Mission Road Bridge and Windsor Box
History and the Property Acquisition Process

**Narrative History**

The original Mission Road Bridge was constructed in 1950. Several flooding events in the late 1990s proved that the bridge was at the end of its useful life. Flooding concerns in Fairway are not the same as they were in the 1950s when the bridge was constructed due to development upstream in Johnson County from farmland to commercial and residential uses. The original hydraulic study done prior to its original construction stated that the bridge would overtop every 10 years or more often (that was with 75% of upstream land considered pervious). Prior to re-construction, the bridge posed several public safety hazards:

- The water overtopped the bridge by as much as four feet in the 1% storm event;
- Repeated flooding caused the footings of the bridge to be undercut and created scour holes;
- The existing railings and guard rail did not meet current safety standards, and;
- The alignment of the channel was undesirable and;
- It was declared functionally obsolete in the 1998 Bridge Inventory study.

Prior to 1998, the City Council treated stormwater concerns as a private residential matter as all creek property resides on private property. However, after the 1998 flood, the City Council decided that stormwater issues were indeed a matter of public concern. In 1999, after the October 4, 1998 flood, Shafer, Kline & Warren (SKW) identified improvements necessary to mitigate the flooding. Due to a lack of funding, few projects moved forward.

In early 2004, through securing a combination of federal, county and local dollars, the City was able to finally pursue the reconstruction of Mission Road Bridge. This cost sharing dramatically reduced the cost to Fairway taxpayers.

SKW is the City’s primary stormwater engineering firm for the design of the Mission Road Bridge replacement. SKW worked hard to accommodate citizen and City requests while still maintaining the requisite design standards set by the regulatory agencies (Federal, State, County, and City) which included criteria from the Kansas City Metro Chapter of the American Public Works Association (APWA). Every effort was made by SKW and the Governing Body to keep the size and profile of the replacement bridge as small as engineering standards would
permit. The minimum design standard for a road like Mission Road (minor arterial) is the 1% standard.

- The 1% standard means that the project must be designed to accommodate water from the 100 year storm without overtopping the road surface with adequate freeboard clearance.

The Mission Road Bridge designed by Shafer, Kline, and Warren was reviewed by the Johnson County Stormwater Management Program, Olsson Associates, the Peridian Group, KDOT engineers, and Black and Veatch (Mission Hills Stormwater Engineer). The City of Fairway and SKW shared the designed plans with an engineer hired by a small citizen’s group that opposed the project. The citizen’s engineer and SKW worked together to lower the freeboard on the bridge 0.66 feet. The strong consensus of the firms that reviewed the bridge design agreed that the project was designed within current standards and not oversized. The Johnson County Stormwater Management Program and Black and Veatch further confirmed that this project would not increase flooding downstream. All firms agreed that it would alleviate flooding in the immediate area and allow safe passage under the Mission Road Bridge during the 1% storm.

Below is a detailed timeline of the events leading up to the re-construction of the Mission Road Bridge.

**Time Line**

**1950**
Mission Road Bridge constructed

**September 12, 1977**
Rev. Harold Thomas, pastor of the Linwood Presbyterian Church and Fairway resident, is swept away and killed by flood waters after leaving vehicle on Mission Road Bridge because of rising stormwater.

**October 4, 1998**
Greater than 1% storm event. Brookridge Drive, State Park Road, Mission Road and Neosho Circle homes and roads flooded. President Clinton designated a state of emergency for Johnson County.

Two Fairway children are washed away by flood waters on Neosho Circle while attempting to retrieve their dog during the storm. Fire Department #2 and Fairway residents saved both.

**October 27, 1998**
**Public Forum** to discuss FEMA requirements and general flooding in Fairway.

**November 1998**
**Public Forum** on results of flood devastation.
November 18, 1998  Special Council meeting to discuss October 4 flood and possible flood control project.

February 1999  City Council declares Rock Creek a public policy problem.

Spring 1999  City Council contracts with SKW to conduct storm water study.

June 14, 1999  City Council Worksession. SKW preliminary report.

August 30, 1999  City Council Worksession. SKW preliminary report.

August 1999  SKW completes study. Recommends $20 million in improvements.

September 1999  **Public Forum** on results of the study and next steps.

October 25, 1999  Special City Council meeting. After public input, Council declares flooding a public issue.

Fall 1999  City Council pursues smaller cost alternatives (e.g., home buyouts on a lesser scale, bridge replacements, etc.) City Council also looked at flood proofing homes and installation of flood warning system alternatives, including warning signs.

Spring 2000  City seeks federal funding support for projects. City is successful in attracting federal dollars for home buyouts.

March 6, 2000  Mayor Ed Peterson appoints Flood Control Taskforce

September 18, 2000  Special City Council meeting where Flood Control Taskforce presents its recommendations to Council.

October 24, 2000  Special City Council meeting with public input regarding Flood Control Taskforce recommendations.

2000 – 2003  As a result of the Flood Control Taskforce recommendations, the City, using primarily FEMA funds purchases 11 homes in the Rock Creek 100-year flood plain. Fairway also purchased one partial floodprone lot on Brookridge. All purchases were voluntary and only after request by the homeowner.

March 1, 2001  Special City Council Meeting to consider purchasing flood prone homes.

2004  Because of related flooding issues, the cities of Mission and Fairway pursue joint funding for respective storm water projects.
Initiate first trip to Washington DC to discuss with congressional leaders. Fairway pursues funding for Mission Road Bridge and Windsor Lane Box projects.

October 2004
Mayor John St. Clair's appoints Stormwater Committee.

November 4, 2004
Stormwater Task Force Meeting.

November 18, 2004
Stormwater Task Force Meeting.

December 9, 2004
Stormwater Task Force Meeting.

January 27, 2005
Stormwater Task Force Meeting.

February 17, 2005
Stormwater Task Force Meeting.

February 24, 2005
**Public Forum** to discuss Fairway and Mission Stormwater projects and to seek input from residents.

March 2005
Second trip to DC to seek funding for project Plans continue in development stage.

March 3, 2005
Stormwater Taskforce Meeting.

March 30, 2005
**Public Forum** to discuss Fairway and Mission Stormwater projects and to seek input from residents.

April 7, 2005
Stormwater Taskforce Meeting.

May 5, 2005
Stormwater Taskforce Meeting.

July 7, 2005
Stormwater Taskforce Meeting.

August 2005
Senator Roberts notifies City of Fairway that they have been awarded $1,000,000 for the Mission Road Bridge and $200,000 for the Windsor Lane Box.

August 2, 2005
**Public Forum** to discuss Fairway’s new storm water utility fees and various storm water project plans including Mission Road Bridge.

August 4, 2005
Stormwater Taskforce Meeting.

September 8, 2005
Stormwater Taskforce Meeting.

September 2005
Third trip to DC to seek funding for project
December 8, 2005  Stormwater Taskforce Meeting.

December 2005  Fairway submits preliminary engineering studies to the County’s Storm Water Management Advisory Group for 2007 funding.

Fairway submits application to CARS for assistance in funding Mission Road Bridge project.

February 20, 2006  Mission Road Bridge workshop.

Spring 2006  SKW completes schematic designs for Mission Road Bridge and Windsor Lane Box projects.

Congressman Dennis Moore announces $500,000 grant to be shared by Fairway and Mission. Has been proposed to be used for stream bank stabilization along rock creek.


September 2006  New renderings released.

September 28, 2006  Public Forum on Mission Road Bridge project.

Early 2007  Property acquisitions begin (see detailed information below regarding property and easement acquisitions).

Fall 2007  Construction of Mission Road Bridge Begins

December 10, 2008  Mission Road Bridge Grand Opening Ceremony

**Property Acquisition**

One of the requirements of the project was to remove houses from within the 1% storm floodplain. Before the project began, nine homes were within this floodplain along Mission Road in the vicinity of the Mission Road Bridge. SKW’s preliminary design of the bridge and channel modifications would remove five of the nine homes from the floodplain. Unfortunately, four homes could not be taken out of the floodplain and were purchased and removed. One of the five homes later had to be removed to accommodate relocation of the Mission Road intersection with the dead-end Suwanee Road (which provided the only access to 47 homes) to intersect with Mission Road south of the proposed bridge.
Summary of Necessity of Property Acquisitions for the project: *

5515 Mission Road- Could not be removed from floodplain
5517 Mission Road- Property necessary for channel improvements
5523 Mission Road- Property necessary for re-alignment of Suwanee
5521 Suwanee- Property necessary for channel improvements
5523 Suwanee- Property necessary for channel improvements
5516 Mission Road- Easements and Right-of-Way were required from this homeowner. Homeowner approached and formally asked the city about purchasing the entire property. The City agreed and at the property owner’s request, they were granted a first option to re-purchase the property from the City for the cost of the acquisition of the property borne by taxpayers, when, and if, the City decides to sell that property.

*Please refer to the attached excel spreadsheet for more detailed information regarding each property acquisition.

Habitat for Humanity

With the exception of 5516 Mission Road, Habitat for Humanity was contacted by the City of Fairway to allow them the opportunity to recycle what materials that they could from the homes prior to demolition. Habitat for Humanity will sell these items in their Re-Store, or use them on future projects.

Fire and Police Training

The pending removal of acquired properties afforded both the Fairway Police Department and Consolidated Fire District Number Two (CFD2) a unique training opportunity. All members of the Fairway Police Department spent several days performing a range of tactics, including entry and room clearing. CFD2 used one home to conduct a wide range of field operations for their crews, including victim location and zero visibility drills. (Note: The actual structure was not burned; however, CFD2 burned scrap wood to simulate a burning structure.) Both public safety entities benefited from these training events.

Easement Acquisition

Several easements and portions of R.O.W. were required for construction of this project. These easements included:

Temporary construction easement (TCE)- An easement that will allow the contractor ingress and egress to property for the duration of the project for construction purposes and access to other easements. This easement will expire usually within 2 years of signature.
Permanent drainage easements (PDE)- For this project this easement was used for either new storm sewers or for channel improvements.

Permanent sewer easement (PSE)- For this project this easement was necessary for the realignment of the sanitary sewer systems in and around the project.

Right-of-Way (ROW)- for this project it was necessary to obtain some additional street R.O.W. for the project.

**Summary of Easement Acquisitions for the Mission Road Bridge Project***:

5500 Mission Road- a TCE was required from this homeowner to reconstruct the driveway approach to accommodate the minor elevation change at the roadway.

5520 Mission Road- a PDE was required for the necessary channel modifications, a PSE was required for the realignment of the sanitary sewer, some existing ROW was actually deeded back to this homeowner, and a TCE was required for construction purposes.

5524 Mission Road- a PDE was required for necessary channel modifications, a PSE was required for the realignment of the sanitary sewer, and a TCE was required for construction purposes.

5525 Mission Road- a PDE was necessary for new storm sewer pipe and a new storm sewer box, a TCE was required for driveway repair from the new storm sewer and over the other easement.

5520 Suwanee- ROW was required for the realignment of Suwanee, a TCE was required for the reconstruction of the homes realigned driveway.

5535 Suwanee- a PSE was required to relocate a sanitary sewer manhole, a TCE was required for this easement.

5507 Mission Road- a PDE and ROW were needed for the new storm sewer, a TCE was required for new driveway approach due to minor elevation changes.

5500 State Park Road- ROW was necessary for a new storm sewer box, and a TCE was required for construction.

**Summary of Easement Acquisitions for the Windsor Box Project***:

5440 Windsor Lane- a PDE was necessary for the new storm sewer box, a TCE was required for repair and restoration over the other easement.

3414 Shawnee Mission Parkway- a PDE was necessary for the new storm sewer box, a TCE was required for repair and restoration over the other easement.
5919 State Park Road- a PDE was necessary for the new storm sewer box, a TCE was required for repair and restoration over the other easement.

*Please refer to the attached excel spreadsheets for more detailed information regarding each easement acquisition.*
Mission Road Bridge and Windsor Box
Property Acquisitions Spreadsheet Details

On January 2, 1971, Public Law 91-646, the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970," (Uniform Act) was signed into law. The Uniform Act, provides important protections and assistance for people affected by Federally funded projects. This law was enacted by Congress to ensure that people whose real property is acquired, or who move as a result of projects receiving Federal funds, will be treated fairly and equitably and will receive assistance in moving from the property they occupy. This law has been amended and the current version along with frequently asked questions can be found at: http://www fhwa dot gov/realestate/ua/index.htm. This is a very strict federally mandated process that the City of Fairway was required to follow on all easement and property acquisitions associated with the Mission Road Bridge Project.

Once federal funds were appropriated for the Mission Road Improvement and Windsor Box Projects, it became critical to ensure acquisitions were done strictly in accordance with many technical Uniform Act requirements, thus the need to retain outside special counsel with expertise in Uniform Act acquisitions. Forth & Orrick, who are leading experts for public entities across the state in this area, was hired by the City of Fairway.

The Council approved the terms of all negotiations with property owners, including each offer of compensation to be made. Great effort was made to reach a mutually agreeable price for the purchase of each and every property or easement to assure all were fairly treated, in terms of compensation, terms of home replacement, moving dates and terms, restoration of property after construction, such as landscaping. The Council was constantly aware of its duty to ensure that only reasonable amounts of public monies were spent to acquire the necessary interests in land, while balancing the body's desire to see that all property owners were treated fairly. Unfortunately, there were two instances where the Council did not feel property owners were being reasonable in their demands for compensation, so Forth & Orrick was directed to seek a court determination of just compensation for the interests being acquired. The court decided that issue in both cases for amounts that the City felt were reasonable.

In each instance negotiations began with a personal contact, often from an elected official, with the owners of the property to be acquired. Letters were sent to all property owners describing the process the Uniform Act required be followed before any contact with property owners by Forth & Orrick occurred.
All property owners (that had their entire home purchased) are eligible for reimbursements on housing supplements, moving expenses, closing costs (on new and old home), and a mortgage differential. As you can see, on the attached spreadsheet, each one of these items is broken out under a separate column.

Foth & Orrick is a local property acquisition law firm specializing in working with municipalities who are required to follow the Federal Act for local projects. With over 25 years working on hundreds of projects, they have worked with property owners affected by these projects. Using an outside firm for acquisition services provides the City a level of accountability to keep the project in compliance with the Federal Act.

**Process:** A provision in the Federal Act requires an initial letter to the property owner either directly or indirectly affected by the project. The letter requires the date, description of the project and the impacts to the owner’s property.

This letter includes an invitation to discuss the project with the consultant engineers, architects and acquisition agents.

**Benefits to using an outside firm:** Cost savings for the City in devoting resources through city employees or outside counsel. Using an outside firm provides accountability for the City to stay in compliance with the Federal Act. Speed in keeping a project like this on tract with many involved agencies – engineers, appraisers, KDOT and property owners. Home owners have a constant contact and consistent answers for questions regarding acquisition procedures and the Federal Act.

**Appraisal Process:** The Federal Act requires appraisals and a review appraisal for a property acquired during the project. Appraisers used in this project were State Licensed and approved for work on local projects. Appraisers inspected the properties and offered invitations to any property owners to meet and discuss each property. Appraisers follow guidelines that require them to determine the ‘highest and best use’ of each property. After that determination is made, a comparison sale approach was conducted to come to a value. This is a common approach for residential properties. The review appraiser then reviews the methodology, value and form to come to an independent value that affirms the initial value.

**Other Amounts Paid:** Those amounts differ from inspector to city fees and expenses on properties in different cities. Each property owner is allowed to hire inspectors for their new properties and costs vary from inspectors and city fees.

**Move Process:** During the acquisition agent’s interview with the property owners, each is given the choice of a professional move or a self move. For a professional move, each property owner is asked to get 3 independent bids from moving companies. The move expensed is typically a reimbursable expense for the property owners and the city. For a self move, the
Federal Act provides a per-room schedule for a move that is reimbursable after the property owner is out.

**Eminent Domain:** Once the negotiation process is complete and an agreement can not be reached with a property owner, the city passes an ordinance and resolution authorizing the use of the power of eminent domain. A petition is filed in district court authorizing the city to use their power and 3 independent appraisers are chosen to hear the case. An appraisal hearing is conducted where the property owners and city present their case. The appraisers then file their report with a determination of value. The city pays the award to the district court and the title transfers.

**First Column**- Listed address on the parcel

**Second Column**- Description of portion of parcel acquired (also described on spreadsheet)

**Third Column**- All parcels (partial and total takings) require an independent state certified appraiser to value each property. The appraiser valued each property in accordance with the Uniform Act using USPAP (Uniform Standards of Professional Appraisal Practice) and arrived at the “Independent Appraised Value” number in the third column. In addition, per the Federal Act, the project requires a separate independent state certified appraiser to review the values and methodology to concur with the findings associated with the properties. The appraisal method used based values on comparable sales located in the immediate area per the criteria set forth in the Uniform Act and USPAP. The properties were not appraised on dollar per square footage price, tax assessed valuation, or any other method. The Uniform Act does not allow the appraisal to take into account any benefits from the proposed project. *This project removes four homes currently in the 1% floodplain. This special benefit was not factored into the appraised value of the properties needed for this project.*

**Fourth Column**- The final offer made by the City through its acquisition attorneys (to homeowners) prior to the parcel going through the condemnation process was approved by the Governing Body of the City of Fairway and was not exceeded by the acquisition attorneys.

**Fifth Column**- The Closing/Condemnation Price depicted in the fifth column is the final price agreed upon by the property owner and the City or by judicial determination. The entire governing Body of the City of Fairway approved a “not to exceed” amount for its acquisition attorneys to use for negotiating final sale price as required by the Uniform Act. The acquisition attorneys negotiated final sale price within these parameters and did not exceed the authorized amount. Throughout this acquisition process the Governing Body of the City of Fairway was willing to pay above appraised value to avoid condemnation proceedings. In two instances this process was unavoidable and final sale price for 5517 Mission Road and 5520 Suwanee was determined through judicial proceedings according to the Uniform Act

**Sixth Column**- The Housing Supplement Calculation in the sixth column is based upon an independent analysis of at least 5 available properties in the area. To determine this amount,
The Uniform Act calls for a calculation of the difference between the closing price on the displaced property and the highest available property value be made available to the owners for a housing supplement. This is a use-it or lose-it benefit designed to allow the displaced property owner to obtain a substantially similar property.

**Seventh Column**- The Housing Supplement Spent amount in the seventh column was the actual amount spent by the homeowners.

**Eighth Column**- The Closing Cost on Acquired Property in the eighth column is the amount spent on all closing paperwork to finalize the sale (on full property purchases) as per the Uniform Act.

**Ninth Column**- The Mortgage Differential number in the ninth column is the rate differential calculated through KDOT to give property owners a substantially similar position on their new mortgage rate.

**Tenth Column**- The Moving Expense in the tenth column is the reimbursement required by the Uniform Act for moving expenses. This amount will obviously vary from home to home depending on the size of the home, stairs, etc.

**Eleventh Column**- The City was required to pay the Closing Costs on the new home per the Uniform Act as depicted in the eleventh column when applicable.

**Twelfth Column**- The Fees and Expenses on the twelfth column are various inspection, recondition and supplemental fees associated with the acquisition of the new properties. These fees varied from house to house.

**Thirteenth Column**- The Total in the thirteenth column is the final amount spent on each parcel as required by the Uniform Act.

**Fourteenth Column**- The SMAC Reimbursement amount in the fourteenth column is the amount reimbursed to the City by the Stormwater Management Advisory Council. SMAC will reimburse 75% of the “fair value” of the home as depicted by an appraiser or through judicial proceedings. SMAC will not reimburse the City for the cost of easements, only full home purchases.

**Fifteenth Column**- The City Portion in the final column is portion of the total that the City paid after reimbursement from SMAC.
## Rock Creek Improvement Project

**Client:** City of Fairway

**Final Cost Compilation**

<table>
<thead>
<tr>
<th>Property</th>
<th>Description of Taking</th>
<th>Independent Appraised Value</th>
<th>Fee Deferral before Closing/Condemnation</th>
<th>Housing Sup. Calculation</th>
<th>Housing Sup. Spent</th>
<th>Aquired Property Differential</th>
<th>Mortgage Rate</th>
<th>Closing Cost on New Property</th>
<th>Fees and Expenses</th>
<th>Total Reimbursement</th>
<th>Portion</th>
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*5516 Mission Road | Total | $360,000.00 | $53,000 | $360,000 | $53,000 | $40,000 | $182.16 | $2,925.00 | $700.00 | $403,807.16 | $0.00 | $403,807.16 |

*= This property will be sold to offset purchase price

**Total=** Total Property Purchased  
**TCE=** Temporary Const. Easement  
**PDE=** Permanent Drainage Easement  
**PSE=** Permanent Sewer Easement  
**RW=** Right-of-Way
<table>
<thead>
<tr>
<th>Property Address</th>
<th>Description of Takings</th>
<th>Independent Appraised Value</th>
<th>FieldOffers Before Condemnation</th>
<th>Closing/Compensation</th>
<th>Housing Sup. Calculation</th>
<th>Housing Rep. Spent</th>
<th>Closing Costs</th>
<th>Acquired Property</th>
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<th>Closing Costs on New Property</th>
<th>Fees and Expenses</th>
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<td>$23,032.00</td>
<td>$23,032.00</td>
</tr>
</tbody>
</table>

Column Total: $129,326 $0 $0.00 $0.00 $0.00 $0.00 $68.00 $129,394.00 $0.00 $129,394.00

Total Property Purchased: $129,326
TCE = Temporary Const. Easement
POE = Permanent Drainage Easement
PSE = Permanent Sewer Easement
RW = Right-of-Way