

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

Amended Agenda

WEDNESDAY, JULY 3, 2013

1:00 p.m.

-Consider approval of the minutes for June 5, 2013

CONSENT AGENDA

- (1) (a) Consider approval of Commission Orders;
- (b) Consider approval of resolution appointing Steven W. Miles as Douglas County Appraiser (Sarah Plinsky); and
- (c) Consider waiving the formal bidding process and authorize staff to access the State contract with Mission Electronics Inc. in the amount of \$70,605.85 for technology improvements in Division II courtroom (Jackie Waggoner)

REGULAR AGENDA

- (2) Consider and Adopt Findings and Conclusions relating to Phasing of Quarrying Operations at Big Springs Quarry (Mary Miller)
- (3) Update on new Public Works Facility (Sarah Plinsky)
- (4) (a) Consider approval of Accounts Payable (if necessary)
- (b) Appointments
-Douglas County Senior Services - Vacancy
- (c) Public Comment
- (d) Miscellaneous
- (5) Adjourn

MONDAY, JULY 8, 2013

8:30 a.m.-Noon -Budget Review with the County Commissioners

TUESDAY, JULY 9, 2013

9:00 a.m.-Noon -Budget Review with the County Commissioners

WEDNESDAY, JULY 10, 2013

8:30 a.m.-Noon -Budget Review with the County Commissioners

CONSENT

CUP-13-00156: Consider a Conditional Use Permit for a 300' guy tower for Douglas County Emergency Communication, located at 297 N 2100 Rd. Submitted by Selective Site Consultants, on behalf of Douglas county Emergency Communication Department for Freda Laduke, property owner of record. Sandra Day will present the item. (Sandra Day)

THURSDAY, JULY 11, 2013

9:00 a.m.-Noon -Budget Review with the County Commissioners

FRIDAY, JULY 12, 2013

12:00 p.m.-1:30 p.m. Planning Commission Orientation lunch in the City Commission room

WEDNESDAY, JULY 17, 2013

WEDNESDAY, JULY 24, 2013

WEDNESDAY, JULY 31, 2013

RESOLUTION NO. 13-23

A RESOLUTION APPOINTING STEVEN W. MILES AS DOUGLAS COUNTY APPRAISER

WHEREAS, The Board of County Commissioners is required by k.S.A. 19-430 to appoint a County Appraiser for Douglas County on July 1 of each fourth year following January 15, 1977; and

WHEREAS, Such statute provides that the term of the County Appraiser shall be for a period of four (4) years and until such appraiser's successor shall be appointed and qualified; and

WHEREAS, K.S.A. 19-430 provides that no person shall be appointed or reappointed to serve as a County Appraiser unless such person shall be qualified by the Director of Property Valuation as a Certified Kansas Appraiser; and

WHEREAS, The Board of County Commissioners finds that Steven W. Miles is a Registered Mass Appraiser and is qualified to be appointed as the Appraiser of Douglas County, Kansas.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS:

Section 1. Steven W. Miles is hereby appointed as County Appraiser of Douglas County, Kansas as provided in K.S.A. 19-430, and amendments thereto.

Section 2. This resolution shall take effect and be in force from July 1, 2013 to June 30, 2017.

ADOPTED this 3rd day of July, 2013.

BOARD OF COUNTY COMMISSIONERS OF
DOUGLAS COUNTY, KANSAS

Mike Gaughan, Chair

Nancy Thellman

Jim Flory

ATTEST:

Jameson Shew, County Clerk



DOUGLAS COUNTY ADMINISTRATIVE SERVICES

Division of Purchasing

1100 Massachusetts Street
Lawrence, KS 66044-3064
(785) 832-5286 Fax (785) 838-2480
www.douglas-county.com

MEMO TO: The Board of County Commissioners
Craig Weinaug, County Administrator

FROM: Jackie Waggoner, Purchasing Director
Division of Purchasing

SUBJECT: Consider Purchase to Improve Technology in Division II Courtroom

DATE: June 27, 2013

The District Court has allocated funds to improve technology in Division II Courtroom.

Back in 2007 we explored different technology options, and found courtrooms to be a perfect match for the capabilities found in the Pointmaker Video Makers. This allows evidence that need to be viewed by the judge, jury, witnesses, lawyers, and sometimes public. It is important for everyone involved to have clarity about what portion of diagrams, pictures, or documents being discussed are important. The Pointmaker makes it easy to achieve clarity with evidence presentations. With this technology, you can:

- Focus attention to evidentiary details.
- Provide control to the judge as to whether the evidence is admissible.
- Allow attorneys to precisely make points for the entire room to plainly see through multiple devices (VCR, DVD, document camera, software).
- Enable witnesses or attorneys to make annotations and/or point over video and computer evidence.

This equipment has been installed in Divisions I, IV, V, VI and the Pro Tem courtrooms. It has been the court's intent to phase this technology in each courtroom as funds became available. Mission Electronics is the awarded State contractor for this equipment. Following review of the equipment needs for this courtroom, our quote with the State pricing is \$70,605.85.

Funds are available in equipment reserve for this acquisition. Our Purchasing Policy requires commission approval for purchases greater than \$20,000, but allows the Board to waive our formal bidding process when we access a State/Cooperative contract.

Linda Koester-Vogelsang and I will be available at the commissioner meeting to answer any questions you may have.

RECOMMENDATION: The Board of County Commissioners waive the formal bidding process and authorize staff to access the State contract with Mission Electronics Inc. in the amount of \$70,605.85 for technology improvements in Division II courtroom.

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF
DOUGLAS COUNTY, KANSAS

APPLICATION FOR AMENDED CONDITIONAL USE PERMIT
FOR BIG SPRINGS QUARRY
CUP-13-00126

FINDINGS OF FACT

1. The subject site is located in an A (Agricultural) Zoning District.
2. A Conditional Use Permit application, CUP-07-02-90, was initially approved for use as a quarry on September 26, 1990. This Conditional Use Permit was amended in 1992 to add an 80 acre tract; in 1993 to add a shop facility; and in 2006 for a transfer of operator from Martin Marietta Materials to Mid-States Materials, LLC.
3. The Conditional Use Permit has been revised several times and had 38 conditions of approval. One, Condition 19, notes that all the terms, conditions, plans and restrictions contained in the applicant's bound application submittal and the Planning staff August 22, 1990 report to the Planning Commission, entitled "Reclamation, The Process and the Plan", are incorporated by reference as a condition and restriction on the Conditional Use Permit. In any instance where there is a conflict between the terms of the restrictions and conditions of approval, on one hand, and the bound submittal or staff report, on the other hand, the express restrictions and conditions of approval.
4. Different tracts of land in the submittals for the Conditional Use Permit are identified as Phases 1 through 6, or sometimes Phases I through VI.
5. Mid-States Materials, operator of the Quarry informed the Planning Office in a letter dated February 4, 2012 (the date of the letter was a mistake; the letter should have been dated February 4, 2013 rather than February 4, 2012) that it desired to quarry Phase 6 before quarrying Phase 4.
6. There is some uncertainty as to whether the Conditional Use Permit required the operator to quarry in Phases 1 through 6 numerically, meaning Mid-States would have to quarry Phase 4 before Phases 5 and 6) or whether the Phases were added simply for identification purposes (meaning Mid-States could quarry the Phases in any order). Minor non-controversial changes to Conditional Use Permits or interpretations of Conditional Use Permits are often placed on the agenda of the Board of County Commissioner (the "Board") for action rather than requiring an amended Conditional Use Permit application and a public hearing before the Planning Commission. Lawrence-Douglas County Planning Staff believed that the phasing order was a minor non-controversial issue and placed

the matter on the Board's March 6, 2013 agenda and sent written notification to property owners within 1000 ft of the Quarry boundary.

7. By Staff Memo dated March 6, 2013, Planning Staff recommended that the revised phasing schedule be approved. At the request of neighboring property owners, the Board deferred hearing the matter until March 26, 2013. On March 26, 2012, the Board considered the revised phasing schedule and heard comments of the applicant and comments of nearby property owners. Because the request turned out to be controversial and because it was ambiguous as to whether quarrying in the order of the phasing schedule was a requirement of the Conditional Use Permit and to provide interested parties ample time to consider the matter, the Board determined that the request should go to the Planning Commission for consideration before the Board made its decision.
8. On April 5, 2013 Mid-States Materials submitted an application for an amendment to the Conditional Use Permit to specifically provide that the Phases did not have to be quarried in sequential order.
9. By Staff Report dated May 20, 2013, the Lawrence-Douglas County Planning Staff reviewed the amended CUP with the approval criteria in Section 12-319-1.02 of the *Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas*. The report concluded that the denial of the request would maintain an expectation that the surrounding land owners may have that the Quarry sequence follow the numerical phasing order while approval of the request would permit Mid-States to respond to changing circumstances and avoid the immediate need for multiple haul roads. Staff did not include a staff recommendation in the staff report.
10. On May 20, 2013, the Lawrence-Douglas County Planning Commission held a public hearing on the request to revise the phasing schedule. The Planning Commission provided all present the opportunity to comment. A summary of comments received is set forth in the Minutes of the Planning Commission. At the conclusion of the public hearing, a motion to recommend the request failed 3-7. A motion to send the request to the Board with neither a recommendation to approve nor a recommendation to deny failed 3-7. A motion to recommend denial of the request passed 8-2.
11. On June 5, 2013, the Board of County Commissioners of Douglas County, Kansas (the "Board") considered the application to amend the Conditional Use Permit and the recommendation of the Planning Commission. The Board allowed all persons present at the hearing to provide comments. A summary of comments received is set forth in the Minutes of the Board.
12. A request made by Lone Oak LLC's council to amend the setbacks for Phase 4 was discussed briefly at the meeting, but the Board did not consider the request as part of the CUP amendment. The Commissioners directed staff to research

the setbacks for Phase 4, the previous requests for revision made by the owners of Lone Oak LLC, and the process for initiation of amendments to the CUP.

CONCLUSIONS

1. The Board has the authority to review and to either approve or disapprove an application for a Conditional Use Permit or an amended Conditional Use Permit under K.S.A. 12-755(a)(5) and Section 12-319 of the Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas (the “Zoning Regulations”), located at Section 12-319 of the Douglas County Code.
2. Conditional Use Permits are based upon the zoning power granted by the state but, by definition, empower governing bodies to impose conditions upon the granting of such permits to protect the health, safety and welfare of the public.
3. The Douglas County Zoning Regulations allow the Board to approve a Conditional Use Permit for a mining/excavation use located in an A (Agricultural) District and, through the same regulations, amend a Conditional Use Permit.
4. When a Conditional Use Permit is sought, the Planning Commission makes a recommendation to the Board but the recommendation is not binding upon the Board. The Board may override the Planning Commission’s recommendation based upon a two-third majority vote.
5. In the instant request does not seek any amendments to the permitted use of the subject property or changes to any operational conditions and restrictions, such as times of operation, set backs, or a use permit to quarry property not previously authorized to quarry. Rather, the instant request seeks either confirmation from the Board that the Conditional Use Permit does not restrict the order in which the Phases may be quarried or an amendment to the Conditional Use Permit to specifically permit Mid States to quarry Phase 6 before Phases 4 and 5. Because the Conditional Use Permit does not place time limits on the dates by which any particular Phase must be quarried, instant request affects neighboring landowners only in the delaying or accelerating the inevitable quarrying.
6. The Conditional Use Permit has an overall expiration date but does not provide any timeline by which quarrying must be completed in any particular Phase and the Board has no control over the timing of quarrying.
7. Section 12-319-1.02 of the Douglas County Zoning Regulations require the consideration of relevant facts, including the following, in determining to grant a Conditional Use Permit:
 - a. The zoning uses of properties nearby.
 - b. Character of the area.
 - c. Suitability of the subject property for the uses to which it has been

- restricted.
- d. Length of time the property has remained vacant as zoned.
- e. Extent to which the change will detrimentally affect the nearby property.
- f. Relative gain to the public health, safety, and welfare by destruction in value of the petitioner's property as compared to the hardship imposed upon the individual landowners.
- g. Conformance with the Comprehensive Plan.
- h. Professional staff recommendation.

These factors are virtually identical to and incorporated from the considerations set forth in applicable Kansas cases. See *Golden v. City of Overland Park*, 224 Kan. 591, 584 P.2d 130 (1978) (setting forth a list of factors (referred to as the "Golden factors") for consideration in rezoning cases); *K-S Center Co. v. City of Kansas City*, 238 Kan. 482, 494-95, 712 P.2d 1186 (1986) (stating that the rules governing issuance of a Conditional Use Permit are similar to those factors applicable in rezoning cases).

8. Section 12-319-4.05 of the Zoning Regulations specifically recognizes that development of natural resources, such as the limestone reserves on the subject property, should be allowed within zones reserved for their development and production, to guarantee that these sources will not be lost for the benefit of Douglas County, Kansas.
9. With respect to the foregoing factors, the Board makes the following findings:
 - a. Zoning and uses of property nearby. The subject property is located in all 4 quadrants of the intersection of N 1700 and E 50 Roads. The site and the majority of the property in the vicinity is zoned A (Agricultural) and agriculture is the principal use. Other uses in the area include scattered farm/rural residences; a platted subdivision which has not yet been developed and contains plat notes of the existence of the Quarry; and a hunting facility to the east. The A District permits a mix of uses including agricultural uses and, under certain conditions, residential detached dwellings. Other uses, such as mining and excavation, are allowed with a Conditional Use Permit. The subject property has already received a Conditional Use Permit for operation of the Quarry and has been operating since 1990.
 - b. Character of the area. The character of the area is largely agricultural in nature with some single-family residences and the Quarry. A hunting facility is located to the east of the Quarry.
 - c. Suitability of subject property for the uses to which it has been restricted. The Board approved a Conditional Use Permit to use the subject property as a limestone quarry in 1990 and the property is well-suited for its current

use as a limestone quarry. The instant request does not ask for a change of permitted use and the grant or denial of the instant request will not alter the permitted use. Rather, the instant request deals with timing the inevitable – the order in which Mid-States will quarry the remaining Phases of the Quarry.

- d. Length of time subject property has remained vacant as zoned. The subject property has been zoned A (Agricultural) since 1966, when county-wide Zoning Regulations were initially adopted in Douglas County. The Board approved a Conditional Use Permit in 1990, authorizing the subject property to be used as a limestone quarry. As a result, the subject property is currently being quarried and contains a rock crushing plant, scale house, office and a shop. Nothing in the Conditional Use Permit, however, provides a timeline and timing of quarrying activity is dependent upon the reserves and the market demand.
- e. Extent to which removal of restrictions will detrimentally affect nearby property. The proposed request does not remove any restrictions but seeks approval with respect to the sequence in which quarrying may occur. Although owners of nearby property asserted that revising the quarrying sequence will devalue their properties, no professional or expert opinions were given on this issue. The Board concludes that the revised phasing schedule should have no negative impact on nearby properties as there are no physical changes being proposed to the quarrying activities and the request does not deal with whether or not quarrying will be permitted but with timing of the inevitable.
- f. Relative gain to the public health, safety and welfare by the destruction of the value of the petitioner's property as compared to the hardship to imposed upon the individual landowner. The denial of the request would maintain the original expectation that surrounding landowners may have planned for the quarrying sequencing of the Quarry, although they had no way of knowing the precise timeframe of when quarrying would be conducted on which phases. The denial of the request would require the operator to proceed in the phasing in numerical order and would prohibit it from coordinating quarrying activities on both sides of the county line and would require the operator to construct an additional haul road. Approval of the request would result in a more efficient means of operation for the southern portion of the Quarry with a corresponding benefit to the public at large. The comparison is between the loss of efficiency for the Quarry operator with loss of predictability for property owners. The comparison is not whether property is quarried but the sequence in which it is quarried. The Board concludes that the efficiency to be gained with the approval of the request is greater than loss of the degree of predictability that would be provided with denial as there is no specific timeline associated with the phases and property owners have never been able to rely on any

particular phase being quarried during any particular timeframe.

- g. Conformance with the Comprehensive Plan. *Horizon 2020* does not directly address the issuance of Conditional Use Permits for mining/excavation operations or other uses. The location of the Quarry had been approved with a previous Conditional Use Permit with conditions and restrictions of use to ensure the responsible use of a marketable natural resource. The change being proposed to the phasing schedule will not alter the extraction and reclamation methods. The Board concludes that the request is in conformance with the Comprehensive Plan.
 - h. Professional staff recommendation. Staff identified the conflicting gains from the denial or approval of the application in the staff report and did not weigh the impacts or arrive at a recommendation.
- 10. Although nearby property owners may have reviewed the Phasing schedule as implicitly requiring the Quarry operator to phase in sequence, the Conditional Use Permit does not specifically require the Quarry operator to do so. None of the minutes from any of the public meetings held leading up to granting of the Conditional Use Permit in 1990 and none of the submittals presented indicate that the phasing of the Quarry was controversial or even discussed. There is no evidence that the sequencing of the phases in any particular order was negotiated or required. Although Martin Marietta may have intended to quarry sequentially according to the phase numbering system at the time it submitted its applications, the Board did not make that a specific requirement. Thus, the Conditional Use Permit is somewhat ambiguous and there is reason to conclude that the Conditional Use Permit does not require a specific sequencing of the phases and an amendment to the Conditional Use Permit is arguably not required to authorize quarrying Phase 6 before Phases 4 and 5.
 - 11. The Board, Staff, and applicant have used the terms “phases” and “tracts” interchangeably throughout the more than 23 years that the Conditional Use Permit has been discussed. One of the primary purposes for identifying different sections of the Quarry as phases or tracts is to insure that only a limited portion of the Quarry is quarried at one time and that reclamation is accomplished and documented when moving to a different area of the Quarry. The Board concludes that the fundamental governmental rationale behind the listing of phases is to identify an orderly method of reclamation after quarrying is complete.
 - 12. The Board approves the requested revised phasing schedule. Whether styled as an amendment to the Conditional Use Permit or an interpretation of the Conditional Use Permit and to avoid any ambiguity in the future, the following condition is added to the conditions and restrictions of use for the Conditional Use Permit:

The remaining phases of the quarry, 4, 5, and 6, may occur in any sequence provided that the reclamation review provisions of Condition 8 would still apply; and that nothing herein shall change any phasing requirement in any other portion of the Conditional Use Permit.

13. Subject to the foregoing condition, the Board expressly authorizes Mid States Materials to quarry future phases in any order, but all other conditions and restrictions of the Conditional Use Permit shall continue to apply.
14. The counsel representing Lone Oak, the hunting facility to the east of Phase 4, requested that the setbacks for Phase 4 be revised. This request had been made in the past the Board has not previously acted upon the request. The Board directed staff to research the establishment of the setbacks for Phase 4 and discussions related those setbacks and provide it to the Board with that information at a later date. Staff was also to requested to research whether it is possible for the Board to initiate an amendment to the Conditional Use Permit when there are no violations with the conditions and restrictions of use. The Board took no action on the request at this time.

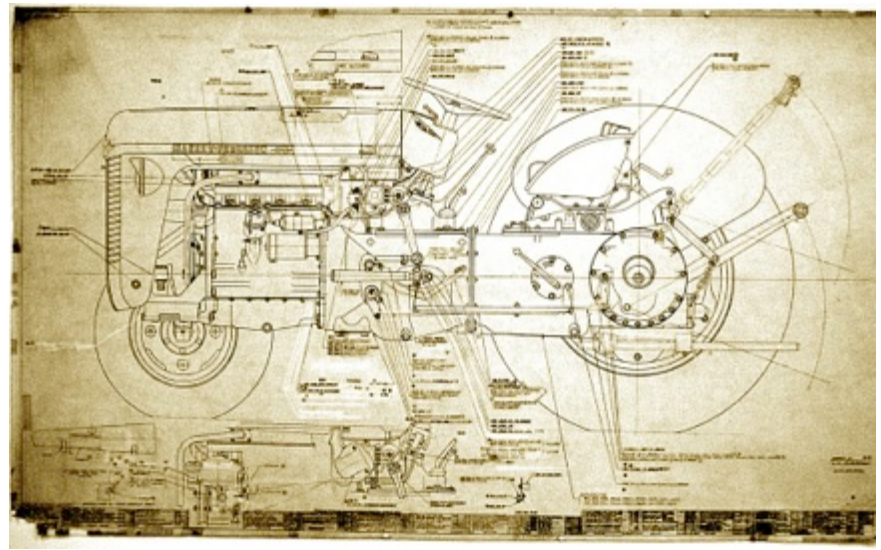
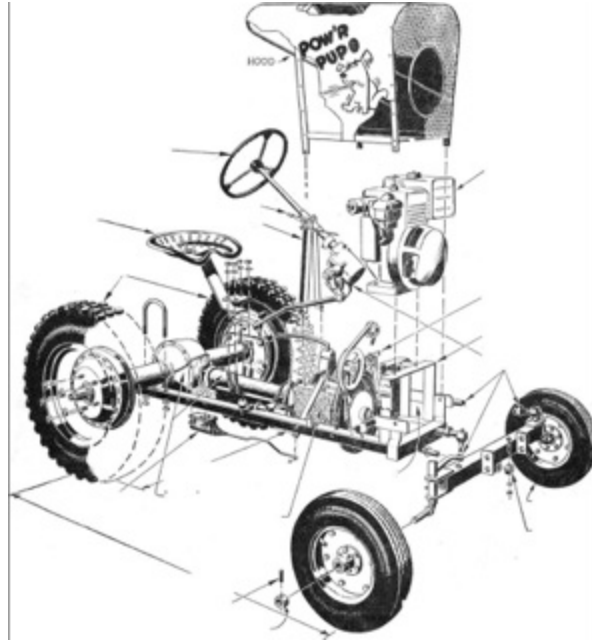
The Board adopts and confirms the foregoing Findings of Fact and Conclusions on _____, 2013, but effective as of the date of the hearing before the Board, June 5, 2013.

Mike Gaughan, Chair

Jim Flory, Commissioner

Dissenting
Nancy Thellman, Commissioner

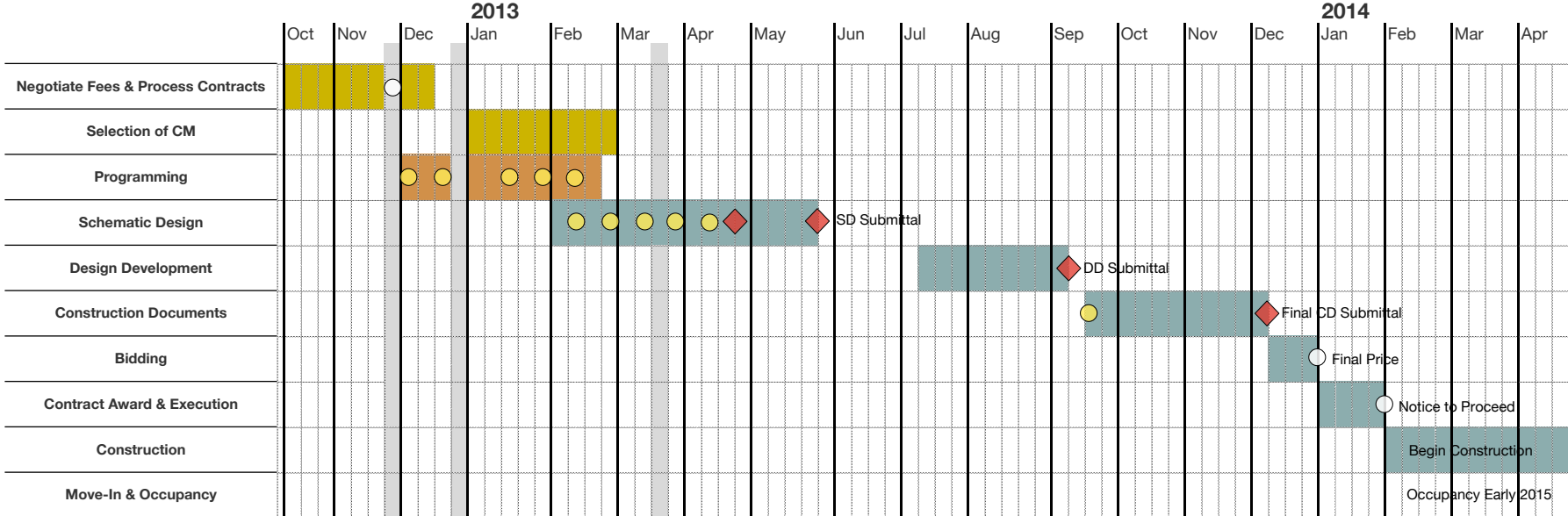
07.03.2013
Schematic Design



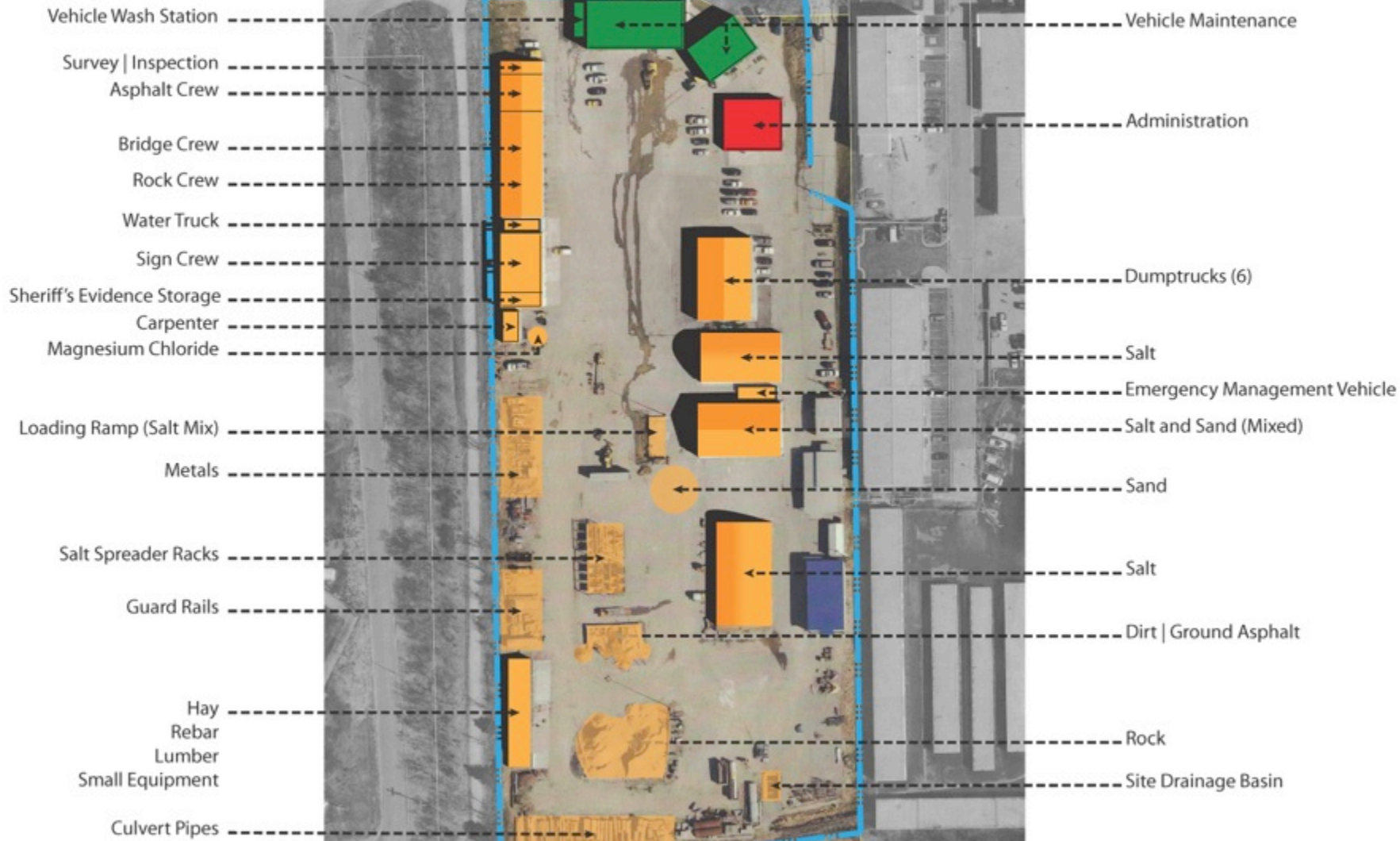
Project Schedule

Douglas County Public Works

July 3, 2013



- Steering Committee Meeting ●
- Architectural Deliverable ◆
- County Commission Review ○



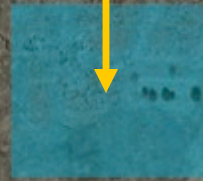
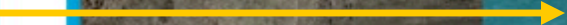
Program Comparison

Space Type/Building Type	Existing NSF	Proposed NSF
Administration/Engineering	4614	4943
Zoning and Codes	800	692
County Training Room	0	1180
Operations Administration	2147	4156
Operations Shops	5400	6000
Fleet Maintenance	9075	11807
Covered Storage	6800	6100
Wash Bay	-	1220
Salt and Sand Storage	12775	16800
Enclosed Unheated Parking	9920	11000
Enclosed Heated Parking	-	1500
Covered Parking	-	5240

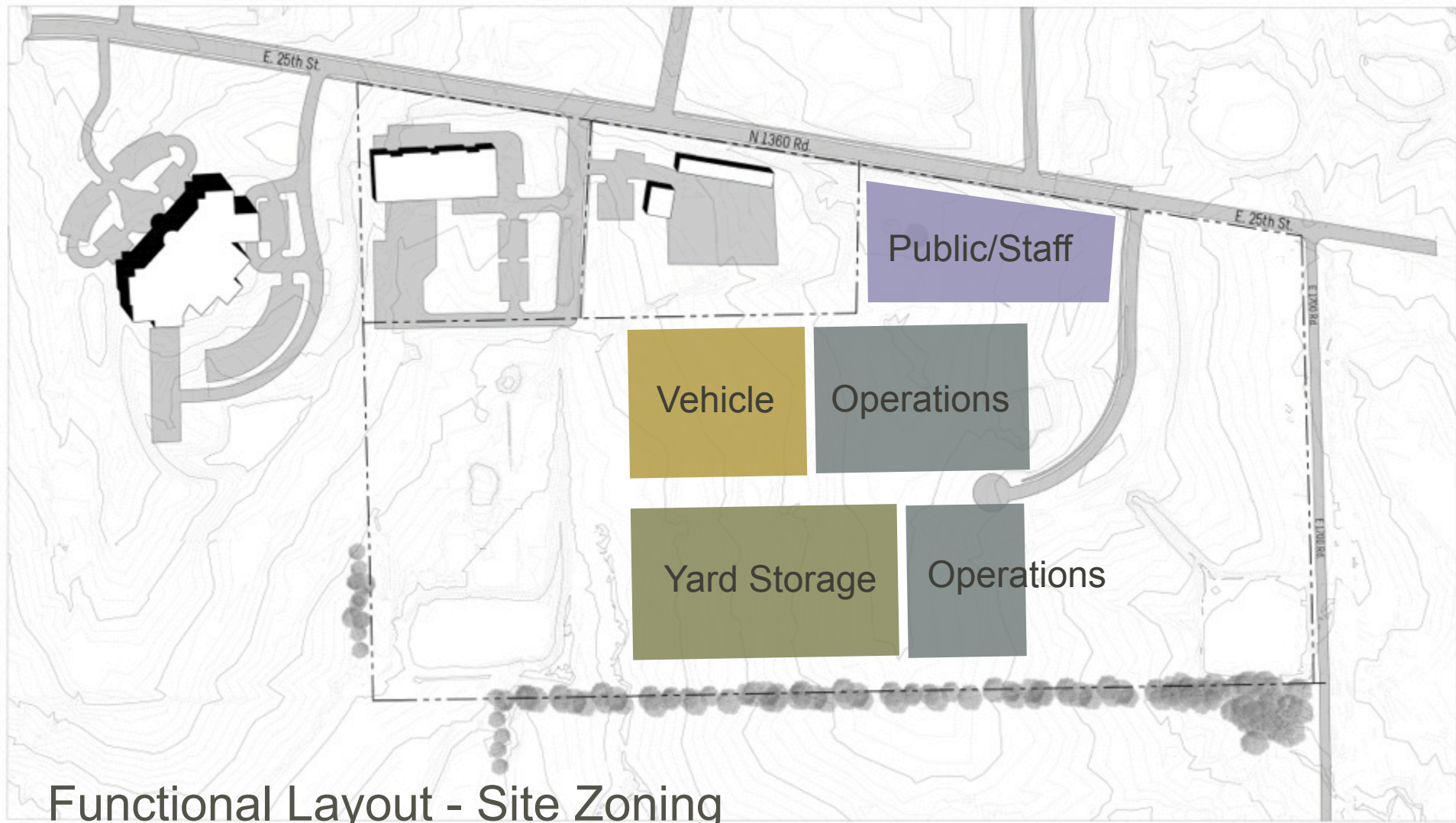
K-10 South Lawrence Trafficway











Functional Layout - Site Zoning



Site Plan





Site Plan

Green Choices/Strategies

Stormwater Design

Water Efficient Landscaping

Water Use Reduction

Commissioning of Building Energy Systems

Optimize Energy Performance

Daylight Harvesting

Storage and Collection of Recyclables

Construction Waste Management

Materials Reuse

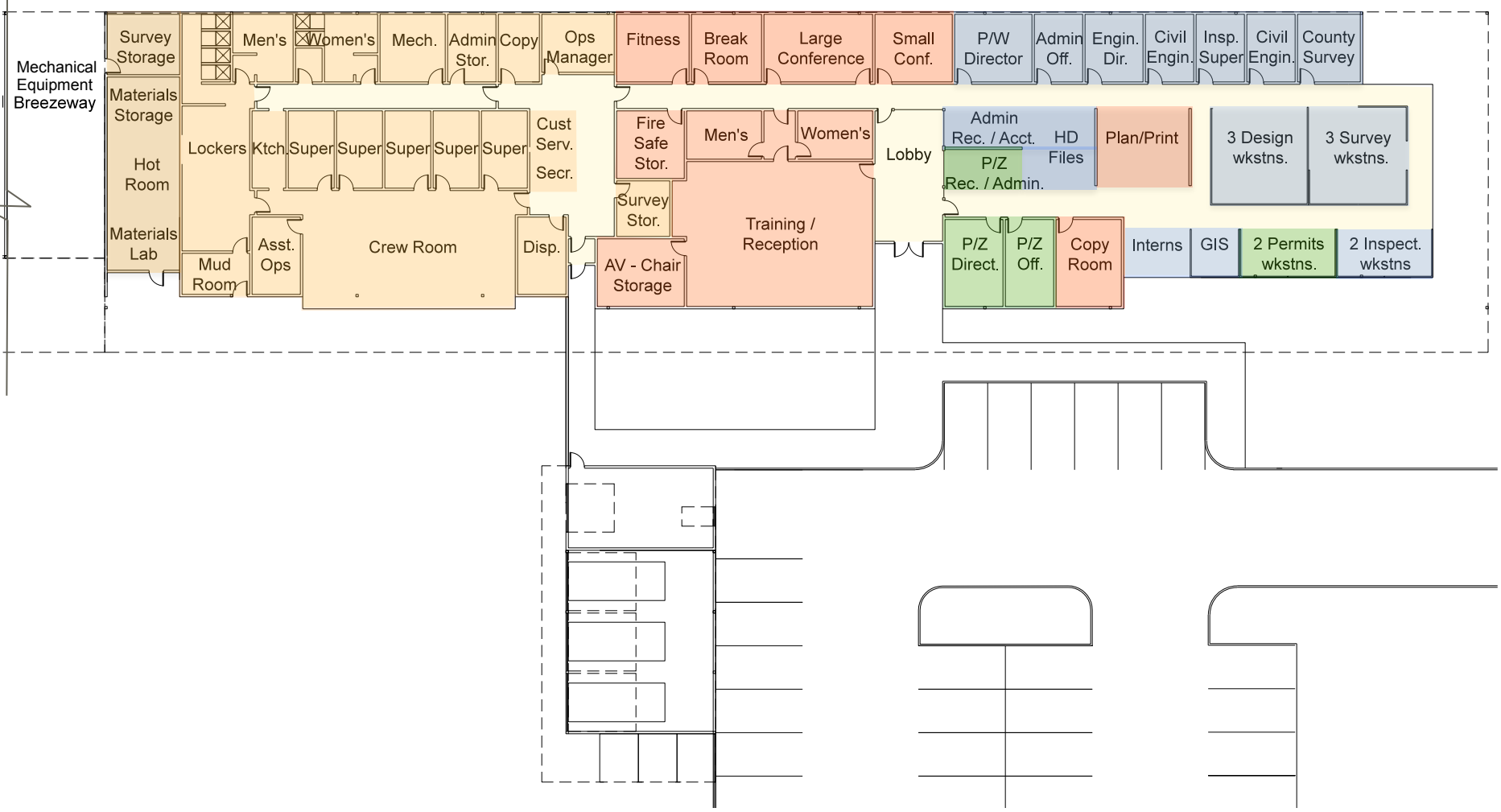
Recycled Content/Recycled Materials

Indoor Air Quality Performance

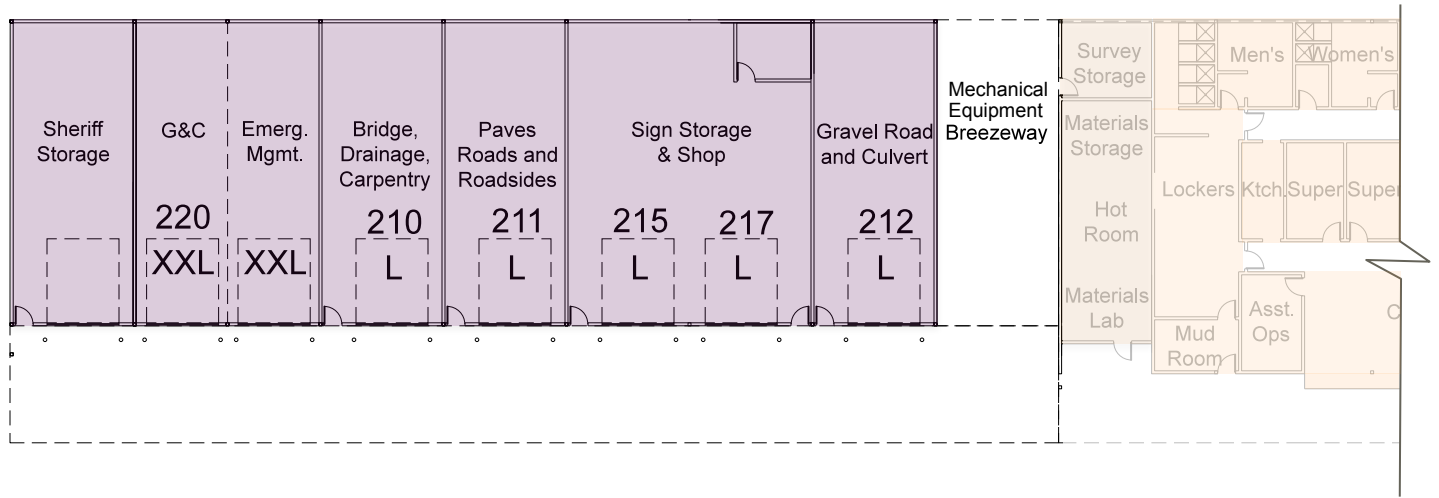
Indoor Air Quality During Construction

Low-Emitting Materials

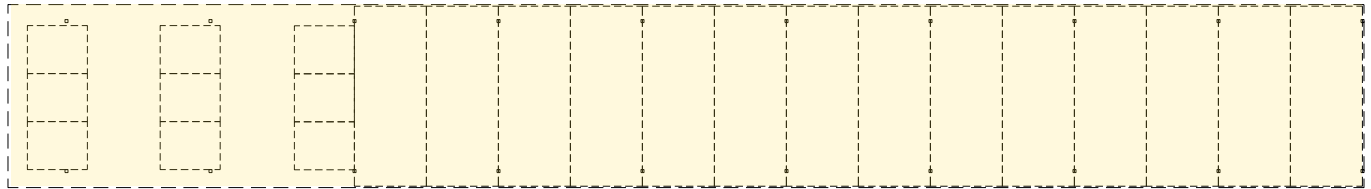
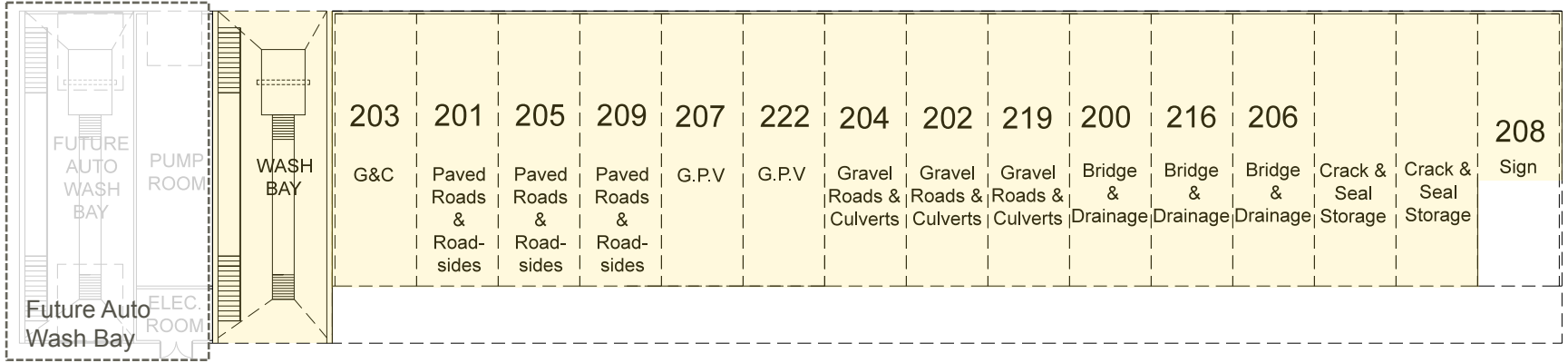




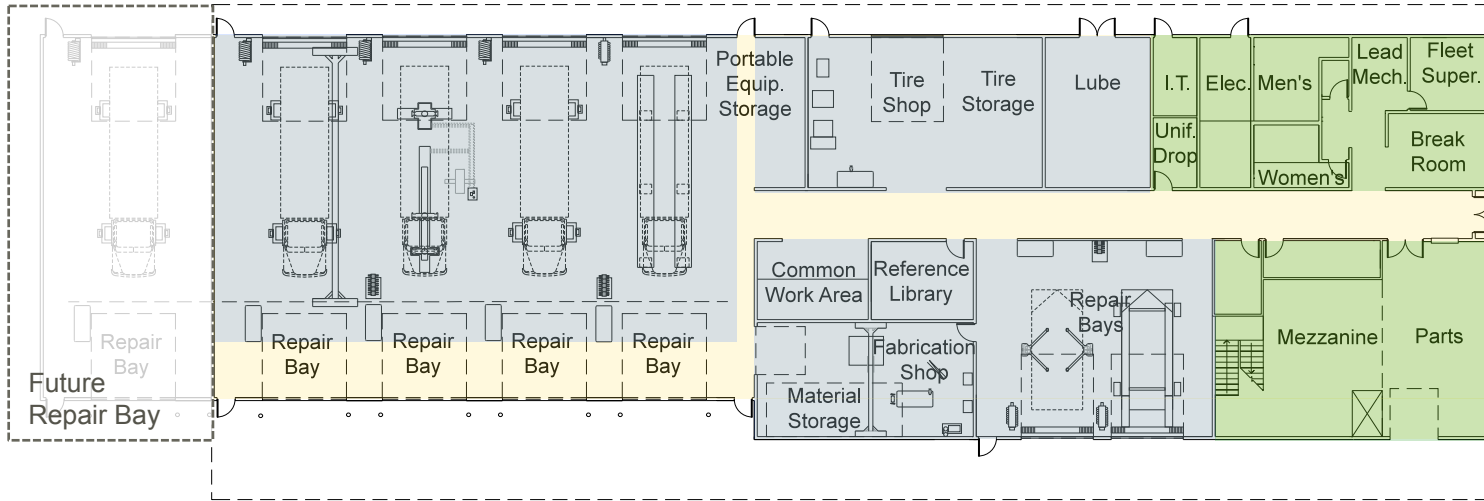
Main Building - Admin



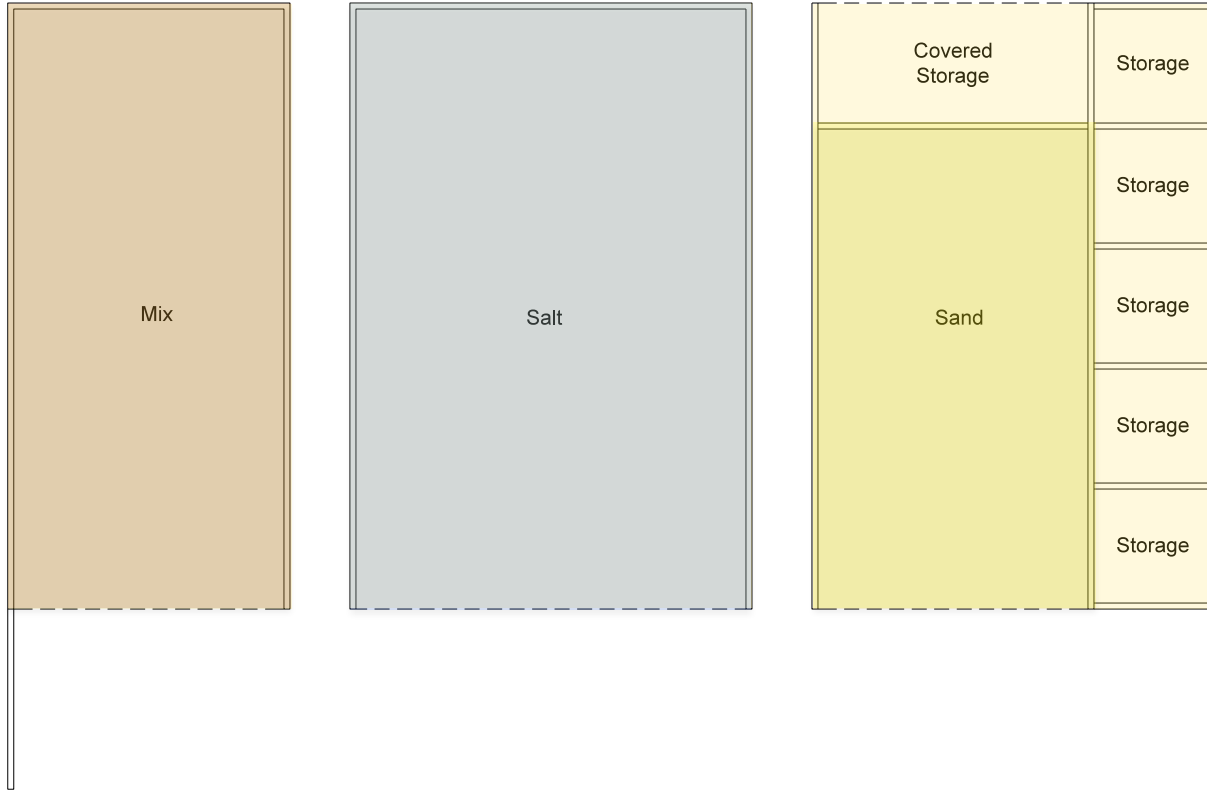
Main Building - Ops



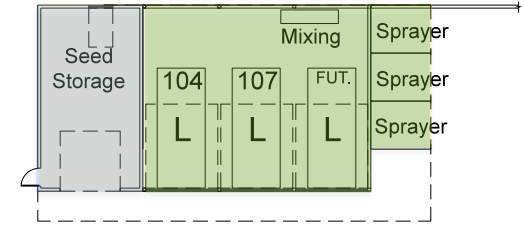
Enclosed Parking



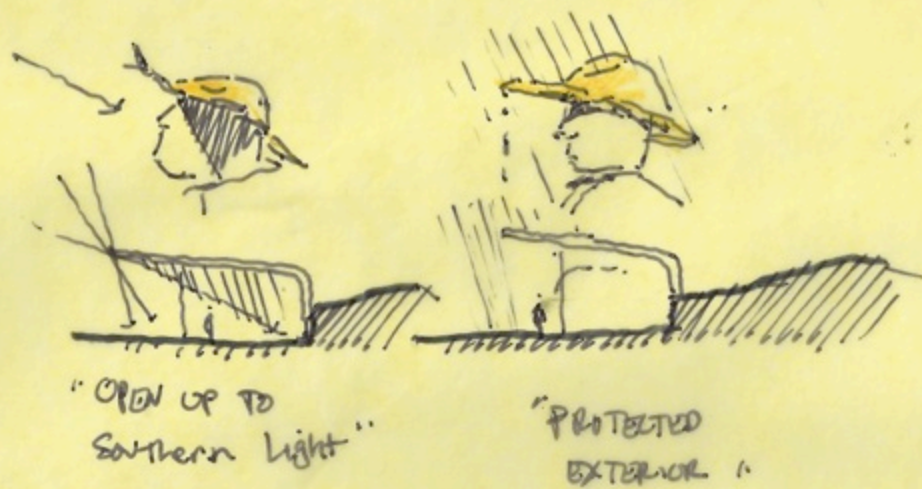
Fleet Maintenance

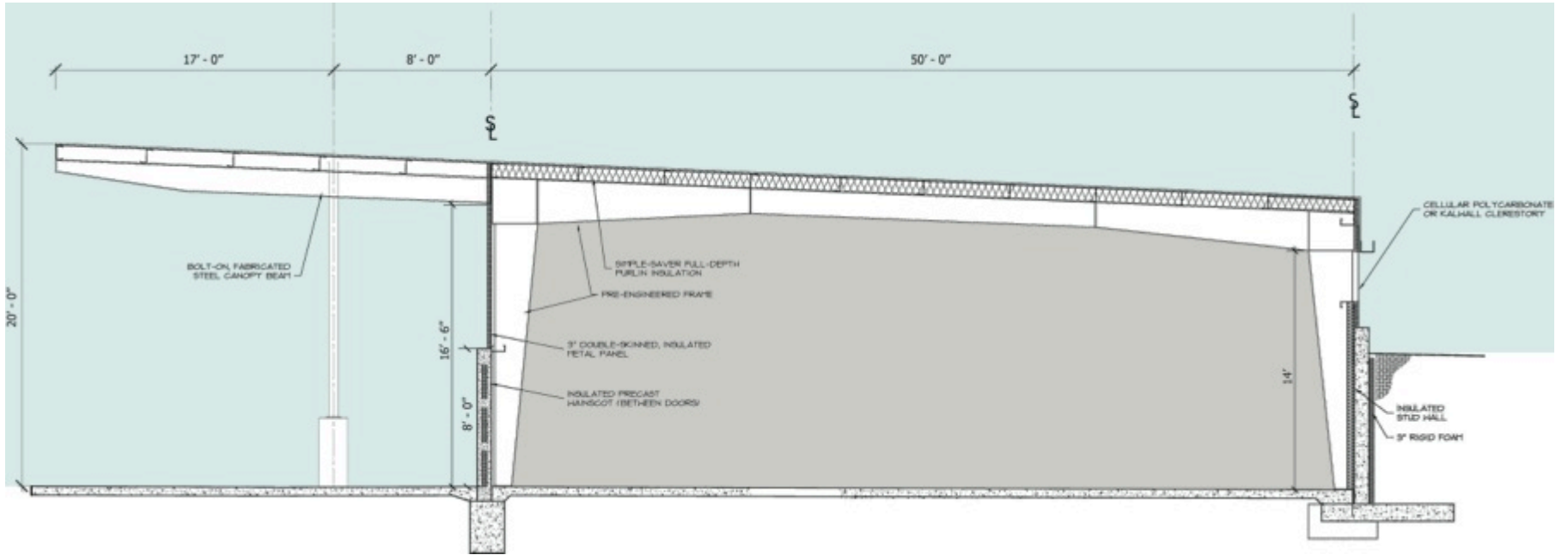


Salt and Sand



Hay Barn and Chemical





Section @ Ops







Project Budget

Construction Costs

Site Work	\$2,590,000
Ops/Admin Building	\$3,380,000
Fleet Building	\$2,015,000
Shops Building/Chemicals Building	\$1,065,000
Vehicle Wash/Storage Buildings	\$805,000
Sand & Salt Storage	\$565,000
Equipment	\$1,430,000

Total Construction \$11,900,000

Owner Soft Costs \$1,535,000

Furniture & Equipment, Phone & Data, Architectural & Engineering Fees,
Commissioning, Development Fees, Move Management, Geotechnical Testing,
Construction Inspections

Project Contingency 3.5% \$465,000

Total Project Budget \$13,900,000

Public Works Facility Funding Sources

Bond Proceeds	\$9,500,000
Returned Gas Tax from Underpayment	\$1,300,000
PW Equipment Reserve, Set Aside Year End 2012	\$600,000
CIP Cash Reserves – Project Savings	\$2,500,000
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Total	\$13,900,000
Schematic Design Cost Estimate	\$13,435,000
Difference	\$465,000

