

# Memo

To: City Commission  
From: Toby Dougherty, City Manager  
Date: 5-15-15  
Re: May 21, 2015 Work Session

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Please find the attached agenda and supporting documentation for the May 21, 2015 Work Session.

Item 2 – Contract Sewer Main Cleaning

Please refer to the attached memorandum from Bernie Kitten, Director of Utilities, regarding the contract sewer cleaning project for 2015. This project was budgeted for and has been very successful in the past two years.

Item 3 – Sale and Use of Fireworks for 2015 Fourth of July Holiday

According to the City of Hays Code of Ordinances, the City Commission needs to make a determination whether or not to allow the sale and use of fireworks at the second regular meeting in May. Assuming the City Commission authorizes the sale and use of fireworks, it will be in accordance with the ordinance and State Statute on the subject.

Item 4 – Removal of CID Section from Economic Development Policy

Commissioner Schwaller asked that discussion be held on the possibility of removing the CID section from the City's Economic Development Policy. The Economic Development Policy is included with this memo. City staff awaits further discussion and direction from the Commission on the subject.

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**CITY OF HAYS  
CITY COMMISSION WORK SESSION  
THURSDAY, MAY 21, 2015 – 6:30 P.M.  
AGENDA**

1. **ITEM FOR REVIEW: [May 7, 2015 Work Session Notes \(PAGE 1\)](#)**  
DEPARTMENT HEAD RESPONSIBLE: Kim Rupp, Director of Finance
2. **ITEM FOR REVIEW: [Contract Sewer Main Cleaning \(PAGE 5\)](#)**  
DEPARTMENT HEAD RESPONSIBLE: Bernie Kitten, Director of Utilities
3. **ITEM FOR REVIEW: [Sale and Use of Fireworks for 2015 Fourth of July Holiday \(PAGE 19\)](#)**  
PERSONS RESPONSIBLE: City Commission
4. **ITEM FOR REVIEW: [Removal of CID Section from Economic Development Policy \(PAGE 23\)](#)**  
PERSON RESPONSIBLE: Commissioner Schwaller
5. **OTHER ITEMS FOR DISCUSSION**
6. **EXECUTIVE SESSION (IF REQUIRED)**
7. **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, May 7, 2015 – 6:30 p.m.

Present: Eber Phelps, Shaun Musil, James Meier, Henry Schwaller IV, Lance Jones, John Bird and Toby Dougherty

**April 16, 2015 Work Session Notes**

There were no corrections or additions to the minutes of the work session held on April 16, 2015; the minutes stand approved as presented.

**Crosswind Runway Rehabilitation – Award of Bid and Grant Application**

Assistant Director of Public Works, John Braun, informed the Commissioners that the crosswind runway (4-22) was constructed in 2003 by Castle Rock Construction Co. of Topeka, KS. Since that time, there has been some deterioration and failure of the concrete pavement. Subsequent inspections and correspondence with the Federal Aviation Administration (FAA) resulted in listing this project on the Airport Capital Improvement Plan as the top ranked project. In October 2013, FAA issued a letter providing notice of their intent to fund the project, and in November 2014, the City entered an agreement with Burns and McDonnell Engineers for the design of improvements.

Bids for the rehabilitation of runway (4-22) were opened on April 29, 2015. The bid documents were prepared with a base bid plus two alternates.

- The base bid includes removal and replacement of failed pavement panels, repairing spalled joints, and repainting the pavement markings.
- Alternate one includes additional quantities of removal and replacement to account for any additional failures that may have occurred since project development.
- Alternate two includes the resealing of all the pavement joints on the runway.

Bids were received from two contractors, with the lowest bid being from National Sealant & Concrete, LLC of Oconto, Wisconsin, with the price for the base bid plus alternates one and two being \$651,672.19. Approximately 90% of the cost would be reimbursed by the FAA, with the City being responsible for 10%. The City's matching share of \$65,167.22 would be funded out of the Airport Improvement Fund.

Contingent upon FAA awarding a grant for federal funding, at the May 14, 2015 Commission meeting, Commissioners will be requested to accept the bid for the base bid plus alternates one and two from National Sealant & Concrete, LLC in the amount of \$651,672.19 to rehabilitate runway 4-22 at the Hays Regional Airport; authorize staff to submit a grant application to FAA for federal assistance in funding this project; and authorize the City Manager to take all actions necessary to carry out this project including the execution of the FAA Grant when offered.

### **Crosswind Runway Rehabilitation – Construction Engineering**

Inspection and observation of the construction of the Crosswind Runway Rehabilitation project needs to be accomplished according to FAA guidelines to satisfy the terms of the grant funding and to assure proper adherence to the plans and quality construction. The City's Airport Engineering Consultant has presented a scope of services and fees to accomplish the required construction oversight and project documentation. The cost for said services is \$99,780, of which, 90% will be funded by the FAA, leaving \$9,978.00 to be funded by the City.

Contingent upon FAA awarding a grant for federal funding, at the May 14, 2015 Commission meeting, Commissioners will be requested to approve the work authorization from Burns and McDonnell (BMcD) in the amount of \$99,780.00, and authorize the City Manager to execute Authorization No. 8.

### **Extension of Time for Newly Seeded Lawn Permit**

Water Conservation Specialist, Jason Riegel, proposed changes to the City's newly seeded lawn permit to make the program more flexible to weather conditions, site conditions, and vegetative type. Current regulation can discourage the seeding of certain types of warm season grasses as the permit does not allow adequate time and no extensions are allowed. With the addition of the turf conversion program staff wants to ensure all hindrances are removed for those who want to plant warm season grasses during optimal times of the year.

The City issues newly seeded lawn watering permits for warm season grasses during the summer between noon and 7:00 p.m. when outdoor watering is prohibited. This allows the property owner that is seeding a warm season lawn to keep the seed wet during the germination period. It has been determined that certain varieties of bermuda and buffalo grass may require a longer germination period for the seed to grow. Therefore, City staff is recommending the permit be modified to allow for a period longer than the 10 days that the current permit authorizes. City staff will handle the extension on a case-by-case basis depending on the aspect of the lawn, prevailing winds, and the type of grass being planted.

Warm season lawn permits are available from June 1<sup>st</sup> to August 1<sup>st</sup> at no charge and cool season lawn permits are available from August 25<sup>th</sup> to September 30<sup>th</sup> with a \$100 charge.

Commissioner Musil suggested increasing the \$100 fee for cool season lawn permits to discourage planting that type of grass.

At the May 14, 2015 Commission meeting, Commissioners will be requested to approve the changes to the newly seeded lawn permit with the permit fee for cool season grass left blank for discussion with an amount to be filled in at the time a motion is made.

### **Resolution Authorizing for Sale General Obligation Bonds, Series 2015A**

City staff, City Financial Advisor, (George K. Baum & Company), and City Bond Counsel, (Gilmore and Bell, P.C.) have been working on documentation in

preparation for the sale of General Obligation (GO) Bonds, Series 2015A. The Series 2015A Bonds will reimburse the City for expenditures related to Golden Belt Estates 5<sup>th</sup> Addition and 46<sup>th</sup> Street 2<sup>nd</sup> Addition Special Benefit Districts. Subject to resizing the approximate principal amount of bonds to be issued is \$1,010,000, and the bonds are scheduled to mature in 15 years.

At the May 14, 2015 Commission meeting, Commissioners will be requested to approve a resolution authorizing the offering for sale of General Obligation Bonds, Series 2015A in the amount of \$1,010,000.

### **City Commission Rules of Procedure**

Every year, upon the reorganization of the Governing Body, the City Commission adopts its Rules of Procedure. No changes were requested to the 2014 Rules of Procedure.

### **Other Items for Discussion**

City Manager, Toby Dougherty, informed the Commissioners that Public Works Director, I. D. Creech, will be retiring in June and Assistant Director of Public Works, John Braun, will be named interim Public Works Director; a search for his replacement will be conducted in the fall.

Discussion was held regarding the possible development of a travel plaza on Interstate 70, but no formal presentation has been made to the City.

Chairperson Phelps commented that the tours of the different City departments offered to the Commissioners are informative and stated he is proud of the quality and professionalism of City staff.

The work session was adjourned at 7:12 p.m.

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

Brenda Kitchen – City Clerk

# Commission Work Session Agenda

## Memo

**From:** Bernie Kitten, Utilities Director

**Work Session:** May 21, 2015

**Subject:** Contract Sewer Cleaning, Third Year

**Person(s) Responsible:** Bernie Kitten, Director of Utilities

### Summary

The Utilities Department initiated a multi year program to clean sewer mains in 2013. Bids were solicited with a contract document that had a provision for contract annual renewal. Mayer Specialty Service, LLC was chosen in 2013 at \$1.19 per linear foot. In summer of 2013 they cleaned and videoed 19 miles of sewer mains. Staff was very pleased with the work. Mayer Specialty agreed to continue the contract with a 1.5% increase from \$1.19 to \$1.21 per foot for 2014. Mayer Specialty cleaned and videoed 18 miles of sewer mains in the summer of 2014 and again staff was very pleased with the work. Mayer Specialty has agreed to continue the contract with a 2% increase from \$1.21 to \$1.23 per foot for 2015.

Staff recommends we continue the contract at \$1.23 per foot with Mayer Specialty Services, LLC with a not to exceed \$120,000.

### Background

Proper operation and maintenance of a collection system is required by the city's wastewater discharge permit. Problems caused by a lack of sewer cleaning include: sewer backups, manhole overflows, public exposure to raw sewage, and regulatory fines. On average, municipalities are cleaning approximately 29% of their sewer lines per year. In Hays, our goal is 33% (38 miles) per year.

The Utilities department has existing staff that does emergency call out for sewer backup removal. They also clean certain problem lines every 6 months. Currently, there is not enough utility staff to achieve the regular line cleaning goal of one third of the town.

In the past 2 years, city operators clean the "flushing maintenance route" and about one sixth of the regular lines by using one Operator and one summer helper. We contracted Mayer Specialties, who cleaned one sixth, 19 miles. This allowed Utilities to reach the one third goal of cleaning for 2013 and 2014. Our intent is to again hire a contractor in 2015 to do 1/6 of the sewers and the Utilities operators to do 1/6 to reach the 2015 goal of 1/3 (38 miles).

## **Discussion**

To begin a progressive program to clean sewer lines in 2013, bids were solicited with a contract document that had a provision for contract annual renewal. The price was limited to a 3% increase per foot rate. Three bids were received in 2013 to clean and video about 1/6 of the sewer lines. (19Miles).

Mayer Specialty Service, LLC was chosen in 2013 at \$1.19 per linear foot. In summer of 2013 they cleaned and videoed 19 mile of sewer. Staff was very pleased with the work. They completed the work in a timely manner. They placed door hangers on all affected customers. They handled customer problems professionally and promptly with follow up. They assisted our IT staff with getting the video software operational. The person that runs the video camera was experienced and accurate in his logs.

The video that Mayer's captures as they clean will provide early detection of flaws and will allow repairs before catastrophic failure. In 2013 and again in 2014 many cracks, holes and tree root clog's where seen. The 2013 and 2014 video is being processed by the IT and Utilities Department to create work orders for repairs and root removal. City Crews have started the root removal and chemical treatment recently, based on sites videoed. Our goal is a baseline video of all 114 miles of sewer lines over the next 6 years to create a record of this asset. We will be able to go back and compare baseline with current to see if flaws are changing and require expensive repair.

The Utilities Department has developed a good working relationship with Mayer. As detailed above they did very good work in 2013 and again in 2014. Mayer Specialty has agreed to continue the contract with a 2.0% increase from \$1.21 to \$1.23 per foot for 2015. Staff believes this is a fair price increase and recommends continuing the contract.

## **Legal Consideration**

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

## **Financial Consideration**

For 2015, \$120,000 is budgeted in the Wastewater Other Contractual Services for this service. This is a sole source request and a continuation of the current contract that has an extension clause. Staff negotiated with Mayer Specialty, who has agreed to continue the contract with a 2.0 % increase from \$1.21 charged in 2014 to \$1.23 per foot for 2015.

## **Options**

1. Accept proposal from Mayer Specialty Services, LLC, for contract sewer cleaning, at \$1.23 per linear foot, not to exceed \$120,000.
2. Direct staff to solicit proposals for the 2015 contract sewer cleaning.
3. Provide alternate direction to City Staff

### **Recommendation**

Staff recommends accepting the proposal of \$1.23 per foot, from Mayer Specialty Services, LLC not to exceed \$120,000.

### **Action Requested**

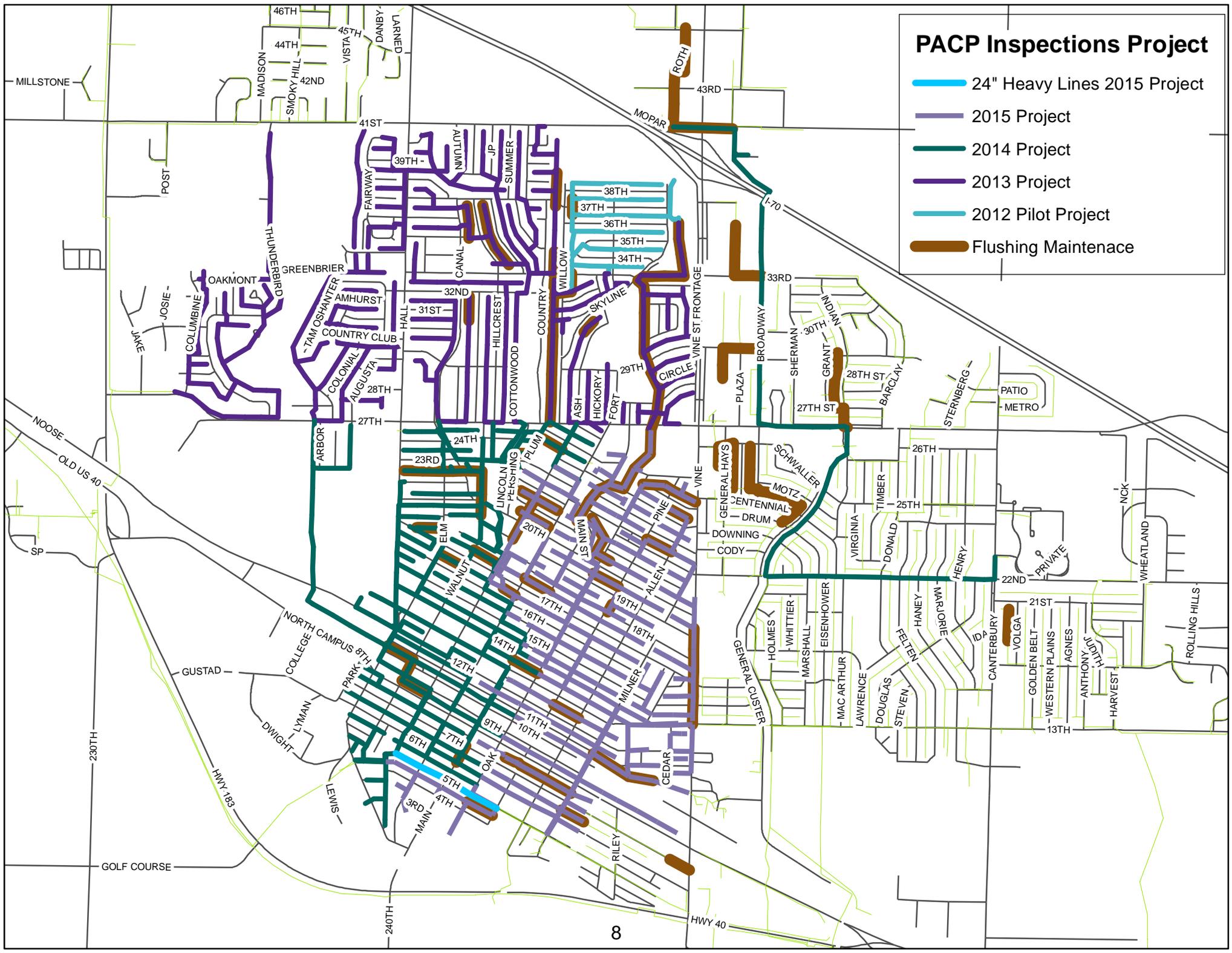
Consider extending the contract for Sewer cleaning and videoing in 2015 by Mayer Specialty Services, LLC at \$1.23 per linear foot not to exceed \$120,000, to be funded from Wastewater Other Contractual Services.

### **Supporting Documentation**

2015 Map of Cleaned and Televised Sewers  
2015 Mayer Contract Sewer Cleaning Agreement  
2013 Bid Tabs with 2015 note  
May 2013 Invitation to Bid

# PACP Inspections Project

- 24" Heavy Lines 2015 Project
- 2015 Project
- 2014 Project
- 2013 Project
- 2012 Pilot Project
- Flushing Maintenance





**Date:** 4/23/2015  
**Phone:** (316) 794-1165  
**Fax:** (316) 794-2717  
**From:** Todd Mayer  
*ML*

<b>Johnny O'Connor</b> Hays, City of 1000 Vine St. Hays, KS 67601	<b>Phone:</b> 785-628-7380 <b>Fax:</b> 785-628-7382 <b>Email:</b> joconnor@haysusa.com
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**Project:** 2015 Contract Sewer Cleaning  
**Bid Date:** 4/23/15

Item	Description	Quantity	Unit	Unit Price	Extended Price
1	Clean, inspect & and televise sanitary sewer lines as per city provided database ready for import into MSS inspection software.	97,560	LF	\$1.23	\$119,998.80

**Customer Responsibilities:**

- Provide community awareness of project.
- Provide clean water for equipment and cleanup and a dumpsite, within reasonable distance, for deposit of debris removed.
- Provide access for our equipment to all locations as needed; locate, uncover & exercise all manhole lids prior to our arrival.
- Any excavation, opening, back filling and/or repair of sewers and/or streets required to remove contractor's equipment caught in the sewer pipe due to sewer defects.
- Provide database with desired cleaning/television inspection district pre-populated with manhole numbers and ready for import into ITPipes software.
- Actual invoice price will be computed utilizing the actual footage cleaned/televised and the per-foot price above.

**Inclusions:**

- Provide notification to affected customers via door hangers supplied by MSS.
- Provide equipment, labor, materials and mobilization to light clean and televise sanitary sewer lines as per original bid specifications.
- Additional footage may be cleaned and televised at the same rate specified above. Project shall not exceed customer's budget unless additional work is requested and approved by the city via change order.
- Cleaning reports provided in paper format; television inspection data provided on a hard drive and formatted as to allow for import into the city's mapping program.
- We are available to start the work in September/October 2015; a pre-con meeting will be scheduled at a convenient time for both parties before any work is started.

**Exclusions:**

- Mayer Specialty Services, LLC accepts no responsibility for damage that may occur because of improperly vented structures, pre-existing conditions or anything introduced into the system which is not normal sewage.
- Heavy cleaning and/or root removal
- Sales Taxes
- Permits or connection fees of any kind
- Bypass Pumping
- Davis-Bacon Wages

Thank you for the opportunity to provide pricing

**ACCEPTANCE OF PROPOSAL AND NOTICE TO PROCEED**

Authorized Signature

Date

No retainage may be withheld out of contracts less than \$1,000.00  
 To ensure pricing, please provide notification of acceptance of this quote within thirty (30) days of bid date

## 2013 Bid Tabs with 2015 Notes

### **Bid Tabulation Sheet Contract Sewer Line Cleaning Bid Opening Date 5-22-13**

Mayer Specialty Services, LLC 831 Industrial Road, PO Box 469 Goddard, KS 67052 316-794-1165 Todd Mayer	\$1.19 per linear foot
Ace Pipe Cleaning, Inc. 4000 Truman Road Kansas City, MO 64127 816-241-2891 Don Uberroth	\$1.50 per linear foot
Johnson Service Co. PO Box 1065 Kearny, NE 68845 308-237-6651 Lewis Hyatt	\$1.87 per linear foot

2014 Note: April 17, 2014

Meyer Specialty has agreed to the extension clause in the 2013 contract.

They agreed to a 1.5 % increase from \$1.19 to \$1.21 per foot for 2014 cleaning.

**2015 Note: May 4, 2015**

**Meyer Specialty has agreed to the extension clause in the 2014 contract.**

**They agreed to a 2.0 % increase from \$1.21 to \$1.23 per foot for 2015 cleaning.**

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1000 VINE STREET, HAYS, KS 67601  
TEL 785-628-7380  
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ROGER MOERKE, UTILITIES SUPT. WASTEWATER  
1498 EAST HWY. 40 BYPASS, HAYS, KS 67601  
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FAX 785-628-7362

MARK DARNALL, UTILITIES SUPERVISOR  
1000 VINE STREET, HAYS, KS 67601  
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NICHOLAS WILLIS, STORMWATER SUPT./WATER  
CONSERVATION SPECIALIST  
1002 VINE ST., HAYS, KS 67601  
TEL 785-628-7350/FAX 785-628-7352

May 6, 2013

### INVITATION TO BID

The City of Hays, Kansas, is inviting sealed bids for CONTRACT SEWER CLEANING.

Sealed bids will be received at the City Clerk's Office, City Hall, P.O. Box 490, 16<sup>th</sup> and Main Street, Hays, Kansas 67601, until **3:00 p.m. on May 22, 2013**. **Faxed bids will not be accepted.** Bids received later than specified hour and date shall be returned unopened. Bids must be marked on the outside envelope, "CONTRACT SEWER CLEANING – DO NOT OPEN UNTIL MAY 22, 2013".

Bids will be opened at 3:00 p.m., May 22, 2013, in the City Commission room. Bids will be reviewed and a recommendation made to the City Manager.

The City reserves the right to reject or accept any or all bids/proposals and to waive any irregularities in such bid/proposals and to accept such bids/proposals that are the most responsive and best suit the needs of the City of Hays. A bid may be withdrawn up to twenty-four (24) hours prior to expiration of the deadline for submitted bids.

If you have questions, please contact Kyle Sulzman or Bernie Kitten at the Utilities Department at (785) 628-7380.

Sincerely,

A handwritten signature in black ink that reads "Bernie Kitten". The signature is written in a cursive, flowing style.

Bernie Kitten  
Director of Utilities

cc: Toby Dougherty, City Manager  
Paul Briseno, Assistant City Manager  
Kyle Sulzman, Assistant Director of Utilities  
Mark Damall, Utilities Supervisor  
File

**CITY OF HAYS, KANSAS**  
**BID PROPOSAL REQUEST**  
**FOR**  
**CONTRACT SEWER CLEANING**  
**COH Project 2013-16**  
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## BID INSTRUCTIONS

The following specifications shall apply to **CONTRACT SEWER CLEANING** for the City of Hays. The City reserves the right to waive minor technicalities under this specification. Federal and State laws supersede any conflicting part of this specification.

This Invitation for Bid does not commit the City of Hays to award a contract or to pay any cost incurred in the preparation of a bid.

The bid shall be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria. The criteria for award is based on but not limited to:

- a) Total Cost
- b) Compliance with Specifications
- c) The Bid Considered in the Best Interest of the City of Hays

Bidders may withdraw their bid 24 hours prior to, but not after, the time set for the opening.

All applicable laws, ordinances, and rules and regulations of any authorities shall be binding upon the Bidder throughout the term of this contract. The bidder shall be responsible for compliance with any such law, ordinance, rule or regulation, and shall hold the City of Hays harmless and indemnify in the event of non-compliance.

Each Bidder shall be responsible for reading and being thoroughly familiar with the Invitation for Bid package. The failure or omission of any Bidder to do any of the foregoing shall in no way relieve any Bidder from this obligation in respect to his bid.

Failure to submit all required information may constitute a non-responsive bid.

Any changes in specification after the contract has been awarded must be with the written consent of the City Manager; otherwise, the responsibility for such changes shall be with the bidder.

Any questions regarding this invitation to bid, contact Kyle Sulzman, Assistant Director of Utilities, at the Water Treatment Plant, Monday through Friday between the hours of 8:00 a.m. and 4:00 p.m. The telephone number is (785) 628-7380.

## GENERAL

These are desired specifications for **CONTRACT SEWER CLEANING**.

Proposals shall meet, as nearly as possible, the following specifications and requirements.

If exception is taken, bidder must explain. (Use separate page if necessary.)

The City has requested \$120,000.00 per year to begin a systematic approach to clean and televise all the sanitary sewer lines throughout the City, which totals approximately 120 miles (634,000 feet). A multi-year contract is anticipated, subject to the annual review and

recommendation of the City Manager. The City reserves the right to agree to any longer or shorter term as it so desires.

## **TAXES**

The City of Hays is tax exempt. Appropriate certification will be supplied to the vendor upon request.

## **LEGAL NOTICES**

The City of Hays reserves the right to reject any and all proposals and waive any or all technicalities, as determined by the City Manager of the City of Hays.

The City of Hays, Kansas, will not award contracts to nor accept proposals from individuals or entities that attempt to include any of the following in any proposed contract:

1. Reduce or diminish the common law or statutory standard of care, make any attempt to limit liability, or reduce responsibility of the contractor for mistake, error, or negligence of any type.
2. Attempt to limit liability for breach of contract or negligent performance to the amount of the payment to the contractor by the City.
3. Attempt to claim ownership of intellectual property created during the performance of the contract with the City.
4. Include binding arbitration agreements.
5. Provide for damages for breach by the owner contrary to common law or statute, including, especially, any attempt to provide for attorney fees as part of recoverable damage.
6. Attempt to select any forum for resolution of disputes other than Ellis County, Kansas.
7. Attempt in any way to reallocate risk contrary to common law or statute, unless specifically requested as an alternate proposal or bid by the City of Hays, Kansas.

All persons awarded and/or entering into purchase orders with the City of Hays shall be subject to and required to comply with all applicable City, State, and Federal provisions.

The City of Hays has an affirmative action program. Any firm will be required to include the following statement in any contract with the City of Hays:

*"Contractor shall not discriminate in the employment of persons engaged in the performance of this Agreement on account of race, color, national origin, ancestry, religion, sex, marital status, physical handicap, or medical condition, in violation of any federal or state law. Contractor shall comply with all requirements of the City of Hays pertaining to affirmative action with regard to employment while this Agreement is in effect."*

The contract shall be subject to the provisions of Part II, Chapter 2, Article XI of the City of Hays Code of Ordinances, which contains specific inclusions and prohibitions of certain contractual provisions and to the extent that anything herein contradicts said Ordinance, the requirements and provisions of the Ordinance shall govern.

City of Hays Ordinances can be obtained through the City of Hays website, [www.haysusa.com](http://www.haysusa.com).

## SPECIFICATIONS AND REQUIREMENTS

FOR

### CONTRACT SEWER CLEANING.

#### Cleaning

- Price shall be based on cleaning and televising approximately 634,000 linear feet of various sizes of sanitary sewer pipe lines over the course of several years based on a budgeted amount of \$120,000.00
- Sewer cleaning shall be accomplished utilizing a combination jet/vac machine producing a minimum of 65 gpm @ 2,000 psi.
  - Sewers will be cleaned by removing grit, loose solids and grease. The sewer will be cleaned to the extent that allows passage of the camera through the sewer main. This does not include the removal hard deposits such as minerals and cast iron scale or excessive root infestation.
- Debris shall be vacuumed from each setup manhole (access permitting) as the cleaning is being performed.
- A debris catcher shall be placed in the downstream invert of each setup manhole and left in place as the cleaning is being performed.
- The on-site maintenance cleaning foreman/supervisor must have a verifiable minimum of 5 years municipal sanitary sewer collection system maintenance cleaning experience.
- The distance between each manhole shall be confirmed by actual physical measurement.

#### Television Inspection

- The Contractor will perform closed circuit video inspection of all sewers cleaned in this contract unless City approves an omission,
- Contractor shall use current state-of-the-art technology and **NASSCO-PACP certified operators**. (NAASCO-National Association of Sewer Service Companies PACP-Pipeline Assessment and Certification Program)
- All sewer inspection reporting shall be performed utilizing a software program that is **NASSCO-PACP Certified**.
- Audio reporting will be avoided to prevent inconsistent operator subjectivity. All observations will be chosen from a standard table of descriptions incorporated in the video reporting software. The same defect and observation description tables will be used on all future project reports.
- All observations and defects will be recorded in video media.
- The Contractor will make a color recording of all sewers inspected. The video recording will include on-screen observation identifications that label continuous footages, defects, pipe diameter, direction of flow, direction of viewing, manhole and street reference locations. Video inspections shall allow indexing of video files for faster viewing by the Client. Video files must be formatted in mpeg, mpeg2 or mpeg4. A computer, integrated with the video inspection equipment, will be used to eliminate errors from separate processes.
- All defects and observations will be described with a standard table of descriptions so that there is no variation caused by operator subjectivity.

- The Contractor will provide a printed legend of defect classifications that identifies a color-coded rating system for defect observations and their severity.
- The severity of each defect or observation must be recorded and rated according to the legend of classification published by the Contractor.
- The software shall be capable of generating printed reports that have color drawings of all sewer defect and observation locations. These drawings will be computer generated with the use of video inspection reporting system software.
- The inspection report will be provided on a DVD to the client. The DVD will have read only software that will facilitate viewing and printing copies of the inspection report.
- Footage distance measured by video system will be accurate within 1% and will be used to determine footages for reporting and payment. The centerline between manholes will be the reference points used to determine footage measurements.

### Reporting

- Complete reporting shall be provided to the City; at a minimum this reporting shall contain:
  - All reporting shall be provided in a binder
  - The binder should contain tabbed sections consisting at a minimum of:
    - Date Tab-year the work was performed-
    - Map Tab-continually updated collection system map with current years lines cleaned and televised highlighted.
    - Cleaning Reports Tab-detailed cleaning reports detailing of a minimum of:
      - Upstream manhole number
      - Downstream manhole number
      - Downstream manhole depth
      - Downstream manhole condition
      - Pipe material
      - Pipe size
      - Length between manholes
      - Quantified amount of debris removed
      - Quantified amount of roots removed
      - Quantified amount of grease removed
      - Guarantee (Marked Yes or No-If No, must include detailed explanation of why)
      - Notes
    - TV Log Sheets Tab-Computer generated detailed television inspection reports listing and showing via graph or scale each observation and its footage-location and including pictures.
    - TV Inspection Disk Tab-CD or DVD recording of the actual television inspections.
- Reports must be submitted to City within 10 days of completion.

### Miscellaneous

- Customers will be notified of the pending line cleaning by Contractor provided and Contractor posted individual adhesive-backed and brightly colored sewer cleaning notices.
- Contractor shall work in a continuous fashion once the project is started.

- Reasonable allowances, as mutually agreed upon by both the Client and the Contractor, for weather and other occurrences outside of either party's control will be reason to deviate from schedule and/or extend the performance period.
- The Contractor will maintain General Liability and Auto Liability Insurance throughout the duration of the contract, with limits not less than \$2,000,000 General Liability, \$1,000,000 Auto and \$500,000 Worker's Compensation and Employers' Liability.
- Proof of insurance, in the form of an insurance certificate, will be issued to Client prior to the start of the project.
- Contractor shall provide a list of similar projects recently completed, including project name, location and contact information.
- Use only Green Top or Blue Top fire hydrants for water supply. Record gallons used.

**City will provide:**

- Water for cleaning sewers and access to nearest Green Top or Blue Top fire hydrants.
- Map of the area to be cleaned and reference numbers for all manholes.
- Locate, uncover and exercise all manhole lids and provide access to all locations prior to contractor arrival.
- Dumpsite within reasonable distance for deposit of debris removed from the system.
- Any excavation, opening, back filling, and/or repair of sewers, and/or streets, required to remove the Contractor's equipment caught in the sewer pipe due to sewer defects
- Payment will be made at the unit prices as per the attached bid.
- Any additional work not included in the provisions of these specifications will be negotiated between the City and Contractor.
- City will pay contractor in full for all completed work within 30 days of Contractor's invoice date.

**BID SHEET**  
**CONTRACT SEWER CLEANING**

REPRESENTATIVE \_\_\_\_\_

COMPANY \_\_\_\_\_

ADDRESS \_\_\_\_\_

TELEPHONE NUMBER \_\_\_\_\_

FAX NUMBER \_\_\_\_\_

Clean, inspect and televise Sanitary Sewer Lines @\$\_\_\_\_\_ per l.f. Based on a budgeted amount of \$120,000.00.

Price per foot should the City request additional cleaning only  
\$ \_\_\_\_\_

Price per foot should the City request additional TV inspection only  
\$ \_\_\_\_\_

Maximum Allowable Annual Cost Inflator \_\_\_\_\_ % (see note)

Note: Maximum Allowable Annual Cost Inflator is the maximum allowable increase in cost, for a multi-year contract over the present day cost listed above. Example: 2% Maximum Allowable Annual Cost Inflator would allow 2% increase in 2014 over the 2013 cost, 4% increase in 2015 over 2013 cost, 6% increase in 2016 over 2013 cost, etc.

Contractor's CCTV operator is NASSCO-PACP certified YES\_\_\_\_ NO\_\_\_\_

Copy of operator's NASSCO-PACP Certification included YES\_\_\_\_ NO\_\_\_\_

Contractor will utilize NASSCO-PACP certified software YES\_\_\_\_ NO\_\_\_\_

Contractor's proposal meets all specification without exception YES\_\_\_\_ NO\_\_\_\_

If NO, please list all exceptions to the specifications (use additional pages if necessary):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# Commission Work Session Agenda

## Memo

**From:** Toby Dougherty, City Manager

**Work Session:** May 21, 2015

**Subject:** Sale and Use of Fireworks for 2015 Fourth of July Holiday

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

### Summary

According to City ordinance, the Commission is required to determine whether to suspend the sale and use of fireworks in a particular year at its final regular meeting in May. At this time, City staff does not see a compelling reason to suspend the sale and use of fireworks.

### Background

Section 32-76 of the City of Hays Code deals with the sale and use of fireworks within the city limits of Hays. According to the ordinance, the sale and use of fireworks, if permitted by the Commission, will be governed by the laws of the State of Kansas as to type. If the sale and use of fireworks are allowed, the sale shall be limited to the dates of July 2, 3 and 4 only. Consumer use of fireworks are limited to July 2, 3 and 4 between the hours of 10:00 a.m. and 11:00 p.m. The ordinance further requires that the City Commission will determine whether to suspend the sale and use of fireworks in a particular year at its final regular meeting in May.

### Discussion

At this time, City staff is not able to list a compelling reason for the Commission to suspend the sale and use of fireworks other than the fact that many residents do not like fireworks. Threats posed by fireworks to health and property are going to exist each year and, therefore, are not viewed by City staff as a reason to recommend suspending the sale and use. In previous years, the City was experiencing severe drought conditions, and the Commission was worried about the threat of fire. At this time, those conditions are not as threatening as in past years. Therefore, aside from the fact that there are many residents that do not like fireworks, City staff does not see a reason for the Commission to suspend the sale and use of fireworks for 2015.

It is City staff's interpretation of the ordinance that the City Commission must take action to suspend the sale and use of fireworks, and that if they don't take action, the sale and use of fireworks will be permitted as per the terms of the ordinance.

## **Legal Consideration**

The proposed action, discussion, presents no known legal obstacles. In the event of a decision to modify the ordinance, we will assist in that. In the event that the decision is to take no further action, that presents no legal obstacle.

## **Options**

- Suspend the sale and use of fireworks for the 2015 season.
- Do nothing – which would allow the sale and use of fireworks for the 2015 season.

## **Action Requested**

City staff requests the Commission discuss the sale and use of fireworks for the 2015 season.

## **Supporting Documentation**

Fireworks Ordinance

**ORDINANCE NO. 3851**

**AN ORDINANCE AMENDING CHAPTER 32 OF THE CITY OF HAYS, KANSAS, MUNICIPAL CODE, BY MODIFYING ARTICLE II, DIVISION 3, SECTION 32-76, REGARDING FIREWORKS SALES.**

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

Section 1. Chapter 32, Article II, Division 3, Section 32-76 of the City of Hays, Kansas Municipal Code is hereby amended as follows:

**CHAPTER 32**

**FIRE PROTECTION AND PREVENTION**

**ARTICLE II. FIRE CODES AND STANDARDS**

**DIVISION 3. HAZARDOUS MATERIALS**

**Sec. 32-76. FIREWORKS SALES.**

(a) The sale and use of common fireworks within the city limits will be permitted, as to type of fireworks, as provided by the laws of the state. The City Commission may suspend the sale and use of common fireworks within the city limits in any given year and will determine whether to suspend the sale and use of fireworks in a particular year at its final regular meeting in May of that year. If the sale and use of common fireworks within the city limits is permitted by the City Commission in a particular year, it shall be limited to sale on July 2, 3 and 4 only. Consumer use of fireworks within the city limits will be limited to July 2, 3 and 4, between the hours of 10:00 a.m. and 11:00 p.m. on each of those days. The intent of the city commission is to coordinate the use of fireworks with Ellis County for uniform enforcement. The City Commission reserves its right to suspend the sale and use of common fireworks within the city limits at any time, if weather conditions so require.

(b) In years when the sale and use of common fireworks within the city limits is permitted, at least one sign, two-foot by three-foot in size, on a contrasting background shall be posted at each entrance to a fireworks stand or sales area that shall read as follows:

THE HAYS CITY CODE ALLOWS FIREWORKS TO BE  
DISCHARGED ONLY ON JULY 2, 3 AND 4 BETWEEN  
THE HOURS OF 10:00 A.M. AND 11:00 P.M.  
PERSONS USING FIREWORKS ARE RESPONSIBLE  
FOR CLEANING UP ALL DEBRIS.

THOSE FOUND IN VIOLATION OF THE HAYS CITY CODE  
MAY BE FINED UP TO \$500.00 AND 30 DAYS IN JAIL.

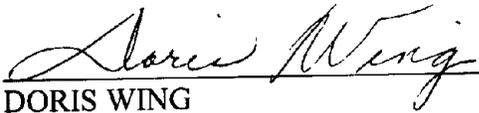
Section 2. The ordinance shall take effect and be in force from and after its passage and publication in the Hays Daily News, the official city newspaper.

PASSED by the Commission on August 23, 2012.



KENT STEWARD  
Vice Mayor

ATTEST:



DORIS WING  
City Clerk

(SEAL)



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SUBJECT	ISSUED BY	LAST REVISION DATE	CURRENT EFFECTIVE DATE
<b>ECONOMIC DEVELOPMENT POLICY</b>	City Commission	7-11-13	<b>2-26-15</b>

**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 Investment<sup>1</sup></u>	<u>Job Creation<sup>2</sup></u>
<b><u>Matrix for High-Tech Businesses and Research and Development-Based Businesses</u></b>		
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
<b><u>Matrix for All Other Business Types</u></b>		
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

<sup>1</sup> 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.

<sup>2</sup> “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: 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.

#### I: 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.