sealed by a professional engineer licensed in the state. All plans shall be submitted to and approved by the city stormwater superintendent prior to issuance of a building or construction permit. No building or construction permits shall be issued prior to the approval of the stormwater management plan and issuance of a drainage permit by the city stormwater superintendent.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-69. - Submission—Preliminary stormwater management plan.

A preliminary stormwater management plan shall accompany preliminary applications for any proposed project. This preliminary plan shall contain, but not be limited to, the following information and data:

(1)

A site plan of suitable scale and contour interval indicating topographical information of the land to be developed and adjoining land tributary to the point of consideration whose topography may affect the proposed layout or drainage patterns for the project. A general plan of final contours of the project site shall also be indicated. All existing streams, waterways, channels and the extent of the established floodplains shall be indicated;

(2)

The location and calculated peak discharge rates to all adjacent storm drainage facilities;

(3)

The type and drainage characteristics of soils contained in the project area;

(4)

A description of the concepts to be considered within the project to handle anticipated stormwater runoff including the methods to be utilized to detain or control increased stormwater runoff generated by the proposed project;

(5)

A preliminary plan of the proposed storm drainage facilities including preliminary calculations of stormwater runoff and retention/detention volume, if required, to be handled by such facilities, including information regarding the effect the proposed project will have on existing downstream drainage facilities;

(6)

A description of the possible effects that the proposed project could have on areas adjoining and upstream of the project, including adjacent property;

(7)

Following the receipt of the preliminary stormwater management plan, a general review meeting will be conducted and shall include the city stormwater superintendent or his staff, representatives of the developer/permittee and the developer's/permittee's engineer. The purpose of this review shall be to jointly agree on the conceptual methods proposed to be utilized and the possible effects of the proposed project on existing or future adjacent projects.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-70. - Same—Final stormwater management plan.

Following the review of the preliminary stormwater management plan, and after general approval of the preliminary plan by the city stormwater superintendent, a final stormwater management plan shall be prepared. The submittal of the final plan shall coincide with the application for final approval of the project and shall constitute a refinement of the concepts approved in the preliminary plan. If a project is to be phased, the total area of the conceptual project is to be considered in all calculations, and facilities shall be designed for each phase which would be compatible with those of the total project plan. The final stormwater management plan for any project shall include, but not be limited to, the following additional detailed information, unless specifically excluded during the preliminary concept review meeting:

(1)

A topographic map of the project site and adjacent areas, of suitable scale and contour interval, which shall define the location of streams, the extent of floodplains and calculated high water elevations, the shoreline of lakes, ponds, swamps and retention/detention basins including their inflow and outflow structures, if any;

(2)

The location, size, material (i.e., reinforced concrete pipe), slope, and invert elevation of all existing sanitary or storm sewers, and the location of any existing stormwater wastewater pumping or treatment facilities, which fall within the project limits plus 200 feet outside the project limits;

(3)

Detailed determination of runoff anticipated for the entire project site following project completion indicating design volumes and rates of proposed runoff for each portion of the watershed tributary to the storm drainage system, the calculations used to determine

such runoff volumes and rates and review of the criteria which have been used by the project engineer throughout his calculations;

(4)

A refined layout of the proposed stormwater management system including the location and size of all drainage structures, storm sewers, channels and channel sections, retention/detention basins, and analyses regarding the effect such improvements will have upon the existing downstream drainage facilities;

(5)

The slope, type, size and flow calculations for all existing and proposed storm sewers and other waterways;

(6)

For all retention/detention basins, if any, a plot or tabulation of storage volumes with corresponding water surface elevations and of the basin outflow rates for those water surface elevations;

(7)

For all retention/detention basins, if any, design hydrographs of inflow and outflow from the site under proposed project conditions;

(8)

A stormwater pollution prevention plan for the entire project site as required by Section 53-74

(9)

A profile and one or more cross sections of all existing and proposed channels or other open drainage facilities, indicating existing conditions and the proposed changes thereto, together with the high water elevations expected from stormwater runoff under the controlled conditions called for by these regulations and the relationship of structures, streets and other utilities to such channels for a distance as far downstream as the runoff will have a noticeable effect.

(10)

For all post construction BMPs, submittal of calculations, hydrographs, plans, profiles and detailed specifications is required.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-71. - Review and approval of final stormwater management plan.

The final stormwater management plan shall be reviewed by the city engineer. If it is determined according to present engineering practice that the proposed project will provide control of stormwater runoff in accordance with the purposes, design criteria and performance standards of these regulations and will not be detrimental to the public health, safety and general welfare, the city engineer shall approve the plan or conditionally approve the plan, setting forth the conditions thereof. A drainage permit for the project shall be granted; provided, the requirements for the drainage permit in Section 53-133 have been met. If it is determined that the proposed project will not control stormwater runoff in accordance with these regulations, the city engineer shall disapprove the final stormwater management plan. If disapproved, the application and data shall be returned to the applicant for review, revision and resubmittal. Time frames for filing, review and approval of stormwater management plans shall coincide with applicable time periods in Chapters 59 and 71.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-72. - Establishment of construction activities best management practices (BMPs) and requirements for stormwater pollution prevention plans.

All construction sites in the city required to have construction stormwater permit coverage to discharge stormwater associated with construction activities must obtain permit coverage from KDHE prior to issuance of any building permits by the city. No building permits shall be issued by the city unless proof of KDHE permit coverage is shown to the city stormwater superintendent.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-73. - Requirement of stormwater pollution prevention plans for subdivision developments.

(a)

Where construction of any residential, commercial or industrial subdivision development will involve one or more construction activities during the life of the development project, the owner of a site of any construction activity, and any developer on the owner's behalf, shall submit a stormwater pollution prevention plan that meets KDHE requirements and complies with BMPs, as part of any platting of such subdivision; or, if the subdivision is already platted and is not subject to an existing stormwater pollution prevention plan, then such shall be submitted as part of the site plans in relation to the initial building permit application within such development. The stormwater pollution prevention plan shall provide for all phases of development within the subdivision, including general grading and the construction of individual buildings and other improvements within the development, but shall not be required to include the

construction of public improvements which are to be constructed by the city therein, such as internal water and sewer mains and public streets and sidewalks.

(b)

The subdivision owner shall provide a copy of the stormwater pollution prevention plan to all contractors and utility companies prior to their working within the subdivision.

(c)

The subdivision owner shall be responsible for implementation of the stormwater pollution prevention plan as to all construction activity within the development, excluding construction under the control of a subsequent owner of an individual lot or parcel or as to construction managed by utility companies.

(d)

Any subsequent owner of an individual lot or parcel with such a subdivision shall be responsible for continued implementation of the stormwater pollution prevention plan for all construction activity within or related to that owner's lot or parcel, excluding construction managed by utility companies.

(e)

The subdivision owner shall be responsible for maintenance of common controls such as sedimentation basins until all construction activity draining to the common control is 85 percent completed and the surfaces are stabilized with permanent vegetation or non-eroding surfaces.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-74. - Stormwater pollution prevention plan submission; amendments.

(a)

Construction sites disturbing one or more acres of land and construction sites disturbing less than one acre of land but part of a larger common plan of development within the city are required to submit a stormwater pollution prevention plan that meets KDHE requirements and complies with BMPs, as part of the standard building permit process. The stormwater pollution prevention plan shall be reviewed as to form as part of the city's established platting and building permitting process. Issuance of a building permit by the city shall not be construed to indicate an opinion about the effectiveness of the proposed stormwater pollution prevention plan.

(b)

Construction sites disturbing greater than 1,000 square feet but less than one acre and NOT part of a larger common plan of development are required to submit a storm water pollution prevention plan that details and illustrates storm water BMPs to reduce or eliminate pollutants in storm water discharges from the construction site. The storm water pollution prevention plan shall be reviewed as to form as part of the city's established building permitting process. Issuance of a building permit by the city shall not be construed to indicate an opinion about the effectiveness of the proposed storm water pollution prevention plan

~~Projects disturbing less than one acre of land but part of a larger common plan of development (as described in the most recent version of KDHE's general construction stormwater permit) are not required to submit construction stormwater pollution prevention plans. Operators of these construction sites must comply with all KDHE permitting requirements and inspection and enforcement of any violations by the city.~~

(c)

Changes to the stormwater pollution prevention plan are authorized so long as compliance with KDHE's general construction stormwater permit is maintained. If proposed changes impact the post-construction conditions of the site, the changes must be submitted to the city for review.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-75. - Requirements applicable to utility companies.

(a)

Utility companies operating within the city are required to use BMPs such as downslope controls, spill prevention and cleanup best practices and immediate site stabilization measures.

(b)

Utility companies are prohibited from making illicit discharges to the municipal storm sewer system.

(c)

Utility companies performing large projects not routine in nature disturbing more than one acre of land within the city are required to obtain KDHE general construction stormwater permit coverage and submit a stormwater pollution prevention plan that meets KDHE requirements and complies with BMPs, to the city prior to beginning work.

(d)

Utility companies operating within a construction site permitted to a third party must follow best management practices within the permitted construction site.

(e)

Utility companies are subject to all enforcement measures provided for in this and other ordinances.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-76. - Requirements generally applicable.

(a)

No contractor, subcontractor or utility company shall enter the site subject to a stormwater pollution prevention plan for the purpose of engaging in any work thereof prior to obtaining a copy of that stormwater pollution prevention plan for the site or project, and without taking such steps as necessary so that its activities on that site are in compliance with the stormwater pollution prevention plan.

(b)

Each contractor, subcontractor and utility company is responsible for taking all reasonable steps necessary to avoid damaging any BMP devices once in place. Any person whose actions or neglect have resulted in the alteration, damage or impairment of any BMP devices in place pursuant to a stormwater pollution prevention plan shall immediately repair or remedy the same, and shall be responsible for all costs necessary for such repair and remediation.

(c)

It shall be unlawful for any person responsible for performance of and/or adherence to a stormwater pollution prevention plan to fail to comply with the requirements of that plan. The requirements under a stormwater pollution prevention plan shall remain applicable until such time as the construction activities under the plan have been satisfactorily completed and the site surface properly stabilized or covered as determined by the city stormwater superintendent.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-77. - Requirements for industrial stormwater and other permitted discharges.

Any person who is required to have a construction or industrial activity NPDES stormwater discharge permit shall comply with all provisions of such permit, and further shall be required to do the following:

(1)

Dischargers of stormwater associated with industrial activity and other holders of national pollutant discharge elimination system permits must provide proof of compliance with the provisions of the NPDES stormwater discharge permit when requested by and in a form acceptable to the city stormwater superintendent.

(2)

The fact that a person has conducted all activities in conformance with a stormwater pollution prevention plan or in conformance with approved or established BMPs shall not constitute a defense to a charge of violation of the illicit discharge prohibitions of this chapter.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Secs. 53-78—53-100. - Reserved.

Hays, Kansas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 53 - STORMWATER MANAGEMENT >> ARTICLE IV. - STORMWATER DESIGN CRITERIA AND PERFORMANCE STANDARDS >>

ARTICLE IV. - STORMWATER DESIGN CRITERIA AND PERFORMANCE STANDARDS

Sec. 53-101. - Design criteria.

Sec. 53-102. - Performance standards.

Secs. 53-103—53-132. - Reserved.

Sec. 53-101. - Design criteria.

Unless otherwise approved, the following criteria shall govern the design of improvements with respect to managing stormwater runoff:

⊕

Stormwater System Design Criteria. Unless otherwise provided by the city engineer, the latest approved edition of Design Criteria, Storm Drainage Systems and Facilities, as approved by the city, which is by reference made a part of this article as though expressly

rewritten and incorporated in this article, shall govern the design of stormwater systems within the city.

(2)

~~*Project Design.* Streets, blocks, depth of lots, parks, and other public grounds shall be located and laid out in such a manner as to minimize the velocity of overland flow and allow maximum opportunity for infiltration of stormwater into the ground, and to preserve and utilize existing and planned streams, channels and detention basins, and include, whenever possible, streams and channels within parks and other public grounds.~~

(3)

~~*Methods of Controlling Downstream Flooding.* The developer's/permittee's engineering consultant shall determine whether the proposed plan will cause or increase downstream local flooding conditions. This determination shall be made on the basis of existing downstream development and drainage system capabilities, and an analysis of stormwater runoff both prior to and after the proposed project is completed. Should the developer's/permittee's engineering consultant determine that the proposed project will cause or increase downstream local flooding conditions during the design storm, provisions to eliminate such flooding conditions shall be included in the design of storm drainage improvements. Such provisions may include downstream conveyance system improvements and/or on-site detention facilities to control discharge to the downstream storm drainage system (refer to Storm Drainage Systems Facilities Design Criteria, Section 6.4).~~

(4)

~~*Downstream Improvements.* Improvements to eliminate downstream flooding conditions may include, but not be limited to, the construction of dams, dikes, levees and flood walls, culvert enlargements, and channel clearing and modification projects, and shall be designed and constructed in compliance with all applicable local, state and federal regulations.~~

(5)

~~*Detention Basins.*~~

~~a.~~

~~Detention of stormwater runoff may be required on projects in order to eliminate downstream flooding conditions. Storage facilities will not be required in situations where the installation of such a facility would adversely affect the environment (as determined by the city engineer) or where the site discharges directly into the major system.~~

b.

~~In addition to complete construction drawings, design data as required by Subsection 6.7, Required Submittals, Design Criteria, Storm Drainage Systems and Facilities of the governing standard, shall be submitted to the city stormwater superintendent for all projects including detention facilities.~~

~~(6)~~

~~*Other Detention Methods.* The following detention methods may also be utilized to provide temporary detention storage:~~

~~a.~~

~~*Dry Bottom Basins.* Where possible, dry bottom basins shall be designed to serve secondary purposes for recreation, open space or other types of use which will not be adversely affected by occasional or intermittent flooding.~~

~~b.~~

~~*Rooftop Storage.* Detention storage may be met in total or in part by detention on roofs. Details of such designs, which shall be included in the drainage design submittals, shall include the depth and volume of storage, details of outlet devices and down drains, elevations of overflow scuppers, design loadings for the roof structure and emergency overflow provisions. Calculations shall be provided to indicate that the structure has been designed for the additional loadings as a result of stormwater detention. Connection of roof drains to sanitary sewers is prohibited.~~

~~c.~~

~~*Parking Lot Storage.*~~

~~1.~~

~~Paved parking lots may be designed to provide temporary detention storage of stormwater on all or a portion of their surfaces. Outlets will be designed so as to slowly empty the stored waters in such a time as to create the least amount of inconvenience to the public. The design of parking lot storage will restrict ponding to areas which will cause the least amount of inconvenience to the users of the parking areas. In no circumstance will stormwater ponding in public parking areas exceed seven inches in depth.~~

~~2.~~

~~All parking lot detention areas shall have a minimum of two signs posted identifying the detention pond area. The signs shall have a minimum area of 1.5 square feet and contain the following message:~~

~~WARNING~~

~~This area is a stormwater detention pond and is subject to periodic flooding to a depth of seven inches.~~

~~d.~~

~~Other Storage. All or a portion of the detention storage may also be provided in other underground or surface detention areas or facilities.~~

~~(Ord. No. 3832, §§ 1, 2, 4-14-2011)~~

Sec. 53-102. - Performance standards.

(a)

Channel Location. Generally acceptable locations of stormwater runoff channels in the design of a subdivision may include, but not be limited to, the following:

(1)

Centered on lot lines or entirely within the rear yards of a single row of lots or parcels;

(2)

A drainage easement to facilitate maintenance and design flow shall be provided and indicated on the plat. No private structures shall be allowed to be constructed within or across stormwater channels.

(b)

Storm Sewer Outfall. The storm sewer outfall shall be designed so as to provide adequate protection against downstream erosion and scouring.

(c)

Lot Lines. Whenever the plans call for the passage and/or storage of floodwater, surface runoff or stormwater along lot lines, the grading of all such lots shall be prescribed and established for the passage and/or storage of waters. No private structure may be erected in these areas which will obstruct the flow of stormwater. Further, installation of fences, and the planting of shrubbery or trees within the area will not be permitted. Such items existing at the time of adoption of the ordinance from which this chapter is derived will

be grandfathered to remain only until such point in time as the city engineer determines that such items obstruct the flow of stormwater, whereupon the city stormwater superintendent shall notify the property owner by certified mail to perform remedial work as described therein. Changes in the prescribed grades and contours of the floodwater or stormwater runoff channels will not be permitted unless approved in writing by the city engineer. Where more than two lots or parcels are involved in a common stormwater runoff problem, the city will serve as a facilitator to assist the property owners involved to solve existing stormwater problems by making meeting rooms and city representatives available for consultation in the formation of a benefit district. Otherwise, these kinds of problems are treated as civil matters between property owners.

(d)

Interception of Runoff from Private Commercial and Industrial Sites. Stormwater runoff from private commercial and industrial sites shall be intercepted by inlets prior to being discharged into the public stormwater system, if a public stormwater system is within 200 feet of the proposed site. The intent of this requirement is to prevent runoff from private commercial and industrial sites from being discharged directly into public streets.

(e)

Easements. Permanent easements for the [retention](#)/detention and conveyance of stormwater, including easements of access to structures and facilities, shall be dedicated to the city. Easements shall be as provided in subsections 4.1, 5.1 and 6.2, Easements, Design Criteria, Storm Drainage Systems and Facilities.

(f)

Maintenance. Provisions acceptable to the city for perpetual maintenance of [retention](#)/detention/ facilities, [best management practices](#), outlet works, and appurtenances shall be made as [provided in this chapter follows](#).

[Small ditches and similar conveyances planted to turf grass needing no special long-term care shall be in rights-of-way or easement and be the responsibility of abutting property owners for regular mowing in accordance with city ordinance.](#)

[Retention/detention facilities, best management practices, outlet works, and appurtenances serving multiple properties and rights-of-way in residential, mixed-use, industrial, and commercial development shall be the long-term responsibility of property owners the facilities serve. Additionally, a restrictive covenant will be required between the City of Hays and the developer/property owners.](#)

[Retention/detention facilities, best management practices, outlet works, and appurtenances serving individual commercial and industrial properties shall be located on](#)

the same parcel as the commercial and industrial development and are the long-term responsibility of the property owner.

(g)

Drainage Permits. A drainage permit for projects including retention/detention facilities shall be granted by the city stormwater superintendent only after the final stormwater management plan has been approved and all easements have been dedicated, accepted and recorded, and all required maintenance assurances and required bonds have been executed.

(h)

Plans for Grading, Sedimentation and Erosion Control.

(1)

Generally.

a.

Prior to the approval and recording of the final subdivision or land development plan, a plan depicting proposed site grading within the project shall be submitted to the city stormwater superintendent for review and approval.

b.

Stripping of vegetation or earthmoving shall not be permitted nor will building or construction permits be issued prior to approval of this plan by the city stormwater superintendent.

c.

For major subdivision projects consisting of more than one acre, the grading plan shall be accompanied by a detailed sedimentation and erosion control plan.

(2)

Subdivision Grading Plans. The grading plan shall be prepared by a professional engineer licensed in the state. The contents of the plan shall include, but not be limited to, the following information:

a.

Contours of existing grades at intervals not more than two feet. Intervals less than two feet may be required if the slope is less than one percent for 40 percent of the total area or dependent on the character of the topography;

b.

Property lines identified as to existing or proposed lot and block number;

c.

Elevation and location of the nearest bench mark (USGS datum);

d.

Contours of finish grades drawn at sufficient intervals of not more than two feet to depict major subdivision drainage patterns. In addition, finished grade spot elevations shall be shown for all corners of each lot. Such corner elevations shall be general in nature and, upon approval of the city stormwater administrator, may be revised at the time of plot plan submittal;

e.

One hundred-year floodplain limits and elevations;

f.

Easement and right-of-way information (including drainage easements) required for off-site drainage ways;

g.

Existing and proposed utility information.

[h.](#)

(3)

Grading Plans for Nonresidential Individual Lots. Applications for individual building permits shall be accompanied by a specific grading plan for that lot. Such grading plan shall be incorporated into plot plan and shall contain as a minimum, the following information:

a.

Property lines identified as to existing or proposed and lot and block numbers;

b.

The proposed location of structure;

c.

The proposed type of structure (i.e., bi-level, split-level, etc.);

d.

Elevations of the top of the foundation and the proposed grade at principal structure corners and at lot corners;

e.

An approximate location of drainage swales indicated by directional arrows depicting flow patterns. Spot elevations may be utilized in lieu of arrows. Additional information may be required by the city stormwater superintendent to assure protection of adjacent property.

(4)

Minimum Grading Standards. The following minimum criteria for site grading shall apply to all applications for the site grading permit:

a.

Protective Slopes Around Structures.

1.

A downward slope shall be provided from structure foundations to drainage swales.

2.

A minimum gradient of 0.5 percent for concrete paved surfaces; one percent for other impervious surfaces, except in defined swales the minimum gradient shall be 0.5 percent, and in concrete gutters the minimum gradient shall be 0.3 percent.

3.

A maximum gradient shall be 4:1, horizontal to vertical, for a minimum of four feet from foundation walls.

b.

Lawn Areas. Minimum gradient shall be one percent. A gradient of two percent is recommended where practical.

c.

Driveways. Driveways sloping toward buildings shall be graded in such a manner as to provide an intercepting swale draining away from the structure prior to its connection with the building. In specific cases, the use of gradients less than or greater than those specified may be necessary. Variance from these requirements may be allowed where justified and approved by the city engineer.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Secs. 53-103—53-132. - Reserved.

Hays, Kansas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 53 - STORMWATER MANAGEMENT >> ARTICLE V. - DRAINAGE PERMITS AND PROHIBITED ACTS >>

ARTICLE V. - DRAINAGE PERMITS AND PROHIBITED ACTS

Sec. 53-133. - Drainage permits.

Sec. 53-134. - Fees.

Sec. 53-135. - Prohibitions.

Sec. 53-136. - Specific illicit discharges prohibited.

Sec. 53-137. - Illicit discharge exceptions.

Sec. 53-138. - Illicit connections prohibited.

Sec. 53-139. - Protection of watercourses and drainage easements.

Secs. 53-140—53-151. - Reserved.

Sec. 53-133. - Drainage permits.

Upon approval of the final stormwater management plan and acceptance of the applicant's performance, security and maintenance bond, permit fee and maintenance assurance, if any, the city stormwater superintendent shall issue a drainage permit. The permit shall set forth the terms and conditions of the approved stormwater management plan.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-134. - Fees.

Drainage permit applicants shall submit a permit fee of \$25.00 to the city with each application.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-135. - Prohibitions.

(a)

No person shall discharge or release, or cause or permit to be discharged or released, into the municipal stormwater drainage system, any substance which is not composed entirely of uncontaminated stormwater, except as allowed in Section 53-137

(b)

Notwithstanding the provisions of Section 53-137, any discharge or release shall be prohibited by this section if the discharge or release in question has been determined by the city stormwater superintendent to be a source of pollutants or contamination to the municipal stormwater drainage system and has given notice thereof.

(c)

The construction, use, maintenance or continued existence of illicit connections as defined in Section 53-138 is prohibited. This prohibition expressly includes, without limitation, connections made in the past, regardless of whether the connection was permissible under the law or practices applicable or prevailing at the time of the connection.

(d)

No person shall connect a line conveying sewage, domestic sewage or industrial waste to the municipal stormwater drainage system, or allow any such existing connection to continue.

(e)

No person shall intentionally destroy, damage or otherwise interfere with the effectiveness of any BMP implemented pursuant to this chapter.

(f)

No person shall discharge otherwise allowable waters under this Chapter to public property and rights-of-way which causes damage, harm or inconvenience to the public through prolonged saturation, erosion, water pollution or damage to property.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-136. - Specific illicit discharges prohibited.

Except as permitted in Section 53-137, illicit discharges prohibited under the provisions of Section 53-135 include, but are not limited to, the following:

(1)

Motor oil, antifreeze or any other petroleum product or waste;

(2)

Industrial waste;

(3)

Hazardous waste, including household hazardous waste;

(4)

Domestic sewage, septic tank waste, grease trap waste, or grit trap waste;

(5)

Garbage, rubbish or yard waste (including grass trimmings, leaves, weeds and all other vegetation or portions, trimmings or wastes thereof or therefrom);

(6)

Wastewater which contains soap, detergent, degreaser, solvent, surfactant, emulsifier, dispersant or other cleaning substances;

(7)

Wastewater (i) from any commercial facility for the washing of vehicles, such as carwash facilities, or (ii) from any similar facility associated with any new or used vehicle distributorship, rental agency, body shop, repair shop or maintenance facility, or (iii) from any similar facility maintained by any business or institution for the washing, cleaning or maintenance of its own business or commercial vehicles or heavy equipment;

(8)

Wastewater from the cleaning of the portion of vehicles or equipment which contained ready-mixed concrete, mortar, ceramic, asphalt-based material or hydromulch material;

(9)

Wastewater from the washdown or other cleaning of any pavement where any spill, leak or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred;

(10)

Effluent from a cooling tower, condenser, compressor, emissions scrubber or emission filter, or the blowdown from a boiler;

(11)

Runoff, washdown water or waste from any animal pen, kennel, fowl or livestock containment area;

(12)

Swimming pool water which has not been de-chlorinated in accordance with the specifications of the city stormwater superintendent;

(13)

Swimming pool or fountain filter backwash;

(14)

Any substance or material which will damage, block or clog the municipal stormwater drainage system;

(15)

Any release from a petroleum storage tank, or any leachate or runoff from soil contaminated by a petroleum storage tank leakage;

(16)

Pesticides or fertilizers, including runoff from the improper storage, discarding, transportation or application of pesticides or fertilizers;

(17)

Discharge of street sweepings;

(18)

Wastewater from concrete cutting, pavement cutting, pipe cutting and any similar operation where water is used to cool cutting equipment;

(19)

Wastewater from oil and natural gas exploration and production activities;

(20)

Discharge from construction activities oil and natural gas exploration sites without downslope best management practices maintained and in-place;

(21)

Runoff, washdown or wastewater which contains any of the above;

(22)

Nonstormwater discharge from a construction activity site unless specifically authorized by the most current version of KDHE's general construction stormwater permit; or

(23)

Any other water, wastewater or stormwater requiring National Pollutant Discharge Elimination System authorization.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-137. - Illicit discharge exceptions.

The following nonstormwater discharges are deemed acceptable and not a violation of Sections 53-135 or 53-136 above:

(1)

Uncontaminated discharge from water line flushing;

(2)

Uncontaminated discharge or flow from a diverted stream flow or a natural spring;

(3)

Uncontaminated groundwater infiltration as defined under 40 CFR 35.2005(20) to separate storm sewers;

(4)

Discharge of flow from uncontaminated pumped groundwater or rising groundwater;

(5)

Discharge or flow from contaminated groundwater if specifically authorized by KDHE and the city;

(6)

Uncontaminated discharge or flow from potable water sources;

(7)

Uncontaminated discharge or flow from a foundation drain, a crawl space pump, a footing drain or a sump pump;

(8)

Uncontaminated discharge or flow from air-conditioning condensation which is not mixed with water from a cooling tower, emissions scrubber, emissions filter or any other source of any pollutant;

(9)

Infrequent and uncontaminated discharge or flow from lawn watering, landscape irrigation or other irrigation water;

(10)

Discharge from the occasional, noncommercial washing of vehicles upon a residential premises;

(11)

Uncontaminated discharge of flow from riparian habitat or wetland;

(12)

Swimming pool discharges (excluding filter backwash) which have first been de-chlorinated pursuant to specifications of the city stormwater superintendent;

(13)

Discharge or flow from street washing which is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant or other harmful cleaning substance;

(14)

Discharge or flow from emergency fire fighting activities, or which results from actions taken under emergency conditions which are reasonably necessary to mitigate damages to life and property;

(15)

Uncontaminated residential heat pump discharge waters;

(16)

Treated wastewater meeting requirements of a NPDES permit;

(17)

Nonpoint agricultural discharge, excluding discharges from confined animal feeding operations; and

(18)

Other discharges determined by the city stormwater superintendent not to be a significant source of pollutants to waters of the state; provided, however, that if the city stormwater superintendent determines that any discharge or flow of a type identified above is a source of pollutants to the waters of the municipal stormwater drainage system, and gives direct oral or written notice thereof to the person or party responsible for such property or for such discharges or flows, then the exception herein provided shall no longer apply.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-138. - Illicit connections prohibited.

It shall be unlawful for any person to cause or permit to exist on any property which is under such person's ownership or control any illicit connections to the municipal

stormwater drainage system. This includes, but is not limited to, illicit connections made in the past regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. Illicit connections in violation of this chapter must be disconnected and either eliminated or redirected in a lawful manner to an approved onsite wastewater management system or to the sanitary sewer system, which such work shall be performed in accordance with all permit and code requirements

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-139. - Protection of watercourses and drainage easements.

Every person owning property through which a watercourse or drainage easement passes, and any lessee of such property, shall keep and maintain that part of the watercourse or drainage easement within the property free of trash, debris, excessive vegetation, grass clippings and other yard waste, and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse or drainage easement. In addition, the owner and lessee shall maintain existing privately owned structures within or adjacent to a watercourse or drainage easement so that such structures will not become a hazard to the use, function or physical integrity of the watercourse or drainage easement in the collection and discharge of stormwater.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Secs. 53-140—53-151. - Reserved.

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ARTICLE VI. - ENFORCEMENT

Sec. 53-152. - General.

Sec. 53-153. - Violations; criminal and civil penalties.

Sec. 53-154. - Inspection.

Sec. 53-155. - Remedial work.

Sec. 53-156. - Revocation of permits and stop work orders; actions without prior notice.

Sec. 53-157. - Failure to maintain.

Sec. 53-158. - Offenses.

Sec. 53-159. - Repair, removal and/or abatement by city.

Sec. 53-160. - Appeals.

Sec. 53-161. - Violations deemed a public nuisance.

Sec. 53-162. - Remedies not exclusive.

Secs. 53-163—53-180. - Reserved.

Sec. 53-152. - General.

It shall be the duty of the city stormwater superintendent to bring to the attention of the city attorney any violation or lack of compliance herewith. The city attorney may file the civil action he deems appropriate in the district court of the state to enforce the requirements of this chapter. The city attorney may also cause to be brought a prosecution in the municipal court of the city.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-153. - Violations; criminal and civil penalties.

(a)

Criminal Penalties. Any person violating any of the provisions of this chapter shall, upon conviction thereof, be deemed guilty of a misdemeanor punishable in accordance with Section 1-13 of the Code of Ordinances of the City of Hays, Kansas.

(b)

Civil Penalties. In the event an applicant or other responsible person fails to take the remedial measures set forth in a Notice of Violation described in Section 53-157, the city stormwater superintendent shall assess a penalty against the property, as outlined below, for each day the violation remains unremedied after receipt of the notice of violation:

(1)

For failure to submit a stormwater pollution prevention plan prior to construction, the fine shall be \$500.00 for each day the violation remains unremedied.

(2)

For failure to install stormwater BMPs as indicated on the site map required under the KDHE construction stormwater program, the fine shall be \$750.00 for each day the violation remains unremedied.

(3)

For failure to notify the city stormwater superintendent before commencement of construction, the fine shall be \$500.00 for each day the violation remains unremedied.

(4)

For failure to maintain, repair or replace construction stormwater BMP within 10 days of notification, the fine shall be \$750.00 for each day after the tenth day following notification that the violation remains unremedied.

(5)

For failure to cease illicit discharges, the fine shall be \$500.00 for each day the violation remains unremedied.

(6)

For dumping of material or liquids in the storm sewer system, the fine shall be \$1,000.00 for each dumping occurrence. The person responsible for dumping shall also be liable for the reasonable costs to the city to abate the nuisance caused by the illegal dumping.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-154. - Inspection.

(a)

The city engineer shall be responsible for determining whether a stormwater management plan is in conformance with criteria specified, and whether development is proceeding in accordance with the approved drainage permit. Periodic inspection of the development site shall be made by the city engineer or his authorized representative. Through such periodic inspections the city engineer shall ensure that the stormwater management plan is properly implemented and that the improvements are properly maintained.

(b)

Whenever the city stormwater superintendent has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this chapter, the city stormwater superintendent shall have the right to enter the premises at any reasonable time for the purpose of conducting such inspections and sampling as may be necessary to determine whether any violations exist and to determine the nature and extent of any remedial actions necessary by virtue thereof. In the event the owner or occupant of the premises refuses such entry after a request to enter has been made, the city stormwater superintendent is hereby empowered to seek assistance from a court of competent jurisdiction to permit or compel such entry.

(c)

The city stormwater superintendent shall have the right to set up on any such premises such devices as may be deemed necessary to conduct sampling of any discharges or of the soils or any substances from which such discharges may occur.

(d)

Investigation of any such matter shall in no way relieve any party from liability or responsibility for any violations occurring before, during or after the conduct of any such investigation. Nothing in this section shall limit the authority of the city stormwater superintendent to take any other action or actions, including emergency action or any other enforcement action, while also undertaking any such investigation.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-155. - Remedial work.

If it is determined through inspection that a development is not proceeding in accordance with the approved stormwater management plan and drainage permit, the city stormwater superintendent shall immediately issue written notice to the permittee and the surety of the nature and location of the alleged noncompliance, accompanied by documentary evidence demonstrating noncompliance and specifying what remedial work is necessary to bring the project into compliance. The permittee so notified shall immediately, unless weather conditions or other factors beyond the control of the permittee prevent immediate remedial action, commence the recommended remedial action and shall complete the remedial work within 72 hours or within a reasonable time after receipt of such notice. Upon satisfactory completion of the remedial work, the city stormwater superintendent shall issue a notice of compliance and the development may proceed.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-156. - Revocation of permits and stop work orders; actions without prior notice.

(a)

The city stormwater superintendent, after giving written notice, may revoke a permit issued pursuant to these regulations for any project which is found upon inspection to be in violation of the provisions of these regulations, and for which the permittee has not agreed to undertake remedial work as provided in these regulations. Drainage permits may also be revoked if remedial work is not completed within the time allowed. Upon revocation of a drainage permit, the stormwater administrator shall issue a stop work order. Such stop work order shall be directed to the permittee and he shall immediately notify persons owning the land, the developer, and those persons actually performing the physical work of clearing, grading and developing the land or constructing the project. The stop work order shall direct the parties involved shall cease and desist all or any

portion of the work on the project which is not in compliance, except such remedial work necessary to bring the project into compliance.

(b)

The city stormwater superintendent is authorized to enter upon any premises without prior notice, to issue stop-work orders as may be necessary, and to take such further actions as are necessary to prevent, eliminate or remediate any violations or Illicit Discharges in any of the following circumstances:

(1)

If a violation constitutes an imminent or immediate danger to the environment or to the public health, welfare or safety;

(2)

If a person to whom a Notice of Violation has been issued and has become final and such person has failed to comply with the directed corrective actions within the time provided therefor; or

(3)

If all reasonable attempts to contact a responsible person as to a violation have failed.

(c)

The city may suspend, revoke or modify the permit authorizing a land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the city may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(d)

Upon suspension or revocation of a drainage permit, the city stormwater superintendent shall issue a stop work order. Such stop work order shall be directed to the permittee and he/she shall immediately notify persons owning the land, the developer, and those persons or firms actually performing the physical work of clearing, grading and developing the land or constructing the project. The stop work order shall direct the parties involved to cease and desist all or any portion of the work on the project which is not in compliance, except such remedial work necessary to bring the project into compliance.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-157. - Failure to maintain.

(a)

Notice of Violation; Time Limit to Abate; Hearing Request. Following a determination by the city engineer that the owner, occupant or agent in charge of any lot or parcel of land on which a drainage control facility exists or abuts has failed to properly maintain such facility as previously set forth or has failed to meet any requirement of this chapter of any approved stormwater pollution prevention plan or has failed to comply with any order issued by the city stormwater superintendent as authorized under this chapter, then the city stormwater superintendent shall notify the owner, occupant or agent in charge of the violation in writing. If the owner, occupant or agent in charge fails, neglects or refuses to comply with the requirements specified in the written notification within ten days, the city stormwater superintendent shall issue a notice of violation requiring the owner, or agent of the owner of the premises to repair, remove and/or abate from the premises the thing therein described as a defect and/or nuisance and performing the necessary remedial work within a time, not exceeding ten days, to be specified in the notice of violation. The notice of violation shall contain the name and address of the alleged violator, the date and location of the violation, a description of the violation, a description of the remedial measures necessary to restore compliance with this chapter and a time schedule for the completion of each such remedial measure and a description of further enforcement actions which may be taken by the city. The notice of violation shall state that before the expiration of the waiting period, the recipient thereof may request a hearing before the governing body or its designated representative. The request for hearing before the governing body or its designated representative shall in no way relieve any party from liability or responsibility for any violations occurring before, during or after the conduct of any such hearing. Nothing in this section shall limit the authority of the city stormwater superintendent to take any other action, including emergency action or any other enforcement action while any such proceedings are pending.

(b)

Serving Notice upon Owner. The notice of violation shall be served by personal service, by delivering a copy thereof to the owner, occupant or agent of such property, or if the same is unoccupied and the owner is a nonresident, then by mailing a notice by restricted mail to the last known address of the owner.

(c)

Failure to Comply; City to Cause Remedial Work to be Done. If the owner or agent fails to comply with the requirement of the notice of violation for a period longer than that named in the notice, then the city shall proceed to cause the necessary remedial work to be performed and thereby have the things described in the notice repaired, removed and/or abated from the lot or parcel of ground.

(d)

Costs to be Paid by Owner; Assessment to Tax Roll. Whenever the city undertakes the correction or abatement of any violation, or the remediation of any damage caused by any violation, either under emergency circumstances, or due to a person's failure to comply with any lawful notices or orders issued by the city stormwater superintendent or the governing body of the city, the person or persons responsible for such violation shall be liable to the city for the costs of such corrective, abatement or remedial actions. The city shall give notice to the owner, occupant or agent by restricted mail of the total cost of such repair, abatement or removal incurred by the city. Such notice also shall state that payment of such cost is due and payable within 30 days following receipt of such notice. If the cost of such repair, removal, and/or abatement is not paid within the 30-day period, the cost shall be collected in the manner provided by this code or shall be assessed and charged against the lot or parcel of ground on which the nuisance was located. If the cost is to be assessed, the city clerk, at the time of certifying other city taxes to the county clerk, shall certify the aforesaid costs, and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground, and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-158. - Offenses.

Upon the failure, neglect or refusal of any owner to comply with the notice of violation provided for in Section 53-157, the city stormwater superintendent shall notify the city attorney who may cause a complaint to be filed against such owner for violation of the provisions of this chapter in the municipal court. No such owner shall be exempted from prosecution for violation of such provisions by reason of lawfully transferring his ownership, tenancy or interest in the premises upon which the nuisance exists after the giving of notice as hereinbefore provided.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-159. - Repair, removal and/or abatement by city.

Upon the failure, neglect or refusal of any owner to comply with notice of violation provided for in Section 53-157, the city stormwater superintendent shall perform all necessary repairs, removal and/or abatement. For the purpose of so doing, the city stormwater superintendent may enter the premises upon which such nuisance exists, with or without the consent of the owner thereof, without being guilty of trespass.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-160. - Appeals.

Any applicant or permittee aggrieved by a decision of the city engineer or the city stormwater superintendent in the enforcement of this chapter shall have the right to appeal any order, requirement, decision or determination in accordance with the following procedures:

(1)

A hearing before the Hays Area Board of Zoning Appeals may be requested in writing by the applicant or permittee within ten days of a final order, requirement, decision or determination of the city stormwater superintendent. The Hays Area Board of Zoning Appeals shall conduct the hearing within 45 days of receipt of the request from the aggrieved and shall consider any information offered by the aggrieved person bearing on the dispute and shall within ten days render its final decision to the city stormwater superintendent with an appropriate course of action: either reversal, modification, or confirmation. The city stormwater superintendent, who shall be present at the hearing, shall immediately act on the recommendation in a manner consistent with his responsibilities under this chapter.

(2)

Any applicant or permittee aggrieved by any final decision of the city stormwater superintendent following review by the Hays Area Board of Zoning Appeals in the manner set out in subsection (1) of this section, may seek review by a court of competent jurisdiction in the manner provided by the laws of the state.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-161. - Violations deemed a public nuisance.

Notwithstanding the other enforcement processes, procedures and penalties provided in this chapter, any condition caused or permitted to exist in violation of any of the provisions of this chapter is hereby declared to be a threat to the public health, welfare and safety, and is hereby declared and deemed to be a public nuisance. Instead of or in addition to any other remedies or procedures hereunder, the city may commence a civil action to abate, enjoin or otherwise compel the cessation of any such public nuisance.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-162. - Remedies not exclusive.

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Secs. 53-163—53-180. - Reserved.

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ARTICLE VII. - STORMWATER UTILITY ^[70]

Sec. 53-181. - Definitions.

Sec. 53-182. - Creation of a stormwater utility.

Sec. 53-183. - Findings and determinations.

Sec. 53-184. - Administration.

Sec. 53-185. - Operating budget.

Sec. 53-186. - Stormwater management service fee.

Sec. 53-187. - Appeal procedure.

Sec. 53-188. - Stormwater management service fee collection.

Sec. 53-189. - Stormwater utility fund.

Sec. 53-181. - Definitions.

In addition to the words, terms and phrases elsewhere defined in this article, the following words, terms and phrases, as used in this article, shall have the following meanings:

Bonds means revenue or general obligation bonds or notes heretofore or hereafter issued to finance the costs of improvements.

Building permit means a permit issued by the building official who permits construction on a structure.

City means the City of Hays, Kansas.

City commission means the governing body of the city.

Costs of capital improvement means costs incurred in providing capital improvements to the stormwater management system or any portion thereof including, without limitation,

alteration, enlargement, extension, improvement, construction, reconstruction, and development of the stormwater management system; professional services and studies connected thereto; principal and interest on bonds heretofore or hereafter issued, including payment of delinquencies of principal and interest due on bonds that are otherwise payable from special assessments; studies related to the operation of the system; costs of the stormwater management service fee study, performed to establish stormwater management service fees for the stormwater utility and to determine other start up costs of the stormwater utility; costs related to the National Pollutant Discharge Elimination System (NPDES) permit study, application, negotiation and implementation, as mandated by federal and state laws and regulations; acquisition of real and personal property by purchase, lease, donation, condemnation or otherwise, for the stormwater management system or for its protection; and costs necessary for the operation of the system or the utility.

Debt service means an amount equal to the sum of (i) all interest payable on bonds during a fiscal year, and (ii) any principal installments payable on the bonds during such fiscal year.

Developed property means real property, other than undisturbed property; provided that, property devoted to agricultural use, upon which no impervious area is located, shall not constitute developed property for purposes of this article.

Director means the person appointed by the city manager to be the director of the department that the stormwater division is located within or that director's designee.

Dwelling unit means a room or group of rooms located within a physical structure and forming a single habitable unit, providing permanent, complete and independent facilities for living, sleeping, cooking, dining, and sanitation, for use as a residence by one family.

Dry-bottom basin means a constructed facility designed to detain stormwater and to drain its entire contents after each rainfall event.

Equivalent residential unit (ERU) means a unit of measure, established by the city commission, that is equal to the average impervious area per dwelling unit, as calculated by dividing the total estimated impervious area of all residential developed property by the total dwelling units of said property located thereon within the city's limits.

Equivalent residential unit rate or ERU rate means a stormwater management service fee, established by the city commission, charged for each ERU.

Exempt property means public right-of-way, public streets, public alleys and public sidewalks and/or easements upon which the stormwater management system is constructed and/or located, or as defined by the director.

Fiscal year means a 12-month period commencing on the first day of January of any year.

Impervious area means the total number of square feet of hard surface area on a given property that either prevents or retards the entry of water into the soil matrix, or causes water to run off the surface in greater quantities or at an increased rate of flow, than it would enter under natural conditions as undisturbed property. "Impervious area" includes but is not limited to, roofs, roof extensions, driveways, pavement and athletic courts.

Nonresidential means developed property which does not exclusively contain residential property, and includes governmental, not-for-profit, commercial, industrial, and other property. A property containing both residential and nonresidential will be considered nonresidential.

Operating budget means the annual stormwater utility operating budget adopted by the city for the succeeding fiscal year.

Operations and maintenance means, without limitation, the current expenses, paid or secured, for operation, maintenance and repair and minor replacement of the system, as calculated in accordance with generally accepted accounting practices, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses including professional services, equipment costs, labor costs, and the cost of materials and supplies used for current operations.

Residential means developed property which includes one or more dwelling units and is used exclusively for residential purposes.

Revenues means all rates, fees, assessments, rentals, charges or other income received by the stormwater utility in connection with the management and operation of the stormwater management system, including amounts received from the investment or deposit of monies in any fund or account, as calculated in accordance with generally accepted accounting practices.

Stormwater management user fee means a fee authorized by this article, as set forth in a resolution or an ordinance adopted or amended by the city commission, established to pay operation and maintenance, costs of capital improvements, debt service associated with the stormwater management system and other costs included in the operating budget.

Stormwater management system, sewer system or system means storm sewers which exist at the time the ordinance codified in this article is adopted or that are hereafter established, and all appurtenances necessary in maintaining and operating the same, including, but not limited to, pumping stations; enclosed storm sewers; outfall sewers; surface drains; street, curb and alley improvements associated with storm or surface water improvements; natural and manmade wetlands; channels; ditches; rivers; streams; wet and dry-bottom basins; and other flood control facilities and works for the collection, transportation, conveyance, pumping, treatment, controlling, managing, and disposing storm or surface water or pollutants originating from or carried by storm or surface water.

Stormwater utility or *utility* means the utility created by this article to operate, maintain and improve the stormwater management system and for all other purposes, as set forth in this article.

Undisturbed property means real property that has not been altered from its natural condition in a manner that disturbed or altered the topography or soils on the property to the degree that the entry of water into the soil matrix is prevented or retarded.

(Ord. No. 3829, § 1, 4-14-2011)

Sec. 53-182. - Creation of a stormwater utility.

Pursuant to the provisions of K.S.A. 12-3101 et seq., the city's general home rule authority, nuisance authority, police powers and all other authority, the Hays City Commission does establish a stormwater utility and a stormwater management system and declares its intention to operate, construct, maintain, repair and replace the public stormwater management system and operate the stormwater utility.

(Ord. No. 3829, § 2, 4-14-2011)

Sec. 53-183. - Findings and determinations.

The city commission finds, determines, and declares that the elements of the stormwater management system providing for the collection, conveyance, detention, retention, treatment and release of stormwater benefit and provide services to real property within the incorporated city limits.

(1)

The benefits of the stormwater management system include, but are not limited to, the provision of adequate systems of collection, conveyance, detention, retention, treatment and release of stormwater; the reduction of hazards to property and life resulting from stormwater runoff; improvement in general health and welfare through reduction of undesirable stormwater conditions; improvement of water quality in the storm and surface water system and its receiving waters; and appropriate balancing between development and preservation of the natural environment.

(2)

The stormwater management system will also initiate innovative and proactive approaches to stormwater management within the city to address problems in areas of the city that currently are prone to flooding; protect against replication of these types of problems and the creation of similar problems in newly developing areas of the city; and assist in meeting the mandates of the NPDES as created under the Federal Clean Water Act and associated state and federal laws and their supporting regulations.

(3)

Both standard and innovative stormwater management are necessary in the interest of the public health, safety and general welfare of the residents, businesses and visitors of the city.

(4)

Implementation of the stormwater management system will require the expenditure of significant amounts of public money.

(5)

All developed property in the city will benefit from the stormwater management system.

(6)

The city desires to fairly distribute costs of the stormwater management system implementation among all developed property which generates the need therefore.

(7)

The city has determined that the establishment of a stormwater utility is an appropriate method of funding certain portions of the costs of implementing the stormwater management system.

(8)

The city commissioned a study that was prepared by Camp Dresser & Mckee Inc., to assist the city in developing the stormwater utility and to recommend an ERU and an ERU rate.

(9)

The governing body has evaluated the study and recommendations and hereby determines that the fees set forth herein are reasonable and necessary and should be commenced on July 1, 2011.

(10)

The stormwater utility user fee imposed by this ordinance, is calculated by a formula that reasonably relates classes of property within the city to their anticipated use of or benefit from the stormwater management system, and such fee is neither a tax nor a special assessment, but a charge for services rendered or available.

(11)

The city has researched collection options and hereby determines that in order to promote efficiency, eliminate duplication of services, and utilize the most economically feasible method of fee collection, the stormwater utility user fee should be included as a separate item on the City of Hays monthly utility bill.

(Ord. No. 3829, § 3, 4-14-2011)

Sec. 53-184. - Administration.

The stormwater utility, under the supervision of the director, shall have the power to:

(1)

Administer the acquisition, design, construction, maintenance, operation, extension and replacement of the stormwater management system, including any real and personal property that is, will become a part of, or will protect the system;

(2)

Administer and enforce this article and all appurtenant regulations, guidelines and procedures relating to the design, construction, maintenance, operation and alteration of the stormwater management system, including but not limited to, the flow rate, volume, quality and/or velocity of the stormwater conveyed thereby;

(3)

Advise the city manager on matters relating to the stormwater management system;

(4)

Review plans concerning the creation, design, construction, extension and replacement of the stormwater management system and make recommendations to the city manager;

(5)

Make recommendations to the city manager concerning the adoption of ordinances, resolutions, guidelines and regulations in furtherance of this article and/or to protect and maintain water quality within the stormwater management system in compliance with water quality standards established by state, county, regional and/or federal agencies, as now adopted or hereafter adopted or amended;

(6)

Analyze the cost of services and benefits provided by the stormwater management system and the structure of fees, service charges, fines and other revenues of the stormwater utility at least once each year;

(7)

Make recommendations to the city manager concerning the cost of service and benefits provided by the stormwater management system and the structure of fees, service charges, fines and other revenues of the stormwater utility; and

(8)

Administer programs which may hereafter be established pursuant to this article or pursuant to ordinances, resolutions, regulations or guidelines hereafter adopted by the city commission which would provide for credits and/or incentives that modify stormwater management service fees imposed against properties.

(Ord. No. 3829, § 4, 4-14-2011)

Sec. 53-185. - Operating budget.

The city shall, as part of its annual budget process, adopt an operating budget for the stormwater utility. The operating budget shall conform with state law, city policy and generally accepted accounting practices.

(Ord. No. 3829, § 5, 4-14-2011)

Sec. 53-186. - Stormwater management service fee.

(a)

Service Fee Established. Subject to the provisions of this article, there is imposed on each and every residential developed property and nonresidential developed property, other than property that is not serviced by the stormwater management system or exempt property, a stormwater management service fee. This stormwater management service fee shall be determined and set by the provisions of this Article in accordance with the ERU and the ERU rate. The fee shall be established by ordinance of the city commission and may be amended from time to time by the city commission, by resolution.

(b)

ERU. The ERU is hereby established for the purposes of calculating the stormwater utility user fee. The ERU is hereby established to be 3,369 square feet of impervious area.

(c)

ERU Rate. The initial ERU rate to be used to calculate the stormwater utility user fee is \$3.62 per ERU per month and may hereafter be reviewed every year, with recommended revisions set by resolution of the city commission.

(d)

Stormwater Management Service Fee for Residential Developed Property. The stormwater management service fee for residential property shall be the ERU rate multiplied by the number of individual dwelling units existing on the property. For a newly constructed dwelling unit, the charge for the stormwater management service fee attributable to that dwelling Unit shall commence upon the issuance of the temporary certificate of occupancy, certificate of occupancy, certificate of compliance, or issuance of the first billing of the water utility, whichever is issued first for that dwelling unit. The minimum stormwater management service fee for any residential developed property shall be equal to one ERU rate.

(e)

Stormwater Management Service Fee for Nonresidential Developed Property. The stormwater management service fee for nonresidential developed property shall be the ERU rate multiplied by a numerical factor calculated by dividing the total impervious area of the property by the number of square feet in one ERU. In performing this calculation, the numerical factor shall be rounded to the nearest whole number. The minimum stormwater management fee for any nonresidential developed property shall be equal to one ERU. For a newly developed nonresidential developed property, the charge for the stormwater management service fee attributable to that development shall commence upon the issuance of the temporary certificate of occupancy, certificate of occupancy, certificate of compliance, or issuance of the first billing of the water utility, whichever is issued first. In the event of additional development to property that is already developed property, the charge for the stormwater management service fee attributable to that additional development shall commence upon the issuance of the temporary certificate of occupancy, certificate of occupancy, certificate of compliance, or issuance of the first billing of the water utility, whichever is issued first.

(f)

Dwelling Unit and Impervious Surface Calculation. The director shall initially, and from time to time, determine the number of dwelling units located on residential developed property in order to establish the stormwater management service fee as provided for hereinabove. Nonresidential developed property in the city shall have its square footage of impervious area calculated in order to establish the stormwater management service fee as provided for herein. The director shall make the initial calculation with respect to existing nonresidential developed property and may from time to time change this calculation from the information and data deemed pertinent by the director. With respect to property proposed to be nonresidential developed property, the applicant for development approval shall submit square footage impervious area calculations, in accordance with the submission requirements, as set forth in Section 11-479 of the Code of Ordinances of the City of Hays, Kansas.

(Ord. No. 3829, § 6, 4-14-2011)

Sec. 53-187. - Appeal procedure.

Owners of nonresidential developed property, for which a stormwater management service fee has been imposed, who disagree with the calculation of the stormwater management service fee may appeal the calculation or finding to the director. The owner/appellant must file a written notice of appeal with the director on or before 12:00 noon on December 31 of the current fiscal year being appealed. The appealing party, by the date set in writing by the director which shall not be less than seven days after receipt of written notice of appeal, shall provide information concerning the basis of the appeal, including a land survey prepared by a registered surveyor showing dwelling units, total property area, type of surface material and impervious area, as appropriate, and any other information that the director shall request in writing to the appellant. The director may waive the submission of a land survey, if the director determines that the survey is not necessary to make a determination on the appeal. Based on information provided, the director shall make a determination as to whether the stormwater management service fee and/or the credit should be adjusted for the subject property, if applicable. The director shall notify the appellant in writing of the decision.

The owner/appellant shall have the right to appeal the decision of the director to the city manager. Such appeal shall be made within ten days of the date of the director's written decision and shall be perfected in the same manner as the original appeal. The city manager shall consider the appeal and issue a written decision on the appeal within 30 days of receipt of the perfected appeal.

In all instances, the burden of proof shall be on the appellant to demonstrate, by clear and convincing evidence, that the determination of the director, from which the appeal is being taken, is erroneous.

The filing of a notice of appeal shall not stay the imposition, calculation or duty to pay the fee. The appellant shall pay the stormwater management service fee, as stated in the billing, to the city clerk. If either the director or the city manager determines that the appellant should pay a fee amount less than the amount appealed from, or receive a credit, if applicable, the city shall issue a check to the appellant in the appropriate amount within ten business days of the date of the applicable written decision, which in no event shall be more than the amount of the fee paid by the appellant as of the date the check is issued. If any credit due is larger than the amount paid and additional fees are due for the same fiscal year, the city will issue any remaining credit within ten business days after the remaining fees have been paid in full.

(Ord. No. 3829, § 7, 4-14-2011)

Sec. 53-188. - Stormwater management service fee collection.

The stormwater management service fee shall be billed and collected in the same manner as other city utility fees. The stormwater management service fee shall be shown as a separate item on the City of Hays utility bill. The payment of stormwater management

service fee bills for any given property shall be the responsibility of the owner of the property.

To the extent permitted by applicable law, stormwater management fees shall be subject to interest and penalties for late payment, shall constitute a lien on the applicable property, and shall be collected in a manner as like assessed fees for nuisance abatements, regardless of whether the stormwater management service fees were incurred when a property owner was in possession of the property or a nonowner was in possession of the property.

(Ord. No. 3829, § 8, 4-14-2011)

Sec. 53-189. - Stormwater utility fund.

Stormwater management service fees collected by the city shall be paid into a fund that is hereby created and shall be known as the "stormwater utility fund." this fund shall be used for the purpose of paying costs of capital improvements, administration of the stormwater utility, operation and maintenance, and debt service of the stormwater management system, and for carrying out all other lawful purposes of the utility.

(Ord. No. 3829, § 9, 4-14-2011)

FOOTNOTE(S):

⁽⁷⁰⁾ **Editor's note**— Sections 1—9 of Ord. No. 3829, adopted April 14, 2011, did not specify manner of inclusion; hence, codification as art. VII, §§ 53-181—53-189 was at the direction of the city. (Back)

Commission Work Session Agenda

Memo

From: John Braun, Assistant Director of Public Works

Work Session: February 17, 2015

Subject: Street Maintenance Future Projects Discussion

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

Summary

Staff has developed a list of streets identified for major rehabilitation, and presented a recommendation for the current year and for 2016. Staff's proposal includes the use of \$120,000 of Commission Capital Reserve Funds in 2015 and \$1.4 million in 2016. The City Commission is asked to consider staff's recommendation and direct staff to begin developing projects, or provide alternate direction.

Background

Other agenda items at the February 17, 2015 work session relate to the discussion of future street maintenance projects. In particular, the award of bid for 2015 Street Maintenance Projects and the award of bid for 13th Street Reconstruction identified the funds needed for projects planned in 2015. Since the past history of KDOT funds being available to leverage local dollars has been severely reduced, if not eliminated, there is an even more urgent need to use limited City funds wisely for street maintenance and reconstruction.

Discussion

Staff has developed a list of streets that have been either previously identified or recently become priority candidates for major rehabilitation. The Attached Table lists about 20 street segments divided into two categories: large (\$500K or greater) and small (less than \$500K). Within those two categories, the streets are ranked based on a ratio of their condition (PCI) and traffic volume (ADT). The table also shows whether the project had previously been listed on the Capital Improvement Plan (CIP) and how the street ranked during the 2011 Pavement Condition Assessment.

High on the priority list for large projects is the rehabilitation of Hall Street north of 27th Street and 27th Street east of Sherman. Both of these streets are 4-lane major arterials constructed of asphalt, and both are in need of major rehabilitation. Both were also listed in the queue of the 2015 Budget CIP for reconstruction; however, the table provides an option for mill and overlay of these streets at a fraction (20%) of the cost of full depth reconstruction.

When discussing the rehabilitation of these streets, consideration should also be given to reducing them to 3-lane sections with a center two-way left turn lane and bike lanes on the edges. This would be like the “road diet” accomplished on 13th Street east of Vine in the fall of 2013.

Legal Consideration

Not Applicable – for information only.

Financial Consideration

In October 2014 the Commission Capital Reserve Fund was created out of the former City Commission Financial Policy Projects line. This would be one funding source for future major street rehabilitation projects.

Options

The City Commission has the following options:

- Consider staff’s recommendations for projects in 2016.
- Provide alternate direction to city staff.
- Do nothing

Recommendation

STAFF PROPOSAL

2015	13th Street Main to Milner - Additional expense over \$1.5 million already set aside to do Alternate A and Add Alt 2	\$120,000	City Commission Reserve
	2015 Street Maintenance Program- As bid	\$585,000	Special Highway
	TOTAL	\$705,000	

2016	Hall Street from 27th to 41st Street - Mill & Overlay and Restripe to 3-lane (Road Diet)	\$700,000	
	27th Street from Sherman to Canterbury - Mill and Overlay	\$500,000	
	27th Street from Englewood to Hall Street - Mill & Overlay and Restripe to 3-lane (Road Diet)	\$160,000	
	7th Street In-house overlay and chip seal	\$75,000	
	SUBTOTAL	\$1,435,000	City Commission Reserve
	2016 Street Maintenance Program	600,000	Special I Highway
TOTAL	\$2,035,000		

Action Requested

Direct staff to begin developing projects as recommended.

Supporting Documentation

Potential Major Street Reconstruction Projects Table

Location Map

Potential Major Street Reconstruction Projects

	Street Name	From	To	Length (feet)	CIP (status)	PCI	Average Vehicles per day (ADT)	PCI/ADT ratio	2011 Assessment Priority 100 = highest priority	Staff Priority	Cost	Notes
Large Projects	Hall	27th	41st	5280		28	11200	400.0	79	high	\$ 700,000	Mill and Overlay - Road Diet
	Hall	27th	41st	5280	Queue	28	11200	400.0	79	high	\$ 3,500,000	Full Depth Pavement Replacement
	27th Street	Sherman	Canterbury	3600		28	9800	350.0	83	med	\$ 500,000	Mill and Overlay
	27th Street	Sherman	Canterbury	3600	Queue	28	9800	350.0	83	med	\$ 2,500,000	Full Depth Pavement Replacement
	27th Street	T-Bird	Englewood	1100	Queue	25	6000	240.0	93	high	\$ 650,000	Complete Reconstruction
	8th St	Milner	Vine	2210	Priority Queue	72	7280	101.1	35	med	\$ 1,500,000	Full Depth Pavement Replacement
	Allen	13th	Vine	3920	Priority Queue	41	3850	93.9	65	high	\$ 3,500,000	Complete Reconstruction
	7th Street	Riley	Vine	1350	Queue	23	1370	59.6	97	high	\$ 700,000	Full Depth Pavement Replacement
	6th Street	Riley	Vine	1350	Queue	28	1600	57.1	83	high	\$ 700,000	Full Depth Pavement Replacement
	Indian Tr	25th	27th	1360	Queue	66	3125	47.3	82	med	\$ 750,000	Full Depth Pavement Replacement
	6th Street	Main	Milner	2040	no	60	1400	23.3	52	med	\$ 950,000	Full Depth Pavement Replacement
	Marjorie	15th	22nd	2180	Queue	66	200	3.0	79	low	\$ 800,000	Full Depth Pavement Replacement

Small Projects	12th St	Canterbury	HHS	425	no	36	??	#VALUE!	62	high	\$ 165,000	2015 Street Maintenance
	5th St	ditch	Riley	750	no	10	??	#VALUE!	--	high	\$ 45,000	2015 Street Maint (In-house)
	5th St	ditch	Riley	750	no	10	??	#VALUE!	--	low	\$ 310,000	Complete Reconstruction
	27th Street	Englewood	Hall	1200	no	41	6000	146.3	66	high	\$ 160,000	Mill and Overlay - Road Diet
	7th Street	Riley	Vine	1350	Queue	23	1370	59.6	97	high	\$ 75,000	In-house overlay and Chip Seal
	Ash	17th	19th	450	no	55	1500	27.3	42	high	\$ 250,000	Brick Street outside Preservation Area
	Vine Frontage	32nd	37th	1480	no	36	??	#VALUE!	66	high	\$ 400,000	Full Depth Pavement Replacement
	Oak	27th	29th	850	no	50	??	#VALUE!	48	high	\$ 350,000	Full Depth Pavement Replacement
	Hickory	27th	29th	960	no	72	??	#VALUE!	24	med	\$ 20,000	Microsurface ?
	Bridge	Over Big Creek at Main		225	previously		2300	#DIV/0!	N/A	med	\$ 400,000	KDOT Bridge Program???
	Riley	6th	8th	740	Queue	30	??	#VALUE!	78	low	\$ 300,000	Full Depth Pavement Replacement
	Willow	33rd	35th	186	Queue	31	1050	33.9	81	low	\$ 100,000	Full Depth Pavement Replacement
	Barclay	27th	27th Terr	360	Queue	62	990	16.0	79	low	\$ 150,000	Full Depth Pavement Replacement

Commission Work Session Agenda

Memo

From: John Braun, Assistant Director of Public Works

Work Session: February 17, 2015

Subject: 13th Street, Main to Milner – Award of Bid

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

Summary

In May, staff brought forward concepts and alternatives for the reconstruction of 13th Street from Main to Milner. Subsequently the City Commission approved a contract with Professional Engineering Consultants (PEC) of Wichita for design engineering services. Bids were opened on January 28, 2015 with APAC, Kansas, Inc. being the low bidder. There were several bid option, and staff recommends awarding a bid to APAC for Alternate A in the amount of \$2,057,145.65 and Add Alternates 2, Brick Crosswalks for an additional cost of \$10,564.40 resulting in a total construction cost of \$2,067,710.05. Funding would come from various sources to included Capital Projects, City Commission Reserve, Water/Sewer Capital, and the Stormwater Fund.

Background

Since the fall of 2013, staff has been developing a project to reconstruct 13th Street from Main to Milner. At the September 26, 2013 City Commission meeting, \$1,500,000 was transferred from Financial Policy Projects to a Capital Projects fund to finance the cost of engineering and construction to improve 13th Street from Main to Milner. Subsequently, Driggs Design Group (DDG) was hired to develop concept plans and cost estimates.

During the Concept Planning stage, DDG and City Staff assessed the site, collected data, developed concepts, calculated estimates of cost, contacted stakeholders along the project, solicited comments, mailed a survey, met with the DHDC, and held a public information meeting.

At the May 1, 2014 work session, and again at the May 8, 2014 Regular Meeting of the City Commission, DDG and City Staff presented various alternatives to chose from. Those options included:

- Base Option –
Reconstructing just the street and intersections \$1,498,208
- Storm Sewer Improvements \$302,198
- Water Service Upgrades \$39,688
- A – Additional Curb, Sidewalk & Parking \$204,000
- B – Brick Street from Main to Oak \$150,480

- C – Brick Crosswalks at all intersections \$13,500
- ~~D – Landscape Planters (low/no water vegetation) \$21,600~~
- E – Monument Sign \$10,200
- ~~F – Upgrade Traffic Signal at 13th and Main \$168,000~~
- G – Decorative Street Lights \$142,200

The City Commission directed staff to hire an engineering firm to proceed with design for the reconstruction of 13th Street from Main to Milner to include the Base Option, Storm Sewer Improvements, Water Service Upgrades, and Alternates A, B, C, E, & G. The alternates would be designed and bid as add-ons to be considered for construction during after construction bids are received. **See attached Excerpts from the Minutes of the May 8, 2014 Meeting.**

In June 2014, PEC was hired to complete design and solicit bids for construction.

Discussion

Bids were opened on January 28, 2015 from two bidders: APAC-Kansas, Inc. and Smoky Hill Construction of Salina. **A summary of the bids is listed below and a detailed bid tabulation is attached.**

Bid #	Description	Engineer's Est	Contractor 1 SMOKY HILL	Contractor 2 APAC
Base	Driving Lanes and Intersections with limited Stormsewer Full Width – including sidewalk, water services and full stormsewer	\$ 1,829,472.50	\$ 1,550,400.70	\$ 1,408,204.50
Alternate A		\$ 2,482,225.00	\$ 2,259,018.75	\$ 2,057,145.65
Add Alt 1	Brick Pavers	\$ 174,205.00	\$ 126,806.40	\$ 126,555.50
Add Alt 2	Brick Crosswalk	\$ 20,580.00	\$ 80,605.00	\$ 10,564.40
Add Alt 3	Lighting	\$ 220,000.00	\$ 229,300.00	\$ 179,000.00
Add Alt 4	Monument Base	\$ 5,000.00	\$ 2,000.00	\$ 1,500.00

The Base Bid includes removing and replacing the driving lanes, reconstructing the intersections (curb and gutter, sidewalk, bulbouts, and ADA ramps in the immediate vicinity of the intersection), replacing stormsewer inlets, pipe and structures at the intersections only, and minor waterline adjustments.

Alternate A includes everything in the Base Bid plus removal and replacement of the parking lanes, curb and gutter, driveways, and sidewalk between the intersections, additional stormsewer pipe between the intersections, and all new water service connections.

Add Alternate 1 includes installing brick pavers between Main and Oak instead of 8” concrete pavement.

Add Alternate 2 includes installing brick lined crosswalks at all intersections

Add Alternate 3 includes the installation of new street lighting with decorative lighting like on 8th Street from Main to Oak, and new standard aluminum pole street lighting between Oak and Milner.

Add Alternate 4 includes installing a monument sign base (foundation only) at the NW corner of 13th and Oak to facilitate a future limestone monument sign like those already at 8th and Oak, 8th and Fort, and 17th and Main.

The bid proposal from the low bidder (APAC) identifies an estimated start date of March 23, 2015 with the following working day allowance:

- Base Alternate – 150 calendar days
- Alternate A – 220 calendar days
- Add Alternate 1 – 50 additional calendar days
- Add Alternate 2 – 5 additional calendar days
- Add Alternate 3 – 75 additional calendar days
- Add Alternate 4 – 2 additional calendar days

The project would be inspected by in-house city staff.

The City’s engineer, PEC, has reviewed the bids and finds the low bid from APAC to be valid and recommends awarding a contract to APAC. The commission is asked to consider between the base option and Alternate A, plus adding any Add Alternates that warrant funding.

Legal Consideration

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

Financial Consideration

In 2013, \$1,500,000 was transferred from Financial Policy Projects to Capital Projects to help fund this project. In addition, \$302,198 was identified in the CIP from Stormwater Reserve (Capital Projects – Flood Control), and Water/Sewer Capital Funding is available for water improvements. Design Engineering costs of \$95,000 have already been spent out of the Capital Projects fund; therefore the funding options detailed on the next page include the low bid prices plus the \$95,000 for Design Engineering.

		Low Bid + Engineering	Water	Stormwater	Capital Projects	CC Reserve
Base Option	Driving Lanes and Intersections with limited Stormsewer	\$1,503,204.50	\$4,405.49	\$247,496.90	\$1,251,302.11	
Alternate A	Full Width – including sidewalk, water services and full stormsewer	\$2,152,145.65	\$93,734.68	\$449,219.54	\$1,500,000.00	\$109,191.42
Add Alt 1	Brick Pavers	\$126,555.50				\$126,555.50
Add Alt 2	Brick Crosswalk	\$10,564.40				\$10,564.40
Add Alt 3	Lighting	\$179,000.00				\$179,000.00
Add Alt 4	Monument Base	\$1,500.00				\$1,500.00
	Sum of Alternates Max Total (Alt A plus all Add- ons)	\$317,619.90				\$317,619.90
		\$2,469,765.55	\$93,734.68	\$449,219.54	\$1,609,191.42	\$426,811.32

If the Base Alternate is chosen, the funding breakout would be:

- Capital Projects Fund - \$1,251,302.11
- Water/Sewer Capital - \$4,405.49
- Stormwater Reserve (Capital Projects – Flood Control) - \$247,496.90

Under the Base Alternate, adequate funding is already in place from all three funding sources.

If Alternate A is chosen, the funding breakout would be:

- Capital Projects Fund - \$1,500,000.00
- Water/Sewer Capital - \$93,734.68
- Stormwater Reserve (Capital Projects – Flood Control)- \$449,219.54
- additional funding City Commission Reserve - \$109,191.42

Selecting any of the Add Alternates would require additional funding from the City Commission Reserve Fund.

Staff's recommendation is to award Alternate A and Add Alternate 2. The breakout of costs using staff's recommendation is as follows:

		Low Bid + Engineering	Water	Stormwater	Capital Projects	CC Reserve
Alternate A	Full Width	\$2,152,145.65	\$93,734.68	\$449,219.54	\$1,500,000.00	\$109,191.42
Add Alt 2	Brick Crosswalk	\$10,564.40				\$10,564.40
Total (Alt A plus 1 Add- Alt 2)		\$2,162,710.05	\$93,734.68	\$449,219.54	\$1,500,000.00	\$119,755.82

Options

The City Commission has the following options:

- Award only the Base Bid to the low bidder
- Award Alternate A and authorize additional funding as required
- Award any of the four Add Alternates and approve funding for each.
- Reject all bids
- Direct Staff otherwise

Recommendation

Staff recommends the City Commission award Alternate A and Add Alternate 2, Brick Accented Crosswalks.

Action Requested

Authorize the City Manager to execute the contract with APAC, Kansas, Inc for Alternate A and Add Alternate 2 in the amount of \$2,067,710.05. Plus, authorize the following transfers to Capital Projects Fund: \$93,734.68 from Water Sewer Capital, \$449,219.54 from Capital Projects – Flood Control (Stormwater Reserve), and \$119,755.82 from Commission Capital Reserve.

Supporting Documentation

Excerpts from May 8, 2014 City Commission Meeting
 Maps
 Bid Tabulation
 Low Bid Proposal as submitted

City Manager Toby Dougherty stated he has discussed the process of handling funds collected for the project with Finance Director Kim Rupp and we have no problem holding and tracking the segregation of the funds brought in, but if the intent of the person making the donation is to get a letter for a tax deductible donation we wouldn't provide this for anything less than \$100.00.

Commissioner Mellick asked about a time limit for the fund raising.

Derek Hadley stated a minimum of 2 years and a maximum of 5 years is usually sufficient.

Eber Phelps moved, Shaun Musil seconded, to approve the general concept of expanding/improving the current skate park at Aubel-Bickle Park and allowing the Western Kansas Skate Park Committee to solicit donations towards expansion/improvements to the skate park with the stipulation that they raise the money for the first phase within two years

Commissioner Mellick wondered if Commissioner Phelps would want to put an end date of five years so it is not open ended.

Eber Phelps amended his motion to include that the entire project be completed within a two to five year period; Shaun Musil agreed to amend his second.

Vote: Ayes: Henry Schwaller IV

Eber Phelps

Shaun Musil

Ron Mellick

Kent Steward

6. 13TH STREET (MAIN TO MILNER): The 2012 Comprehensive Plan update identified 13th Street from Main Street to Milner as an entry corridor to downtown that needs improvement. \$1.5 million has been set aside in a capital project fund for the reconstruction of these four blocks of 13th Street. Driggs Design Group has developed concept plans and cost estimates; stakeholders along the project were contacted; a public information meeting was held; and a presentation made to the Downtown Hays Development Corporation (DHDC) Board. The City

Commission is being asked to consider staff's recommendation for additional funds and authorize solicitation of engineering design services.

City Manager Toby Dougherty clarified that we don't need a final decision on amenities for this project tonight, just the approval to go forward with the concept.

Buck Driggs with Driggs Design Group presented the options along with details of his assessment, the results of the survey, and answered questions from the Commissioners. He stated the pavement is reaching the end of its life expectancy and is in poor condition.

At the September 26, 2013 City Commission meeting, \$1,500,000 was transferred from Financial Policy Projects to a Capital Projects fund to pay the cost of engineering and construction of this project. The most economical cost estimate (Base Option) has a cost, including engineering, of \$1,498,208. The preliminary cost estimate for Storm Sewer improvements is \$302,198. This would need to be funded from the Stormwater Management Fund. The preliminary cost estimate to upgrade Water Services is \$39,688. This would need to be funded from Water and Sewer Capital Reserve Fund.

Other amenities or Add Alternates being presented, but currently unfunded include:

- A – Additional Curb, Sidewalk & Parking \$204,000
- B – Brick Street from Main to Oak \$150,480
- C – Brick Crosswalks at all intersections \$13,500
- D – Landscape Planters (low/no water vegetation) \$21,600
- E – Monument Sign \$10,200
- F – Upgrade Traffic Signal at 13th and Main \$168,000
- G – Decorative Street Lights \$142,200

The above costs are only preliminary estimates; more specific amounts would be developed during the design phase.

Kent Steward moved, Shaun Musil seconded, to authorize staff to solicit an engineering firm to proceed with design for the reconstruction of 13th Street

from Main to Milner to include the Base Option, Storm Sewer Improvements, Water Service Upgrades, and Alternate A, B, C, E, and G.

Commissioner Phelps clarified this is conceptual and when we see more accurate cost estimates we will decide at that time to include the add ons.

Chairperson Schwaller was concerned with the engineering costs with adding alternates that we may or may not pursue. He also stated he would like to wait and implement a cohesive look for downtown rather than focus on four blocks of 13th Street. The price tag for engineering a design for just the lighting is an estimated \$14,000. He also wanted to clarify that the project would be paid for in cash, and taxes would not increase.

Vote: Ayes: Eber Phelps

Shaun Musil

Ron Mellick

Kent Steward

No: Henry Schwaller IV

7. 2014 WATERLINE IMPROVEMENTS (HICKORY AND ASH) – AWARD OF

BID: Bids were opened on April 16, 2014 for the replacement of city water mains on Hickory and Ash from 27th to 29th Street. The low bidder for Hickory and Ash Streets is Stripe and Seal of Hays in the amount of \$233,458. The contractor indicated an October 1, 2014 start date to be completed in 60 working days.

Shaun Musil moved, Ron Mellick seconded, to authorize the City Manager to enter a contract with Stripe and Seal in the amount of \$233,458 for waterline improvements on Hickory and Ash from 27th Street to 29th Street. Funding would be from Water and Sewer Capital Reserve Fund.

Vote: Ayes: Henry Schwaller IV

Eber Phelps

Shaun Musil

Ron Mellick

Kent Steward

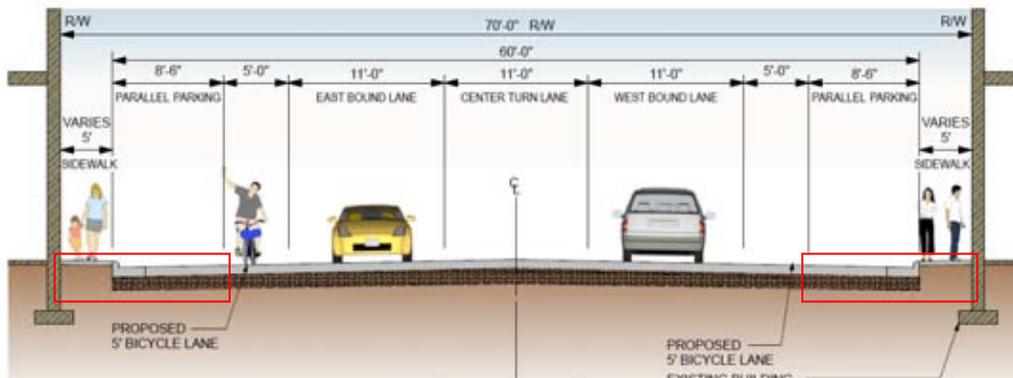
8. 2014 WATERLINE IMPROVEMENTS (ELM STREET FROM FORT TO 4TH

STREET) – AWARD OF BID: Bids were opened on April 16, 2014 for the

BASE PLAN

COST – \$1,408,204.50

Replace only driving lanes and intersections. Leave most parking, curb and sidewalk in place. 5' Bike Lane in street on both sides.

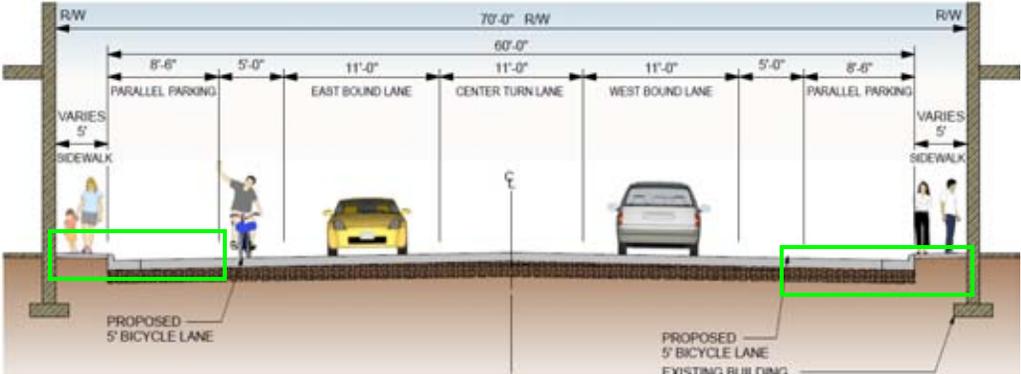
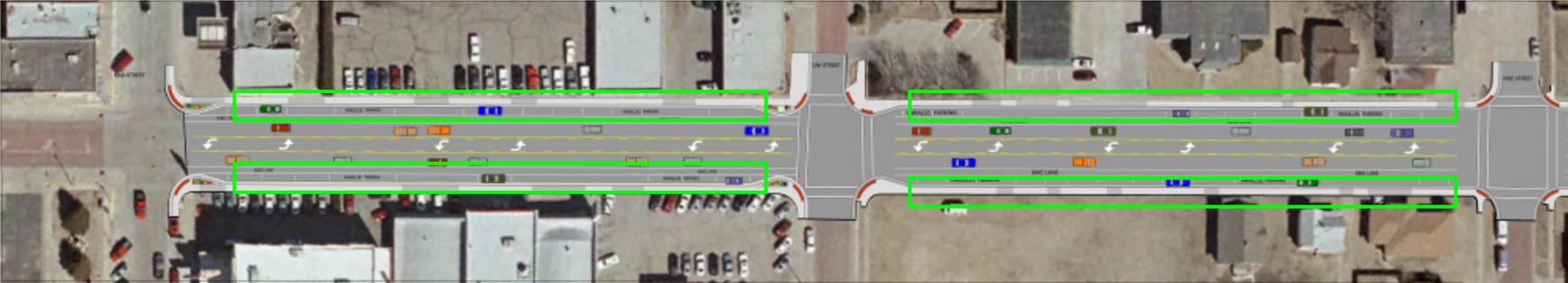


Leave existing sidewalk, curb & parking between intersections. Improve storm sewer at intersections only, and only water improvement is fire hydrant relocation.

ADD ALTERNATE A

COST \$2,057,145.65

Replace all pavement including sidewalk, curb and parking the entire length of the project.



Add Alternate A: Includes Base Bid plus reconstruct all sidewalk, curb & parking between intersections. Also include all new water services and new storm sewer from Pine to Milner.

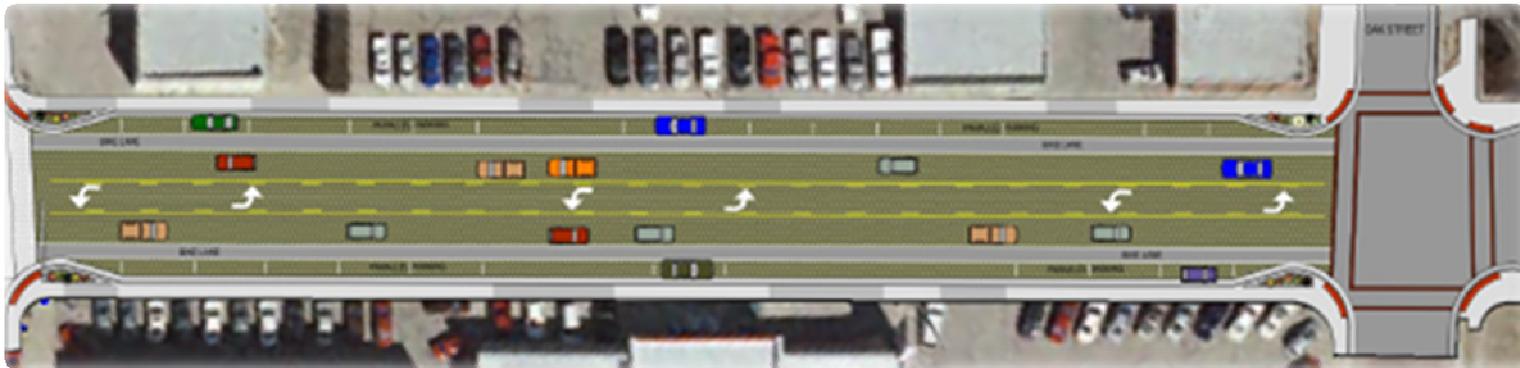
ADD ALTERNATES 1 & 2 BRICK ACCENTS

Add Alt 1 - Inlaid Brick Pavement
Main to Oak

Bid Price = \$126,555.50

Add Alt 2 - Brick Crosswalks at all
intersections

Bid Price \$ 10,564.40



ADD ALTERNATE 3 DECORATIVE STREET LIGHTS

- Match 8th Street & Downtown
 - Decorative from Main to Oak
 - New Standard Steel Poles from Oak to Milner

Add Alt 3 – Bid Price = \$179,000

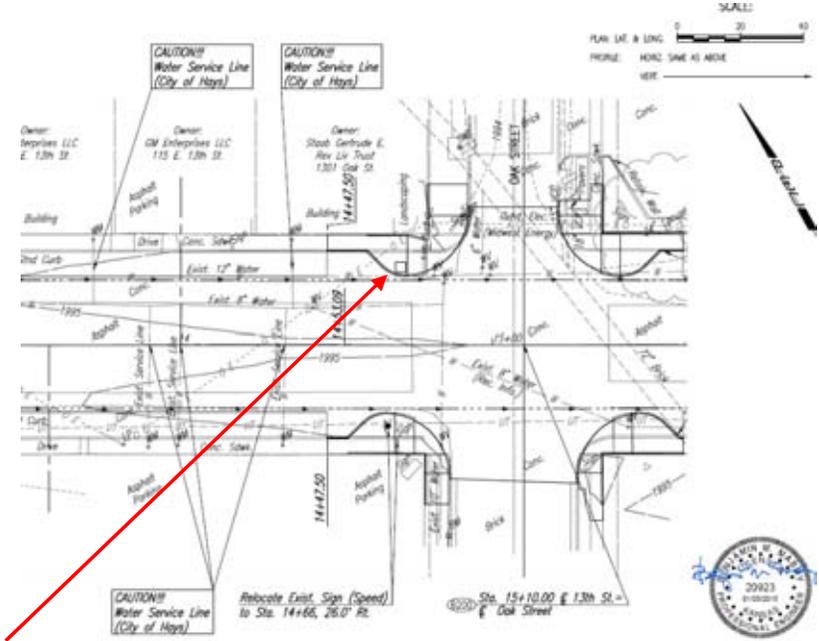


13th Street Existing



8th Street Decorative

ADD ALTERNATE 4 MONUMENT SIGN BASE



Proposed sign base location
at NW corner of 13th and Oak

**Add Alt 4 – Bid Price = \$1,500
(Foundation Only)**



OWNER: City of Hays
 PROJECT: 13th Street Improvements - Main to Milner
 PEC PROJECT NO: 35-14421-000-6647
 Bid Date/Time: January 28, 2015 at 3:00 pm

BID TABULATION



ITEM NO.	DESCRIPTION	QUANTITY	UNIT	ENGINEER'S ESTIMATE		APAC - Kansas, Inc. Shears Division		Smoky Hill, LLC	
				UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST
BASE BID - PAVING AND DRAINAGE									
1	8" Concrete Pavement (AE)(NRDJ)	11,301	SY	\$ 80.00	\$ 904,080.00	\$ 58.00	\$ 655,458.00	\$ 52.15	\$ 589,347.15
2	8" Reinforced Concrete Drive	38	SY	\$ 75.00	\$ 2,850.00	\$ 95.00	\$ 3,610.00	\$ 81.50	\$ 3,097.00
3	8" Concrete Pavement Patching	600	SY	\$ 150.00	\$ 90,000.00	\$ 84.00	\$ 50,400.00	\$ 129.85	\$ 77,910.00
4	6" Reinforced Crushed Rock Base	11,455	SY	\$ 12.00	\$ 137,460.00	\$ 11.50	\$ 131,732.50	\$ 14.85	\$ 170,106.75
5	Monolithic Edge Curb	510	LF	\$ 6.00	\$ 3,060.00	\$ 15.50	\$ 7,905.00	\$ 2.75	\$ 1,402.50
6	Concrete Sidewalk 4"	591	SY	\$ 45.00	\$ 26,595.00	\$ 65.50	\$ 38,710.50	\$ 61.15	\$ 36,139.65
7	Wheelchair Ramp	393	SY	\$ 125.00	\$ 49,125.00	\$ 110.00	\$ 43,230.00	\$ 112.25	\$ 44,114.25
8	Retaining Wall	734	LF	\$ 40.00	\$ 29,360.00	\$ 30.00	\$ 22,020.00	\$ 56.00	\$ 41,104.00
9	Concrete Pavement Removal	6,921	SY	\$ 10.00	\$ 69,210.00	\$ 7.00	\$ 48,447.00	\$ 7.40	\$ 51,215.40
10	Asphalt Pavement Removal (Includes Brick)	5,243	SY	\$ 10.00	\$ 52,430.00	\$ 6.00	\$ 31,458.00	\$ 5.55	\$ 29,098.65
11	Curb & Gutter Removal	238	LF	\$ 5.00	\$ 1,190.00	\$ 6.00	\$ 1,428.00	\$ 16.00	\$ 3,808.00
12	Unclassified Excavation	2,511	CY	\$ 7.50	\$ 18,832.50	\$ 4.50	\$ 11,299.50	\$ 24.85	\$ 62,398.35
13	36" RCP	54	LF	\$ 95.00	\$ 5,130.00	\$ 115.00	\$ 6,210.00	\$ 108.25	\$ 5,845.50
14	30" RCP	122	LF	\$ 85.00	\$ 10,370.00	\$ 87.00	\$ 10,614.00	\$ 99.65	\$ 12,157.30
15	24" RCP	218	LF	\$ 65.00	\$ 14,170.00	\$ 70.00	\$ 15,260.00	\$ 76.50	\$ 16,677.00
16	18" RCP	113	LF	\$ 50.00	\$ 5,650.00	\$ 57.00	\$ 6,441.00	\$ 72.20	\$ 8,158.60
17	15" RCP	36	LF	\$ 45.00	\$ 1,620.00	\$ 50.00	\$ 1,800.00	\$ 63.20	\$ 2,275.20
18	38" x 24" RCPHE	52	LF	\$ 130.00	\$ 6,760.00	\$ 120.00	\$ 6,240.00	\$ 114.35	\$ 5,946.20
19	45" x 29" RCPHE	80	LF	\$ 160.00	\$ 12,800.00	\$ 150.00	\$ 12,000.00	\$ 144.35	\$ 11,548.00
20	Curb Inlet Type 1 (L=10', W=3')	10	EA	\$ 5,000.00	\$ 50,000.00	\$ 6,000.00	\$ 60,000.00	\$ 4,595.00	\$ 45,950.00
21	Curb Inlet Type 1 (L=10', W=4')	2	EA	\$ 5,500.00	\$ 11,000.00	\$ 6,200.00	\$ 12,400.00	\$ 4,930.00	\$ 9,860.00
22	Curb Inlet Type 1 (L=10', W=6')	2	EA	\$ 6,500.00	\$ 13,000.00	\$ 7,000.00	\$ 14,000.00	\$ 5,300.00	\$ 10,600.00
23	Precast Concrete Manhole (6')	1	EA	\$ 3,000.00	\$ 3,000.00	\$ 6,200.00	\$ 6,200.00	\$ 4,500.00	\$ 4,500.00
24	Precast Concrete Manhole (8')	2	EA	\$ 4,000.00	\$ 8,000.00	\$ 10,000.00	\$ 20,000.00	\$ 7,665.00	\$ 15,330.00
25	Fire Hydrant Assembly	1	EA	\$ 4,000.00	\$ 4,000.00	\$ 3,800.00	\$ 3,800.00	\$ 7,400.00	\$ 7,400.00
26	Mobilization	1	LS	\$ 120,000.00	\$ 120,000.00	\$ 62,400.00	\$ 62,400.00	\$ 140,950.00	\$ 140,950.00
27	Construction Staking	1	LS	\$ 20,000.00	\$ 20,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,250.00	\$ 10,250.00
28	Site Preparation & Restoration	1	LS	\$ 25,000.00	\$ 25,000.00	\$ 2,100.00	\$ 2,100.00	\$ 12,650.00	\$ 12,650.00
29	Existing Structure Removal	16	EA	\$ 1,000.00	\$ 16,000.00	\$ 400.00	\$ 6,400.00	\$ 800.00	\$ 12,800.00
30	SWS Pipe Removal	578	LF	\$ 10.00	\$ 5,780.00	\$ 22.00	\$ 12,716.00	\$ 25.40	\$ 14,681.20
31	Erosion Control	1	LS	\$ 7,500.00	\$ 7,500.00	\$ 2,100.00	\$ 2,100.00	\$ 6,990.00	\$ 6,990.00
32	Signing	1	LS	\$ 7,500.00	\$ 7,500.00	\$ 2,125.00	\$ 2,125.00	\$ 2,275.00	\$ 2,275.00
33	Pavement Marking	1	LS	\$ 35,000.00	\$ 35,000.00	\$ 31,500.00	\$ 31,500.00	\$ 33,475.00	\$ 33,475.00
34	Traffic Control	1	LS	\$ 30,000.00	\$ 30,000.00	\$ 35,000.00	\$ 35,000.00	\$ 30,820.00	\$ 30,820.00
35	Waterline Adjustment (8")	2	EA	\$ 7,500.00	\$ 15,000.00	\$ 4,900.00	\$ 9,800.00	\$ 4,200.00	\$ 8,400.00
36	Waterline Adjustment (12")	2	EA	\$ 9,000.00	\$ 18,000.00	\$ 6,700.00	\$ 13,400.00	\$ 5,560.00	\$ 11,120.00
BASE BID TOTAL				\$ 1,829,472.50		\$ 1,408,204.50		\$ 1,550,400.70	

ALTERNATE A - PAVING, DRAINAGE, & WATER															
1	8" Concrete Pavement (AE)(NRDJ)	12,059	SY	\$	80.00	\$	964,720.00	\$	56.75	\$	684,348.25	\$	54.15	\$	652,994.85
2	6" Concrete Pavement (AE)(NRDJ)	1,592	SY	\$	60.00	\$	95,520.00	\$	49.50	\$	78,804.00	\$	44.25	\$	70,446.00
3	8" Reinforced Concrete Drive	528	SY	\$	80.00	\$	42,240.00	\$	83.00	\$	43,824.00	\$	83.20	\$	43,929.60
4	6" Reinforced Concrete Drive	726	SY	\$	70.00	\$	50,820.00	\$	79.00	\$	57,354.00	\$	78.25	\$	56,809.50
5	8" Reinforced Crushed Rock Base	2,181	SY	\$	15.00	\$	32,715.00	\$	14.00	\$	30,534.00	\$	20.95	\$	45,691.95
6	6" Reinforced Crushed Rock Base	12,551	SY	\$	12.00	\$	150,612.00	\$	11.40	\$	143,081.40	\$	15.20	\$	190,775.20
7	Monolithic Edge Curb	2,998	LF	\$	6.00	\$	17,988.00	\$	15.00	\$	44,970.00	\$	2.75	\$	8,244.50
8	Concrete Sidewalk 4"	1,799	SY	\$	45.00	\$	80,955.00	\$	65.00	\$	116,935.00	\$	58.55	\$	105,331.45
9	Wheelchair Ramp	393	SY	\$	125.00	\$	49,125.00	\$	110.00	\$	43,230.00	\$	112.25	\$	44,114.25
10	Retaining Wall	1,150	LF	\$	30.00	\$	34,500.00	\$	29.00	\$	33,350.00	\$	56.40	\$	64,860.00
11	Concrete Pavement Removal	11,699	SY	\$	10.00	\$	116,990.00	\$	7.00	\$	81,893.00	\$	5.90	\$	69,024.10
12	Asphalt Pavement Removal (Includes Brick)	5,268	SY	\$	10.00	\$	52,680.00	\$	6.00	\$	31,608.00	\$	5.50	\$	28,974.00
13	Curb & Gutter Removal	238	LF	\$	5.00	\$	1,190.00	\$	6.00	\$	1,428.00	\$	16.00	\$	3,808.00
14	Unclassified Excavation	3,034	CY	\$	7.50	\$	22,755.00	\$	4.50	\$	13,653.00	\$	45.55	\$	138,198.70
15	42" RCP	997	LF	\$	140.00	\$	139,580.00	\$	150.00	\$	149,550.00	\$	135.10	\$	134,694.70
16	36" RCP	87	LF	\$	95.00	\$	8,265.00	\$	115.00	\$	10,005.00	\$	109.90	\$	9,561.30
17	24" RCP	166	LF	\$	65.00	\$	10,790.00	\$	70.00	\$	11,620.00	\$	78.90	\$	13,097.40
18	18" RCP	113	LF	\$	50.00	\$	5,650.00	\$	57.00	\$	6,441.00	\$	73.35	\$	8,288.55
19	15" RCP	36	LF	\$	45.00	\$	1,620.00	\$	51.00	\$	1,836.00	\$	65.00	\$	2,340.00
20	45" x 29" RCPHE	80	LF	\$	160.00	\$	12,800.00	\$	150.00	\$	12,000.00	\$	140.25	\$	11,220.00
21	53" x 34" RCPHE	83	LF	\$	210.00	\$	17,430.00	\$	180.00	\$	14,940.00	\$	169.50	\$	14,068.50
22	Curb Inlet Type 1 (L=10', W=3')	7	EA	\$	5,000.00	\$	35,000.00	\$	6,000.00	\$	42,000.00	\$	4,595.00	\$	32,165.00
23	Curb Inlet Type 1 (L=10', W=4')	2	EA	\$	5,500.00	\$	11,000.00	\$	6,200.00	\$	12,400.00	\$	4,930.00	\$	9,860.00
24	Curb Inlet Type 1 (L=10', W=5')	1	EA	\$	6,000.00	\$	6,000.00	\$	6,800.00	\$	6,800.00	\$	5,225.00	\$	5,225.00
25	Curb Inlet Type 1 (L=10', W=6')	4	EA	\$	6,500.00	\$	26,000.00	\$	7,000.00	\$	28,000.00	\$	5,300.00	\$	21,200.00
26	Precast Concrete Manhole (6')	1	EA	\$	3,000.00	\$	3,000.00	\$	6,200.00	\$	6,200.00	\$	4,500.00	\$	4,500.00
27	Precast Concrete Manhole (8')	2	EA	\$	4,000.00	\$	8,000.00	\$	10,000.00	\$	20,000.00	\$	7,665.00	\$	15,330.00
28	Water Service Replacement	40	EA	\$	2,750.00	\$	110,000.00	\$	2,000.00	\$	80,000.00	\$	2,020.00	\$	80,800.00
29	Fire Hydrant Assembly	1	EA	\$	4,000.00	\$	4,000.00	\$	3,800.00	\$	3,800.00	\$	7,400.00	\$	7,400.00
30	Mobilization	1	LS	\$	140,000.00	\$	140,000.00	\$	72,500.00	\$	72,500.00	\$	162,650.00	\$	162,650.00
31	Construction Staking	1	LS	\$	20,000.00	\$	20,000.00	\$	15,000.00	\$	15,000.00	\$	15,300.00	\$	15,300.00
32	Site Preparation & Restoration	1	LS	\$	25,000.00	\$	25,000.00	\$	8,500.00	\$	8,500.00	\$	30,500.00	\$	30,500.00
33	Existing Structure Removal	16	EA	\$	1,000.00	\$	16,000.00	\$	400.00	\$	6,400.00	\$	800.00	\$	12,800.00
34	SWS Pipe Removal	578	LF	\$	10.00	\$	5,780.00	\$	22.00	\$	12,716.00	\$	25.40	\$	14,681.20
35	Erosion Control	1	LS	\$	7,500.00	\$	7,500.00	\$	2,100.00	\$	2,100.00	\$	8,475.00	\$	8,475.00
36	Signing	1	LS	\$	7,500.00	\$	7,500.00	\$	2,125.00	\$	2,125.00	\$	2,275.00	\$	2,275.00
37	Pavement Marking	1	LS	\$	35,000.00	\$	35,000.00	\$	31,500.00	\$	31,500.00	\$	33,475.00	\$	33,475.00
38	Traffic Control	1	LS	\$	30,000.00	\$	30,000.00	\$	35,000.00	\$	35,000.00	\$	30,825.00	\$	30,825.00
39	Milner Waterline Adjustment	1	EA	\$	17,500.00	\$	17,500.00	\$	11,500.00	\$	11,500.00	\$	16,025.00	\$	16,025.00
40	Waterline Adjustment (8")	4	EA	\$	7,500.00	\$	30,000.00	\$	5,300.00	\$	21,200.00	\$	4,200.00	\$	16,800.00
41	Waterline Adjustment (12")	4	EA	\$	9,000.00	\$	36,000.00	\$	7,000.00	\$	28,000.00	\$	5,565.00	\$	22,260.00
ALTERNATE A TOTAL					\$	2,482,225.00	\$	2,057,145.65	\$	2,259,018.75					

ADD ALTERNATE NO. 1 - BRICK PAVERS									
1	Deduct 8" Concrete Pavement (AE)(NRDJ)	-2,754	SY	\$ 80.00	\$ (220,320.00)	\$ 56.75	\$ (156,289.50)	\$ 46.85	\$ (129,024.90)
2	11" Concrete Pavement (AE)(NRDJ)	736	SY	\$ 95.00	\$ 69,920.00	\$ 95.00	\$ 69,920.00	\$ 98.15	\$ 72,238.40
3	Concrete Brick Pavers	2,018	SY	\$ 160.00	\$ 322,880.00	\$ 105.00	\$ 211,890.00	\$ 88.55	\$ 178,693.90
4	Unclassified Excavation	230	CY	\$ 7.50	\$ 1,725.00	\$ 4.50	\$ 1,035.00	\$ 21.30	\$ 4,899.00
ADD ALTERNATE NO. 1 TOTAL				\$ 174,205.00	\$ 126,555.50	\$ 126,806.40			
ADD ALTERNATE NO. 2 - BRICK CROSSWALK									
1	Brick Crosswalk	1,372	LF	\$ 15.00	\$ 20,580.00	\$ 7.70	\$ 10,564.40	\$ 58.75	\$ 80,605.00
ADD ALTERNATE NO. 2 TOTAL				\$ 20,580.00	\$ 10,564.40	\$ 80,605.00			
ADD ALTERNATE NO. 3 - ELECTRICAL/LIGHTING									
1	Electrical/Lighting	1	LS	\$ 220,000.00	\$ 220,000.00	\$ 179,000.00	\$ 179,000.00	\$ 229,300.00	\$ 229,300.00
ADD ALTERNATE NO. 3 TOTAL				\$ 220,000.00	\$ 179,000.00	\$ 229,300.00			
ADD ALTERNATE NO. 4 - MONUMENT BASE									
1	Monument Sign Concrete Base	1	EA	\$ 5,000.00	\$ 5,000.00	\$ 1,500.00	\$ 1,500.00	\$ 2,000.00	\$ 2,000.00
ADD ALTERNATE NO. 4 TOTAL				\$ 5,000.00	\$ 1,500.00	\$ 2,000.00			
BID BOND				N/A	-	-			
ADDENDUM NO. 1				N/A	-	-			
ADDENDUM NO. 2				N/A	-	-			

CITY OF HAYS, KANSAS

13th Street Improvements, Main to Milner

COH PROJECT NO. 2013-22

PROPOSAL

TO THE HONORABLE MAYOR AND CITY COMMISSION CITY OF HAYS, KANSAS

1. The undersigned declares he has read the Specifications and other Contract Documents, has examined and understands the Plans, has examined the site of the Work and has determined for himself the conditions affecting the Work; and he proposes and agrees to provide at his own expense all labor, superintendence, machinery, plant, equipment, tools, apparatus, appliances and means of construction, and all materials and supplies, and to complete ready for its intended purpose the entire work and all parts thereof described as included under the Contract herein, including all work incidental thereto, according to the Plans and Specifications, and such instructions the Owner may give.
2. The Undersigned Bidder, in compliance with your Notice to Contractors dated January 5, 2015, hereby proposes to do the Work called for in said Specifications and other Contract Documents and shown on said Plans for the said work at the following rates and prices:

SCHEDULE OF ITEMS AND PRICES

BASE BID (unit price)

<u>Item No.</u>	<u>Description</u>	<u>Approx. Quantities</u>	<u>Unit</u>	<u>Unit Price In Figures</u>	<u>Amount In Figures</u>
1.	8" Concrete Pavement (AE)(NRDJ)	11301	SY	\$ <u>58.00</u>	\$ <u>655,458.00</u>
2.	8" Reinforced Concrete Drive	38	SY	\$ <u>95.00</u>	\$ <u>3,610.00</u>
3.	8" Concrete Pavement Patching	600	SY	\$ <u>84.00</u>	\$ <u>50,400.00</u>
4.	6" Reinforced Crushed Rock Base	11455	SY	\$ <u>11.50</u>	\$ <u>131,732.50</u>
5.	Monolithic Edge Curb	510	LF	\$ <u>15.50</u>	\$ <u>7,905.00</u>
6.	Concrete Sidewalk 4"	591	SY	\$ <u>65.50</u>	\$ <u>38,710.50</u>
7.	Wheelchair Ramp	393	SY	\$ <u>110.00</u>	\$ <u>42,230.00</u>
8.	Retaining Wall	734	LF	\$ <u>30.00</u>	\$ <u>22,020.00</u>
9.	Concrete Pavement Removal	6921	SY	\$ <u>7.00</u>	\$ <u>48,447.00</u>
10.	Asphalt Pavement Removal (Includes Brick)	5243	SY	\$ <u>6.00</u>	\$ <u>31,458.00</u>
11.	Curb & Gutter Removal	238	LF	\$ <u>6.00</u>	\$ <u>1,428.00</u>
12.	Unclassified Excavation	2511	CY	\$ <u>4.50</u>	\$ <u>11,299.50</u>
13.	36" RCP	54	LF	\$ <u>115.00</u>	\$ <u>6,210.00</u>
14.	30" RCP	122	LF	\$ <u>87.00</u>	\$ <u>10,614.00</u>
15.	24" RCP	218	LF	\$ <u>70.00</u>	\$ <u>15,260.00</u>

ADDENDUM NO. 1 - PROPOSAL

APAC - Kansas, Inc.
Shears Division

16.	18" RCP	113	LF	\$ <u>57.00</u>	\$ <u>6,441.00</u>
17.	15" RCP	36	LF	\$ <u>50.00</u>	\$ <u>1,800.00</u>
18.	38" x 24" RCPHE	52	LF	\$ <u>120.00</u>	\$ <u>6,240.00</u>
19.	45" x 29" RCPHE	80	LF	\$ <u>150.00</u>	\$ <u>12,000.00</u>
20.	Curb Inlet Type 1 (L=10', W=3')	10	EA	\$ <u>6,000.00</u>	\$ <u>60,000.00</u>
21.	Curb Inlet Type 1 (L=10', W=4')	2	EA	\$ <u>6,200.00</u>	\$ <u>12,400.00</u>
22.	Curb Inlet Type 1 (L=10', W=6')	2	EA	\$ <u>7,000.00</u>	\$ <u>14,000.00</u>
23.	Precast Concrete Manhole (6')	1	EA	\$ <u>6,200.00</u>	\$ <u>6,200.00</u>
24.	Precast Concrete Manhole (8')	2	EA	\$ <u>10,000.00</u>	\$ <u>20,000.00</u>
25.	Fire Hydrant Assembly	1	EA	\$ <u>3,800.00</u>	\$ <u>3,800.00</u>
26.	Mobilization	1	LS	\$ <u>62,400.00</u>	\$ <u>62,400.00</u>
27.	Construction Staking	1	LS	\$ <u>10,000.00</u>	\$ <u>10,000.00</u>
28.	Site Preparation & Restoration	1	LS	\$ <u>2,100.00</u>	\$ <u>2,100.00</u>
29.	Existing Structure Removal	16	EA	\$ <u>400.00</u>	\$ <u>6,400.00</u>
30.	SWS Pipe Removal	578	LF	\$ <u>22.00</u>	\$ <u>12,716.00</u>
31.	Erosion Control	1	LS	\$ <u>2100.00</u>	\$ <u>2100.00</u>
32.	Signing	1	LS	\$ <u>2125.00</u>	\$ <u>2125.00</u>
33.	Pavement Marking	1	LS	\$ <u>31,500.00</u>	\$ <u>31,500.00</u>
34.	Traffic Control	1	LS	\$ <u>35,000.00</u>	\$ <u>35,000.00</u>
35.	Waterline Adjustment (8")	2	EA	\$ <u>4,900.00</u>	\$ <u>9,800.00</u>
36.	Waterline Adjustment (12")	2	EA	\$ <u>6,700.00</u>	\$ <u>13,400.00</u>

TOTAL BASE BID (in figures) \$ 1,408,204.50

TOTAL BASE BID (in words) ONE MILLION FOUR HUNDRED EIGHT THOUSAND TWO HUNDRED FOUR DOLLARS AND FIFTY CENTS.

ALTERNATE A

Item No.	Description	Approx. Quantities	Unit	Unit Price In Figures	Amount In Figures
1.	8" Concrete Pavement (AE)(NRDJ)	12059	SY	\$ <u>56.75</u>	\$ <u>684,348.25</u>
2.	6" Concrete Pavement (AE)(NRDJ)	1592	SY	\$ <u>49.50</u>	\$ <u>78,804.00</u>
3.	8" Reinforced Concrete Drive	528	SY	\$ <u>83.00</u>	\$ <u>43,824.00</u>
4.	6" Reinforced Concrete Drive	726	SY	\$ <u>79.00</u>	\$ <u>57,354.00</u>
5.	8" Reinforced Crushed Rock Base	2181	SY	\$ <u>14.00</u>	\$ <u>30,534.00</u>
6.	6" Reinforced Crushed Rock Base	12551	SY	\$ <u>11.40</u>	\$ <u>143,081.40</u>
7.	Monolithic Edge Curb	2998	LF	\$ <u>15.00</u>	\$ <u>44,970.00</u>
8.	Concrete Sidewalk 4"	1799	SY	\$ <u>65.00</u>	\$ <u>116,935.00</u>
9.	Wheelchair Ramp	393	SY	\$ <u>110.00</u>	\$ <u>43,230.00</u>
10.	Retaining Wall	1150	LF	\$ <u>29.00</u>	\$ <u>33,350.00</u>
11.	Concrete Pavement Removal	11699	SY	\$ <u>7.00</u>	\$ <u>81,893.00</u>
12.	Asphalt Pavement Removal (Includes Brick)	5268	SY	\$ <u>6.00</u>	\$ <u>31,608.00</u>
13.	Curb & Gutter Removal	238	LF	\$ <u>6.00</u>	\$ <u>1,428.00</u>
14.	Unclassified Excavation	3034	CY	\$ <u>4.50</u>	\$ <u>13,653.00</u>

15.	42" RCP	997	LF	\$ <u>150.00</u>	\$ <u>149,550.00</u>
16.	36" RCP	87	LF	\$ <u>115.00</u>	\$ <u>10,005.00</u>
17.	24" RCP	166	LF	\$ <u>70.00</u>	\$ <u>11,620.00</u>
18.	18" RCP	113	LF	\$ <u>57.00</u>	\$ <u>6,441.00</u>
19.	15" RCP	36	LF	\$ <u>51.00</u>	\$ <u>1,836.00</u>
20.	45" x 29" RCPHE	80	LF	\$ <u>150.00</u>	\$ <u>12,000.00</u>
21.	53" x 34" RCPHE	83	LF	\$ <u>180.00</u>	\$ <u>14,940.00</u>
22.	Curb Inlet Type 1 (L=10', W=3')	7	EA	\$ <u>6,000.00</u>	\$ <u>42,000.00</u>
23.	Curb Inlet Type 1 (L=10', W=4')	2	EA	\$ <u>6,200.00</u>	\$ <u>12,400.00</u>
24.	Curb Inlet Type 1 (L=10', W=5')	1	EA	\$ <u>6,800.00</u>	\$ <u>6,800.00</u>
25.	Curb Inlet Type 1 (L=10', W=6')	4	EA	\$ <u>7,000.00</u>	\$ <u>28,000.00</u>
26.	Precast Concrete Manhole (6')	1	EA	\$ <u>6,200.00</u>	\$ <u>6,200.00</u>
27.	Precast Concrete Manhole (8')	2	EA	\$ <u>10,000.00</u>	\$ <u>20,000.00</u>
28.	Water Service Replacement	40	EA	\$ <u>2,000.00</u>	\$ <u>80,000.00</u>
29.	Fire Hydrant Assembly	1	EA	\$ <u>3,800.00</u>	\$ <u>3,800.00</u>
30.	Mobilization	1	LS	\$ <u>72,500.00</u>	\$ <u>72,500.00</u>
31.	Construction Staking	1	LS	\$ <u>15,000.00</u>	\$ <u>15,000.00</u>
32.	Site Preparation & Restoration	1	LS	\$ <u>8,500.00</u>	\$ <u>8,500.00</u>
33.	Existing Structure Removal	16	EA	\$ <u>400.00</u>	\$ <u>6,400.00</u>
34.	SWS Pipe Removal	578	LF	\$ <u>22.00</u>	\$ <u>12,716.00</u>
35.	Erosion Control	1	LS	\$ <u>2100.00</u>	\$ <u>2100.00</u>
36.	Signing	1	LS	\$ <u>2125.00</u>	\$ <u>2125.00</u>
37.	Pavement Marking	1	LS	\$ <u>31,500.00</u>	\$ <u>31,500.00</u>
38.	Traffic Control	1	LS	\$ <u>35,000.00</u>	\$ <u>35,000.00</u>
39.	Milner Waterline Adjustment	1	EA	\$ <u>11,500.00</u>	\$ <u>11,500.00</u>
40.	Waterline Adjustment (8")	4	EA	\$ <u>5300.00</u>	\$ <u>21,200.00</u>
41.	Waterline Adjustment (12")	4	EA	\$ <u>7,000.00</u>	\$ <u>28,000.00</u>

TOTAL BID ALTERNATE A (in figures) \$2,057,145.65

TOTAL BID ALTERNATE A (in words) TWO MILLION FIFTY SEVEN THOUSAND ONE HUNDRED FORTY-FIVE DOLLARS AND SIXTY-FIVE CENTS.

ADD ALTERNATE 1

<u>Item No.</u>	<u>Description</u>	<u>Approx. Quantities</u>	<u>Unit</u>	<u>Unit Price In Figures</u>	<u>Amount In Figures</u>
1.	Deduct 8" Concrete Pavement (AE)(NRDJ)	-2754	SY	\$ <u>56.75</u>	\$ <u><156,289.50></u>
2.	11" Concrete Pavement (AE)(NRDJ)	736	SY	\$ <u>95.00</u>	\$ <u>69,920.00</u>
3.	Concrete Brick Pavers	2018	SY	\$ <u>105.00</u>	\$ <u>211,890.00</u>
4.	Unclassified Excavation	230	CY	\$ <u>4.50</u>	\$ <u>1,035.00</u>

TOTAL BID ADD ALTERNATE 1 (in figures) \$ 126,555.50

TOTAL BID ADD ALTERNATE 1 (in words) ONE HUNDRED TWENTY SIX THOUSAND FIVE HUNDRED FIFTY-FIVE DOLLARS AND FIFTY CENTS.

ADD ALTERNATE 2

<u>Item No.</u>	<u>Description</u>	<u>Approx. Quantities</u>	<u>Unit</u>	<u>Unit Price In Figures</u>	<u>Amount In Figures</u>
1.	Brick Crosswalk	1372	LF	\$ <u>7.70</u>	\$ <u>10,564.40</u>
TOTAL BID ADD ALTERNATE 2 (in figures)					\$ <u>10,564.40</u>
TOTAL BID ADD ALTERNATE 2 (in words)					<u>TEN THOUSAND FIVE HUNDRED SIXTY FOUR DOLLARS AND FORTY CENTS</u>

ADD ALTERNATE 3

<u>Item No.</u>	<u>Description</u>	<u>Approx. Quantities</u>	<u>Unit</u>	<u>Unit Price In Figures</u>	<u>Amount In Figures</u>
1.	Electrical/Lighting	1	LS	\$ <u>179,000.00</u>	\$ <u>179,000.00</u>
TOTAL BID ADD ALTERNATE 3 (in figures)					\$ <u>179,000.00</u>
TOTAL BID ADD ALTERNATE 3 (in words)					<u>ONE HUNDRED SEVENTY NINE THOUSAND DOLLARS EVEN</u>

ADD ALTERNATE 4

<u>Item No.</u>	<u>Description</u>	<u>Approx. Quantities</u>	<u>Unit</u>	<u>Unit Price In Figures</u>	<u>Amount In Figures</u>
1.	Monument Sign Concrete Base	1	EA	\$ <u>1,500.00</u>	\$ <u>1,500.00</u>
TOTAL BID ADD ALTERNATE 4 (in figures)					\$ <u>1,500.00</u>
TOTAL BID ADD ALTERNATE 4 (in words)					<u>ONE THOUSAND FIVE HUNDRED DOLLARS EVEN</u>

3. The Undersigned Bidder understand the above quantities of work to be done are approximate only and are intended principally to serve as a guide in evaluating the bids. Payments will be made based on Measurement and Payment section of the Project Manual.
4. The Undersigned agrees, upon written notice of the acceptance of this bid within 45 days after the opening of the bids, that he will execute the Contract in accordance with the bid as accepted within ten (10) days after the prescribed forms are presented for signature.
5. The Undersigned further agrees that if awarded the Contract, he will commence work within ten (10) calendar days after receipt of Notice to Proceed, and that he will complete the work within:

<u>150</u>	calendar days for Base Bid
<u>220</u>	calendar days for Alternate A

 with an additional contract time of:

<u>50</u>	calendar days for Add Alternate 1
<u>5</u>	calendar days for Add Alternate 2
<u>75</u>	calendar days for Add Alternate 3
<u>2</u>	calendar days for Add Alternate 4

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Shears Division

of the date of mailing or delivery of the Notice to Proceed; and that he shall pay liquidated damages in the amount of Six Hundred Dollars (\$600) for each calendar day, exclusive of Sundays and holidays, the work remains uncompleted after expiration of Contract time.

The Contractor further agrees substantial completion of the Project shall occur no later than October 31, 2015.

The Contractor further agrees he will commence the work on or about, MARCH 23, 20 15.

6. As an evidence of good faith in submitting this Proposal, the Undersigned encloses a cashier's check, a certified check, or a bid bond in the amount of 5% (five percent) of the bid which in case he refuses or fails to accept an award and to enter into a contract and file the required bonds within the prescribed time, shall be forfeited as liquidated damages.
7. The Undersigned hereby declares the only parties interested in this proposal are named herein, that this Proposal is made without collusion with any other person, firm or corporation, that no member of the City Commission, officer or agent of the City of Hays, Kansas, is directly or indirectly financially interested in this bid.
8. Addendum Nos. 1, 2 were received and considered in the preparation of this Proposal.

Dated in HAYS, KS this 28th day of JANUARY, 20 15

SIGNATURE OF BIDDER

If an individual: _____ doing business
as _____

If a partnership: _____ member of
firm by _____

If a corporation: _____
by [Signature]
Title Vice President/Asst. Secretary



Business Address of Bidder: P.O. BOX 190
HAYS, KANSAS
67601

Commission Work Session Agenda

Memo

From: John Braun, Assistant Director of Public Works

Work Session: February 17, 2015

Subject: 2015 Street Maintenance – Award of Bid

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

Summary

Bids have been received for 2015 Street Maintenance Projects. Those projects include the Chip Seal of approximately 5.6 miles of asphalt streets, poly patch of asphalt streets in various locations, reconstruction of 12th Street east of Canterbury, and the repair of brick streets on Ash from 14th to 17th Street. The amount of work proposed totals \$459,178 awarded to 4 different contractors. The work would be accomplished at various locations and various times throughout the year.

Background

At the November 20, 2104 City Commission Work Session, staff presented a Street Maintenance Plan for 2015. The plan presented to the City Commission at that time called for \$533,000 of contracted work to include Chip Seal, Poly-patch, curb and brick repair, and the reconstruction of 12th Street east of Canterbury; along with \$105,000 of in-house work to include the rehabilitation of the 600 block of E 5th Street. Those projects combined with \$20,000 for the Sidewalk Rebate program totaled **\$658,000**, which is the amount of Special Highway Funds available in 2015.

Discussion

Bids from five (5) different contractors were received on January 14, 2015. The tabulation of bids is attached. The bid documents were structured so that contractors could bid on one or more of four different projects, and separate contracts could be awarded for each type of work. The projects are detailed below, and a map showing the location of all projects is attached.

1. Chip Seal

Chip Seal is the process of applying a thin coat of oil to the surface of asphalt streets immediately followed by a coating of chipped stone, which is roller packed embedding it into the oil and old asphalt surface. This maintenance treatment has been the “workhorse” of the City’s Street Maintenance for residential and collector asphalt streets for the last 9 years. This year’s project includes over 5 miles of residential streets mainly in the area west of Vine Street. The low bid came from B&H Paving of Scott City, KS. B&H Paving has performed Chip Seal

in Hays many times in the past. They have considerable experience in this type of work and a good reputation. At the unit bid price of \$1.898 per SY, the cost is **\$208,740.14**.

2. Polypatch

This project called for 3000 gallons of polypatch to be used on various streets throughout the City to fill large cracks and depressions. The City has used polypatch the last 10 years or more, and it has proven to be the best product for this purpose. Some of the quantity will be used to prepare the streets scheduled for chip seal. The remainder of the quantity will be used as needed to make repairs to streets that may fail in spots due to winter weather. The low bid came from Sweeney Pavement Maintenance of Hays, KS. They had the contract for Polypatch last year and did a good job. The unit bid price of \$16.475 per gallon results in a contract price of **\$49,425**.

3. Curb and Brick Repair

The project calls for the repair of the curbing and brick street mainly in the are of Ash Street between 14th and 17th Street. It is similar to Curb and Brick Repair projects accomplished over the last several years. The low bid came from Stripe and Seal of Hays with a price of **\$71,233**.

4. 12th Street Reconstruction

This project involves the reconstruction of one block of 12th Street between Canterbury Drive and the Hays High School student parking lot. This section of 12th Street was bid since the asphalt has failed past the point of no return, it was listed as a priority in the 2011 Pavement Condition Assessment, and the size of the project fit the funding available. This will be a full depth pavement replacement. The asphalt will be removed, the failed subgrade will be replaced with a geogrid and 6 inches of crushed concrete, and 8” of concrete pavement will be installed. JCorp of Hays is the low bidder on this project with a bid of **\$129,780**.

All low bids were below staff’s estimate of cost and the amount presented at the November 20, 2014 City Commission Work Session.

Legal Consideration

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

Financial Consideration

Currently street maintenance is financed through the Special Highway Fund, which receives revenue from the State of Kansas mainly from fuel tax reimbursements. The 2015 Budget included \$658,082 in the Projects Line Item of the Special Highway Budget. Subtracting out \$105,000 for in-house work and \$20,000 for the Sidewalk Rebate Program leaves \$533,082 available for the projects just bid.

A summary of staff’s recommendation for award of bid is listed below:

Project	Contractor	Budgeted Amount	Low Bid
Chip Seal	B&H	\$ 233,000.00	\$208,740.14
12th Street Reconstruct	JCorp	\$ 165,000.00	\$129,780.00
Polypatch	Sweeney	\$ 60,000.00	\$49,425.00
Curb & Brick Repair	Stripe & Seal	\$ 75,000.00	\$71,233.00
Total		\$ 533,000.00	\$459,178.14

Awarding the \$459,178.14, allocating \$105,000 for in-house work, and \$20,000 for the Sidewalk Rebate Program, will leave \$73,821.86 in the project line item and \$50,000 in the contingency line of the Special Highway Budget. It is appropriate to keep approximately 10% (\$45K) for unforeseens, which allows approximately \$75,000 to be used for additional work or other projects.

Options

The City Commission has the following options:

- Award contracts as recommended by staff
- Provide alternate direction to City Staff
- Do nothing

Recommendation

Staff recommends awarding the contracts to the low bidders as presented.

Action Requested

Authorize the City Manager to enter contracts for construction as follows, all to be funded out of Special Highway:

- B&H Paving in the amount of \$208,740.14 for Chip Seal;
- JCorp in the amount of \$129,780 for the Reconstruction of 12th Street
- Sweeney Pavement Maintenance in the amount of \$49,425 for Polypatch
- Stripe and Seal in the amount of \$71,233 for Curb and Brick Repair

Supporting Documentation

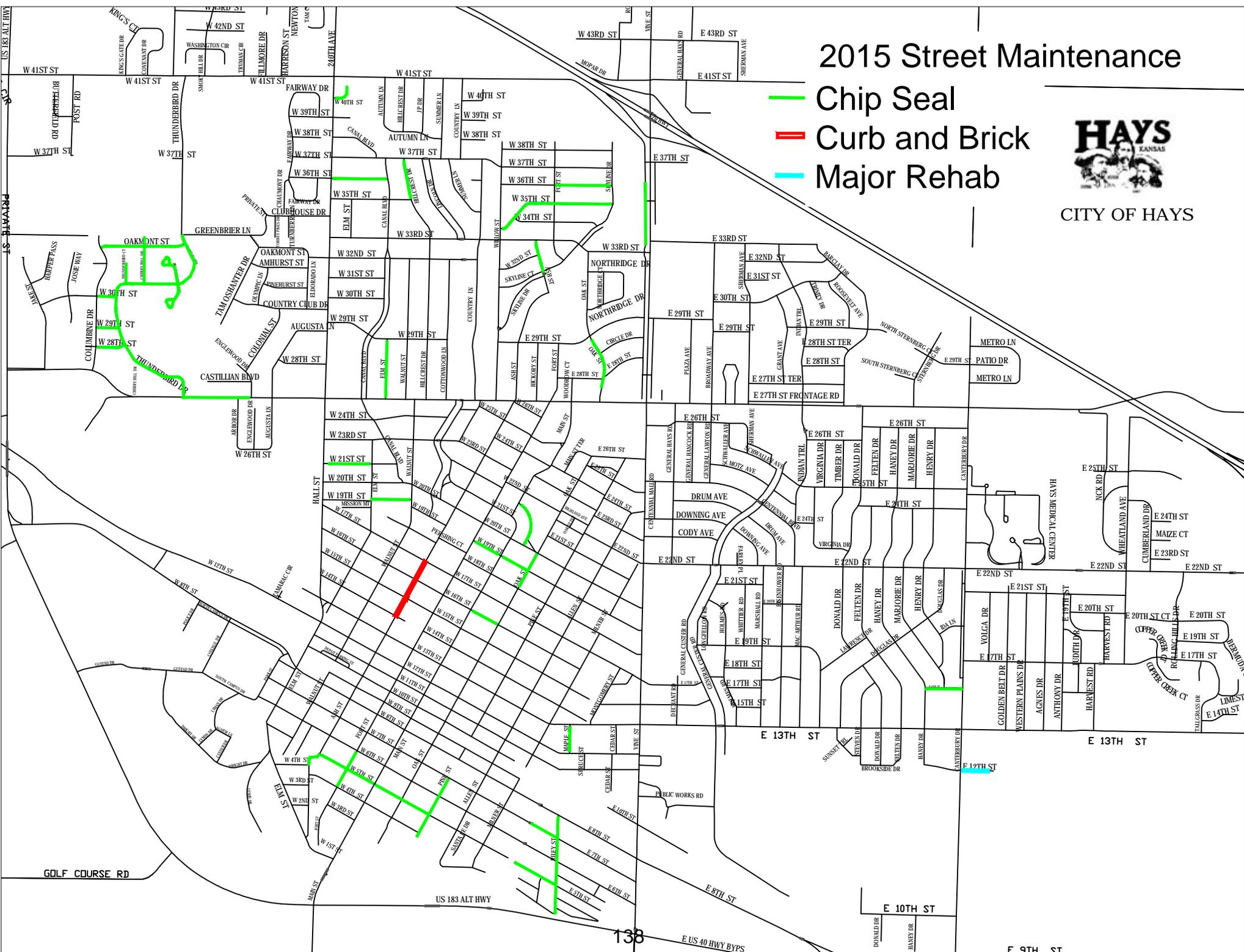
Location Map
Bid Tabulation

2015 Street Maintenance

- Chip Seal
- Curb and Brick
- Major Rehab



CITY OF HAYS



City of Hays Project 2014-22, 2015 Street Maintenance

BID DATE: January 14, 2015

Contractors		J-Corp		Stripe & Seal		Apac		B & H Paving		Sweeney Pavement	
Bid #	Description	Quantity	Unit	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total
1	Chip Seal with CRS-1HP	109,979	SY		No Bid		No Bid	\$ 1.95	\$ 214,459.05	\$ 1.898	\$ 208,740.14
2	Street Reconstruction Mechanically Stabilized Subgrade	1,645	SY	\$ 19.00	\$ 31,255.00	\$ 18.22	\$ 29,971.90	\$ 19.50	\$ 32,077.50		
2a	8" NRDJ Pavement	1,645	SY	\$ 57.00	\$ 93,765.00	\$ 56.00	\$ 92,120.00	\$ 67.75	\$ 111,448.75		
2b	Pavement Markings Arrow	4	EA	\$ 250.00	\$ 1,000.00	\$ 315.84	\$ 1,263.36	\$ 500.00	\$ 2,000.00		
2c	Pavement Markings 6" Solid White	75	LF	\$ 4.00	\$ 300.00	\$ 16.21	\$ 1,215.75	\$ 20.00	\$ 1,500.00		
2d	Pavement Markings 4" Double Yellow	415	LF	\$ 4.00	\$ 1,660.00	\$ 16.21	\$ 6,727.15	\$ 10.00	\$ 4,150.00		
2e	Temporary Surface	1	LS	\$ 1,800.00	\$ 1,800.00	\$ 1,200.00	\$ 1,200.00	\$ 850.00	\$ 850.00		
2f	Total Bid Item #2				\$ 129,780.00		\$ 132,498.16		\$ 152,026.25		No Bid
3	Polypatch	3,000	Gallon		No Bid	\$ 19.80	\$ 59,400.00		No Bid		No Bid
4	Curb and Brick Repair	439	SY	\$ 23.00	\$ 10,097.00	\$ 24.00	\$ 10,536.00	\$ 35.15	\$ 15,430.85		
4a	Concrete Removal	75	LF	\$ 6.00	\$ 450.00	\$ 5.00	\$ 375.00	\$ 6.45	\$ 483.75		
4b	Saw Cut	835	LF	\$ 25.00	\$ 20,875.00	\$ 25.00	\$ 20,875.00	\$ 43.70	\$ 36,489.50		
4c	Curb and Gutter	18	SY	\$ 64.00	\$ 1,152.00	\$ 60.00	\$ 1,080.00	\$ 85.50	\$ 1,539.00		
4d	Concrete Pavement 6"	94	SY	\$ 68.00	\$ 6,392.00	\$ 60.00	\$ 5,640.00	\$ 87.10	\$ 8,187.40		
4e	Concrete Pavement 8"	1	LF	\$ 26.00	\$ 26.00	\$ 35.00	\$ 35.00	\$ 47.15	\$ 47.15		
4f	Integral Curb	853	SF	\$ 6.50	\$ 5,544.50	\$ 5.00	\$ 4,265.00	\$ 5.80	\$ 4,947.40		
4g	Sidewalk, 4"	1	LF	\$ 15.00	\$ 15.00	\$ 12.00	\$ 12.00	\$ 47.15	\$ 47.15		
4h	Sidewalk Curb	24	LF	\$ 8.25	\$ 198.00	\$ 7.00	\$ 168.00	\$ 12.20	\$ 292.80		
4i	Thickened Edge	253	SY	\$ 105.00	\$ 26,565.00	\$ 99.00	\$ 25,047.00	\$ 120.50	\$ 30,486.50		
4j	Brick Patching Truncated Dome Surface for ADA Ramps	80	SF	\$ 50.00	\$ 4,000.00	\$ 40.00	\$ 3,200.00	\$ 42.05	\$ 3,364.00		
4k	Total Bid Item #4				\$ 75,314.50		\$ 71,233.00		\$ 101,315.50		No Bid

Commission Work Session Agenda

Memo

From: Toby Dougherty, City Manager

Work Session: December 30, 2014

Subject: CID Policy Discussion

Person(s) Responsible: Toby Dougherty, City Manager

Summary

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

Background

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

Discussion

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

Legal Consideration

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

Financial Consideration

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

Action Requested

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

Supporting Documentation

Economic Development Policy

COMMUNITY IMPROVEMENT DISTRICT POLICY
PEER CITIES COMPARISON

CITY	% DEVELOPER REQUIREMENT	CID POLICY	CID USE RESTRICTIONS	USE	SALES TAX RATE	NOTES
Great Bend	NO	NO	Follows State Statute	Sutherlands	1.00%	
				Golden Belt Cinema 6	2.00%	
Hays	NO	YES	YES	Holiday Inn	2.00%	
Garden City	NO	NO	Follows State Statute	Hotel, Water Park, Od Chicago, Small Retail Center	1.00%	
Dodge City	NO	NO	Follows State Statute	IHOP	1.00%	
Junction City			(no response)	Goody's Plaza	1.75%	
Lenexa	NO	YES	Follows State Statute	Greystone South Plaza	1.00%	See explanation
				Orchard Corners	1.00%	
				Prairie Creek	1.00%	
				Quivira 95	1.00%	
Mission			(no response)	Crossing	1.00%	
Prairie Village	NO	NO	Follows State Statute	Corinth Square	1.00%	
				The Village	1.00%	
Hutchinson	NO	YES	Follows State Statute	Fairfield Inn	2.00%	Requires Sign to note additional sales tax collection at site.
				Hobby Lobby/Orschlen	1.00%	
				Mall Out lot	1.00%	
Salina	YES	YES	Follows State Statute	NONE		25% investment required, minimum of \$500,000 in area of decline & \$1 million elsewhere. Allows more than Hays. Allows GO Bonding & Special Assess
Pittsburg	YES	NO	YES	NONE		Req 40% developer investment
Emporia	NO	YES	Follows State Statute	Initial underway for CBD hotel/Convention		Contribute equity or private financing of at least 20%

**List does not include TDD or STAR sales tax projects/policies or other incentives such as TIF, etc*

Lenexa

CRITERIA

The Governing Body shall consider establishment of a CID when it determines it is in the best interest of the City and provided the Project meets one or more of the following criteria:

1. Furthers an identified Governing Body goal.
2. Attracts and promotes mixed use development.
3. Has unique site constraints making development more difficult and costly.
4. Substantially promotes economic development, investment or reinvestment in the community.
5. Incorporates higher standards for the design and construction of improvements than the minimum Code required standards.
6. Utilizes LEED construction with the businesses located therein using sustainable best practices.
7. Encourages retail projects that enhance the retail base by either attracting new sales or capturing sales moving to other markets.
8. Encourages or enhances public transportation opportunities.
9. Provides for the construction of facilities that promote tourism or enhance the quality of life within the City.
10. Incorporates construction of public infrastructure.

FINANCE TEAM CONSIDERATION

The Finance Team shall review each application and petition and make its recommendation for approval to the Governing Body. In determining whether or not to recommend approval of a CID petition and the method of financing, the Finance Team will review and evaluate the following:

1. Whether or not creation of a CID meets one or more of the criteria set forth in GB05-I-4A;
2. The total development costs and investment, including estimated Project costs for which public financing is sought;
3. Sources of funding, including the amount of equity funding in comparison to public financing;
4. Similar experience and financial stability of Developer;
5. Whether or not tenants for the Project are in place and the nature and quality of the tenants;
6. Economic competition the Project has and is expected to have in the future;
7. The amount and purpose of the funding request, including the percentage of funding for capital costs; operational costs; and public costs.
8. If bonds are requested, the projected debt service coverage from projected revenues; any additional security pledged by the Developer; and the marketability of the bonds; and
9. Whatever other factors or considerations the Finance Team believes the Governing Body would find relevant to its decision.

Hutchinson

SIGNAGE REQUIREMENT FOR CID SALES TAX

Upon establishment of a CID utilizing sales tax as the source of CID revenue, each business shall have a sign prominently displayed at each public entrance for the duration of time that the CID sales tax is collected. The sign shall be a minimum size of 8.5 inches by 5.5 inches with a font size of at least 28. The sign shall at a minimum contain the following:

"This project made possible by Community Improvement District Financing. Additional Community Improvement District sales tax of ____% is collected here.

Salina

Financial and Fiscal Impact.

The applicant must detail the proposed method and amount of financing, including any public financial participation requested. The applicant must financially participate in the project in an amount that is at least 25 percent of the total project cost.

PROJECT FINANCING

CID financing is available in the minimum amounts of \$ 500,000 for an Area of Change and 1, 000,000 for an area outside of an Area of Change. Off-site public infrastructure enhancements beyond those typically required for development purposes may account for up to 10% of total costs, provided that they are adjacent to or nearby the project site and contribute to the success of the project. Where applicable, it is the intent of this policy that project costs be allocated between sales tax generators and non-generators as equitably as possible, though the CIO boundaries need not include all property that will benefit from the project.

Pittsburg (DRAFT)

Whether public incentives in addition to CID incentives have been approved or have been requested for the proposed redevelopment project. It is the Governing Body's policy not to provide public financing where total public financing sources for a proposed redevelopment project would exceed 40% of the total project costs. The Governing Body may consider the creation of a CID which exceeds this percentage of public participation when, in the opinion of the Governing Body and at its sole discretion, the proposed CID projects would be of a unique and extraordinary benefit to the City.

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

SECTION 1. INTRODUCTION

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

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

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

SECTION 2. DEFINITIONS

“City” means the City of Hays, Kansas.

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

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

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

“Environmentally friendly businesses” shall mean:

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

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

“Kansas basic industry” shall mean:

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

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

SECTION 3. INDUSTRIAL ECONOMIC DEVELOPMENT

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

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

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

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

SECTION 4. RETAIL DEVELOPMENT

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

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

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

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

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

SECTION 5. ECONOMIC DEVELOPMENT APPLICATION

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

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

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

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

SECTION 6. FEE SCHEDULE

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

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

SECTION 7. PROPERTY TAX ABATEMENT POLICY

A. Policy.

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

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

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

B. Abatement Amount and Term.

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

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

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

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

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

C. Procedure.

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

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

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

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

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

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

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

D. Payment of PILOTs.

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

SECTION 8. INDUSTRIAL REVENUE BOND POLICY

A. Policy.

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

B. Sales Tax Exemption for Construction Materials.

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

C. Cost Reimbursement/Issuance Fee.

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

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

SECTION 9. COMMUNITY IMPROVEMENT DISTRICT POLICY

A: POLICY STATEMENT

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

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

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

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

B: CRITERIA

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

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

C: PROJECT ELIGIBILITY

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

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

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

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

D: METHOD OF FINANCING

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

E: PROCESS

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

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

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

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

F: APPLICANT REQUIREMENTS

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

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

G: PAYMENT OF CERTAIN COSTS

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

H: AUTHORITY OF GOVERNING BODY

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

SECTION 10. RURAL HOUSING IMPROVEMENT DISTRICT POLICY

A: POLICY STATEMENT

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

B. CRITERIA

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

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

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

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

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

C: ELIGIBLE COSTS

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

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

D: METHOD OF FINANCING

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

E: PROCESS

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

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

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

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

F: PAYMENT OF CERTAIN COSTS

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

G: AUTHORITY OF THE GOVERNING BODY

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

I: REVIEW

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

SECTION 11. JOB BOUNTY PROGRAM

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

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

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

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

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

SECTION 12. MEMORANDUM OF UNDERSTANDING

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

SECTION 13. NOTICE AND HEARING

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

SECTION 14. PERFORMANCE AGREEMENT

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

SECTION 15. COST BENEFIT ANALYSIS

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

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

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

SECTION 16. ANNUAL REVIEW FOR COMPLIANCE

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

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

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

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

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

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

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

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

SECTION 17. TRANSFER OF OWNERSHIP OR USE

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

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

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

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

SECTION 19. WAIVER OF STATEMENT REQUIREMENTS

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

SECTION 20. AMENDMENTS

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

SECTION 21. TAX CLEARANCE CERTIFICATION

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

SECTION 22. MANDATORY REVIEW

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