

# Memo

To: City Commission  
From: Toby Dougherty, City Manager  
Date: 9-8-15  
Re: September 17, 2015 Work Session

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

Item 2 – DHDC Update

Sara Bloom, DHDC Executive Director, will be at the work session to update the City Commission on their marketing activities.

Item 3 – USACE Section 205 Study – Survey and Geotechnical Services

Please refer to the attached memorandum from Steven Walters, Stormwater Specialist, regarding a survey and geotechnical services with Olsson Associates. This is part of the City's in-kind contribution for the Section 205 Study.

Item 4 – Kansas Water Pollution Control Revolving Fund Loan Ordinance

Please refer to the attached memorandum from Kim Rupp, Director of Finance, regarding the ordinance authorizing utilization of the State of Kansas Revolving Fund Loan. This is a step in the continuing SRF loan process.

Item 5 – Airport Marketing and 2016 EAS Bid Update/Release of 2015 Marketing Funds

I would like to update the Commission on the upcoming Airport marketing activities as well as the process for the 2016 EAS contract bids. More information will be provided to the Governing Body at the work session. I am also asking the City Commission to release the \$25,000 that was pledged for marketing efforts, as City staff is ready to begin the fall marketing campaign. Because these monies come from City Commission Financial Policy Projects, it requires action of the Commission to release the funds.

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**CITY OF HAYS**  
**CITY COMMISSION WORK SESSION**  
**THURSDAY, SEPTEMBER 17, 2015 – 6:30 P.M.**  
**AGENDA**

1. **ITEM FOR REVIEW: [September 3, 2015 Work Session Notes \(PAGE 1\)](#)**  
DEPARTMENT HEAD RESPONSIBLE: Kim Rupp, Director of Finance
2. **ITEM FOR REVIEW: [DHDC Update \(PAGE 7\)](#)**  
PERSON RESPONSIBLE: Sara Bloom, DHDC Executive Director
3. **ITEM FOR REVIEW: [USACE Section 205 Study – Survey and Geotechnical Services \(PAGE 13\)](#)**  
DEPARTMENT HEAD RESPONSIBLE: Greg Sund, Director of Public Works
4. **ITEM FOR REVIEW: [Kansas Water Pollution Control Revolving Fund Loan Ordinance \(PAGE 29\)](#)**  
DEPARTMENT HEAD RESPONSIBLE: Kim Rupp, Director of Finance
5. **ITEM FOR REVIEW: Airport Marketing and 2016 EAS Bid Update/Release of 2015 Marketing Funds**  
PERSON RESPONSIBLE: Toby Dougherty, City Manager
6. **OTHER ITEMS FOR DISCUSSION**
7. **EXECUTIVE SESSION (IF REQUIRED)**
8. **ADJOURNMENT**

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



City of Hays  
City Commission  
Work Session Notes

Thursday, September 3, 2015 – 6:30 p.m.

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

Absent: James Meier

**August 20, 2015 Work Session Notes**

There were no corrections or additions to the minutes of the work session held on August 20, 2015; the minutes stand approved as presented.

**NWK Investments – Request for Economic Development Incentives**

Don Hoffman, representing NWK Investments and James Millensifer, Vice President of Operations for Chance Management, the management company for NWK Investments, presented a proposal and request for economic development incentives for Big Creek Travel Plaza, which would be located at 230<sup>th</sup> Avenue and 55<sup>th</sup> Street.

Phase one of the proposed development, involves construction of a 90 room nationally-branded hotel, a full service travel plaza, including a convenience store, diesel, gasoline and retail compressed natural gas, picnic area, free standing coffee house, fast food restaurant, and a complex to house a minimum of three retail businesses.

Phase two for the 22.35 acre site is expected to include a second hotel, a restaurant and a truck service center. Future phases of development would include retail and commercial uses.

The total costs of the Phase One Project are estimated at approximately \$27.5 million. Economic development incentives requested include Community Improvement District (CID), which is a special sales tax assessed to customers

of the business, the issuance of Industrial Revenue Bonds (IRB), which would allow the developer to avoid paying sales tax, and Tax Increment Financing (TIF), where city, county and school property tax is waived for 20 years.

Commissioner Schwaller thanked them and stated they have an excellent vision for developing the area. He asked what the return on investment is for NWK with and without the incentives, stating that information was not included in the proposal which is required by our economic development policy.

Mr. Millensifer stated that their legal counsel advised them that they can't publicly disclose their return on investment.

Commissioner Jones stated he is in favor of the project, but feels the amount of incentives they are asking for is a bit excessive.

Gina Riekhof, Gillmore & Bell P.C., special council representing the City for this economic development project, explained the specific incentives that the developer has requested in their most recent request. She stated these incentives would not put the City in a position that the City would have to come up with any tax revenues in order to pay a liability that might exist if the developer's project did not move forward.

It was the consensus of the Commission to direct staff to begin the process of negotiations with the developer with the possible utilization of a CID that includes the cost of the public infrastructure improvements within the limits of the CID policy. The Commission was not in favor of moving forward with the TIF or the IRB. NWK will also be required to provide additional financial information in a confidential manner as required in the City's Economic Development Policy.

### **Sanitary Sewer Heavy Cleaning**

The Utilities Department initiated a multi-year program to clean sewer mains in 2013. Mayer Specialty Service, LLC was chosen and they cleaned and videoed 19 miles of sewer mains in 2013 and 2014. During that time, Mayer Specialty Services identified several segments that required heavy cleaning beyond the scope of the normal cleaning contract. City staff identified other areas that need heavy cleaning as well.

Bernie Kitten, Director of Utilities, stated staff estimates that in the 10 inch to 24 inch lines we have about 14,000 ft. of potential heavy cleaning. The per foot cost ranges from \$10.55 to heavy clean a 24 inch sewer to only \$0.80 to light clean a 10 inch sewer. Mayer Specialty Services will log heavy, medium, and light cleaning footage and bill us accordingly.

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.

Commissioner Schwaller asked if other bids were received for this project.

Mr. Kitten stated Mayer Specialty Services was the only bid received and staff has been very pleased with their work.

At the September 10, 2015 Commission meeting, Commissioners will be asked to accept the sanitary heavy sewer cleaning proposal from Mayer Specialty Services, LLC not to exceed \$121,383.40, and is to be funded from the Water Sewer Capital Reserves.

### **King's Gate Addition Phase 2 – Subdivision Entrance Sign**

During the platting process of the King's Gate Addition in 2010, provisions were put in place for future construction of a subdivision entrance sign which identifies the housing development at the intersection of 41<sup>st</sup> Street and King's Gate Drive. For a sign such as the proposed King's Gate sign, it is necessary to have an agreement in place for future maintenance. Covenant Land & Developing, Inc., the developer of King's Gate Addition, has proposed an agreement to serve this purpose.

At the September 10, 2015 Commission meeting, Commissioners will be asked to authorize the City Manager to sign an agreement with Covenant Land & Developing, Inc. to allow the placement of the proposed island median and sign at the entrance to King's Gate Drive located at the intersection of West 41<sup>st</sup> Street and King's Gate Drive.

### **King's Gate Addition Phase 2 – Award of Bid**

In March, Covenant Land and Development, Inc. petitioned the City for improvements to an area containing 23 lots in the King's Gate Addition within the City of Hays, and bids for construction were received on August 4th. Staff recommends accepting the bid from APAC in the amount of \$639,403.83 for the construction of street, water, storm water and sanitary sewer improvements within the King's Gate Addition, Phase 2. The developer is financing the improvements through the creation of a special benefit district. Per the City's Development Policy, the developer pays 30% of the project cost up front with the remaining 70% assessed to the benefit district. There is no City share for oversizing.

At the September 10, 2015 Commission meeting, Commissioners will be asked to authorize the City Manager to enter into a contract with APAC in the amount of \$639,403.83 for construction of street, water, storm water and sanitary sewer improvements within the King's Gate Addition, Phase 2, with the project cost to be paid by the developer and special assessment to the benefit district.

### **Rezoning of Lot 14 and a Portion of Lot 13, Block 21, Hays Plaza 3<sup>rd</sup> Addition (1601 East 27<sup>th</sup> Street Frontage Road) from R-1 to R-4**

The owner of 1601 E 27<sup>th</sup> Street frontage road (Lot 14 and a portion of Lot 13, Block 21, Hays Plaza 3<sup>rd</sup> Addition) has submitted a request to rezone the property from single-family residential district (R-1) to multi-family dwelling district (R-4). A public hearing was conducted on August 17, 2015 at the regular meeting of the Planning Commission and it was recommended by a vote of 4-1 that the rezoning be approved. The zoning change from R-1 to R-4 would allow for single-family, two-family, or multi-family dwelling units to be constructed.

This property is currently for sale and could potentially redevelop. There is currently a single-family dwelling on the property. The existing home is a manufactured home that was built in 1972. Any plans for redevelopment of this site should be encouraged, as long as they are compatible with the surrounding area.

Adam Pray, a realtor representing the person purchasing the property, stated concerns regarding this change were voiced at the public hearing, but those concerns have been addressed.

At the September 10, 2015 Commission meeting, Commissioners will be asked to approve an ordinance rezoning the property at 1601 E. 27<sup>th</sup> Street frontage road from R-1 to R-4.

**Other Items for Discussion**

Commissioner Jones commented that there have been very good discussions among the Commissioners at the last few meetings.

Commissioner Schwaller stated a prominent citizen of Hays, Pat Schmidt, who has given back a lot to make this community a better place, passed away last week, and she will be missed.

Commissioner Musil echoed Commissioner Jones comments and stated he respects Commissioner Schwaller's opinions and history on this Commission.

Chair person Phelps commented that he addressed the Kiwanis Club and informed them of how much he enjoys being on the City Commission. He stated that discussion and differing opinions are very healthy and he appreciates the efforts of this Commission.

The work session was adjourned at 8:52 p.m.

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

Brenda Kitchen – City Clerk



# **DHDC Presentation September 17, 2015**

## **New Marketing Plan**

Launching October 1, 2015.

Fully Incorporated by January 1, 2016.

## **Business on the Bricks Receptions**

# Marketing Plan Introduction

Downtown Hays has experienced a significant transformation during the past decade. Major building renovations and new businesses made the historic area an exciting destination and community gathering space, but there is a need to develop and market Downtown Hays as a **unified, cohesive brand**. Currently, community members refer to Downtown Hays in a variety of ways (“downtown,” “Main Street,” “Chestnut Street District”) and they use a variety of online sources to find information ([www.discoverhays.com](http://www.discoverhays.com), [www.downtownhays.com](http://www.downtownhays.com), [www.chestnutstreetdistrict.com](http://www.chestnutstreetdistrict.com), [www.haysusa.net](http://www.haysusa.net)). In addition, while individual stores are seen as destinations, **the downtown itself is not seen as a destination**. Many community members go to Gella’s or some other place, do their business, and leave Downtown Hays. Further, once-a-year or occasional events, such as Gallery Walks, Wines & Steins, and Fire on the Frontier, bring people downtown but, in general, community members do not frequent downtown and are not seen on the streets of downtown on a regular, consistent basis. In summary, the branding and marketing strategies proposed here are driven by:

- The need to develop a **place identity** for Downtown Hays like Mass Street in Lawrence or Aggieville in Manhattan where community members feel a sense of unity, a university presence, and energy and excitement from the activities, businesses and people there
- The need to get people on the streets, regularly and consistently, shifting the community’s focus from thinking about what businesses need to come to downtown to **thinking about how to bring people downtown** (which will, in turn, bring more businesses downtown)
- The need to **unify Downtown Hays**, in physical appearance, in cohesion, cooperation and appreciation among the Downtown Hays business owners, Fort Hays State University, and the community of Hays in marketing this district in one way to the world

The proposed branding and marketing strategies are based on feedback from community members and FHSU students who participated in a series of focus groups.

# THE BRICKS IN DOWNTOWN HAYS

PAINT THE  
BRICKS   
IN DOWNTOWN HAYS

BUILD THE  
BRICKS   
IN DOWNTOWN HAYS

SWEEP THE  
BRICKS   
IN DOWNTOWN HAYS

LAY THE  
BRICKS   
IN DOWNTOWN HAYS

SHOP THE  
BRICKS   
IN DOWNTOWN HAYS

HIT THE  
BRICKS   
IN DOWNTOWN HAYS

# Sample Radio Script

The Bricks in Downtown Hays has a lot to offer. Shopping, dining, art and entertainment all in one location.

Hi this is Karen from The Furniture Look. You know, we've been in business for a little over 23 years. In that time we've seen the Downtown grow into one of the most premier shopping districts in all of Kansas. There's something for everyone year round. That's why when we say "beautiful Downtown Hays" we really mean it!

Come down and experience Downtown Hays. You'll be amazed at all you discover on The Bricks in Downtown Hays.

# Sample Business Flyer



**20% OFF**  
**THE ENTIRE STORE**  
**DURING THE MONTH OF JULY!**



**THE**  
**BRICKS**   
IN DOWNTOWN HAYS

# Business on the Bricks

Downtown Hays Development Corporation desires to assist every Downtown Hays business through networking, promotions and marketing. By hosting a welcome reception for all new Downtown businesses we hope to provide the merchants, new and seasoned, a chance to build relationships, accelerate sales and overall strengthen Downtown.

As the DHDC learns of new businesses moving into Downtown we would like to encourage them to have a welcome reception, or a “Business on the Bricks” reception, hosted by DHDC. Members of the DHDC board of directors, the City Commission, Chamber of Commerce, ECC, and Downtown Merchants will all be included on the invitation list.

Each reception will be done at the discretion of the business owner(s). They will dictate the details, i.e. date, time and place. DHDC will provide and send out invitations for these events. DHDC will provide food and non-alcoholic beverages. If the businesses owner(s) would like to provide additional items they are welcome to do so. The event will be a come and go reception, but a designated time will be given for a Brick Presentation. DHDC will present each business with an engraved brick showcasing the business name, Downtown Hays, and the date when they opened their doors to the public.

Besides personal invitations these events will also be publicized through our weekly e-newsletter and our website. These receptions will focus on welcoming new merchants to the Downtown district but all businesses will be invited to participate.



# Commission Work Session Agenda

## Memo

**From:** Steven Walters, Stormwater Specialist

**Work Session:** September 17, 2015

**Subject:** USACE Section 205 Survey and Geotechnical

**Person(s) Responsible:** Toby Dougherty, City Manager  
Greg Sund, Director of Public Works

### Summary

The proposed engineering services contract is for field services related to the United States Army Corps of Engineers Section 205 study cost share agreement signed on August 28<sup>th</sup>, 2015. The field services include land survey and geotechnical services. The proposed contract will be used to meet the 2015 and part of the 2016 monetary obligations for the cost share agreement. Staff recommends the City Commission direct the City Manager to execute a contract with Olsson Associates for field services in the amount of \$109,365

### Background

The City of Hays entered into a study cost share agreement with the United States Army Corps of Engineers (USACE) under the Section 205 Small Project program to study the Lincoln Draw Watershed. The study will look at potential locations for detention basins within the Lincoln Draw watershed to reduce flood risk within the watershed. The City of Hays is proposing to meet certain obligations under this agreement through in-kind services which will include work performed by City Staff and work contracted to outside engineering firms. City Staff issued a Request for Proposals (RFP) for land survey and geotechnical services to be contracted as in-kind services as part of the study cost share agreement.

### Discussion

The City of Hays as part of the Section 205 study cost share agreement is proposing to provide survey and geotechnical services through contracting to an outside engineering firm to meet cost share requirements. The City of Hays must provide at a minimum, \$75,000 of in-kind work to meet the FY 2015 obligation. City staff issued an RFP for the services on July 2<sup>nd</sup>, 2015. Seven firms responded to the RFP. City staff evaluated the proposals and determined three of them met specifications. City staff negotiated services with three firms based on initial cost and proposal specifications. They are: Olsson Associates, Alfred Benesch, and Terracon. Costs are detailed below.

	<b>Olsson</b>	<b>Benesch</b>	<b>Terracon</b>
Survey	\$46,000	\$52,400	N/A
Geotechnical	\$63,365	\$79,987	\$68,710
<b>Total</b>	<b>\$109,365</b>	<b>\$132,387</b>	<b>\$68,710</b>

Because the City is looking to contract surveying and geotechnical services directly, the work product will be the property of the City that will be useful even if there is a decision at some point to discontinue the relationship with the US Army Corps of Engineers for the Section 205 Study or potential subsequent project.

### **Legal Consideration**

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

### **Financial Consideration**

The field services agreement totals \$109,365. This is to be paid from the Stormwater Reserve Fund.

### **Options**

Options are as follows:

1. Direct the City Manager to execute this contract.
2. Reject the contract.
3. Provide further direction.

### **Recommendation**

Staff recommends the City Commission direct the City Manager to execute a contract with Olsson Associates for field services in the amount of \$109,365.

### **Action Requested**

Direct the City Manager to execute a contract with Olsson Associates for field services in the amount of \$109,365 to be funded out of the Stormwater Reserve Fund

### **Supporting Documentation**

Proposed Contract



## LETTER AGREEMENT FOR PROFESSIONAL SERVICES

September 1, 2015

City of Hays - Kansas  
Steven Walters  
1002 Vine Street  
Hays, KS 67601

Re: **AGREEMENT FOR PROFESSIONAL SERVICES**  
USACE Section 205 Flood Control Project – Feasibility Study (the “Project”)  
Hays, KS

Dear Mr. Walters:

It is our understanding that City of Hays - Kansas (“Client”) requests Olsson Associates, Inc. (“Olsson”) to perform the services described herein pursuant to the terms of this Letter Agreement for Professional Services, Olsson’s General Provisions and any exhibits attached hereto (all documents constitute and are referred to herein as the “Agreement”) for the Project.

Olsson has acquainted itself with the information provided by Client relative to the Project and based upon such information offers to provide the services described below for the Project. Client warrants that it is either the legal owner of the property to be improved by this Project or that Client is acting as the duly authorized agent of the legal owner of such property. Client acknowledges that it has reviewed the General Provisions (and any exhibits attached thereto), which are expressly made a part of and incorporated into the Agreement by this reference. In the event of any conflict or inconsistency between this Letter Agreement, any Exhibits hereto and/or the General Provisions regarding the services to be performed by Olsson, the requirements of this Letter Agreement shall take precedence.

Olsson shall provide Client all Basic Services for the Project related to engineering consultation for the proposed development of the Flood Control Project. Should Client request work not described and included in the above Description of Basic Services, such as Additional Services, Olsson shall prepare a supplemental agreement prior to proceeding. Olsson shall not commence work on Additional Services without Client’s prior approval in writing.

Olsson agrees to provide all of its services in a timely, competent and professional manner, in accordance with all applicable City, State and Federal provisions and in accordance with applicable standards of care, for projects of similar geographic location, quality and scope.

Olsson shall maintain the following insurance requirements during the time of performance of these services and contract period. Olsson will file an insurance certificate with the City Clerk's office within four weeks of the signing of the Agreement by both parties.

- a. General Liability Insurance, with a combined single limit of \$1,000,000 for each occurrence and \$1,000,000 in the aggregate
- b. Automobile Liability Insurance, with a combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident
- c. Worker's Compensation insurance in accordance with statutory requirements and Employer's Liability Insurance, with a limit of \$500,000 for each occurrence
- d. Professional Liability Insurance, with a limit of \$2,000,000 annual aggregate  
Olsson shall require all of its subcontractors to maintain general aggregate insurance with limits of not less than \$1,000,000 per accident.

Olsson 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. Olsson shall comply with all requirements of the City of Hays pertaining to affirmative action with regard to employment while this Agreement is in effect.

#### **SCHEDULE FOR OLSSON'S SERVICES**

Unless otherwise agreed, Olsson would expect to begin performing its services under the Agreement promptly upon your signing.

#### **Survey**

Anticipated Start Date: 9-16-15  
Anticipated Completion Date: 12-31-15

#### **Drilling and Laboratory Services**

Anticipated Start Date: Undetermined  
Anticipated Completion Date: \_\_\_\_\_

Olsson will endeavor to start its services on the Anticipated Start Date and to complete its services on the Anticipated Completion Date. However, the Anticipated Start Date, the Anticipated Completion Date, and any milestone dates are approximate only, and Olsson reserves the right to adjust its schedule and any or all of those dates at its sole discretion, for any reason, including, but not limited to, delays caused by Client or delays caused by third parties.

## **COMPENSATION**

Client shall pay to Olsson for the performance of the Survey Scope of Services a lump sum fee of Forty-Five Thousand Eight Hundred Dollars and No 100's (\$45,800.00). Client shall pay to Olsson for the performance of the Drilling and Laboratory Testing Scope of Services and a "per unit" basis with a Not-To-Exceed amount of Sixty-Three Thousand Three Hundred Sixty-Five Dollars and No 100's (\$63,365.00). Olsson shall submit invoices on a monthly basis and payment is due within 30 calendar days of invoice date.

## **TERMS AND CONDITIONS OF SERVICE**

We have discussed with you the risks, rewards and benefits of the Project, the Scope of Services, and our fees for such services and the Agreement represents the entire understanding between Client and Olsson with respect to the Project. The Agreement may only be modified in writing signed by both parties.

Client's designated Project representative shall be \_\_\_\_\_.

If this Agreement satisfactorily sets forth your understanding of our agreement, please sign in the space provided below. Retain one original for your files and return an executed original to Olsson. This proposal will be open for acceptance for a period of 60 days from the date set forth above, unless changed by us in writing.

**OLSSON ASSOCIATES, INC.**

By   
Andrew Phillips

By   
Mike Sorgentfrei

By signing below, you acknowledge that you have full authority to bind Client to the terms of the Agreement. If you accept the terms set forth herein, please sign:

**City of Hays - Kansas**

By \_\_\_\_\_  
Signature

Print Name \_\_\_\_\_

Title \_\_\_\_\_

Dated \_\_\_\_\_

If different from above,

\_\_\_\_\_  
Client's Designated Project Representative

- Attachments  
General Provisions  
Scope of Services

## GENERAL PROVISIONS

These General Provisions are attached to and made a part of a LETTER AGREEMENT, dated September 1, 2015 between City of Hays, Kansas ("Client") and Olsson Associates ("Olsson") for professional services in connection with the project or projects arising under such Letter Agreement or Master Agreement (the "Project(s)").

### **SECTION 1—OLSSON'S BASIC SERVICES**

Olsson's scope of services for the Project(s) is set forth in the applicable Letter Agreement or Master Agreement ("Scope of Services").

### **SECTION 2—ADDITIONAL SERVICES OF OLSSON**

2.1 Unless otherwise expressly included, Olsson's normal and customary engineering services described here or in the LETTER AGREEMENT do not include the following categories of work which shall be referred to as Additional Services.

2.2. If Client and Olsson mutually agree to perform any of the following Additional Services, Client will provide written approval of the agreed upon scope of services, and Olsson shall perform or obtain from others such services and will be paid therefore as provided in the LETTER AGREEMENT. EITHER CLIENT or Olsson may elect not to perform all or any of the following Additional Services without cause or explanation:

2.2.1 Preparation of applications and supporting documents for governmental financial support of the Project in addition to those required under Basic Services; preparation or review of environmental studies and related services; and assistance in obtaining environmental approvals.

2.2.2 Services to make measured drawings of or to investigate existing conditions of facilities.

2.2.3 Services resulting from significant changes in the general scope, extent or character of the Project or major changes in documentation previously accepted by Client where changes are due to causes beyond Olsson's control.

2.2.4 Providing renderings or models.

2.2.5 Preparing documents for alternate bids requested by Client for work which is not executed or for out-of-sequence work.

2.2.6 Detailed consideration of operations, maintenance and overhead expenses; value engineering and the preparation of rate schedules, earnings and expense statements, cash flow and economic evaluations, feasibility studies, appraisals and valuations.

2.2.7 Furnishing the services of independent professional associates or consultants for work other than Basic Services.

2.2.8 If Olsson's compensation for Basic Services is not on the basis of Direct Labor or Salary Costs, Additional Services shall include services necessary due to the Client's

award of more than one prime contract for the Project, services necessary due to the construction contract containing cost plus or incentive-savings provisions, services necessary in order to arrange for performance by persons other than the prime contractor and those services necessary to administer Client's contract(s).

2.2.9 Services in connection with staking out the work of Contractor(s).

2.2.10 Services during out-of-town travel other than visits to the site.

2.2.11 Preparation of operating and maintenance manuals to supplement Basic Services.

2.2.12 Services to redesign some or all of the Project.

2.2.13 Preparing to serve or serving as a consultant or witness or assisting Client with any litigation, arbitration or other legal or administrative proceeding except where required as part of Basic Services.

2.3 When required by the Agreement or Contract Documents in circumstances beyond Olsson's control, Olsson shall perform or obtain from others any of the following Additional Services as circumstances require during construction and without waiting for specific instructions from Client, and Olsson will be paid therefore as provided in the Letter Agreement:

2.3.1 Services in connection with work directive changes and change orders to reflect the changes requested by Client if the resulting change in compensation for Basic Services is not commensurate with the additional services rendered.

2.3.2 Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitutions proposed by Contractor(s); services after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by Contractor; and evaluating an unreasonable or extensive number of claims submitted by Contractor(s) or others in connection with the work.

2.3.3 Services resulting from significant delays, changes or price increases occurring as a direct or indirect result of material, equipment or energy shortages.

2.3.4 Additional or extended services during construction made necessary by (1) work damage by fire or other causes during construction, (2) a significant amount of defective, inefficient or neglected work by any Contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, (4) default by any Contractor.

### **SECTION 3—CLIENT'S RESPONSIBILITIES**

3.1. Client shall provide all criteria and full information as to Client's requirements for the Project; designate and identify

in writing a person to act with authority on Client's behalf in respect of all aspects of the Project; examine and respond promptly to Olsson's submissions; and give prompt written notice to Olsson whenever Client observes or otherwise becomes aware of any defect in the Olsson's service.

3.2 Client agrees to pay Olsson the amounts due for services rendered and expenses within thirty (30) days after Olsson has provided its invoice for such services. In the event Client disputes any invoice item, Client shall give Olsson written notice of such disputed item within fifteen (15) days after receipt of such invoice and shall pay to Olsson the undisputed portion of the invoice according to the provisions hereof. If Client fails to pay any invoiced amounts when due, interest will accrue on each unpaid amount at the rate of thirteen percent (13%) per annum from the date due until paid according to the provisions of this Master Agreement. Interest shall not be charged on any disputed invoice item which is finally resolved in Client's favor. Payment of interest shall not excuse or cure any default or delay in payment of amounts due.

3.2.1 If Client fails to make any payment due Olsson for services and expenses within thirty (30) days after receipt of Olsson's statement therefore, Olsson may, after giving seven days' written notice to Client, suspend services to Client under this Agreement until Olsson has been paid in full all amounts due for services, expenses and charges.

3.3 Payments to Olsson shall not be withheld, postponed or made contingent on the construction, completion or success of the Project or upon receipt by the Client of offsetting reimbursements or credit from other parties who may have caused Additional Services or expenses. No withholdings, deductions or offsets shall be made from Olsson's compensation for any reason unless Olsson has been found to be legally liable for such amounts.

3.4 Client shall also do the following and pay all costs incident thereto:

3.4.1 Furnish to Olsson any borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment; appropriate professional interpretations of all of the foregoing; environmental assessment and impact statements; property, boundary, easement, right-of-way, topographic and utility surveys; property descriptions; zoning and deed restrictions; all of which Olsson may rely upon in performing services hereunder.

3.4.2 Guarantee access to and make all provisions for Olsson to enter upon public and private property.

3.4.3 Provide such legal, accounting, independent cost estimating and insurance counseling services as may be required for the Project, any auditing service required in respect of Contractor(s)' applications for payment, and any inspection services to determine if Contractor(s) are performing the work legally.

3.4.4 Provide engineering surveys to establish reference points for construction.

3.4.5 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project except KDHE.

3.4.6 If more than one prime contractor is to be awarded the contract for construction, designate a party to have responsibility and authority for coordinating the activities of the various prime contractors.

3.5 Client shall pay all permit application review costs for government authorities having jurisdiction over the Project.

3.6 Contemporaneously with the execution of the LETTER AGREEMENT, Client shall designate in writing an individual to act as its duly authorized Project representative.

**SECTION 4—MEANING OF TERMS**

4.1 As used herein, the term "this Agreement" refers to these General Provisions, the LETTER AGREEMENT to which these General Provisions refer, and any other exhibits or attachments made a part thereof as if they were part of one and the same document.

4.2 The "construction cost" of the entire Project (herein referred to as "Construction Cost") means the total cost to Client of those portions of the entire Project designed and specified by Olsson, but it will not include Olsson's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to, properties unless this Agreement so specifies, nor will it include Client's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project or the cost of other services to be provided by others to Client pursuant to Section 3.

4.3 The "Salary Costs": Used as a basis for payment mean salaries and wages (basic and incentive) paid to all Olsson's personnel engaged directly on the Project, including, but not limited to, engineers, architects, surveyors, designers, draftsmen, specification writers, estimators, other technical and business personnel; plus the cost of customary and statutory benefits, including, but not limited to, social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, sick leave, vacation and holiday pay and other group benefits.

4.4 "Reimbursable Expenses: The expenses incurred by Olsson or Olsson's independent professional associates or consultants directly or indirectly in connection with the Project, and shall be included in periodic billing as applicable as follows:

<u>Classification</u>	<u>Costs</u>
Automobiles	\$0.55/mile*
Suburbans and Pick-Ups	\$0.68/mile*
Duplication	
In-house	Actual Cost
Outside	Actual Cost

<u>Classification</u>	<u>Costs</u>
Meals	Actual Cost
Postage & Shipping	
Charges for Project	

Related Materials	Actual Cost
Film and Photo	
Developing	Actual Cost
Telephone and	
Fax Transmissions	Actual Cost
Miscellaneous Materials	
& Supplies Applicable	
only to this Project	Actual Cost
Subconsultants	Actual Cost

\* IRS Standard Mileage Rate (Subject to Change)

4.5 "Certify" or "a Certification": A statement of Olsson's opinion, based on its observation of conditions, to the best of Olsson's professional knowledge, information and belief. Such statement of opinion does not constitute a warranty, either express or implied. It is understood that Olsson's certification shall not relieve the Client or the Client's contractors of any responsibility or obligation they may have by industry custom or under any contract.

4.6 "Cost Estimate": An opinion of probable construction cost made by Olsson. In providing opinions of probable construction cost, it is recognized that neither the Client nor Olsson has control over the costs of labor, equipment or materials, or over the Contractor's methods of determining prices or bidding. The opinion of probable construction costs is based on Olsson's reasonable professional judgment and experience and does not constitute a warranty, express or implied, that the Contractor's bids or the negotiated price of the work on the project will not vary from the Client's budget or from any opinion of probable cost prepared by Olsson.

4.7 "Day": A calendar day of 24 hours. The term "days" shall mean consecutive calendar days of 24 hours each, or fraction thereof.

4.8 "Inspect" or "Inspection": The visual observation of the Contractor's completed work to permit Olsson, as an experienced and qualified professional, to determine that the inspected work, generally conforms to the Contract Documents. Client understands and agrees that such visual observations are discrete sampling procedures and that such procedures indicate conditions that exist only at the locations and times the observations were performed. In making such visual observations, Olsson makes no guarantees for, and shall have no authority or control over, the Contractor's performance or the Contractor's failure to perform any work in accordance with the Contract Documents. Olsson shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the Contractor or for the Contractor's safety precautions and programs nor for failure by the Contractor to comply with any laws or regulations relating to the performance or furnishing of any work by the Contractor.

4.9 "Record Documents": Drawings prepared by Olsson upon the completion of construction based upon the drawings and other data furnished to Olsson by the Contractor and others showing significant changes in the work on the project made during construction. Because Record Documents are prepared based on unverified information provided by others, Olsson makes no warranty of the accuracy or completeness of the drawings.

## **SECTION 5—TERMINATION**

5.1 Either party may terminate this Agreement for cause upon giving the other party not less than seven (7) calendar days' written notice of default for any of the following reasons provided, however, that the notified party shall have the same seven (7) calendar day period in which to cure the default:

5.1.1 Substantial failure by the other party to perform in accordance with the terms of this Agreement and through no fault of the terminating party;

5.1.2 Assignment of this Agreement or transfer of the Project by either party to any other entity without the prior written consent of the other party;

5.1.3 Suspension of the Project or Olsson's services by the Client for more than ninety (90) calendar days, consecutive or in the aggregate;

5.1.4 Material changes in the conditions under which this Agreement was entered into, the Scope of Services or the nature of the Project, and the failure of the parties to reach agreement on the compensation and schedule adjustments necessitated by such changes.

5.2 In the event of a "for cause" termination of this Agreement by either party, the Client shall within fifteen (15) calendar days of termination pay Olsson for all services rendered and all reimbursable costs incurred by Olsson up to the date of termination, in accordance with the payment provisions of this Agreement.

5.3 The Client may terminate this Agreement for the Client's convenience and without cause upon giving Olsson not less than seven (7) calendar days' written notice. In the event of any termination that is not the fault of Olsson, the Client shall pay Olsson for services rendered and reimbursable costs incurred prior to the termination.

## **SECTION 6—MISCELLANEOUS**

### **6.1 Reuse of Documents**

All documents, including Drawings and Specifications prepared or furnished by Olsson (and Olsson's independent professional associates and consultants) pursuant to this Agreement, will be Client's property; however, such documents are not intended or represented to be suitable for reuse by Client or others on extensions of the Project or on any other project. Any reuse without written verification or adaptation by Olsson for the specific purpose intended will be at Client's sole risk and without liability or legal exposure to Olsson, or to Olsson's independent professional associates or consultants, and Client shall indemnify and hold harmless Olsson and Olsson's independent professional associates and consultants from all claims, damages, losses and expenses arising out of or resulting therefrom. Any such verification or adaptation will entitle Olsson to further compensation at rates to be agreed upon by Client and Olsson.

## 6.2 Electronic Files

By accepting and utilizing any electronic file of any drawing, report or data transmitted by Olsson, the Client agrees for itself, its successors, assigns, insurers and all those claiming under or through it, that by using any of the information contained in the attached electronic file, all users agree to be bound by the following terms. All of the information contained in any electronic file is the work product and instrument of service of Olsson, who shall be deemed the author, and shall retain all common law, statutory law and other rights, including copyrights, unless the same have previously been transferred in writing to the Client. The information contained in any electronic file is provided for the convenience to the Client and is provided in "as is" condition. The Client is aware that differences may exist between the electronic files transferred and the printed hard-copy original signed and stamped drawings or reports. In the event of a conflict between the signed original documents prepared by Olsson and the electronic files, which may be transferred, the signed and sealed original documents shall govern. Olsson specifically disclaims all warranties, expressed or implied, including without limitation, and any warranty of merchantability or fitness for a particular purpose with respect to any electronic files. It shall be Client's responsibility to confirm the accuracy of the information contained in the electronic file and that it accurately reflects the information needed by the Client. Client shall not retransmit any electronic files, or any portion thereof, without including this disclaimer as part of any such transmissions. In addition, Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless Olsson, its officers, directors, employees and sub consultants against any and all damages, liabilities, claims or costs, arising from any changes made by anyone other than Olsson or from any reuse of the electronic files without the prior written consent of Olsson.

## 6.3 Opinions of Cost

Since Olsson has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions, Olsson's opinions of probable Total Project Costs and Construction Cost provided for herein are to be made on the basis of Olsson's experience and qualifications and represent Olsson's best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but Olsson cannot and does not guarantee that proposals, bids or actual Total Project or Construction Costs will not vary from opinions of probable cost prepared by Olsson. If prior to the Bidding or Negotiating Phase Client wishes greater assurance as to Total Project or Construction Costs, Client shall employ an independent cost estimator as provided in paragraph 3.4.3. Olsson's services to modify the Contract Documents to bring the Construction Cost within any limitation established by Client will be considered Additional Services and paid for as such by Client.

## 6.4 Controlling Law and Venue

6.4.1 The parties agree that this Agreement and any legal actions concerning its validity, interpretation or performance shall be governed by the laws of the State of Kansas. It is further agreed that any legal action between the parties arising

out of this Agreement or the performance of services shall be brought in a court of competent jurisdiction in Ellis County, Kansas.

## 6.5 Subconsultants

Olsson may utilize as necessary in its discretion Subconsultants and other subcontractors. Olsson will be paid for all services rendered by its subconsultants and other subconsultants as set forth in this Agreement.

## 6.6 Assignment

6.6.1 Client and Olsson each is hereby bound and the partners, successors, executors, administrators and legal representatives of Client and Olsson (and to the extent permitted by paragraph 7.6.2 the assigns of Client and Olsson) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

6.6.2. Neither Client nor Olsson shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent Olsson from employing such subconsultants and other subcontractors as Olsson may deem appropriate to assist in the performance of services under this Agreement.

6.6.3 Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than Client and Olsson, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Client and Olsson and not for the benefit of any other party. There are no third-party beneficiaries of this Agreement.

## 6.7 Indemnity

Olsson shall indemnify and hold Client and its officers, agents, employees and assigns, harmless from any liability imposed for injury whether arising before or after completion of work hereunder, or in any manner caused, occasioned or contributed to, by reason of any act or omission, including liability or negligence of firm, or of anyone acting under Olsson's direction or control or on its behalf, in connection with or incident to, or arising out of the performance of this Agreement.

## 6.9 Entire Agreement

This Agreement supersedes all prior communications, understandings and agreements, whether oral or written. Amendments to this Agreement must be in writing and signed by the Client and Olsson.

## SCOPE OF SERVICES

This exhibit is hereby attached to and made a part of the Letter Agreement for Professional Services dated September 1, 2015 between City of Hays - Kansas ("Client") and Olsson Associates ("Olsson") providing for professional services. Olsson's Scope of Services for the Agreement is indicated below.

### PROJECT DESCRIPTION AND LOCATION

Project will be located at: Hays, Kansas

Project Description: USACE Section 205 Flood Control Project – Feasibility Study

### SCOPE OF SERVICES

Olsson shall provide the following services (Scope of Services) to Client for the Project:

#### 1.0 SCOPE OF WORK

##### Project Background

Olsson understands that this project will include subsurface investigations with a written data report for the design of potential detention basins and associated embankments, including possible project related soils borrow areas.

Upon reviewing soil logs in the area, Olsson has prepared this proposal with the understanding that the subsoil profile will likely consist of lean clays overlying sands and gravels, and shale bedrock. The proposed depths were determined from this information to provide the best delineation of the sub-surface strata for this project and provide the necessary recommendations.

Olsson shall perform professional services as requested by Client pursuant to the provisions provided herein. These services will include Professional Consultation Services incidental thereto.

#### TASK I. – DRILLING SERVICES

##### Field Exploration

- a. Olsson proposes to use a truck-mounted drill rig to complete the following soil test borings.
  - Fourteen (14) soil test borings to depths of 80 feet each.  
The soil borings will be advanced to the depths proposed, or to refusal, whichever is shallower. This proposal is based on a total drilling footage of 1120 linear feet.
- b. Contact Kansas One Call to locate underground utilities. To insure the safety of the crew on site, Owner must inform Olsson the location of all private utilities and private utility service connections. Cost of locating private utility lines and private service connections shall be Owner's responsibility. Olsson is not responsible or liable for damage to any private utility or private service connection.
- c. All boring locations must be readily accessible. Any cost of making boring locations accessible is Owner's responsibility. Olsson will not perform work until boring locations are accessible and acceptable to Olsson's satisfaction.

- d. Drilling rigs are heavy equipment. Disturbance of natural surroundings including but not limited to soil indentations, concrete cracking and damage to underground sprinkler systems, may occur. Olsson shall not be liable or responsible for any site disturbance that may occur as a result of bringing equipment on site. Owner accepts full responsibility for site disturbance.
- e. Sampling of soils in general accordance with ASTM D-1586 and ATSM D-1587.
- f. Obtain groundwater levels in the test borings at the time of drilling and upon completion of the drilling operations.
- g. It is our understanding that a senior geotechnical-drilling technician will not be required to log the borings.
- h. Borehole locations are to be determined, and marked in the field by client, a minimum of 4 days prior to mobilization of Olsson field crew and staff, in order to allow sufficient time for the issuance of utility locates, and subsequent marking by the utility vendors' personnel.
- i. In the event traffic control becomes a necessity, Olsson will provide flaggers and/or signage to the legal extent required by the appropriate governing jurisdiction. Olsson has assumed 5 boring locations will require traffic control. In the event further traffic control becomes necessary, the additional fees will be discussed with and approved by client.

## TASK II. – LABORATORY SERVICES

### Laboratory Services and Data Report Preparation

- a. As determined by the Engineer of Record, laboratory testing may include visual soil classification (ASTM D-2488), thin-walled tube density tests (ASTM D-653), moisture content tests (ASTM D-2216), Atterberg limit tests (ASTM D4318), a Standard Proctor test (ASTM D-698), a one-dimensional consolidation test (ASTM D-2435), and UU triaxial compression test (ASTM D2850).
- b. A data report will be prepared containing the final boring logs and laboratory test results. The report will be stamped by a Registered Professional Engineer.

## TASK III. SURVEY

### Surveying Services

- a. Provide a topographic survey of the areas in Tracks 1-9. Topographic survey to include abrupt changes in grade along structures, roadways, drainage courses and adjacent terrain. Survey to include pavements, fences, utilities, retaining walls and other topographic items. Provide invert elevations of underground storm sewer and sanitary sewer lines. Ground spot shots at corners of buildings. Include topographic survey or spot shots on eroded areas.
- b. I-70 corridor will be excluded from the survey except for any drainage structures that are running under the traveled roadway.
- c. Identify areas of dense vegetation and provide an average of tree diameter. Provide a rough tree count if possible
- d. Research easements in the County records. Locate sufficient boundary control to establish easements on the deliverable electronic drawings.
- e. Survey to be completed in Kansas State Plane Coordinates (North Zone) NAD 83. All vertical elevations will be referenced to The National Vertical Datum of 1988 (NAVD 88) in US Feet. The control network established under this task shall be properly connected to National Spatial Reference System (NSRS) control points with established network accuracy values. Continuously operating reference station (CORS) data shall be incorporated into all Global Positioning System (GPS) network computations.

- f. Kansas One Call will be contacted to mark out utilities in the survey area. Olsson will contact local utility or pipeline companies to provide any available electronic or hard copy maps of infrastructure in the project area. Olsson will incorporate any of such data into the deliverable electronic drawings.
- g. A minimum of 3 control points will be established on the project area to include Horizontal and Vertical Data as described in Item # 5
- h. Provide a surveyors report of all survey activities.

Survey Deliverables

- One three-dimensional topographic and planimetric vector data in MicroStation file format compliant with the A/E/C CADD standard.
- One digital terrain model electronic file (DTM format).
- One raw data file in Excel format. A Survey’s Report (Documentation report, control points locations in a Microstation file, a description of the control points, etc.) (PDF format)
- Electronic copies of the following: survey schematic identifying the location of all horizontal and vertical control point locations. (PDF format)
- A report documenting the survey mission, complete with GPS session notes, sketches, adjustments, etc. (PDF format)
- All deliverables shall be provided on an electronic mass storage device.
- A demonstration that quality control has been conducted on all deliverables prior to submittal. (PDF format)

**2.0 FEE/COST**

Task I. - The fees for Drilling Services listed above is outlined in the table below, and will be invoiced on a ‘per unit’ basis according to the services completed, with a Not-To-Exceed amount of \$26,095.00.

Item	Quantity	Unit Price	Extended Price
Mobilization	1	\$4,955.00	\$4,955.00
Drilling Footage (0-50’)	700	\$17.00	\$11,900.00
Drilling Footage (50-80’)	420	\$22.00	\$9,240
		<b>Subtotal</b>	<b>\$26,095.00</b>

Task II. - The fees for the Laboratory Data Report and Laboratory Services listed above will be invoiced on a 'per unit' basis according to the services completed, with a Not-to-Exceed amount of \$37,270.00.

tem	Quantity	Unit Price	Extended Price
Moisture Content	112	\$10.00	\$1,120.00
Unit Weight	14	\$20.00	\$280.00
Atterberg Limits	112	\$80.00	\$8,960.00
Grain Size Analysis	112	\$100.00	\$11,200.00
CU Triaxial Test (3pt)	0	\$1,710.00	\$0.00
UU Triaxial Test (3pt)	14	\$480.00	\$6,720.00
Standard Proctor	4	\$150.00	\$600.00
Consolidation	10	\$175.00	\$1,750.00
Report Preparation and Coordination	1	\$6,640	\$6,640.00
		<b>Subtotal</b>	<b>\$37,270.00</b>

Task III.- The fees for the Surveying Services will be invoiced as a lump sum.

Item	Quantity	Unit Price	Extended Price
Surveying	1	\$45,800.00	\$45,800.00
		<b>Subtotal</b>	<b>\$45,800.00</b>

Task	Description	Price
I.	Drilling	\$26,095.00
II.	Laboratory	\$37,270.00
III.	Surveying	\$45,800.00
	<b>Total</b>	<b>\$109,165.00</b>

It was agreed with the city that a retainer would not be withheld for any of the services provided by Olsson Associates. Attached is the spreadsheet provided by the client depicting the scope of the drilling and laboratory testing services.

**TESTING UNIT COSTS**

Test Type	Test Cost
Moisture Content	\$10
Unit Weight	\$20
Atterberg Limits	\$80
Grain Size Analysis	\$100
CU Failure Envelope (3 pt)	\$1,710
UU Failure Envelope (3 pt)	\$480
Standard Proctor Curve	\$150
Consolidation test	\$175

**NUMBER OF BORINGS**

Feature	# borings/		
	feature	# feature	# borings
27th st Detention Basin	4	1	4
I-70 E/County Rd. Embankments	3	2	6
I-70 West Embankment	4	1	4
Borrow Area	0	1	0

**ESTIMATE OF TOTAL INVESTIGATION COSTS**

	borings	drilling	testing	Subtotal
Detention Basin Cost	4	\$6,040	\$8,680	\$14,720
Embankment Cost	10	\$15,100	\$21,950	\$37,050
Borrow Area Cost	0	\$0	\$0	\$0
Mobilization/Per Diem/etc				\$4,955
Report/Project Management/Anything else				\$6,640
<b>Total</b>				<b>\$63,365</b>

**TESTING COSTS PER BORING TYPE**

Boring Type	Testing Costs		
	Tests Type	Number of Tests	Test Cost
Embankment	Moisture Content	8	\$80
Embankment	Unit Weight	1	\$20
Embankment	Atterberg Limits	8	\$640
Embankment	Grain Size Analysis	8	\$800
Embankment	CU Failure Envelope (3 pt)	0	\$0
Embankment	UU Failure Envelope (3 pt)	1	\$480
Embankment	Standard Proctor Curve	0	\$0
Embankment	Consolidation test	1	\$175
<b>Test Cost per Boring</b>			<b>\$2,195</b>

Boring Type	Tests Type		
	Tests Type	Number of Tests	Test Cost
Detention Basin	Moisture Content	8	\$80
Detention Basin	Unit Weight	1	\$20
Detention Basin	Atterberg Limits	8	\$640
Detention Basin	Grain Size Analysis	8	\$800
Detention Basin	CU Failure Envelope (3 pt)	0	\$0
Detention Basin	UU Failure Envelope (3 pt)	1	\$480
Detention Basin	Standard Proctor Curve	1	\$150
Detention Basin	Consolidation test	0	\$0
<b>Test Cost per Boring</b>			<b>\$2,170</b>

Boring Type	Tests Type		
	Tests Type	Number of Tests	Test Cost
Borrow Area	Moisture Content	0	\$0
Borrow Area	Unit Weight	0	\$0
Borrow Area	Atterberg Limits	0	\$0
Borrow Area	Grain Size Analysis	0	\$0
Borrow Area	CU Failure Envelope (3 pt)	0	\$0
Borrow Area	UU Failure Envelope (3 pt)	0	\$0
Borrow Area	Standard Proctor Curve	0	\$0
Borrow Area	Consolidation test	0	\$0
<b>Test Cost per Boring</b>			<b>\$0</b>

**DRILLING COST PER BORING (Assume 80 Ft for all borings)**

sample type	Drilling Costs		
	item	unit Cost	Cost
Drilling 0'--50'	50	\$17	\$850
Drilling 50'--80'	30	\$22	\$660
			\$0
			\$0
<b>cost per boring</b>			<b>\$1,510</b>



# Commission Work Session Agenda

## Memo

**From:** Kim Rupp, Director of Finance

**Work Session:** September 17, 2015

**Subject:** Kansas Water Pollution Control Revolving Fund  
Loan Ordinance

**Person(s) Responsible:** Kim Rupp, Director of Finance

### Summary

As has been discussed for several weeks, the City's waste water plant is at the end of its useful life and more stringent environmental regulations have forced staff to seek a major improvement project. The facility plan estimates total costs including financing in the amount of \$30,260,000. The Kansas Water Pollution Control Revolving Fund (SRF) Loan is the best source of funding the project costs. City staff recommends approving the ordinance authorizing the SRF Loan agreement with KDHE.

### Background

The City's waste water plant was originally constructed in 1953, expanded in 1967, and last improved in the early 1990s. The facility has reached the end of its useful life and more stringent environmental regulations continue to force the plant to meet lower effluent limits. Therefore the City is embarking on a major improvement project at its Wastewater Treatment Plant. HDR Engineering, Inc. was hired in April 2015 to identify improvements and costs to improve the treatment facilities to a level to meet current regulations as well as those regulations anticipated to be promulgated in the next 5 to 10 years. A Facility Plan was completed recommending improvements with a total cost of \$30,260,000. The City Commission approved this plan on August 13, 2015. Therefore City staff has investigated funding sources enlisting help from David Arteberry with George K Baum.

### Discussion

The City staff investigated funding sources and recommends the use of the SRF Loan as the best source of funding for the project costs. A summary comparison of funding options is attached to this memo for reference. Advantages of the SRF loan include:

1. A subsidized interest rate and administrative fee of between 2.25% and 2.35% is anticipated.
2. There are no closing costs associated with the loan.
3. The loan disbursements are made as needed so the City is not paying interest until it needs the funds.
4. The interest on the loan from the first disbursement until the first principal and interest payment can be capitalized into loan principal.

5. The first full principal and interest payment is not due until 2 years after the first loan disbursement.
6. The City has 20 years to pay back the loan with semi-annual payments.

The Kansas Department of Health and Environment (KDHE) has provided the City with a draft Loan Agreement. Upon approval of this document by the City, supported by an ordinance, the City can submit this Loan Agreement back to KDHE and lock in the loan's interest rate.

Therefore City staff is asking for approval of the ordinance to complete the loan agreement. This ordinance authorizes the loan agreement with KDHE, establishes a dedicated source of revenue for repayment of the loan by imposing and collecting user rates such that the repayment is possible, and authorizes the execution of all other documents in connection with the loan agreement.

### **Legal Consideration**

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

### **Financial Consideration**

Total Loan Amount =	\$30,260,000
Maximum Term =	20 years
Estimated Interest Rate =	2.27%
Estimated Annual Payments =	\$1,894,312
Estimated Total Interest =	\$7,626,235

### **Options**

The City Commission has the following options:

- Approve the ordinance authorizing the SRF Loan agreement with KDHE
- Choose another financing option
- Provide staff with further direction

### **Recommendation**

Staff recommends approval of the ordinance authorizing the SRF Loan agreement with KDHE.

### **Action Requested**

Approve the ordinance authorizing the Kansas Water Pollution Control Revolving Fund Loan financing the City of Hays Wastewater Treatment Plant Improvements project in the amount of \$30,260,000.

### **Supporting Documentation**

George K Baum Summary of Financing Options  
Ordinance

**Summary of Funding Options  
Wastewater Treatment Facility Project**

**City of Hays, Kansas**

**Debt Financing Options UPDATE (08/31/15)**

	State Revolving Fund Loan	General Obligation Bonds	Utility Revenue Bonds
<b>Maximum Term</b>	20 Years	30 Years	30 Years
<b>Estimated Interest Rate</b>			
20 Year Repayment	<b>2.27%</b>	3.22%	3.74%
30 Year Repayment	NA	3.69%	4.20%
<b>Reserve Fund Required</b>	<b>No</b>	<b>No</b>	Yes
<b>Annual Payment Increase*</b>			
20 Year Repayment	\$1,894,312	\$2,110,000	\$2,384,000
30 Year Repayment	NA	<b>\$1,678,000</b>	\$1,901,000
<b>Total Interest Paid</b>			
20 Year Repayment	<b>7,626,235</b>	10,609,876	11,163,970
30 Year Repayment	NA	19,329,077	22,054,877
<b>General Obligation Pledge Required?</b>	Yes	Yes	<b>No</b>
<b>Issuance Costs (as % of Project Cost)</b>	<b>None</b>	1.60%	1.80%
<b>Notice and Protest Period Required?</b>	<b>No</b>	Yes	Yes
<b>Rating Required</b>	<b>No</b>	Yes	Yes
<b>Annual 125% Debt Service Coverage Requirement?</b>	<b>No</b>	<b>No</b>	Yes
<b>Administrative Issuance Burden</b>	High	<b>Low</b>	Medium

\* Assumes \$29.51 million project with equal annual debt service payments.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING THE EXECUTION OF A LOAN AGREEMENT BETWEEN HAYS, KANSAS AND THE STATE OF KANSAS, ACTING BY AND THROUGH THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT FOR THE PURPOSE OF OBTAINING A LOAN FROM THE KANSAS WATER POLLUTION CONTROL REVOLVING FUND FOR THE PURPOSE OF FINANCING A WASTEWATER TREATMENT PROJECT; ESTABLISHING A DEDICATED SOURCE OF REVENUE FOR REPAYMENT OF SUCH LOAN; AUTHORIZING AND APPROVING CERTAIN DOCUMENTS IN CONNECTION THEREWITH; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION WITH THE LOAN AGREEMENT.**

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**WHEREAS**, the Federal Water Quality Act of 1987 (the "Federal Act") established a revolving fund program for public wastewater treatment systems to assist in financing the costs of infrastructure needed to achieve or maintain compliance with the Federal Act and to protect the public health and authorized the Environmental Protection Agency (the "EPA") to administer a revolving loan program operated by the individual states; and

**WHEREAS**, to fund the state revolving fund program, the EPA will make annual capitalization grants to the states, on the condition that each state provide a state match for such state's revolving fund; and

**WHEREAS**, by passage of the Kansas Water Pollution Control Revolving Fund Act, K.S.A. 65-3321 through 65-3329, inclusive (the "Loan Act"), the State of Kansas (the "State") has established the Kansas Water Pollution Control Revolving Fund (the "Revolving Fund") for purposes of the Federal Act; and

**WHEREAS**, under the Loan Act, the Secretary of the Kansas Department of Health and Environment ("KDHE") is given the responsibility for administration and management of the

Revolving Fund; and

**WHEREAS**, the Kansas Development Finance Authority (the "Authority") and KDHE have entered into a Pledge Agreement (the "Pledge Agreement") pursuant to which KDHE agrees to enter into Loan Agreements with Municipalities for public wastewater treatment projects (the "Projects") and to pledge the Loan Repayments (as defined in the Pledge Agreement) received pursuant to such Loan Agreements to the Authority; and

**WHEREAS**, the Authority is authorized under K.S.A. 74-8905(a) and the Loan Act to issue revenue bonds (the "Bonds") for the purpose of providing funds to implement the State's requirements under the Federal Act and to loan the same, together with available funds from the EPA capitalization grants, to Municipalities within the State for the payment of Project Costs (as said terms are defined in the Loan Act); and

**WHEREAS**, Hays, Kansas (the "Municipality") is a municipality as said term is defined in the Loan Act which operates a wastewater collection and treatment system (the "System"); and

**WHEREAS**, the System is a public Wastewater Treatment Works, as said term is defined in the Loan Act; and

**WHEREAS**, the Municipality has, pursuant to the Loan Act, submitted an Application to KDHE to obtain a loan from the Revolving Fund to finance the costs of improvements to its System consisting of the following:

The project will provide improvements to expand the treatment capability of the present municipal wastewater treatment plant for the City of Hays, Kansas (the "Project"); and

**WHEREAS**, the Municipality has taken all steps necessary and has complied with the provisions of the Loan Act and the provisions of K.A.R. 28-16-110 to 28-16-138 (the "Regulations") applicable thereto necessary to qualify for the loan; and

**WHEREAS**, KDHE has informed the Municipality that it has been approved for a loan in amount of not to exceed Thirty Million Two Hundred Sixty Thousand Dollars [\$30,260,000] (the "Loan") in order to finance the Project; and

**WHEREAS**, the governing body of the Municipality hereby finds and determines that it is necessary and desirable to accept the Loan and to enter into a loan agreement and certain other documents relating thereto, and to take certain actions required in order to implement the Loan Agreement.

**THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HAVS, KANSAS:**

**Section 1. Authorization of Loan Agreement.** The Municipality is hereby authorized to accept the Loan and to enter into a certain Loan Agreement, with an effective date of \_\_\_\_\_, with the State of Kansas acting by and through the Kansas Department of Health and Environment (the "Loan Agreement") to finance the Project Costs (as defined in the Loan Agreement). The Mayor and Clerk are hereby authorized to execute the Loan Agreement in substantially the form presented to the governing body this date, with such changes or modifications thereto as may be approved by the Mayor and the City Attorney, the Mayor's execution of the Loan Agreement being conclusive evidence of such approval.

**Section 2. Establishment of Dedicated Source of Revenue for Repayment of Loan.**

Pursuant to the Loan Act, the Municipality hereby establishes a dedicated source of revenue for repayment of the Loan. In accordance therewith, the Municipality shall impose and collect such rates, fees and charges for the use and services furnished by or through the System, including all improvements and additions thereto hereafter constructed or acquired by the Municipality as will provide System Revenues or levy ad valorem taxes without limitation as to rate or amount upon all the taxable tangible property, real or personal, within the territorial limits of the Municipality to produce amounts which are sufficient to (a) pay the cost of the operation and maintenance of the System, (b) pay the principal of and interest on the Loan as and when the same become due, and (c) pay all other amounts due at any time under the Loan Agreement; provided, however, no lien or other security interest is granted by the Municipality to KDHE on the System Revenues under this Agreement. In the event that the System Revenues are insufficient to meet the obligations under the Loan and the Loan Agreement, the Municipality shall levy ad valorem taxes without limitation as to rate or amount upon all the taxable tangible property, real or personal, within the territorial limits of the Municipality to produce the amounts necessary for the prompt payment of the obligations under the Loan and Loan Agreement.

In accordance with the Loan Act, the obligations under the Loan and the Loan Agreement shall not be included within any limitation on the bonded indebtedness of the Municipality.

**Section 3. Further Authority.** The Mayor, Clerk and other City officials are hereby further authorized and directed to execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of the Ordinance, and to

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make alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

**Section 4. Governing Law.** The Ordinance and the Loan Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of Kansas.

**Section 5. Effective Date.** This 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 \_\_\_\_\_, 2015.

\_\_\_\_\_  
Eber Phelps  
Mayor

ATTEST:

APPROVED AS TO FORM ONLY:

\_\_\_\_\_  
BRENDA KITCHEN  
City Clerk  
(SEAL)

\_\_\_\_\_  
John T. Bird  
City Attorney  
City of Hays, Kansas