Chapter 6—Implementation Strategies

Substantial effort and expense has been put into the development of this Corridor Management Plan for K-68. All of the parties have invested significant resources to:

- Collect and analyze all available, relevant background information on the land area included within the corridor footprint map to fully understand current conditions
- Study and extrapolate projections from the current plans adopted and being prepared by the parties and other entities whose plans may have an impact on development within the Corridor to identify trends and prepare alternative scenarios of how future development may and can progress
- Prepare market projections on development opportunities and constraints that will either positively or adversely affect development potentials
- Reach out to all interested stakeholders to obtain input and guidance on what has occurred, what exists and what they feel should be the vision for this Corridor into the future
- Forge a consensus among KDOT, the community partners and interested stakeholders on a plan that captures this shared vision for enhancements to the mainline highway and adjacent local street network and the interface between the two, including the type and location of points of access, as well as land uses and densities and intensities of development within the Corridor

Successfully completing this planning effort is a major accomplishment in and of itself. The dividends which will flow to the parties from having achieved this goal are inestimable.

That being said, the K-68 Corridor Management Plan is just that: A PLAN. The real purpose for doing a plan is to, through comprehensive and thorough analysis, create a guide to decision-making by all the interested parties, so that the vision and, as much as possible, the details of the plan can become reality. To make the vision of the Plan a reality, KDOT and each of the local communities within the Corridor: Miami County, Franklin County and the cities of Ottawa, Louisburg and Paola must take action to implement the Plan. This Chapter of the Plan describes a series of techniques that can be used by the partners to help turn the maps, illustrations, policies, goals, strategies and recommendations of the Plan into the actual facility improvements and the associated development patterns envisioned by the Plan. The tools described in this Chapter, when put into place, have the supplemental benefit of establishing additional criterion against which state, county, municipal and utility improvement plans and private development proposals can be evaluated, as each is brought forward through time. Having these supplemental criterion in place will give all parties greater assurance that all the resources the parties put toward creation of the K-68 Corridor Management Plan are realized upon and that the vision for this Corridor becomes a well-functioning component of each community.

The tool box of techniques described here is divided into four major sub-sets: Corridor Preservation Strategies; Access Management Strategies, Financing Strategies and Interlocal Cooperation. Each of these sub-sets are, where appropriate, further categorized to give those using the Plan a better understanding of the role the technique plays in this tool box of implementation techniques, the authority to use the tool and how the techniques complement one another when used appropriately.

CORRIDOR PRESERVATION STRATEGIES

Corridor preservation is achieved through planning and the implementation of those resulting plans using a variety of regulatory strategies, including zoning, subdivision regulations, access management and exercise of the police power. One primary goal is to control or protect areas identified in the Plan that will be necessary for future enhancement to the mainline of K-68, as well as for improvements to the local street network within the K-68 Corridor. An equally important goal is to preserve and, wherever possible, enhance opportunities for development at locations within the K-68 Corridor that maximize the economic potential of this Corridor, while simultaneously preserving the functionality of this portion of K-68, its access points and the interfacing adjacent local street network. Benefits of corridor preservation include:

- Preventing incompatible development
- Minimizing adverse environmental/social/economic impacts
- Reducing displacements
- Establishing the location of transportation facilities which allows communities increased opportunities to achieve orderly development through future planning
- Reducing future project costs

Close coordination between KDOT and the five local communities is essential since authority for some preservation tools are vested in the state and the authority for others is vested in the local governments.

Planning Tools

Comprehensive Planning: To help ensure that the land development decisions are consistent with and are made in accordance with the recommendations of the K-68 Corridor Management Plan, each community should adopt this Plan, including the footprint map covering areas lying within the city's planning area, as a part of the city's comprehensive plan. K.S.A. 12-747 authorizes city and county planning agencies to make or cause to be made a comprehensive plan for the development of that community. There is specific authority to adopt area or sector plans covering only a portion of the area within a community's jurisdictional boundaries. The plan must show the commission's recommendation for the development or redevelopment of the territory included in the portion of the plan prepared.

The planning commission must hold a hearing on the adoption of the Corridor Management Plan and make a recommendation to the governing body on its adoption. The plan does not become effective unless approved by the governing body. *Jurisdiction: Local*.

Official Maps: An official map is a legally adopted map that conclusively shows the location and width of proposed roads or streets, public facilities and public areas and drainage rights-of-way. It is also commonly referred to as a major street plan. Although the Kansas statutes do not specifically authorize cities or counties to adopt an official map, K.S.A. 12-747, in its description of the elements that should be covered in a comprehensive plan, clearly contemplates that the plan include the type of information that is traditionally included in an official map.

Franklin and Miami Counties and Ottawa and Paola have adopted one of these types of maps. It goes without saying that the lack of specific statutory authority to adopt an official map in no way precludes a city or county from acting pursuant to their home rule authority to do so. In addition, K.S.A. 12-765, discussed below in Subsection Regulatory Tools-Setback Ordinances, granting authority to cities and counties to establish building or setback lines, does authorize cities doing so to incorporate by reference an official map in the ordinance or resolution, as the case may be.

The adoption of an official map as a part of the community's comprehensive plan or as a stand alone document gives that community one additional point of reference and source of guidance when considering development applications relating to land that lies within the Corridor to determine whether the development proposed will have an impact on the improvements contemplated by the Corridor Management Plan. *Jurisdiction: Local*.

Plan Consistency: To help ensure that the community's comprehensive plan is internally consistent and therefore effectively serves as a comprehensive guide to development within the community, upon adoption or in conjunction with the adoption of the Corridor Management Plan as a part of that community's comprehensive plan, the community should review its existing comprehensive plan to assure that other portions of the plan support and are not in conflict with the recommendations of the Corridor Management Plan. If the community identifies inconsistencies, it should revise and readopt the comprehensive plan with revisions designed to eliminate those inconsistencies using the procedures outlined for the adoption of a comprehensive plan. *Jurisdiction: Local*.

Utility Planning: Utilities necessary to support development will be constructed within the Corridor. It is critical that these utilities be located at places that are consistent with the K-68 Corridor Management Plan, so they will not have to be relocated upon construction of enhancements to K-68 at future dates.

Each community within the Corridor should, in coordination with all providers of utility services within its corporate boundaries, prepare and continually update a utility master plan. These utility master plans must be carefully coordinated with the Corridor Management Plan to ensure consistency between the two. KDOT and communities within the Corridor should carefully evaluate the Corridor Management Plan, when making decisions about the location of new utilities and related easements.

In addition, KDOT and each community should establish a regular point of interface with each utility provider to ensure coordination between the parties in ongoing planning efforts and land acquisition and placement decisions. *Jurisdiction: KDOT/Local*.

Conformity of Public Improvements: K.S.A. 12-748 provides that whenever a planning commission has adopted a comprehensive plan for an area, no "public improvement, public facility or public utility," of a type covered by the recommendations of that plan, may be constructed without first being submitted to and approved by the planning commission as being in conformity with the plan.

Public entities with plans for construction of these improvements, facilities and utilities should consult with the representative of cities and counties with adopted comprehensive plans early in that entity's decision-making process and timely submit those plans to the appropriate planning commissions for this determination. This requirement applies to any public entity that is intending to do this type of construction within the jurisdictional boundaries of a city or county. This is an important way to ensure due consideration is given to the recommendations of the Management Plan, once it is made a part of each community's comprehensive plan.

Cities and counties that learn of plans for construction of this type, by another public entity within their boundaries, should be diligent in contacting the entity to make sure they are aware of this obligation and then to facilitate the contemplated review, thereby helping to ensure the Plan is fully considered in these situations.

It is important to note that the governing body of the entity proposing this construction can over-ride a negative recommendation of a local community planning commission, but even in that instance, an important opportunity for review of the consistency between the proposed construction and the Management Plan by the parties is captured. *Jurisdiction: KDOT/Local*.

Regulatory Tools

Development Moratoria: Any of the cities and counties along the K-68 Corridor may, through passage of a development moratorium, temporarily halt the processing of applications for all or a specified type of development until a governmental activity is completed, such as the adoption of a plan or the passage of a revised ordinance on a specified subject. The Supreme Court recently held that a reasonable moratorium fulfills a legitimate public purpose and is not per se a taking.

As vigilant as the partners to this Plan may be in incorporating the Management Plan into their comprehensive plans and utilizing the regulatory strategies to implement the Plan,

situations are bound to arise where development pressures overtake the local professional staff's ability to effectively manage those pressures. In those situations, development moratoria are a very effective tool to help stem those pressures while the community determines what approach will be most effective; be it an amendment to the comprehensive plan or passage of an ordinance/resolution establishing a new or updated regulatory implementation technique, such as an overlay district.

The moratorium ceases the processing of applications during a legislatively established period of time needed to prepare and adopt strategies the community determines will best address the circumstance. It is important to note that adoption of moratoria is generally considered to be a zoning action. Accordingly, that ordinance/resolution must be passed pursuant to the hearing and notice requirement of Article 7 of the Kansas Statutes. For that reason, it is critical that communities act quickly to get a moratorium in place once a situation calling for a "time out" is identified.

One way to close the window on the rush of applications that might result from notice of the consideration of a moratorium ordinance is for the community's governing body to adopt a resolution directing staff to stop accepting applications until the moratorium ordinance takes effect. The authority for adoption of a resolution of this type is found in the "pending ordinance" doctrine, which has been accepted by the courts of most states. *Jurisdiction: Local*.

Zoning: Zoning is one of the most prevalent and effective mechanisms for implementing a comprehensive plan. Zoning is a process utilized by local governments to classify land into areas and districts. These areas are generally referred to as "zones," and impose, in each area and district, restrictions related to building and structure designs, building and structure placement, and uses to which land, buildings, and structures within these districts may be put, including setbacks and height, lot coverage, and impervious cover restrictions.

The authority to establish setbacks from rights-of-ways is not specifically mentioned, but is derived from the authority to set sizes of buildings, the percentage of each lot that may be occupied and the size of yard and other open space. See Subsection Regulatory Tools-Setback Ordinances of this Chapter for a discussion of the authority to establish setbacks or building lines granted in K.S.A. 12-765. See also, the authority to establish setbacks derived from K.S.A–749, which provides cities and counties with the authority to establish subdivision regulations. The implicit authority to establish setbacks as a part of zoning district restrictions is located in K.S.A. 12-755. These statutory provisions provide authority to establish setbacks for more than just buildings. They may apply to any structure within the designated setback.

Traditionally, however, though established at depths adequate to preserve rights-of-way for the local street network system, the normal front and side yard setback included in zoning ordinances and subdivision regulations are not generally sufficient in depth to preserve rights of way that may be necessary for enhancement to K-68 within the Corridor.

Zoning ordinances may also make provisions for certain uses to be established community-wide or in individual zones only by issuance of a special or conditional use permit. Rezoning of parcels that have been previously zoned may be initiated by the local community or by a property owner. *Jurisdiction: Local*.

Through the adoption of zoning ordinances, which are carefully tailored to implement the strategies and policies of the Corridor Management Plan, development within the K-68 Corridor can be effectively managed to ensure successful implementation of that Plan. K.S.A. 12-755 and 12-756 authorize both cities and counties to adopt zoning ordinances, and K.S.A. 12-757 authorizes the rezoning of properties in those instances where changing a property's zoning classification is advisable or necessary to adapt original zoning to current situations.

If a rezoning application proposes a zoning classification that is determine to have the potential of adversely impacting the Corridor, copies of the application, along with the staff report, should be provided to KDOT for input, at the same time any other affected party is provided notice of the hearing on the application.

K.S.A. 12-715b authorizes cities, with a couple of exceptions and under certain conditions, to adopt zoning regulations applicable to land located outside of its corporate limits, but only within three miles of those limits and only if the county has not adopted zoning regulations applicable to that area of the county.

Written notice of a city's intent to adopt zoning outside its limits must be provided to the appropriate board of county commissioners. Similarly, each county that proposes to adopt zoning regulations affecting property within three miles of the corporate limits of a city, must give written notice of its intent to that city's governing body. Along the K-68 Corridor, both Franklin and Miami County have adopted zoning that includes all of its jurisdiction, but does exclude the Urban Growth Areas and Community Growth Areas, respectively, surrounding cites within each county.

Zoning Approval Criteria: Arguably, the most important Kansas Supreme Court case dealing with zoning is *Golden v. the City of Overland Park*. *Golden* sets out a set of factors that planning commissions and governing bodies may consider when deciding whether to approve or deny a zoning application. One of those factors is consistency with the comprehensive plan. Each community along the K-68 Corridor, when acting on a development application related to land that lies within the Corridor, should consider whether the development proposed by that application is consistent with the Corridor Management Plan, as adopted into its comprehensive plan.

Overlay Districts: One of the most effective plan implementation zoning techniques is overlay districts. An overlay district can be either mapped or narratively described to be mapped at some later point in time (floating). An overlay district superimposes certain additional restrictions that modify

or supplement the restrictions of the underlying zoning district or districts, in recognition that distinguishing circumstances exist within the area that must be regulated in a manner different from the regulations of the underlying district.

One misunderstanding about the term overlay district is that communities think there is a model that can be pulled off the shelf and adopted to serve as its overlay district. While it might be accurate to say that a model procedural framework might exist, nothing could be farther from the truth when talking about the real implementation aspects of the overlay district. The whole goal behind adoption of an overlay district is to address special and unique circumstances and considerations that affect a specific geographic area of the jurisdiction differently than other areas of the jurisdiction. Thus the objective is to identify those circumstances and considerations; articulate a vision for how that particular area should develop over time (while both accommodating and capitalizing on opportunities presented by those considerations); then develop regulations, restrictions and incentives to guide development to effectively realize that vision.

Overlay ordinances are generally composed mainly of design and performance guidelines and standards, and are filled with illustrations and graphics. They are carefully prepared to effectuate the plan for that specific area. In this instance, the K-68 Corridor Management Plan has created the vision, or at least, the superstructure of that vision.

An overlay district is crafted to implement that Plan. It is also common for people to believe that the community could prepare one overlay district and that it would apply to all land in its jurisdiction within the Corridor. For the very reasons stated above, that notion is incorrect also. Because the Plan identifies development scenarios that are unique to each different location within the Corridor, the idea that one set of regulations and incentives could be prepared to guide development along an entire length of a corridor is flawed. Each one of those locations should have its own overlay district with carefully chosen implementation techniques employed to achieve Plan objectives.

Potentially, one overlay district could be prepared for each jurisdiction along the Corridor, but for it to have any real usefulness, it would have to break the Corridor into distinct segments with a separate set of standards created for each segment. For example, an overlay district can be effectively used to establish setback or building lines that are deeper than the setbacks set out in the underlying district regulations. This can be particularly effectual, as diverse setback distances can be established for different segments along the Corridor, depending on the need for additional rights-of-way at a specific location and on whether the segment is a developed or an undeveloped area, as well as on the nature and intensity of any existing development.

Planned Districts: Conventional zoning allows for an amendment of the zoning classification of land upon application of the governing body or the planning commission. If the proposed amendment affects specific property, the landowner may make application. The procedures set forth above govern the consideration of and action on zoning amendments, generally called rezonings. So long as the decision to rezone is reasonable, in light of the *Golden* criteria, the rezoning may take place at any point in time.

Most commonly, a rezoning is applied for just in advance of development of that property or when a change of use is contemplated as a part of redevelopment of the property. Nothing, however, requires that there be pending development for a rezoning of a particular property to be reasonable. Sometimes properties are rezoned well in advance of any potential development or redevelopment activity. There may be a very valid public purpose for rezoning land substantially before it is ripe for development or redevelopment, and in those instances, the application should be made by the governing body or planning commission.

It is generally good planning, however, not to prematurely rezone land to a zoning category other than one that allows its current use or to a use that is imminent. A community can successfully illustrate its vision of how land should be developed, in terms of general uses, through the future land use map of its comprehensive plan. It really does not need to zone land to an anticipated land use well in advance of development to make its community vision for land use known.

Generally, a community's development objectives can best be served if it has as much information about contemplated uses, proposed site terrain, location and type of infrastructure being proposed, building arrangement, architectural design and other features of development, as is possible, when it considers a rezoning application.

Planned districts are an excellent tool to help in achieving this objective. A community's zoning ordinance can provide that all its zoning districts are planned districts, it can provide a parallel planned district for each or any number of its conventional districts (such as C-1 and C-1/P) or it can create separate planned districts for certain types of development or for development in certain locations.

The planned district process ensures this type of information is available to the planning commission and governing body by converting the traditional rezoning process into a two step process. The applicant submits two separate plans to the community at different points in the approval process. The plan contains an increasing level of detail commensurate with the stage at which the property is in the development process. These plans are generally called development plans; one a preliminary and the other a final development plan. Although what the submittal is called is without significance.

The preliminary development plan is submitted along with the application for rezoning. The amount of information that is included in the preliminary plan can and should vary from community to community but in any event should include enough to allow decisions makers to understand the nature and quality of the development being proposed. The following type of information would generally be included: topography, locations of building and other structures, dimensions portraying relationships between buildings and to property and setback/build to lines, on site and adjacent area circulation, storm water management approach, preliminary sketches

depicting the general style, size and exterior construction materials of proposed structures and evidence of adequate public facilities.

Both the planning commission and the governing body consider and act on the preliminary plan at the same meeting they consider the rezoning application. No rezoning application may be approved until and unless a preliminary plan for that property is approved. This helps ensure that the decision makers fully understand what is going to be developed on that property when the rezoning is approved. An applicant may opt to combine the two plans into one and submit the combined plan with the rezoning application. It is just necessary that all the submission requirements of the two plans are incorporated in the submitted plan.

If the development proposed by the preliminary development plan application is determined to have the potential of adversely impacting the Corridor, copies of the application along with the staff report, should be provided to KDOT for input, at the same time any other affected party is provided notice of the hearing on the application.

Typically, the approved preliminary plan stays in effect for a set period of time; most commonly 2 years, with the possibility of an extension if justified and applied for before the expiration of the approval. This process can be easily adapted to phased projects.

The second step in the planned district approval process is the submission of a final development plan. This occurs after engineering drawings have been approved, but before any building permit may be issued. The final plan must be substantially consistent with the approved preliminary plan or be approved using the same process for preliminary plan approval. The final plan contains much more information than the preliminary, as, of course, the developer has moved farther along in designing the development, so more information is available to provide additional assurance to the community that the development proposed is appropriate for that location.

These final plans, when consistent with the preliminary, can be approved administratively or legislatively or through a combination of the two. Once the plan is approved, it is filed of record with the county register of deeds. All development at the location covered by the rezoning and development plan application must then be constructed in accordance with the plan or risk stop work orders and zoning ordinance violations.

Site Plans: Although a site plan itself is very similar to the development plans discussed above in the description of Planned Districts, the term is used here to describe a plan submitted during the course of the development approval process when the community does not employ a planned district process. It is also designed as a mechanism to inform the decision makers of the applicant's proposal for development of property.

Unlike the Planned District process, which is traditionally a two step plan submittal process undertaken in conjunction with a rezoning of land, the site planning process is generally a one step process that is required of developers that are not required to rezone their property prior to the issuance of a building permit. To institute this mechanism, the community would need to revise its land development codes to require that, in instances of proposed developments, where some other plan approval process is not required prior to issuance of a building permit, the applicant must submit a site plan for review and approval prior to building permit issuance. It would be common for certain types of development to be excluded from the site plan approval process, such as development of a single family house or similar smaller type developments that will have a minimal impact on facilities and services or on the landscape.

The usual site plan would be described as a plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, floodplains, wetlands, and waterways; landscaping and open spaces; walkways; means of ingress and egress; circulation; utility services; structures and buildings; signs and lighting; berms, buffers, and screening devices; surrounding development; and any other information that reasonably may be required for an informed decision to be made by the approving authority.

It is not uncommon for the site planning process to be divided formally or informally into two parts, and for that matter, for the planned district two step process to be modified to add a third step. In these circumstances, an initial submittal, often called a concept plan, is made to the technical staff for informal review. The applicant and its consultant sit down with the approving authority's technical staff to discuss the plan and exchange views on what the applicant is proposing and what the technical staff believes will be acceptable to the approving authority. It can also serve as an opportunity to fine-tune the plan for formal submittal. Once that process is complete, a formal site plan, as described above, or a preliminary development plan is submitted for staff review and report.

The nature of the approval required for a site plan can vary greatly, depending on the expertise of staff and the appetite of the community to delegate approval authority to an administrative official. So, for example, a community could decide to vest plan approval authority for some categories of development in an administrative official, other categories of development in its planning commission and retain to the governing body still another category of development approvals. One would expect that administrative approval would be available for those categories of development that are determined to be of the least potential community impact, moving up to governing body approval on those that could have far reaching impacts, such as development at certain locations (key intersections) along the K-68 Corridor.

If the site plan proposed in the application is determined to have the potential of adversely impacting the Corridor, copies of the application, along with the staff report, should be provided to KDOT for input, at the same time any other affected party is provided notice of the hearing on the application. If no hearing is required, this notice should be provided to KDOT in enough time before action on the application take place to allow meaningful KDOT input.

Another excellent way to approach site planning is to combine site plan review with an overlay district. The site plan is then used to evaluate the extent to which the design and performance guidelines of the overlay district are met by the proposed development. Going a step further, the overlay district could set forth certain guidelines that are mandatory, others that are encouraged and a last tier that are desirable, or some variance of this approach. The nature of the approval could then be tied to the degree to which the different tiers of guidelines are achieved. For example, all proposals that achieve all the mandatory and encouraged guidelines can be approved administratively. If the staff determines that the proposals does not achieve the guidelines in both tiers, the site plan must be considered by the planning commission or governing body. The variants that can be employed here are nearly endless.

Subdivision Regulation: The subdivision of land through platting is the second most common method used by communities to manage the development of property within its jurisdiction. The control of the division of a parcel of land is effectuated by adopting subdivision regulations by ordinance or resolution that requires development be in accordance with set design standards and procedures adopted locally.

K.S.A. 12 – 749 grants cities and counties the authority to adopt subdivision regulations. Subdivision regulations may include, but need not be limited to regulations designed to: ensure efficient and orderly location of streets; reduction of vehicular congestion; reservation or dedication of land for open spaces; off-site and on-site public improvements; recreational facilities; flood protection; building lines; compatibility of design; storm water runoff; and any other services, facilities and improvements deemed appropriate. It is through the consideration and action on plats that communities along the K-68 Corridor are able to require that the distances which structures are set back from rights-of-way (a very important tool for preservation of rights-of-way for proposed enhancements to K-68), the layout of building lots, the points of ingress and egress from the lot(s) (effective in helping to manage access), and the public improvements associated with those lots do, in fact, conform to locally established standards, including adopted plans such as corridor management plans.

In some locations, subdivision regulation and plat approval may actually be the most significant regulatory tool for managing development. In some more rural areas, it is more common for counties to have adopted subdivision regulations than to have adopted zoning. In those unincorporated areas, there would be no local legislative authority to manage development through zoning restrictions. Accordingly, subdivision regulation would be those counties' primary land management tool. Both Miami and Franklin Counties' subdivision regulations authorize the cities in the respective counties to enter into interlocal cooperation agreements regarding the regulation of subdivisions within areas surrounding the cites within the counties.

Subdivision regulations usually specify what improvements the subdivider will be required to provide and the standards to which the improvements need to be constructed. A plat is a map prepared by a registered civil engineer or licensed land surveyor showing the boundaries and locations of individual properties and the streets of the proposed subdivision. The plat generally also shows land to be dedicated to a public sector entity for streets and easements for public utilities.

K.S.A. 12-749 authorizes a planning commission to adopt and amend regulations regarding the subdivision of land, including payment of a fee in lieu of dedication of land. This same section also authorizes a county planning commission to establish subdivision regulations. Much like zoning, a city may adopt subdivision regulations that control the subdivision of land outside of its corporate boundaries, but only within three miles of that limit or one half the distance between two cities, whichever is less. Similar written notice requirements apply.

The regulations must be considered by the planning commission at a public hearing, and the commission must forward its recommendation to the governing body for its approval. K.S.A. 12-750 lays out a process that must be followed where a city desires to adopt extraterritorial subdivision regulations and the county has its own regulations in effect as to that area. None of the cities along the K-68 Corridor have exercised extraterritorial subdivision regulation authority. That process can result in the creation of a joint city/county committee for subdivision regulation.

K.S.A. 12-752 establishes the procedure for the consideration of and action on plats. Each plat must be submitted to the planning commission, which determines if the plat conforms to the subdivision regulations. If it finds that it does, it notifies the owners of that fact and endorses that fact on the plat. A dedication of land for public purposes must be accepted by the governing body before it takes effect.

See Section Administrative Tools-Notice of Applicability of Plan below, of this Chapter, regarding notices that should be placed on plats prior to their recording with Registers of Deeds to help ensure that prospective purchasers of properties, which are included in the geographic area covered by the Corridor Management Plan, are informed of the ramifications on those properties of being within an the area covered by the K-68 Corridor Management Plan.

In addition, if the preliminary plat application is determined to have the potential of adversely impacting the Corridor, copies of the application along with the staff report, should be provided to KDOT for input, at the same time any other affected party is provide notice of the hearing on the application. *Jurisdiction: Local*.

Building Permits: The same section of Kansas Statutes discussed immediately above, prohibits the issuance of a building permit for the use or construction of any structure on any platted lot in an area governed by subdivision regulations, except in the manner provided by that section. It further authorizes subdivision regulations adopted by cities and counties to provide a procedure for the issuance of building permits that takes into account the need for adequate street rights-of-way, easements, improvements of public facilities and zoning regulations, if in existence.

The issuance of a building permit is obviously the last step in the typical development approval process. Although courts hold that a building permit must be issued upon submission of a complete application, if all code provisions governing the process for building permit issuance have been fulfilled, this does not mean that communities cannot creatively incorporate building permit requirements into their governing code provisions. For example, it is common for the issuance of a building permit to be conditional upon the payment of a legislatively imposed fee, such as an impact fee.

In cities or counties that have not adopted zoning or subdivision regulations, local regulations governing the issuance of building permits may not only be the last step, but also the first step in the development approval process, thus markedly increasing the importance of this tool in the arsenal of techniques a community may employ to effectively manage land development. This is not a concern along the K-68 Corridor. Even in communities that have adopted one or both regulatory tools, the procedure for the issuance of building permits still may play a very a critical role. See subsection Regulatory Tools-Zoning, Site Plan above, of this Chapter, on Site Plans for a description of how that technique can be used to more effectively manage the development of land in jurisdictions where either zoning or subdivision regulations have not been enacted.

K.S.A. 12-751 authorizes cities to adopt and enforce building codes outside that city's limits and allows compliance with subdivision regulations to be a condition of the issuance of a building permit. *Jurisdiction: Local*.

Transfer of Development Rights and Density Transfers: Some locations along the K-68 Corridor, for a variety of reasons, including availability of access, are best developed with more intense and/or dense uses. Other locations along the Corridor, for other reasons, including the lack of direct access, are best suited for less intense or dense development.

One way communities along the Corridor can help ensure that property owners are afforded the maximum opportunity to develop their property to its most reasonable and economic potential is to establish a system of density incentives and transfers to encourage more intense development in areas designated on the Plan for that type of development. This system provides those landowners whose land is designated for less intense development the ability to transfer some or all of their development rights to locations where more intense development is planned, through a sale of those rights to landowners at those intense locations. These systems involve the transfer of all or a part of the permitted density on one parcel to another parcel or to another portion of that same parcel, thus allowing higher density at that location than would be allowed under the existing zoning regulations.

The transfer or removal of the right to develop or build is expressed in units per acre or floor area ratio. This transfer generally occurs in accordance with a legislative established program that allows the shifting of development potential from areas where more intense land uses are considered undesirable (the donor site or sending zone), such as at locations which are a distance from the location where K-68 interchanges are to be constructed, to other areas (receiving zones) chosen on the basis of its ability to accommodate development that is more dense or intense, such as areas adjacent to proposed interchanges. For example, developers can buy development rights from properties targeted for public open space and transfer the additional density to the base number of units permitted in the zone in which they propose to develop.

Density Incentives: This technique is an additional method of increasing density at locations designated by the Plan, and thereby maximizing the economic potential of the Corridor without sacrificing K-68's functionality and the functionality of the adjacent local street network. It involves identifying areas, such as areas near interchanges or other access points, which are shown on the Management Plan as more appropriate for dense or intense development than other areas within the Corridor and providing incentives that will encourage developers to propose a form of development at those locations that conform to the density or intensity levels contemplated by the Plan.

The most common incentive is to allow for a streamlined development approval process for applications that propose developments which exceed the density thresholds otherwise established by the local community through the restrictions of the underlying zoning district regulations. This is generally achieved by allowing for administrative, rather than legislative, approvals during the application review process. To be legally valid, the legislation establishing the program must include specific standards to guide the administrative official in decisions on when an application qualifies for streamlined review and when the application approval criteria are met. There are few limits to the innovation that can be used in creating incentives to lure more dense development. The Management Plan should serve as a good source of inspiration on potential incentives. *Jurisdiction: Local*.

Cluster Development: This technique is yet another tool to help achieve Plan goals of ensuring denser development at locations where the Plan calls for it, while simultaneously keeping development away from or at very minimal levels at locations where it will have an adverse impact on Plan goals. A good example would be to preserve and protect critical environment or cultural resources. This technique is generally authorized by specific district regulations, such as a cluster subdivision. It is a development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreational, common open space or preservation of historically or environmentally sensitive areas.

Through the employment of this technique, property owners are able to achieve an acceptable average density for the entire parcel, and both the public and private sector participants are able to effectively protect key community resources. This technique is intended to allow for significant creativity in site layout and planning, generally resulting in added value to development areas as a result of access to permanent open space and recreational opportunities. *Jurisdiction: Local*.

Setback Ordinances: One of the keys to successful implementation of the Corridor Management Plan is ensuring that development does not encroach on right-of-way that would be necessary for improvements to K-68 and its interchanges, as the Corridor develops. Along with the authority granted to cities and counties to zone and adopt subdivision regulations, one very effective way to achieve this objective is through the adoption of a building or setback line. This tool preserves projected rights-of-way and reduces acquisition costs: both over-riding goals of the Management Plan. K.S.A. 12-765 authorizes cities or counties, which have adopted a plan for a major street or highway system (which would include the Corridor Management Plan), as a part of its comprehensive plan, to adopt building setback lines.

After consultation with the Secretary of Transportation, the county engineer and any planning commission of a county or counties within which that highway system lies, the governing body may establish, by ordinance or resolution, a building or setback line along proposed major streets or highways. This enactment, much like building and set back lines established in zoning district regulations and subdivision regulations, includes a prohibition on the location of buildings in front of that setback line. The enacting ordinance or resolution may incorporate by reference an official map showing with survey accuracy the location and width of existing or proposed major streets or highways and any setback or building line.

A building or setback line cannot be enforced until a certified copy of the map and any adopting ordinance or resolution is filed with the register of deeds of each county. The key to the enforceability of the setback line is a careful evaluation of the impact of the line, and its attendant prohibition, on adjacent landowners. The restriction on development must leave these owners with viable economic uses for their commonly owned contiguous parcels of land.

As a safety valve, the local board of zoning appeals is vested by statute with the power to modify any building restrictions to address unwarranted hardships that constitute a complete deprivation of use.

Building setback lines, like build-to lines, can also be established as a part of zoning district restrictions, subdivision regulations and as a design guideline in an overlay district. Although this is an additional tool available to communities along the Corridor to implement the Management Plan, it may well be that cities and counties can as effectively accomplish the goals of this tool through set back and building lines established in zoning ordinances and subdivision regulations, though care must be taken to ensure that the set back established in these regulations are large enough to preserve the rights-of-way that is contemplated to be necessary for enhancement to K-68 over time. *Jurisdiction: KDOT/Local*.

4(f) Uses: Federal statute places significant restrictions on the authority of the United States Secretary of Transportation to approve a transportation program requiring use of publicly-owned land, a public park, recreation area or wildlife refuges or land of a historic site. Because state transportation programs or projects often involve federal funds, the Secretary's approval is commonly required. Accordingly, it is important that these uses not be located within the Corridor unless no other viable option is available. This imperative makes it critical that the Corridor communities avoid locating or approving development applications seeking to establish public parks, recreation areas or wildlife refuges and historic sites, also known as 4(f) uses, in the areas shown on the Plan footprint map as right-of-way for K-68 or of any portion of the local street network. The moniker 4(f) comes from the United States Code provision that limits the Secretary's approval authority. *Jurisdiction: KDOT/Local*.

Variances: Communities in Kansas have authority to grant variances from the specific terms of the zoning restriction whenever doing so is not contrary to the public interest and where, due to special conditions, local enforcement of the provisions of the regulations, in an individual case, results in unnecessary hardship. K.S.A. 12-759.

The board of zoning appeals has the authority to grant a variance to area and setback regulations applicable to that property. The grant of a variance from district restrictions, such as parking requirements and impervious cover requirements, may be an effective way to allow an important development proposal to proceed with minor modifications that keep it out of necessary K-68 rights-of-way and behind setback lines. At the same time, the grant of some variances could adversely impact the recommendations of the Plan. Therefore, it is recommended that the board of zoning appeals consult the Corridor Management Plan, as incorporated into its comprehensive plan, when considering any request for a variance to ensure that the variance decision supports the recommendations of the Plan.

In addition, if the variance proposed is determined to have the potential of adversely impacting the Corridor, copies of the application, along with the staff report, should be provided to KDOT for input, at the same time any other affected party is provided notice of the hearing on the application. *Jurisdiction: Local*.

Administrative Tools

Accessibility of the Comprehensive Plan: The goal of a comprehensive plan is not only to serve as a guide to development for the planning commission and the governing body but also to owners and potential owners of property within the community's jurisdictional boundaries. That being the case, it is recommended that the amended comprehensive plan be posted on the city's website and at all other appropriate locations to assist in assuring that all interested parties are informed of the recommendations of the Corridor Management Plan for areas included in its footprint map. *Jurisdiction: Local*.

Notice of Applicability of Plan: One tool to help ensure that individuals who own property within the Corridor and who are considering purchase and/or development of that property are aware that the land is included in the area covered by the Corridor Management Plan is for each of the partner counties and cities in the development of a Corridor Management Plan to require that all plats approved by them contain a statement, similar to the following, placed in the dedication section of each approved plat.

"The property shown on and described in this plat is and shall hereinafter perpetually be subject to that certain [INSERT CORRIDOR NAME] Corridor Management Plan, adopted by the Kansas Department of Transportation on _____ , the City of _____, Kansas on _____, ____and _____County, Kansas on _____, ____, recorded in the Register of Deeds for _____ County, Kansas, in Book _____, at Page _____."

Another way to help ensure that those interested in developing areas of land covered by the Management Plan are aware of the Plan, is for communities within the Corridor to amend all their development applications to highlight the existence of special planning areas in the city or county, including the areas covered by the Corridor Management Plan. This could be handled informally through an internal process established wherein all individuals who request a development application are routinely asked by staff the location of the property that will be the subject of the application to allow the staff member to inform the potential applicant when the area to be developed is included in an area covered by a special area plan. Alternately, it could be handled more formally by inserting a line on all applications with a space to be filled in identifying parcels covered by special plan areas. The latter is the recommended approach, as it avoids reliance on, what could be, revolving staff to ensure that knowledge of the relevance of areas plans is consistently imparted to applicants. That being said, development application forms cannot always be changed immediately, so the informal process may be employed until the opportunity arises to make the formal change.

Entities or persons interested in developing at locations within the Corridor may also become informed of the existence of the Plan as a result of the requisite filing of the Interlocal Cooperation Agreement (entered into among all parties to the Study that resulted in the Corridor Management Plan) in the register of deeds office in the county where that property is located. It should be noted that upon its filing the Interlocal Agreement will not be filed in the grantor/grantee index, so it would typically not show up on a title search. The agreement is filed under the names of the parties to the agreement. See Interlocal Cooperation of this Chapter for details on filing of the interlocal agreements. *Jurisdiction: Local*.

Notice and Opportunity to Provide Input: Since the Corridor Management Plan is a joint cooperative effort between the Kansas Department of Transportation and the 2 counties and three cities along the Corridor to create a vision for development of that Corridor and provide a guide to development decisions made by each community within that Corridor, all parties with an interest in potential development along the Corridor should be afforded an opportunity to provide input on that decision-making process during the requisite application and consideration procedures utilized by that community. Accordingly, each community should provide KDOT with appropriate notice of any development application (including rezoning and associated preliminary development plans applications, special or conditional use applications, site plan applications and preliminary plat applications and hearings on an amendment to that community's comprehensive plan), that could reasonably be expected to have the potential to adversely impact the Corridor. In addition, each community should provide KDOT with advance copies of all such proposed plan amendments or development applications and any related staff reports. *Jurisdiction: KDOT/Local*.

Notice of Land Marketed for Sale: Success in being able to acquire property necessary for rights-of-way for K-68 at the earliest time possible is critical to the successful implementation of the Corridor Management Plan. The ability to act quickly when an opportunity arises is key to this success. If KDOT has prompt notice of properties that become available for purchase within areas shown as future right-of-way in the Corridor Management Plan, it will be in a better position to timely coordinate with local governments on the acquisition of necessary rights-of-way. Each of the cities and counties within the Corridor should employ whatever means are available and identify additional means by which they can keep apprised of land purchase opportunities as they arise within the Corridor. *Jurisdiction: KDOT/Local*.

Economic Incentive Policy: As discussed below, city and county economic incentives can effectively be focused to increase the amount of revenues they generate to pay for the cost of acquisition of land needed for transportation facilities and for the actual construction of the facilities shown on the Plan, as well as to encourage dedications of land for facility rights-of way. Many cities and counties have adopted policies to guide governing body decisions on when to grant incentives and the level of incentives that will be available. If a community along the Corridor has adopted or is considering the adoption of an economic incentive policy, that policy should be revised or adopted to encourage the use of economic incentives to implement the recommendations of the Corridor Management Plan. *Jurisdiction: Local*.

Acquisition Tools

Land Acquisition: Public sector entities have the authority to acquire land for public improvements, including state highways and local roads and streets by gift, purchase, or condemnation (K.S.A. 19-101 et seq., Article 12, Section 5 of the Kansas Constitution, K.S.A. 68-404). Sufficient land may be acquired to accommodate immediate construction needs, as well as for future needs. In appropriate circumstances, public sector entities can acquire interests in land for public improvements in advance of the date of the start of construction. Timely acquisition of necessary rights-of-way preserves opportunities to fully implement the goals of the Corridor Plan and helps reduce the cost of full implementation.

The primary objective of all the partners in implementing the Plan must be to continually coordinate with one another to identify opportunities to acquire the interests in land necessary to construct the transportation improvements envisioned by the Plan. Continuing coordination is critical, but it means nothing if the partners are not equally devoted to cooperation with one another in the identification of traditional and innovative new sources of revenue and in creative partnering on acquisition strategies. *Jurisdiction: KDOT/Local*.

Access Acquisition: As discussed in Section Access Management Strategies-Closing of Access below, existing access points that

are not consistent with the Corridor Management Plan can often be eliminated though the KDOT's, city's or county's exercise of their police power. For that exercise to be appropriate however, adjacent landowners must be left with "reasonable" access after the inconsistent access point is removed. A private property owner does not have a legal right to direct access to the highway or to a particular local street. It is only required that a reasonable access is available to a property owner through some alternative means, such as access to a frontage or reverse frontage road, in the case of K-68 or from some other adjacent street. That being said, situations will arise where this objective of reasonable access cannot be achieved solely though exercise of a public entity's police power.

Situations will also exist where it is desirable to eliminate one or more existing access points to a particular parcel to achieve the access management objectives of the Plan, while still leaving that property owner with a point of direct access that is consistent with the Plan. In those, and in other instances, it may be advisable or even necessary to acquire inconsistent points of access through traditional negotiation or condemnation processes. The authority to acquire land referenced in Section Corridor Preservation-Acquisition Tools-Land Acquisition above is also the source of KDOT's, cities' and counties' authority to acquire access. Acquisition of access rights can be applied to:

- Limit access to designated locations or side streets
- Control access and sight distance at intersections or interchanges
- Introduce long term or permanent access control
- Control traffic and turning movements at locations where high numbers of conflicting movements occur

Land Dedication and In-Lieu Fees: One of the most, if not the most, critical recommendation of the Corridor Management Plan is that both KDOT and the communities along the Corridor do everything within their power to preserve and acquire the right-of-way necessary to construct the enhancements to K-68 and to the adjacent and interfacing local street network.

One of the goals of the plan is to maximize economic opportunities for both landowners and communities along the Corridor while, at the same time, minimizing development of land at locations of a nature, and of an intensity that impedes the partners' ability to ensure that K-68 and the local street network function as envisioned by the Corridor Management Plan. New development that takes place within the corridor, in most instances, will create a need for new transportation network facilities to accommodate the vehicle trips it generates.

Both federal and state law authorize the communities along the corridor to require, as a condition of development approval, that the landowner dedicate rights-of-way needed for network improvements in an amount that is roughly proportionate to the need for facilities generated by that development. A carefully calculated system of fees in lieu of dedication also can be effectively utilized to ensure the timely purchase of sufficient rights-of-way. These in-lieu fees are authorized by K.S.A. 12-749.

If each community along the corridor adopts a well-designed, legally defensible right-of-way dedication and/or in-lieu fee program, the significant costs of acquiring the right-of-way contemplated by the Corridor Management Plan can be greatly minimized, thereby helping to ensure successful implementation of the Plan. *Jurisdiction: Local*.

ACCESS MANAGEMENT STRATEGIES

KDOT and local communities can undertake access management activities through its "governmental police powers," which is the authority to take action to protect the well-being, safety and health of the public, and through its authority to acquire interests in land. These management strategies can be designed to apply equally to all parts of the transportation network within the Corridor. Alternatively, access management tools and regulations can be imposed as an overlay district and don't have to be city or county-wide, but can be tailored to accomplish specific objectives in defined areas.

A component of access management is known as regulation of traffic flow. Regulation of traffic flow could include several actions listed in the access management tools described below or be as simple as prohibiting left turns, prescribing one-way traffic, or restricting speed. Managing access is complicated and requires careful consideration, but it can be done while still allowing the property owner reasonable access to their property and to the surrounding street network. It is important to understand the differences between access (connection with surrounding roadways) and routing (direction of flows between properties and surrounding roadways).

The following are several action steps the Corridor partners can take in the area of access management to help assure successful implementation of this Management Plan.

Closing of Access

While the ultimate objective of conversion of an existing route to an access controlled facility generally may not be realized immediately, KDOT and the communities need to constantly be looking for and acting on opportunities to eliminate access at locations other than those interchanges and access locations designated in the Plan. Access management is necessary to protect safety for the motoring public and the operational efficiency of the Corridor. Effective access management also protects public investments and facilitates the continued economic vitality of the corridor. In contrast, uncontrolled access, generally impedes development and produces high costs when and if retrofits are needed. *Jurisdiction: KDOT/Local*.

Approval of Access

As stated above, the authority to allow access to a state highway or city connecting links is vested in KDOT. See The Kansas Department of Transportation Corridor Management Policy, http://www.ksdot.org:9080/BurTrafficEng/cmpworking/Index.asp. A request for access is approved and controlled through issuance of a Highway Permit. The Permit is the legal document that establishes the relationship between the landowner and KDOT. All points of access to the state highway system must be the subject of a Highway Permit. This includes when access connections or local streets and intersections are installed, relocated, improved, removed, or replaced on or along state highway system right-of-way, such as K-68. The permit will specify such things as the location of the point of access, issues related to the construction of the access, type of use allowed at the access point and other conditions and limitations of access at that point. The KDOT District Engineer has been delegated the authority to approve Highway Permits. A request for a Highway Permit must be made with the appropriate KDOT Area Office.

With respect to access to local streets within the K-68 Corridor, the authority to approve that access is vested in either the city or county that has jurisdiction at the requested location. This authority is derived from the government's inherent police power. The actual procedure for obtaining access will vary from community to community. Some communities may have adopted an access management policy that governs the location and other aspects of access to the public streets and road. In other instances, regulations governing access points may be located in the community's zoning district regulations or its subdivision regulations. Provisions on access should be included in any overlay district created for an area within the Corridor. On City Connecting Links, a Highway Permit must be obtained for work in the right-of-way. Executed copies of the permit, approved by KDOT and the city or county will be provided to the property owner.

Input to KDOT on Access/ Coordination of Access Management

Because of the importance of access management on K-68, and on the road and street network within the Corridor, and because the authority to permit and close access to the state highway system and its connecting links is vested exclusively in KDOT, (K.S.A. 68-413 and K.S.A. 68-404(a)), it is critical that communities along the Corridor confer with KDOT respecting development applications that propose access points on K-68 and on portions of the local street network that are included in the Corridor Management Plan, particularly if that access is not consistent with points shown on the Corridor Management Plan as future points of access. *Jurisdiction: KDOT/Local*.

Coordination with KDOT

The K-68 Corridor Management Plan identifies existing access points on the highway that should be closed over time, as appropriate circumstances present themselves, to achieve access management objectives. Accordingly, each community along the Corridor should cooperate with KDOT in identifying existing access points along K-68 and in closing those points, where doing so, will implement the access management goals of the Corridor Management Plan. Each local government partner should establish points of contact with KDOT to facilitate the ability to quickly capitalize on opportunities as they arise. Early coordination with KDOT at the site plan and preliminary plat stages is important. *Jurisdiction: KDOT/Local*.

Shared Access

One meaningful way to help ensure that all property owners are afforded reasonable access to the mainline and to the local street network consistent with the full functionality of that network, is to encourage that joint access to that network by adjacent property owners be utilized to the maximum extent possible. Therefore, communities, when reviewing development applications should consider, as a condition of approval of that application, the grant of a recorded easement by the applicant to adjoining property owners or such other conditions as are appropriate to further the Corridor access management objectives. *Jurisdiction: Local*

A list of common access management tools is provided below:

- Close median breaks
- Consolidate mainline driveways
- Eliminate mainline driveways/side road access
- Eliminate public road connections to mainline, reconnect to frontage roads
- Eliminate private driveways, reconnect to frontage roads
- Intersection consolidation
- Convert major intersections to interchanges
- Advanced right-of-way acquisition
- Interim intersection upgrades (traffic signals, turn-lanes and acceleration lanes)

FINANCING STRATEGIES

The Corridor Management Plan has been developed to maximize economic opportunity and to provide a fully functional highway and street network for property owners within the K-68 Corridor. The full costs of the improvements to the mainline highway and adjacent street network necessary to achieve these Plan objectives are significant. Monies needed to complete these enhancements may not be available from KDOT or from the cities and counties within the Corridor when the enhancements are needed. The following are all critical to the successful implementation of the Management Plan:

- Identifying all existing financing tools, both the traditional and the alternative tools;
- Creatively analyzing how these tools can best be utilized individually and in concert with one another to maximize resources;
- Investigating possibilities for new options using home rule and delegated powers;
- Pursuing federal and state statutory and regulatory amendments to eliminate funding obstacles and provide new approaches; and
- Pursuing new legislative authority for innovative funding approaches

All are critical to the successful implementation of the Management Plan.

To achieve this sought-after success, it is imperative that all Corridor partners carefully and constantly coordinate with one another to identify potential sources of funds and work diligently, once sources are identified, to make certain that available funds are utilized in the most effective and efficient way to the benefit of all parties to this endeavor.

That having been said, there is a wide array of financing options available to cities and counties to finance infrastructure improvements. Notably, many of these same financing options can be used as economic incentives to encourage development to occur at a certain location, in a certain form, and/or in specified densities or intensities. These financing options include the traditional mechanisms used by cities and counties to raise revenues and to pay for both the capital and operational expenses of government, as well as other alternative financing strategies.

Traditional Funding

Traditional funding mechanisms include federal and state funds, real and personal property taxation (Article 12, Section 5 of the Kansas Constitution, K.S.A. 19-101 et seq. and K.S.A. 79-1801 et seq.), sales taxation (K.S.A. 12-187 et seq.), economic development tax exemptions (Article 11, Section 13, Kansas Constitution), special assessments (K.S.A. 12-6a01 et seq., and K.S.A. 12-601), and the Main Trafficway Act (K.S.A. 12-685). The latter two are both discussed in some detail immediately below.

K.S.A 12-6a Improvement Districts: Improvement Districts are the Kansas form or a traditional benefit district; a financing and development tool whereby cities and counties can establish a district, construct improvements and then issue general obligation bonds for construction of public improvements and assess the cost to those properties that are specifically benefited by the improvement. The bonds are then retired through payment of special assessments that are paid along with the benefited property owner's ad valorem property taxes by these benefiting properties. There is a very specific statutory process that must be followed to effectively utilize this strategy.

Improvement Districts may be used by the cities and counties to assist in development of arterial roadways (usually associated with section line roads), water lines and sanitary sewers, among other public improvements. It is a responsible and fair method available to communities in Kansas to pay for the roads and infrastructure associated with new development, though its use is not limited to improvements to support only new development. For example it is often used as the financing mechanism for the construction of new sidewalks in existing developments. However, the method can be effectively used to ensure existing property owners do not pay for improvements from which they do not receive a special benefit. With the number of roadway, sanitary sewers and water line improvements throughout a community, if the community did not utilize improvement districts, either the improvements would not be made or property owner's ad valorem property taxes would need to be raised to allow for the construction of these necessary improvements. Developers have the option to build the improvements in front of their land to meet city specifications, but in so doing, a hodge-podge of improvements would occur, and the improvements could be under construction at different times and cause much more disruption than the orderly process afforded by the creation and administration of Improvement Districts. *Jurisdiction: Local*.

Main Trafficways: K.S.A. 12-685 *et seq*. authorizes cities to designate by ordinance any existing or proposed street, boulevard, avenue or part thereof, within its jurisdictional boundaries as a main trafficway, if the primary function of the street is the movement of traffic between areas of concentrated activity within or outside the city. Once designated a main trafficway, the city is authorized to acquire by purchase or condemnation the land necessary for that facility and to improve or reimprove that trafficway. Virtually all aspects of the construction of these trafficways is authorized, including bridges, viaducts, overpasses, underpasses, culverts and drainage, trafficway illumination, traffic control devices and pedestrian ways. The cost for these improvements, including acquisition, can be paid for from the cities general improvement fund, internal improvement fund or any other available funds or by the issuance of general obligation bonds. No vote of the public is required for issuance of bonds for these purposes. This method is often used in conjunction with the improvement district statute for street improvements. *Jurisdiction: Local*

All of these financing mechanisms are available to fund improvements contemplated by the Corridor Management Plan, and their use, as the situation dictates, should not be ignored.

Because the traditional mechanisms are regularly utilized by KDOT, cities and counties to pay for capital projects, they will not be discussed in further detail in this Chapter; rather this portion of this Chapter is devoted to an explanation of several of the less-traditional mechanisms available to cities and counties to pay for improvements contemplated by the Plan and to incent Corridor development that is consistent with the Plan's recommendations.

Although not actually a source of additional revenue, the bonding authority of cities and counties is worthy of mention. Each is authorized to issue long-term debt to finance projects, with that debt to be repaid from a variety of traditional and some alternative revenue sources. Bonding authority is important for many reasons, but one key advantage of issuing bonds to finance public improvements is that it allows the issuing entity to pay for an improvement up front (before total project costs are available in hand) to get a project started or even completed in those instances where timing is critical in terms of events in the community and/or to take advantage of favorable financial markets. These improvements can then be paid for over time, generally up to 20 years, as tax revenues or other dedicated sources become available. This can be a huge advantage and can help the partners in their efforts to acquire land for and make the improvements contemplated by the Plan when actual situations in the K-68Corridor dictate those actions occur.

Cities and counties are authorized to issue general obligation bonds payable from a general tax levy on all taxable property within the city (K.S.A. 10-101 et seq.). These GO Bonds are backed by the full faith and credit of the issuing entity. As an alternate, the city may issue revenue bonds (K.S.A. 10-1201 et seq.). Revenue bonds are repaid from a pledge of the revenue from a specified income-generating facility or source. Revenue bonds are not guaranteed by the full faith and credit of the issuer. A city may issue special assessment bonds to be repaid, in whole or in part, from the revenues received from special assessments imposed on properties that are specially benefited by the improvement(s) constructed within an assessment district (K.S.A. 12-60015). Special assessment bonds are actually general obligations of the issuer, which, in addition to the pledge of the revenues from the special assessment, are backed by the full faith and credit of the city. The final category of traditional municipal bonds is special obligation bonds. These are bonds issued under the authority of Kansas statute, specifically, K.S.A. 12-1770 et seq. and 12-17, 160, et seq., to finance the undertaking of redevelopment projects. These bonds are payable from incremental property tax increases resulting from the redevelopment in an established redevelopment district, a pledge of a portion of the revenues received by the issuer from transient guest, sales and use taxes collected from taxpayers doing business in a redevelopment district, franchise fees, private, state or federal assistance or any combination thereof.

Alternative Funding Mechanisms

Most alternative funding techniques are devised by one local government to meet a local need and their use than spreads from community to community. The techniques are refined based on trial-and-error. Many of these approaches do not have specific legislative authority, but are enabled through home rule, local police powers, or a broad reading of authority from another source, such as local planning.

State highway, road and street projects required to support new development, may be constructed utilizing economic incentives, such as tax increment financing, Star Bonds, sales tax reimbursement agreements, tax abatement, special assessment districts and transportation development districts, to name only several of the options. It is important that, wherever possible, local communities along the Corridor be cognizant of their ability to require that revenues from the grant of these incentives to developers be used to offset the cost of the construction of mainline highway improvements and related improvements to the local street network, as shown on the K-68 Corridor Management Plan. But, even more importantly, they must actually make the grant of these incentives conditional on a reasonable portion of these monies being used to pay the cost of Corridor Management Plan identified improvements.

These incentives also can be effectively used to influence the location, type/uses, form, architectural quality, configuration and density/intensity of development. It is important to utilize these incentives, not only to offset traditional public costs for these facilities, but also as incentives to shape development proposals, so they further Plan recommendations and achieve quality design and sustainable development in the Corridor.

Impact Fees: Impact fees are one-time regulatory fees assessed against new development to cover the costs for necessary capital facilities proportionate to the demand generated by the new development. The fee is imposed by a public sector entity on development activity as a condition of granting development approval, and generally is calculated at the platting stage and collected at the time a building permit is issued. Kansas has no impact fee statutory authority. Nevertheless, cities and counties can establish a system of impact fees using their home rule authority. This system of fees requires the development of a local legislative adopted scheme that includes the calculation methodology for the fee, and a system of credits, exemptions and appeals. The system would be adopted by ordinance or resolution, as the case would require. Impact fees must be used to add capacity attributable to new development; they cannot be used to pay for improvements necessitated by existing development. An impact fee must meet three requirements:

- The new facilities are a consequence of new development
- There must be a proportionate relationship between the fee and the infrastructure demand
- The funds collected must be used to provide a substantial benefit to the new development

In Kansas, impact fees may be collected either across the entire jurisdiction or in a designated geographic area. While they may be assessed at platting, impact fees are typically collected upon building permit issuance. A detailed calculation is necessary to ensure that the system, and particularly the fee charged property owners, is proportionate to the demand for

[1]257 Kan. 566, 894 P.2d 836 (1995).

new facilities that each unit of new development generates, i.e., its impact, in terms of facility capacity consumed. In funding transportation network facility improvements, the measuring stick for each development's impacts is the number of vehicle trips it will generate. Since streets are generally designed to accommodate the PM peak hour trips, that is generally the time interval used.

The Kansas Supreme Court has recognized the legitimate use of impact fees in *McCarthy v. City of Leawood*. In that case, the City of Leawood assessed the payment of impact fees on the issuance of building permits and plat approvals for properties within the K-150 (135th Street) Corridor. The purpose of the fee was to finance a portion of the improvements of K-150. Back when first established in 1988, the fee was calculated based upon trip generation, at a rate of $26.45 per trip. This rate was then multiplied by the average number of trips generated by a use to determine the individual fee. For example, residential uses were projected to generate 10 trips per day, multiplied by $26.45 for a fee of $264.50 per unit. *Jurisdiction: Local*.

Excise Tax: Technically, an excise tax is a broad term that covers every type of tax, except a property tax. As with all taxes, it is a method of raising revenue. It is distinguished by the fact that rather than being based on the value of property, it is levied on a certain activity or the exercise of a privilege – more accurately described as business done, income received, or privilege enjoyed.

Typical examples of excise taxes include taxes on the purchase of gasoline, alcohol or cigarettes, business license taxes and on the rental of hotel rooms. In recent past, local governments in Kansas have innovatively used an excise tax to fund transportation network improvements that are required to support development. It is structured as a tax on the activity of platting lots. The rate of the tax is based on the amount of square footage proposed to be constructed or on the number of vehicle trips the proposed development will generate on the street network. The key reason for its use has been that because it is a tax and not a regulatory fee, the rate is not required to satisfy the constitutional benefit or nexus requirements of regulatory fees imposed by local governments, such as impact fees discussed above. Kansas courts had upheld this financing approach.

In 2006, however, the Kansas Legislature amended K.S.A. 12-194 to make it uniformly applicable to all cities. By doing so, this provision became no longer subject to a charter ordinance or resolution whereby cites and counties could make its provisions inapplicable to that city or county and adopt supplemental provisions on the subject. This charter approach was the one that cities had used to eliminate the legal impediment in K.S.A. 12-194 and use their ordinary home rule power to establish an excise tax system of this type. It had become known as a "development excise tax." That amendment, in addition to precluding local governments that did not have a development excise tax in place from adopting one, also included a provision that prevented cities and counties that had levied or imposed a development excise from increasing the rate of the tax without a majority vote of the electors, after July 1, 2006. Accordingly, this technique is only available to local governments that had a development excise tax in place before that date, and those that did have one in place cannot increase the rate charged without a vote. *Jurisdiction: Local*.

Transportation Development Districts: A Transportation Development District (TDD) (K.S.A. 12-17,140 at seq.) is a form of a special district enacted specifically to facilitate the construction, maintenance and financing of a broad array of transportation projects, ranging from streets, roads, highway access roads, interchanges and bridges to light rail and mass transit facilities. Most improvements related thereto, such as streetscape, utility relocations and other necessary associated infrastructure, can also be funded using this technique. While a regular special district can be used to address transportation issues, transportation development districts allow greater funding flexibility, including authority to impose a transportation development district sales tax of up to 1% (K.S.A. 12-17,145), in addition to the authority to levy special assessments.

If a transportation development district is sought to be imposed, the governing body must hold a duly noticed public hearing in advance of adopting the resolution or ordinance creating the district and approving the method of financing projects within the district. The district may issue bonds backed by the revenues received from properties in the district from the imposed sales tax or special assessment.

One significant difficulty in utilizing this mechanism for improvements covering a larger area is that the district can only be formed through a petition signed by owners of all of the land area within the proposed district. So, if the improvement is adjacent to lands owned by different owners, it may be difficult to obtain the consent of all necessary owners. It may have its greatest utility for distinct segments of the improvements proposed by the Management Plan, such as mainline highway interchanges and access roads located within one tract of land that is designated in the Plan for more dense or intense development.

This technique can also be used effectively to assist in the financing of key portions of the adjacent local street network. The statutory scheme allows for a good deal of flexibility in how the boundaries of the district are established, so long as all included property owners agree. For that reason, the community partners should keep this tool on the list of the ones that should be considered for funding, particularly in those instances where a property owner or several property owners want to develop an area of land at an access point with sales tax generating properties. *Jurisdiction: Local*.

Transportation Utility Fee: A transportation utility fee is a fee collected on residences and businesses within a city's or county's corporate limits tied to the use and consumption of the transportation system. While this approach has only recently been applied to transportation services, utility charges

[2] 64 Am. Jur.2d Public Utilities § 1 (1972) (cited in Susan Schoettle & David Richardson, Nontraditional Uses of the Utility Concept to Fund Public Facilities, 25 URB. LAW. 519 (1993).
[3] *Id*. at 525.
[4] *Id*.

have been used for years "to finance not only public water and wastewater systems but also such diverse facilities and services as electricity, telephone or telegraph services, gas, and a cotton gin."[2] There are a number of benefits to TUFs:

> Utility rates and fees provide a steady revenue stream that may be used for maintenance and operations costs, as well as facilities construction and are not required to meet the direct benefit test applicable to special assessments. Also, utility charges are generally not subject to voter approval, as are many taxes.[3]

And perhaps most applicable to the current circumstances, "[t]he development of a transportation utility is a particularly attractive option in states with strong home rule powers, such as Colorado, Florida, and California."[4]

Utility fees are collected from all development, both existing and new (as it "hooks-in" to the existing system). Charges are based on usage estimates of trips by land use and project budgets. The transportation utility fee is typically included on an existing county or utility collected tax or rate bill.

The uses to which revenues from a utility can be used are limited only by the restrictions placed on their use in the home rule authority. Generally, however, the revenues would be placed into a separate fund and earmarked or dedicated to the purposes stated in the enabling authority and to no other purpose.

There is no specific legislative authority for transportation utility fees in Kansas. Local governments will need to look to home rule to authorize this financing mechanism. The key to the successful employment of this technique is crafting an ordinary ordinance or resolution that establishes a system of charges that will not be found to be a "tax," while at the same time ensuring that the ordinance or resolution is not in conflict with existing state statutes, such as, by example, K.S.A. 12-6a01 et seq., authorizing special assessment districts.

In the leading case on transportation utility fees, *Bloom v. City of Fort Collins*[5], the Colorado Supreme Court reached the following conclusion:

> We hold that a transportation utility fee is not a property tax but rather is a special fee imposed upon owners or occupants of developed lots fronting city streets and that such fee . . . is reasonably related to the expenses incurred by the city in carrying out its legitimate goal of maintaining an effective network of city streets.

The Fort Collins transportation utility fee was adopted to address maintenance issues. Nothing, however, would prohibit the utility fee from being designed to fund construction-related costs. The Fort Collins fee was calculated based on: "the amount of frontage in linear feet that each lot or parcel has on the right-of-way of an accepted street; the base rate maintenance cost of each foot of frontage; and the developed use of the property (which includes the amount of vehicular traffic generated by the property)". The fee was billed monthly. The Colorado Supreme Court found that the transportation utility fee qualified as a fee and not a direct tax. "Unlike a tax, a special fee is not designed to raise revenues to defray the general expenses of government, but rather is a charge imposed upon persons or property for the purpose of defraying the cost of a particular governmental service."

Although this technique has a lot of potential as a viable alternative funding strategy, careful coordination with legal counsel will be necessary to ensure the precise structure developed is legally defensible. *Jurisdiction: Local*.

Tax Increment Financing: Tax increment financing (K.S.A. 12-1770 et seq.) is a tool used by local governments to capture the future increases in property tax and all or a portion of the revenues received from transient guest, use, local sales taxes collected from taxpayers doing business within the district, and increased franchise fees, and to make revenues realized there from available as an incentive to development, by using the revenue to pay for, generally, public infrastructure necessary to implement a redevelopment project plan (K.S.A. 12-170a (o)). Project costs may not include costs related to a structure to be owned by or leased to a developer.

TIF funding can provide funds either as collected (pay-as-you-go) or through special obligation tax increment bonds repaid over twenty years.

While there is specific enabling authority for the use of TIF, it is limited to "eligible" areas that fall within one of the following categories and the boundaries of which are designated by the local government as a redevelopment district :

- Blighted
- Blighted and in a 100-year flood-plain
- Intermodal transportation area
- Major commercial entertainment and tourism area Conservation (becoming blighted)
- Major tourism area
- Historic theater
- Enterprise zone, or
- Environmentally contaminated area

Therefore, not all property within a local government's jurisdictional boundaries may qualify to be included in a redevelopment area.

Eligible project costs most certainly will include all transportation network public infrastructure identified in the K-68 Corridor Management Plan. *Jurisdiction: Local*.

Sales Tax and Revenue Bond Districts: This mechanism (K.S.A. 12-17, 160 et seq.) is the big brother/sister of tax increment financing. It's "Super TIF," if you will. The entire mechanism works almost exactly like tax increment financing, except the districts are called STAR bond project districts and the individual projects in the district are called STAR bond projects. Each project must be approved by the Secretary of Commerce and include at least a $50,000,000 of capital investment and evidence $50,000,000 in project gross annual sales or, if outside a MSA, met the requirements of K.S.A 12-17,162 (w). It is the heightened level of incentives authorized in these districts that is key. Once a district is established and a project plan is

[5]784 P.2d 304, 305 (Colo. 1989).

approved, the approving city may issue special obligation bonds. Importantly, those bonds may be repaid from the portion of the city and county sales and use tax collected from taxpayers within the city portion of the district AND the sales tax increment revenues received from any state sales taxes collected from taxpayers in that district. This is in addition to the property tax increment and local sales, use and franchise fee that can be pledged to repayment of the special obligation bonds issued in a traditional tax increment financing project. The Secretary can set a limit on the amount of bonds that may be issued to pay eligible project costs.

Community Improvement Districts: Enacted in the 2008 Legislative Session, H.B. 2324 authorizes cities and counties to establish community improvement districts. These districts, like the other financing strategies discussed in this Section, can be used effectively to finance improvements and services contemplated by the Corridor Management Plan. The array of project that may be financed in a district is very broad. It includes:

- Structures and facilities
- Streets, roads, interchanges, highway access roads, intersections, bridges, over and underpasses, traffic signs and signals, pedestrian amenities, drainage, water, storm and sewer systems and other site improvements
- Parking lots and garages
- Streetscapes and lighting
- Parks and landscape
- Art and cultural amenities
- Airports, railroad and mass transit
- Lakes, wharfs, ports and levies
- Contracts for music, news, childcare, transportation
- Security
- Promotion of tourism and cultural activities
- Promotion of business activity or economic development
- Personnel training programs
- Impact, marketing and planning studies

These projects may be funded with:

- Installment or front-end paid special assessments (levied in accordance with Chapter 12-6a01 discussed above, except no city at large levy is allowed)
- A community improvement district retailer's sales tax in an amount not to exceed 2% (must sunset in 22 years if the project is financed with sales tax revenues as they are received [pay-as-you-go] or when the bonds are retired, if the revenues from a sales tax are pledged for that purpose)
- Ad valorem taxes
- Other funds appropriated by the city or county.

Special obligation and full faith and credit bonds may be issued to facilitate the financing of a project; provided that, if a petition signed by 5% of the qualified voters of the city or county is filed with the clerk within 60 days of the public hearing held on the establishment of the district, no bonds may be issued unless and until approved by a majority of the voters voting at that election. The amount of any full faith and credit bonds issued that exceeds 3% of the assessed value of the issuing city or county shall be considered to be within that community's bonded debt limit.

Costs that can be paid for with revenues generated from sources above include: preliminary reports, plans and specifications; publication and ordinance or resolution preparation costs; necessary fees of consultants; bond issuance and interest costs; plus not to exceed 5% of total project cost for administration and supervision of the project by the city or county.

The process to establish a district with respect to which project costs both will be paid for only with special assessments and which is not seeking to issue full faith and credit bonds must be initiated by the filing of a petition signed by the owners of all the land area within the proposed district. Once the petition is filed, the governing body may proceed without notice or hearing to make findings by resolution or ordinance on the nature, advisability, estimated cost of the project, its boundaries, and the amount and method of assessment. Once these findings are made, the governing body, by majority vote, may by ordinance or resolution, authorize that project. All properties that are benefitted by the project(s) need not be included in the district.

On the other hand, the process to establish a district funded in any other authorized manner, may be initiated by the filing of a petition signed by landowners owning more than 55% of the land area AND by owners owning more than 55% of the assessed value of the land within the proposed district. In this instance, once a petition is filed, a resolution providing notice of a public hearing on the advisability of creating the district must be adopted The resolution must be published as required by this enactment and certified mail notice to all owners provided. Upon the completion of the hearing, the governing body may create the district, approve the estimated cost of the project and the legal description of the district boundaries, contain a map, levy the sales tax, approve the maximum amount and method of the assessment, if applicable and approve the method of financing, including the issuance of full faith and credit bonds, if applicable.

The contents of the petition in each of the above circumstances is also set forth in the enactment.

General Contract Authority: It is important to recognize that local governments have significant powers pursuant to the Constitutional home rule amendment and Chapter 19 of the Kansas Statutes. These powers include all powers of local legislation and administration that they deem appropriate, with really only minor exceptions. This Chapter extensively discusses state, county and city powers, such as the power to regulate through exercise of the police power, the power to zone, the power to tax, the power to charge fees, the power to impose special assessments and the power to purchase, hold, sell and convey land, including exercise of the power of eminent domain . The one power that really hasn't yet received that much analysis in this Chapter is the power to contract. It would be a mistake not to also highlight this power, which all the parties share. In addition to finding the source of the power to contract in the home rule provisions, K.S.A.12-101 contains a specific statutory delegation of power to cities to contract. K.S.A. 19-101 contains a similar grant to counties; and, among others, K.S.A. 75-5004 vests power to contract in the KDOT's Secretary of Transportation.

The limits on the power of the participants to the preparation of

this K-68 Plan to contract are minimal. The two major limitations are: (1) whether the contract is within the scope of the delegated power: and (2) whether it is entered into and executed in accordance with statutory requirements. As to the first limitation, since the delegation in each instance is along the lines of "to make contracts in relation to the property and concerns of the city and necessary to the exercise of its corporate powers, " as is readily apparent, the power to contract is quite broad. Generally, it is only limited by whether the contract is in conflict with statute or the constitution. A contract that violates the first limitation is *ultra vires* and void. For example, a contract that violates the Cash-Basis Law (K.S.A. 10-11-1 *et seq*.) because it obligated the public entity to pay monies that are not budgeted and encumbered is completely void. Legally, it is as if it never existed.

It goes without saying that monies paid pursuant to a contractual obligation, like any other payment of monies by a public entity, must be for a public purpose. Courts, however, are clear on the broad scope of what constitutes a public purpose. Courts will presume that facts declared in support of a legislative determination of public purpose to be true and adequate. A good rule is that a public entity is permitted to enter into all contracts that are reasonable and proper and which are reasonably necessary to allow it to fully perform the functions expressly conferred on it, as well as those that are essential to enable it to perform the duties of government for the benefit of its citizens.

The other main limitation on the contract power of which public entities should be wary is the prohibition on contractually bargaining away its duty to make reasonable laws and exercise their other legislative powers whenever doing so is necessary to preserve or protect the public health, safely and general welfare. As an example, a public entity could not agree by contract to approve a rezoning or impose or not impose some tax or fee at some later point in time.

The beauty of the contracting power is that it is so comparatively unfettered by limitation, particularly by those of the constitutional variety, such as the 5th Amendment's constraints on exercise of the zoning and police power to require the dedication of land as a condition. As noted above, for good and valid reasons, any dedication of land required in that instance must be roughly proportionate, in its nature and in its extent, to the impacts created by development. (See Section Corridor Preservation Strategies-Acquisition Tools-Land Dedication and In-Lieu Fees)

In situations where the public entity is exercising its contract power, the parties are negotiating their own contractual duties and obligations. Ostensively, the ultimate objective of both parties is to achieve a win-win situation, where both receive the benefit of the bargain struck. The traditional elements of a contract must exist for the agreement to be binding, of course. There must be an offer, acceptance of the offer, mutuality and delivery. As an example of use of the contract power to implement the K-68 Plan, an entity or individual contracting with a community within the Corridor may be willing to agree to convey more land than the community could legally require them to dedicate when exercising its police or zoning power. So, there may well be benefits the community can and is willing to provide to a developer that are more valuable to them than retaining that portion of the land which exceeds what "rough proportionality" would allow the community to require, as a part of the development approval process. Based on the mutual interests of both parties, a deal can be struck that helps implement the Plan , while at the same time enhancing the developer's business objectives. The fact that a contracting party voluntarily agrees to an obligation to which it could not be required to commit as a part of the development application process does not make the contractual obligation illegal.

The opportunities to utilize public entity contract powers to help implement this Plan are numerous and should not be ignored. In fact, each community along the Corridor and KDOT should be ever vigilant about identifying situations where this power can be used beneficially.

Virtually every time public incentives are provided to a developer, a contract is employed to memorialize the duties and obligations of the parties. The recipient of the incentives will expect that it will be asked to provide benefits to the community in exchange for being provided development incentives. There is no absolute right to develop land. Each party to the contract, however, must receive compensation (mutuality). Cities and the counties along the K-68 Corridor should be constantly watchful for opportunities to negotiate for the inclusion of provisions into agreements with developers and landowners along the Corridor that obligate them to take whichever appropriate actions they may be able to take to help implement the K-68 Corridor Management Plan.

INTERLOCAL COOPERATION

Through the exercise of home rule, by entering into an interlocal cooperation agreement, pursuant to K.S.A. 12-2901 et seq., and by utilizing powers granted to cities and counties by Kansas statutes, significant opportunities exist for cities and counties to cooperate with each other in the creation of corridor-wide financing strategies for K-68 enhancements and city connectors and local road projects within the Corridor. There is potential for such cooperation in the use of both the traditional and the alternative financing mechanisms described above.

K.S.A. 12-2901 et seq. authorizes all public agencies of the state (including KDOT) to jointly cooperate in the exercise of any power, or privileges, or authority exercised or capable of exercise by such agency, including economic development and public improvements, pursuant to an agreement in the form therein provided. See also, K.S.A. 75-5023.

K.S.A 12-2904 (f) dictates that each interlocal agreement, prior to it taking effect, shall be submitted to the attorney general for a determination of whether or not the agreement is in proper form and compatible with the laws of the state. The Office of the Attorney General has made this determination on other interlocal agreements related to implementation of Corridor Management Plans, so obtaining approval of interlocal agreements, which are based on the KDOT approved template Interlocal Cooperation Agreement, is not daunting.

In addition, K.S.A. 12-2905 requires that, also prior to the interlocal agreement taking effect, it be filed with the register of deeds of every county in which each political subdivision or agency of the state that is a signator to the agreement is located. The agreement also must be filed with the Office of Secretary of State.

Wherever possible, these opportunities should be investigated by KDOT and each local community to ascertain if a multi-jurisdictional approach will be beneficial to all parties, by providing better opportunities to successfully implement the goals of the Management Plan. *Jurisdiction: KDOT/Local*.